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OCT 12 2023



TOWN OF AYER  
TOWN CLERK

## Town of Ayer Conservation Commission

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Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8220, ext. 143  
Minutes for 8/10/2023

Location: Ayer Town Hall, 1st Floor

Present: Jon Schmalenberger (Chair), Mark Phillips (Vice-Chair), George Bacon (Member), Jen Amaya (Member), Jessica Gugino (Member/Clerk), Heather Hampson (Conservation Agent)

APAC taped: YES

All Public Hearings are opened under the Wetlands Protection Act (MCL Ch. 131, section 40)  
and under the Ayer Wetlands Bylaw (Article XXVI)

### 7:00 PM – Open Meeting

- **Confirmation of Agenda**

- **VOTE:** G. Bacon moved to confirm the agenda as posted; M. Phillips 2<sup>nd</sup>.
  - Motion approved unanimously 5-0.

- **Approval of Meeting Minutes**

- **VOTE:** G. Bacon moved to accept minutes for 7/27/2023 as written; M. Phillips 2<sup>nd</sup>.
  - Motion approved unanimously 5-0.

- **Public Input**

- None received.

- **Discussion: Wetland Violation – 129 Oak Ridge Drive**

- Property owner Euripides Guillen was present in response to H. Hampson's letter of potential violation.
  - After receiving a complaint from a neighbor, H. Hampson contacted Mr. Guillen about his felling of 3 multi-trunked trees that were dropped directly into Flannagan Pond.
- Mr. Guillen, new to Ayer, was not aware of the Wetlands Protection Act or local bylaw.
  - His property abuts the pond at a relatively narrow passage in the pond that opens up on either side to much wider areas.
  - The trees were leaning and showed evidence of rot, leading Mr. Guillen to think they presented a falling hazard to boaters traveling by.
  - He tried to prevent the trees from falling into the pond when he felled them but miscalculated.
  - As of today, all but one of the 8 trunks (ranging from 5-10 inches in diameter) has been removed; the 8<sup>th</sup> trunk is home to a yellow jacket nest which has delayed its removal.
- Mr. Guillen gave H. Hampson permission to go onto his property the next day to check current conditions, including the soil line on the bank.
  - The tree stumps will have to stay given they protect the bank from erosion.
  - For any future work, Mr. Guillen now knows to contact H. Hampson.
- Mr. Guillen was very sorry for his lack of knowledge that wetlands are protected resources, but J. Schmalenberger reassured him that he wasn't alone in this and thanked him for cooperating and coming in so quickly to meet with the Commission.



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- **Public Meeting: Request for Determination of Applicability – Pirone Park “Kiddie Junction” Playground Rebuild, Ayer Parks Department**
  - Randy Collins, Vice President of BETA Group Inc., was present.
    - Mr. Collins is acting as project manager and landscape architect for the project.
  - Per the requirement of MassDEP, the original arsenic-contaminated playground was demolished in 2022, with 4-6 inches of contaminated soil removed as part of the remediation.
    - Most of the trees were also removed except for 3 oaks in the center that were saved and are hoped to survive the construction disruption.
  - The re-design of the playground has opened the play area up a bit to create more distance from the oaks.
    - The project has also tried to keep as many of the improvements as possible outside of the 100-ft. Buffer Zone to Grove Pond, including the elimination of playground fencing on the pond side.
    - Work in the Buffer Zone includes some grading in an area where a slide will be installed as well as removing and relocating a portion of the Pirone Park Perimeter Path that passes through the area.
    - Erosion controls will continue to be used and replaced where necessary.
  - Mr. Collins said they could add in more plantings and trees to increase the vegetated buffer to Grove Pond.
    - A rain garden had been considered but the proximity to first base at a nearby baseball field would make it a hazard to players.
    - BETA is not anticipating much stormwater runoff from the playground area once grass has been re-established.
  - H. Hampson noted the playground, from its center, slopes down to the pond, and in the area where the slide will go, the change in grade goes from 227 ft. elevation to 223 ft.
  - J. Schmalenberger said the big pile of debris that the Parks Department stores at the edge of the pond must be removed permanently and Parks advised accordingly.
  - The Commission, having done numerous site walks in the area in the past, did not feel the need for another site walk.
  - **VOTE:** G. Bacon moved to issue a Negative Determination of Applicability with the conditions of the permanent removal of the debris pile, restorative plantings to create a vegetated buffer, and inspection of erosion controls; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.
  - Mr. Collins said equipment for the new playground has been ordered but will take up to 26 weeks for delivery (around December).
    - He expected contracted work to put in new soil, relocate the perimeter path walkway, and grade the area to take place in October-November.
    - The project will likely continue into spring 2024 before completion.
- **Public Hearing (cont'd.): Notice of Intent – 201-205 West Main Street, DMG Investments LLC, MassDEP # 100-0485**



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- Drew Garvin, of Bohler Engineering, and Kian Hamill, of DMG Investments, were present on behalf of the application.
- This project proposes a mixed-use residential development, “West Ayer Village,” and is currently before the Planning Board for Site Plan Review, Special Permitting, and a variance for parking.
  - The Commission and H. Hampson did a site walk on 7/29.
- In response to questions previously raised by H. Hampson, Mr. Garvin said the 2 proposed snow storage areas total 1500 sq. ft.
  - The amount of open pavement (i.e. not extending underneath the building) that would need to be plowed is currently 28,200 sq. ft.
    - Some plowed snow would therefore have to be trucked off site.
  - J. Schmalenberger and H. Hampson said the Commission’s concern was that snow from previously treated pavement would still drain from the storage areas toward and into the flood plain and nearby Buffer Zone and wetlands, even if the storage areas themselves are not jurisdictional.
  - Mr. Hamill said snow storage procedures will be included in the Operations & Maintenance plan being developed.
    - J. Schmalenberger asked if trucking off plowed snow could just be the standard practice in the O&M plan and Mr. Hamill said yes.
- As for the Commission moving forward on the application, H. Hampson said the Planning Board was still making a decision about the extent of the project to be covered by a third-party peer review.
  - It is possible the Planning Board review might result in a change in layout that could affect the area under ConCom review; its next meetings are 8/22 and 9/12.
  - In addition, the project has yet to hear back from NHESP (Natural Heritage & Endangered Species Program).
  - It was felt best that the Commission not take this up again until its 9/14 meeting.
    - In the meanwhile, H. Hampson will have a provisional draft Order of Conditions ready by 9/11 for Mr. Garvin to review in advance.
- **VOTE:** G. Bacon moved to continue the Public Hearing for the West Main Street project, 100-0485, to 9/14/2023; M. Phillips 2<sup>nd</sup>.
  - Motion approved unanimously 5-0.
- **Discussion: Proposed Minor Changes to Wetlands Bylaw, Ayer Bylaws Chapter 300 (formerly Article XXVI)**
  - H. Hampson has been working on some minor revisions to the wetlands bylaw.
    - The bylaw was passed at Fall Town Meeting, 10/28/2019 (Article 7) and re-adopted with a new numbering system at Annual Town Meeting, 6/15/2020 (Article 32).
  - The revisions proposed by H. Hampson include:
    - strengthening the jurisdictional areas, including extending the Buffer Zone to vernal pools to 150 ft.;
    - adding in application fees for some permitting categories;



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- beefing up the Definitions section.
- H. Hampson provided commissioners with a copy of the bylaw with red-inked edits and additions, along with relevant samples supporting the revisions from other towns.
  - Commissioners should provide H. Hampson with feedback by 8/21.
- H. Hampson hopes to be able to schedule a Public Hearing on these revisions for 9/14 in order to include them in the October Special Town Meeting Warrant.
  
- **Conservation Commission Office and Member Updates**
  - Tree-cutting
    - DPW Director Dan Van Schalkwyk contacted H. Hampson about a possible tree-cutting violation in the Buffer Zone at 138 Washington Street.
    - It is hard to tell where the tree cutting took place exactly so H. Hampson sent the property owner a copy of the plot plan and the Town's tree policy and asked the owner to contact her.
  - Conservation Restrictions (CR)
    - **Shaker Mill Pond subdivision**
      - H. Hampson heard back from developer Dan Aho's attorney, Alan Shockett, and has emailed him a copy of Town Counsel's previous notes on the CR draft.
        - When she has a final CR draft from Mr. Shockett, she will circulate it to the Commission for review.
      - Meanwhile, she is also waiting to hear back from Mr. Shockett about the status of the needed Baseline Documentation.
    - **John Carroll Reserve/Curley Circle subdivision**
      - The CR was recorded several years ago.
      - Meanwhile, the developer is working on completing the Baseline Documentation for the CR and hopes to have it complete in time to seek street acceptance at Fall Town Meeting.
    - **Panther Place subdivision**
      - H. Hampson has not heard back yet from the subdivision's attorney.
      - She is also verifying that Planning Board requirements included provision that no Occupancy Permits be issued until the CR is complete.
  - Waterways Signs Project
    - M. Phillips reminded H. Hampson about contacting Liddell Co. to provide replacement signs for the Sandy and Flannagan Pond signs that were stolen.
  
- **8:15 PM: Adjourn**
  - **VOTE:** G. Bacon moved to adjourn; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval: \_\_\_\_\_

8/24/2023 