

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **09/23/10** – Approved 10/14/10

Location: Ayer Town Hall, 1st Floor

Members present: Bill Daniels (BD, Chair), Dave Bodurtha (DB, Vice-Chair), George Bacon (GB), Takashi Tada (TT), Jessica Gugino (JG, Clerk)

Members absent: Becky DaSilva-Conde (CA, Conservation Administrator)

APAC taped: Yes

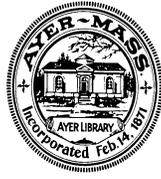
7:08 PM – Open Meeting

- **Pledge of Allegiance**

- **Meeting Minutes Approval**
 - GB moved to approve 9/9/10 meeting minutes with minor revisions; TT 2nd.
 - Motion approved unanimously.

- **Public Hearing: COC – Janet Providakes, 1 Brilaina Court (DEP # 100-112)**
 - Ms. Providakes' house was built in 1995 as part of a 4-lot development built by George Carpenter of Seven C's Realty Trust.
 - Ms. Providakes requested a Certificate of Compliance for the Order of Conditions still open on her house, lot 2.
 - BD has walked the property and sees no problems with issuing a partial COC for lot 2; the other 3 lots will continue to have open OOCs until their owners request a COC.
 - GB moved to issue a partial COC for 1 Brilaina Court; TT 2nd.
 - Motion approved unanimously.

- **Public Meeting: RDA – John C. Canney, 152 Central Avenue**
 - Mr. Canney described proposed gardens, landscaping, tree removal, and installation of irrigation hose on his property which abuts Flannagan Pond.
 - DB asked if the trees closest to the pond would be staying and Mr. Canney said yes.
 - Mr. Canney plans to hand dig up some of the stumps, and asked for suggestions about the rest. BD said that grinding was a good way to handle some stumps, and that Mr. Canney needs to provide information as to how the stump material would be disposed of.
 - BD expressed concerns about runoff into the pond from excavated tree stumps. Haybales and silt fencing placed at the top of the slope leading down to the pond were suggested. The Commission would be conducting a site visit for the MBTA nearby on 9/25 and, if feasible, planned to attempt a site visit on Mr. Canney's property at that time.
 - TT noted the absence of a drawn plan or photos accompanying Mr. Canney's RDA submission. BD thought questions about the proposed work would probably be settled by a site visit.
 - The Commission discussed issuing a provisional Negative Determination of Applicability with conditions having to do with the placement of erosion controls and the handling of stump material.
 - GB moved to issue a Negative Determination; DB 2nd.
 - Motion approved unanimously.

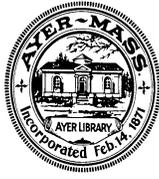


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- It was noted that the issuance of the negative determination was conditioned on a satisfactory site visit and would not be given to Mr. Canney until that time.
- Mr. Canney gave BD a check for \$57.80 to cover the cost of the public advertisement.
- While Mr. Canney, who is also the Town Clerk, was still before the Commission, DB took the opportunity to discuss the issue of record keeping in the Clerk's office, especially for OOCs.
- Given recent changes to the Open Meeting Law, the lack of storage space is affecting all Town boards, including the Town Clerk's office.
- DB noted that the Town purchased a scanner several years ago, but that the scanner has not been seen for the past year. The scanner would be useful for electronic storage of documents. DB suggested that if the Town Clerk approached the Town Administrator about the missing scanner, perhaps the scanner could be located more quickly.

- **Discussion: Emily's Way (response to comments)**
 - BD displayed the latest plan for Emily's Way which is to run off of Groton-Harvard Road but no longer connects to High Street. 8 houses, rather than 14, are now planned.
 - DB noted that there appear to be no changes to the stormwater plans for a detention basin 300' up the road and two more at the base of the road.
 - Resident George Hynes, who lives on Groton-Harvard Road and abuts the planned development, addressed the Commission with his concerns about the downslope impact from Emily's Way onto his property and into Flannagan Pond.
 - Mr. Hynes explained that a gravity-based drainage easement runs across his property carrying runoff from a catch basin located on the other side of Groton-Harvard Road. The drainage system was apparently altered by the Town years ago when the DPW redid this road. At that time, DB added, the DPW switched from a 20" drainage pipe running under the road to a smaller pipe that would better fit under other pipes. Since then, backed up water from the catch basin has been an ongoing issue for nearby properties.
 - Mr. Hynes asked for information about what role the Commission would play in reviewing the plans for Emily's Way.
 - BD explained that Emily's Way does not fall within the Commission's jurisdiction as there are no nearby wetlands nor river frontage. The only issue that falls within the Commission's jurisdiction would be stormwater-related. BD explained that the calculation of stormwater needs is regulated by strictly objective state guidelines. The current plans for detention basins to handle stormwater from Emily's Way appear to be sufficient and will not tie into the Town's stormwater system for Groton-Harvard Road.
 - Mr. Hynes and DB noted that on a recent site walk for Emily's Way, Steve Mullaney, of SJ Mullaney Engineering, offered to help the Town alleviate the current drainage problems from Groton-Harvard Road by donating materials to modify the system and increase the drainage capacity for the flow of water. Mr. Mullaney made it clear, however, that the new development would have no impact on this particular drainage issue, and that this work would therefore be completely separate from Emily's Way.
 - Mr. Hynes also asked about the possible impact of Emily's Way on wetlands on his property. BD explained that wetlands formed by drainage off a nearby road do not qualify as resource area protected by the Wetland Protection Act. In addition, if there are

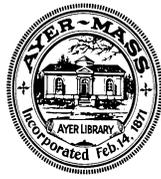


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- wetlands, they would be isolated and therefore typically not protected. BD suggested Mr. Hynes talk with his neighbor, who shares the easement, and that the two of them write a letter to the Town giving permission for the CA to enter the property and test for wetland soils and vegetation. BD also recommended Mr. Hynes contact DPW Superintendent Dan Nason about the currently existing drainage problem.
- Mr. Hynes, who has talked to Mr. Nason previously, said he attempted to review the revised plans in the Planning Board's office, but that they were not available. The Commission advised Mr. Hynes that, as part of the public meeting process, revised plans have to be available for public review prior to the Planning Board issuing its final ruling.
- **Discussion: Park Street Business Condos**
 - The issue of whether wetlands were improperly filled in and paved over was discussed, though it was noted that the CA's absence made detailed discussion difficult. The Commission has no records on file of previous OOCs for this site.
 - DB had previously circulated to the Commission a series of aerial photos of the area, taken in different years, that indicate changes in the paving behind the Condos. The question at hand was whether there was ever an OOC that gave permission to do such work, and if there was, when it expired. The Commission agreed that if filling was done in the last 3-4 years, it was likely not done legally in any case.
 - BD and DB disagreed about proceeding with an Enforcement Order at this time without first knowing definitively if an OOC had ever been issued. BD argued that if an old OOC existed but had ran out, this would still constitute an offense but would be less serious than if there had never been an OOC in the first place.
 - TT agreed with both but argued that the best way to handle this was to issue an Enforcement Order now, leaving the burden of proof on the property owner/s. The Commission can then decide to *not* ratify an EO if past documentation and drawings justifying encroachment into the wetlands is produced.
 - It was decided that the EO should go to all known Business Condo owners. DB will issue an EO.
 - BD sent an email to the Planning Board requesting further information, if available, and will ask the CA to get in touch with DEP to solicit their opinion on how to handle this as well.
 - **Other Items**
 - **Conservation Administrator**
 - Given the work backlog, if the CA needs extra hours, this will be paid for out of the Wetland Funds.
 - The Commission will raise the need for extra hours for the CA with FinCom in upcoming budget discussions.
 - Part of the justification for this is to enable the Commission to meet state regulations for enforcement of the WPA.
 - **Public Records**
 - DB will laser print copies of Conservation Commission minutes from 2007 and collate them into a binder for the Town Clerk's office.



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- **200 West Main Street**
 - The Planning Board asked the Commission to review and comment on an application to construct two 3800 square-foot self-storage units at 200 West Main Street.
 - The plans, prepared by Goldsmith, Prest, & Ringwall, indicate a ‘Storm Tech Isolator Row’ that will keep stormwater on site where it will infiltrate back into the ground.
 - BD penned a response on the application that the Commission was comfortable with the work planned and had no concerns other than the verification by the applicant that they would not be tying into the Town’s stormwater.
- **Pingry Hill Site Visit**
 - The CA requested the Commission provide several dates of availability for a site visit. 10/9 and 10/16 were the dates decided upon.
- **CA Time Sheets**
 - From now on, JG will sign the CA’s time sheet; DB will serve as backup signer.
- **Discussion: EPA Enforcement Order for Pingry Hill**
 - The EPA has issued an EO to Crabtree Development for an unspecified violation and imposed fines.
 - Crabtree Development has countered with an offer to instead donate land to the Town of Ayer. This land would be a portion of parcel A-1, which is on the southern side of the development, along Route 110.
 - Andrew Spejewski of the EPA has written to the Commission about this proposal to ask if the Conservation Commission would be in favor of this donation.
 - Based on review of maps of the development, the Commission agreed that accepting parcel A-1 would be of no discernible benefit to the Town. The land is inaccessible and will be surrounded by houses; in addition, a large portion of it is already wetland or buffer zone so it would not be usable for public walking trails.
 - BD emailed Mr. Spejewski our comments with the suggestion that a land donation from the northern portion of the Pingry Hill project would be looked on more favorably.

- **Member Updates**

- DB attended a recent meeting in Town Hall of neighbors and abutters to Flannagan Pond interested in discussing the possibility of forming a pond association and concerned about pond weed control issues as well as the condition of Balch Dam.
- DB suggested at that meeting that some form of public access to Flannagan Pond would strengthen their case for Town funding.
- GB took the opportunity to remind the Commission that it was time to renew our weed control plan, the last study having been conducted in 2005.

10:20 PM – Adjourn Meeting

- GB moved to adjourn; DB 2nd.
- Motion approved unanimously.