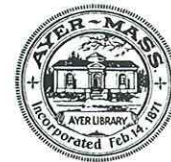


Town of Ayer CONSERVATION COMMISSION

Town Hall ♦ One Main Street ♦ Ayer, MA 01432
Phone 978-772-8220 ext. 143 ♦ Fax 978-772-8208 ♦ concom@ayer.ma.us



MEETING AGENDA (In Person) Thursday, January 26, 2023 (revised)

RECEIVED
JAN 24 2023

TOWN OF AYER
TOWN CLERK

5:50 PM

7:00 PM GENERAL BUSINESS / OPEN SESSION

- Approval of Meeting Minutes for January 12, 2023
- Public Input

Request for Certificate of Compliance DEP File Number 100-0030 San Vel Concrete Corp. 80 Ayer Road – Request submitted by Cali Law

Discussion – Water Chestnut Pull 2023 Campaign, Laurie Nehring

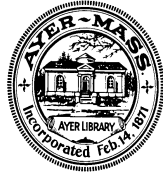
Discussion – Update on Ayer Solar II

Discussion – Potential Wetland Regulation Additions and Modifications

CONSERVATION OFFICE AND MEMBER UPDATES

9:00 PM ADJOURN

Next Scheduled Meeting: 7 PM, February 9, 2023



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8220, ext. 143
Minutes for **1/12/2023**

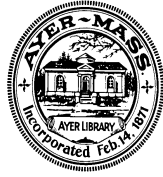
Location: Ayer Town Hall, 1st Floor

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), unless otherwise noted**

7:00 PM – Open Meeting

- **Confirmation of Agenda**
 - G. Bacon moved to confirm the agenda as posted; M. Phillips 2nd.
 - Motion approved unanimously 5-0.
- **Approval of Meeting Minutes**
 - G. Bacon moved to accept the minutes for 12/8/2022 as written; M. Phillips 2nd.
 - Motion approved unanimously.
- **Public Input**
 - None received.
- **Public Hearing (cont'd.): Request for Abbreviated Notice of Resource Area Delineation (ANRAD) – Orion Park, LLC, 1 Orion Park Drive (off Westford Road), MassDEP # 100-0481**
 - Assessor's Map 7, Parcels 5, 7, 36, 37 & 38
 - Matthew Varrell, of Lucas Environmental, was present on behalf of the applicant.
 - ConCom members and Agent did a site visit on Saturday, 1/7/2023, to review the wetland flagging by Lucas Environmental done on July 15, 2022.
 - Because the July flagging was done outside of the vernal pool identification period, and Lucas has tagged a potential vernal pool in the central portion of the study area (Wetland A), the Order for the ANRAD will include a note that any future proposals for work on the site should include requiring the potential vernal pool issue to be resolved.
 - G. Bacon moved to approve the application and issue an ORAD (Order of Resource Area Delineation) with the above noted condition; M. Phillips 2nd.
 - Motion approved unanimously 5-0.
 - G. Bacon moved to close the Public Hearing for 100-0481; M. Phillips 2nd.
 - Motion approved unanimously 5-0.
- **Discussion: Greenway Committee**
 - As previously discussed at ConCom's 12/8/2022 meeting, ConCom is interested in seeing if a volunteer Greenway Committee can be revived to manage the Pine Meadow Conservation Land trails, etc.
 - Andrew Sealey and Kathleen Cachel, of 4 Mountain View Avenue, have expressed interest and were present.



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8220, ext. 143
Minutes for 1/12/2023

- G. Bacon described what the old Greenway Committee – more an informal volunteer social club at the time (akin to friends of the library) – did when it still had active volunteer interest.
 - It included laying out trails, annual trail maintenance, guided walks with local birdwatchers, and attempts at fundraising.
- To restart a Greenway Committee, H. Hampson will contact the Town Manager’s office to see if such a committee would need formal appointment now, and if the Town has liability issues.
- Ms. Cachel asked about tools for trail maintenance, including clearing big trees down across trails.
 - G. Bacon said for the big stuff, the DPW would traditionally be contacted.
- As was previously noted, the Community Preservation Committee (CPC) could be applied to for a grant to fund trail markers, new kiosk signs, benches, etc.
 - H. Hampson also said some improvements might be attractive Eagle Scout projects.
 - J. Gugino later remembered that the Year-End Report from Water & Wetlands for the 2022 pond management program had included a recommendation for signage at boat put-in areas on Pine Meadow Pond, warning of the importance of ensuring that boats are clean in order to prevent the introduction of new invasives (i.e. water chestnuts).
- The next step is for H. Hampson to follow up with the Town Manager’s office/Select Board.
 - G. Bacon also recommended that Steve Smith (who is the steward for the Autumn Ridge Conservation Restriction) be contacted as he was very involved with the previous Greenway Committee and could provide valuable guidance.
- **Discussion: Ayer Solar II Conservation Restriction (CR)**
 - Rohit Garg, of Ayer Solar II LLC, and Attorney Adam Costa, of Mead, Talerman & Costa, were present.
 - A draft of the CR, previously requested by H. Hampson, was circulated.
 - The draft included reviewer comments from the State.
 - The draft used the State’s May 2018 revised model CR template as its basis.
 - The State reviewer indicated that once the Town (ConCom and Select Board) have approved the draft, then any revisions should be sent back to the State for their final approval.
 - Some discussion took place over Section II.A – Prohibited Acts and Uses.
 - The draft included an addition prohibiting “Signage advertising public access,” which was questioned by the State reviewer given that “Public Access” was identified specifically earlier in the document as a Conservation Value.
 - Mr. Costa said that since parking for public access was not being provided, they had not planned on signs.
 - However, the previous Conservation Agent (Jo-Anne Crystoff) had also suggested signs at two locations, one at an access point off Pleasant Street, and a

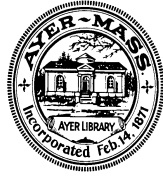


Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8220, ext. 143
Minutes for **1/12/2023**

second at the back of the Panther Place subdivision (off Washington Street), where a CR for that development will directly abut the Solar II CR.

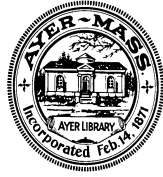
- Among other things, this would let hikers know they are not trespassing.
- Mr. Costa distributed a map showing the rough locations of those two signs, and indicated they will remove this prohibition.
- It was also noted that a sign indicating public access to the CR trail off of Washington Street, by the new access driveway to the Solar II array, is not feasible.
 - The driveway to the array is not for public access, nor is there a feasible access point to the CR land elsewhere on Washington Street given the very steep drop-off from the road.
 - In addition, the public cannot be ‘invited’ onto the private property of the utility easement located there as well.
- H. Hampson will contact the Town Manager’s office to ascertain if Town Counsel review of the draft is necessary in order to move forward.
 - She will also contact Joe Levine, the developer of the Panther Place subdivision, to coordinate the Solar II public access sign at that location with the Panther Place signage, so that the signs match.
 - Mr. Levine has already had the trails on his CR roughed in.
- **Discussion: Request for Quotes (RFQ) for 2023 annual pond maintenance program**
 - Members reviewed the draft RFQ and made a few minor edits.
 - The RFQ should also add in seeking a quote for detecting and/or treating a toxic blue-green algae bloom, as was experienced in Sandy Pond in late summer 2022 and were it to occur again.
 - The RFQ can use language used in Water & Wetlands Year End Report for this.
 - H. Hampson will issue the RFQ, which sets a March 6, noon, deadline for the submission of Quotes.
- **Conservation Commission Office and Member Updates**
 - Ayer Solar II, MassDEP # 100-0444
 - A new contractor is now involved on the site and is working on cleaning the site up, grading, and laying rock down.
 - H. Hampson reported that the site is vastly improved from the previous week.
 - She also described the stream-crossing culvert where the stone wall had partially collapsed recently.
 - Some sediment entered the stream from this collapse and H. Hampson has asked Mr. Garg to have this cleaned out as well as repairs to the erosion controls.
 - The approved plans for the culvert stream crossing included a metal wall on both sides of the culvert.



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8220, ext. 143
Minutes for **1/12/2023**

- Contrary to the plans, no metal wall was installed and instead a rock wall was built that extended on only the right side of the culvert, and this in turn was never reinforced with backfill.
 - Attempts are being made now to build it the way it was supposed to have been done in the first place.
- H. Hampson is inspecting the site weekly, and is also keeping other relevant departments in the loop on this project (Planning Board, Fire Department, DPW, Building Commissioner).
- National Grid substation project, MassDEP # 100-0476
 - H. Hampson was contacted about a minor change to this project, wherein 2 existing poles inside the 50-100 ft. buffer zone have been found to need replacement.
 - Previously the Commission approved an identical change back in March 2022.
 - H. Hampson will go ahead and authorize this as a minor change.
- Shed construction in buffer zone to Flannagan Pond
 - J. Schmalenberger had contacted the office regarding the construction of a shed ongoing, which H. Hampson confirmed is in the buffer zone.
 - No foundation is being constructed so no permit is needed from the Building Commissioner.
 - Similarly, no digging is taking place so this work can be handled through ConCom's Administrative Approval process.
 - H. Hampson noted that some towns, like Littleton, don't allow the storage of hazardous materials inside sheds within the buffer zone, to prevent run-off in the case of an equipment leak or spillage.
 - Perhaps ConCom could do something comparable or, for similar instances to this shed, require placing gravel underneath a shed structure.
 - H. Hampson will reach out to some other towns for further information.
- Ayer/Devens Pocket Forest Planting Project
 - A tour of 5-7 potential site locations took place the previous week, through Alan Manoian (Director of Community & Economic Development).
 - At the moment, a pilot pocket forest is planned on East Main Street, by the railroad bridge.
- Cable Advisory Committee
 - A Public Hearing is to be held on Wednesday, January 18, at 6 p.m., at the High School, for the purpose of deciding whether to issue a cable television license to COMCAST (the current provider).
 - Input is also being sought about the Town's future community cable-related needs – for example, having Town meetings streamed live.
 - Town Manager Pontbriand is urging members of Town boards to attend or to submit letters.



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8220, ext. 143
Minutes for **1/12/2023**

- Disposition of Devens
 - Mr. Manoian will be holding two public meetings in February, on the topic of future votes as to whether portions of Fort Devens taken from area towns should go back to those towns in 2030.
 - Ayer's portion would include the old airfield and MacPherson Road.
- Waterways Signs Project
 - ConCom received a request for a final report on the signs project for which a community grant was received from the Nashua River Stewardship Council.
 - G. Bacon will send H. Hampson a sample of such a report, from the Historical Commission's recent final report for its Inventory project.
 - H. Hampson will also put together a listing of all of the costs involved with this project.
- Local Wetlands Bylaw Regulations
 - H. Hampson distributed copies of some items from other towns for regulations ConCom can consider adding.
 - She is hoping to schedule a Public Hearing in February.
- "Ayer Commons," Fitchburg Road
 - On the previous night (1/11), the Zoning Board of Appeals finalized its Comprehensive Permit for the Chapter 40B affordable housing project.
 - J. Gugino was able to have language added to the permit that requires input/participation from the Conservation Agent where relevant.
 - As it progresses, this project will also have to come before ConCom for an Order of Conditions as a parking area extends partially into the outer buffer zone, and as installation of the sewer line will have to cross wetlands and an intermittent stream to connect to a sewer main near the end of Isaac Lane.
 - Because this is a 40B project, ConCom's review will be limited only to its jurisdiction under the Wetlands Protection Act, not the local wetlands bylaw.
- **8:16 PM – Adjourn Meeting**
 - G. Bacon moved to adjourn; M. Phillips 2nd.
 - Motion approved unanimously 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval: _____



WPA Form 8A – Request for Certificate of Compliance

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by DEP

A. Project Information

Important:

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

1. This request is being made by:

Cali Law

Name

60 Pleasant St, Suite 10-A

Mailing Address

Ashland

City/Town

MA

State

01721

Zip Code

508-233-2305

Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

San-Vel Concrete Corporation

Applicant

June 27, 1983

Dated

100-30

DEP File Number

3. The project site is located at:

80 Ayer Road

Street Address

Littleton

City/Town

R15-21-0

Assessors Map/Plat Number

Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

San-Vel Concrete Corporation

Property Owner (if different)

Middlesex

County

15898

Book

262

Page

Certificate (if registered land)

5. This request is for certification that (check one):

the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.



WPA Form 8A – Request for Certificate of Compliance

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by DEP

A. Project Information (cont.)

6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

Yes If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order.

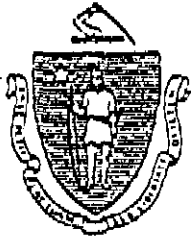
No

B. Submittal Requirements

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).

07/06/83 10:43 TR 105 REV 1009

Form 5



Commonwealth of Massachusetts

DEQE File No.

100-30
(To be provided by DEQE)

City/Town

AYER MA

Applicant

SANVEL CORP

10

Order of Conditions
Massachusetts Wetlands Protection Act
G.L. c. 131, §40

From TOWN OF AYER CONSERVATION COMMISSION

To PETER COLE MGR SANVEL CORP SANVEL CONCRETE CORP
(Name of Applicant) (Name of property owner)

Address 80 AYER ROAD Address LITTLETON MASS

This Order is issued and delivered as follows:

- by hand delivery to applicant or representative on JUNE 27, 1983 (date)
- by certified mail, return receipt requested on _____ (date)

This project is located at SANVEL PROPERTY - AYER MA OFF BOSTON ROAD

The property is recorded at the Registry of MIDDLESEX (SOUTH)

Book 12607 Page 657

Certificate (if registered) _____

The Notice of Intent for this project was filed on MAY 12, 1983 (date)

The public hearing was closed on JUNE 14, 1983 (date)

Findings

The AYER CONSERVATION COMM has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the COMMISSION at this time, the COMMISSION has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Act (check as appropriate):

- Public water supply
- Private water supply
- Ground water supply
- Flood control
- Storm damage prevention
- Prevention of pollution
- Land containing shellfish
- Fisheries

Therefore, the CONSERVATION COMMISSION hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The CONSERVATION COMMISSION orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - (a) the work is a maintenance dredging project as provided for in the Act; or
 - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final Order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. The recording information shall be submitted to the _____ on the form at the end of this Order prior to commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words, "Massachusetts Department of Environmental Quality Engineering, File Number 100-30".
10. Where the Department of Environmental Quality Engineering is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
12. The work shall conform to the following plans and special conditions:

Plans:

Title	Dated	Signed and Stamped by:	On File with:
EARTHEN REMOVAL	MARCH 83	CHAS A PERKINS CO INC	PERKINS CO CADD COMM OF AZON

Special Conditions (Use additional paper if necessary)

THE EARTH REMOVAL WILL AT NO TIME EXTEND INTO THE WET LANDS AND THE BERM PROTECTION OF ADJACENT WETLANDS WILL BE PROTECTED AS DEFINED IN PHASE I, II, III AND PHASE IV DIAGRAMS AND DESCRIPTIONS SHOWN ON ABOVE LISTED EARTHEN REMOVAL PLAN.

.....
(Leave Space Blank)

Issued By TOWN OF AYER Conservation Commission

Signature(s) James W. Mulford
John P. Kelly

This Order must be signed by a majority of the Conservation Commission.

On this 27th day of June 1983, before me personally appeared James W. Mulford, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

James S. Duffly Aug 15, 1986
Notary Public My commission expires

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done or any ten residents of the city or town in which such land is located are hereby notified of their right to request the Department of Environmental Quality Engineering to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department within ten days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

Detach on dotted line and submit to the _____ prior to commencement of work.

To _____ Issuing Authority

Please be advised that the Order of Conditions for the project at _____

File Number _____ has been recorded at the Registry of _____ and

has been noted in the chain of title of the affected property in accordance with General Condition B on _____, 19____

If recorded land, the instrument number which identifies this transaction is _____

If registered land, the document number which identifies this transaction is _____

Signature _____ Applicant

Additional Regulation Ideas and Modifications

These are proposed additions to our current regs.

General Provisions

- **Advice from Town Staff**

Any advice, opinion, or information given to an Applicant by a Commission member outside of a Commission meeting, or by any agency, officer, or employee of the Town, shall be considered advisory only, and not binding on the Commission.

Application Procedure

- **Site Inspections**

Site inspections on properties for which an application has been submitted are scheduled at the discretion of the Commission. If the Areas Subject to Protection on the permitted property cannot be adequately viewed (for example, during periods of snow cover or when vegetation is not present), the Commission may determine that the Application is incomplete until the conditions change such that a meaningful site inspection can be conducted.

Performance Standards and Restrictions

- **Security**

The Commission may require, as a permit condition, that the performance and observance of the Order of Conditions by one or both of the following methods:

- **Bond**

By a bond or deposit of money or negotiable securities in an amount and form determined by the Commission to be sufficient to secure the completion of all conservation measures specified in their Order of Conditions and the Commission may require that the applicant specify the time within which such construction shall be completed.

The penal sum of any such bond shall bear a direct and reasonable relationship to the expected costs, including the effects of inflation, necessary to complete the sub-work. Such amount or amounts shall be from time to time reduced as is, in the determination of the Commission, necessary to reflect the actual expected costs of the work remaining to be completed.

- **Covenant**

By a covenant, executed and duly recorded by the owner of record, running with the land where by such conservation measures, as are stated in the Order of Conditions, shall be provided before any lot may be built upon or conveyed.

The deposit of monies, negotiable securities, bond, or covenant shall, in the case of the bond be given to the Town Treasurer, and in the case of a covenant, be recorded in the Registry of Deeds or Land Court, as the case may be, within 14 days of the granting of the Order of Conditions.

- **Sequence of Construction**

The Applicant shall provide a detailed sequence of construction to the Commission in the Application as part of the standard filing requirements. Said sequence shall be followed by Applicant, unless amended and approved by the Commission.

- **Advice from the Commission**

The Commission may offer suggestions and advice for altering plans and proposals to reduce impact on wetland values and functions toward the goal of modifying the project to make it acceptable. However, the Commission is not obligated to do so and shall not be bound in its decision-making by any prior suggestions or advice offered to applicants.

Here are some suggestions for additions that need to be work out to get final language and suggestions of town that have these already in their regs.

Vegetation Removal and Replacement

- The towns of Arlington and Lunenburg have similar language, that have rules and restrictions on vegetation removal. This is something that will take some time to draft any suggestions on what to include will be helpful.

Plan Requirements

- Add plan requirements to the regulations. Town of Arlington, Dedham, and Westford all have requirements to look at for a typical wording. This is a place where we can require what we want listed on the plans including having a set submitted in color.

Climate Change Resilience

So far I have found language on this only in Arlington. This is were we can require low impact development practices and alternatives in the buffer zones to help with impacts. Also this will go along with our vegetation removal and replacement requirements.