

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **9/25/2014** – Approved 10/9/2014

Location: Ayer Town Hall, 1st Floor

Members present: Bill Daniels (BD, Chair), Lee Curtis (LC), Jessica Gugino (JG, Clerk), Becky DaSilva-Conde (CA, Conservation Administrator)

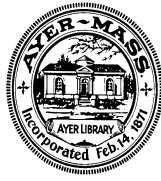
Not present: George Bacon (GB, Vice-Chair), Takashi Tada (TT)

APAC taped: Yes

7:10 PM – Open Meeting

- **Confirmation of Agenda**
 - A COC request for 5 Lilac Lane was added to the agenda.
 - Mr. Duncan Brown, head of an ad hoc Homeowners Board at The Willows, asked for time on the agenda.
 - BD added his request to the agenda for 8:30.
 - JG moved to confirm the agenda as amended; LC 2nd.
 - Motion approved unanimously.

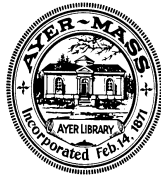
- **Public Hearing: NOI – 5 Ledge way, Ann Loven, Mass DEP # 100-0377**
 - J. P. Connelly, of Goldsmith, Prest & Ringwall (GPR), represented Ms. Loven, who was not present.
 - Previously a different NOI for this lot was considered and an OOC issued [DEP #100-0367] under the potential ownership of Greg and Deborah Turner.
 - Mr. Connelly and GPR also engineered plans for the Turners.
 - When faced with a court appeal from abutters, the Turners backed out of completing the property purchase.
 - Ms. Loven has since completed purchase of the property.
 - Ms. Loven plans to build a two-story single-family home.
 - The location is similar to the Turner’s NOI plans, but a little closer to the pond.
 - The building footprint is 1867 sq. ft.
 - The location of the driveway was shifted slightly to avoid the need to move an existing utility pole.
 - Instead of gutters, a drip-edge will be used.
 - The access door in the back of the garage will require some grading work so that it is a walk-out rather than a step-out.
 - The plan depicts a basement slab, but it is yet to be determined whether a basement or crawlspace will be used.
 - A deck on the pond-side of the house will be approximately 45-ft. from the edge of the bank.
 - The new plans depict ‘worst-case’ scenarios:
 - Less trees may be taken down than indicated;
 - The driveway may shrink in size;
 - Underground utilities are shown although the utilities may remain above ground.
 - Mr. Connelly said that Ms. Loven has been in close contact with abutters about her plans and no opposition has been encountered.
 - Mr. Connelly said that the construction methods mimic those planned by the Turners – e.g., excavated material will be removed from the site.



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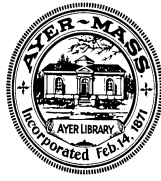
- A site walk was scheduled for 9:30 a.m. on Saturday, 10/4.
- Ms. Loven plans to begin work as soon as possible once the permitting process has been completed.
- JG moved to continue the Public Hearing to 10/9/14; LC 2nd.
 - Motion approved unanimously.
- **Meeting Minutes Approval**
 - JG moved to approve the minutes for 9/11/14 as written; LC 2nd.
 - Motion approved unanimously.
- **Announcements**
 - CA said residents can go onto the Town's website, under the Dept. of Economic Development, to fill out a survey soliciting information on priorities for improvements to the Town using state grant money.
- **Public Meeting: Request for Certificate of Compliance (COC) – 2 Shadow Lane, DEP # 100-0038 and 100-0201**
 - An open OOC was discovered by the owner on a property about to be sold.
 - 100-0038
 - In 1985, an OOC was issued by ConCom for 31 Groton-School Road.
 - A COC was signed by ConCom on March 7, 1991 but was apparently never recorded by the owner at the time.
 - ConCom is therefore being asked to reissue a COC for this OOC.
 - 100-0201
 - 31 Groton-School Road was subsequently subdivided and another COC issued on December 9, 2004.
 - This COC was also not recorded.
 - Both COCs need to be recorded so that property can be sold.
 - JG moved to issue COCs that restate the original COCs dated March 7, 1991 (100-0038) and December 9, 2004 (100-0201); LC 2nd.
 - Motion approved unanimously.
 - ConCom members signed the re-issued COCs.
- **Public Hearing (cont'd.): NOI – Nashua Street subdivision, Calvin Moore, DEP # 100-0363**
 - Owner Calvin Moore as well as J.P. Connelly, of GPR, were present.
 - This development has been on hold while waiting for comments made on the project plans by DPW Superintendent Mark Wetzel.
 - Some comments have been received (letter dated 9/25/14) but Mr. Wetzel indicated he had additional ones coming.
 - Mr. Wetzel's comments referenced plans dated 9/4/14 and included the following:
 - A question has been raised as to an existing drain pipe on the property, and where its discharge comes from.
 - Mr. Connelly indicated the developer has no plans to touch this pipe, but have proposed an easement that would allow access for future adjustment.
 - Mr. Moore said he believed the pipe was put in some 40 years ago by his brother, up at the top of Washington Street, to address basement flooding issues.



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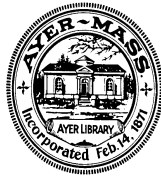
- Mr. Connelly, who talked to Mr. Wetzel earlier in the day, said one of Mr. Wetzel's ongoing concerns has to do with drainage on lot 8.
 - Mr. Wetzel has therefore requested additional catchbasins.
- Mr. Wetzel has also been adamant about requesting granite curbing, for future DPW stormwater maintenance / snowplowing, on both sides of the road.
 - Mr. Connelly said they are proposing alternatives (i.e. bituminous concrete).
 - Mr. Moore said the Planning Board's Subdivision Bylaws don't require granite curbing all the way around.
- BD said ConCom would have to continue the Public Hearing until agreement has been reached between the developer and the DPW.
 - BD added that if changes are made to the plans to address DPW concerns, ConCom will need an updated plan.
- LC moved to continue the Public Hearing to 10/9/14; JG 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 97 Holly Ridge Road (Lot 29), DEP # 100-0375**
 - JG moved to continue the Public Hearing to 10/9/2014; LC 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 113 Holly Ridge Road (Lot 30), DEP # 100-0376**
 - JG moved to continue the Public Hearing to 10/9/2014; LC 2nd.
 - Motion approved unanimously.
- **Committee Updates**
 - LC said the Stormwater Committee would be meeting next in October.
- **CA Updates**
 - Geosyntec
 - CA has not received any new updates regarding the comprehensive pond survey.
 - Beaver Solutions
 - Mike Callahan, of Beaver Solutions, will be scheduling installation of the beaver deceivers at Long Pond Dam and Rock Meadow Pond for the second or third week of October.
 - Stratton Hill Enforcement Order
 - Attorney Robert Collins, for developer Dave Moulton, has put into writing Mr. Moulton's understanding that he is not to do any further work on site.
 - Mr. Collins conveyed that Mr. Moulton meant no disrespect to ConCom for the earlier work.
 - CA asked if Mr. Collins and Mr. Moulton still need to come before ConCom.
 - BD said that given the NOI application is still incomplete, they will need to appear.
- **Discussion: Complaints from Jean Hoffman-Anuta and Michael Anuta, 187 Old Farm Way, Pingry Hill**
 - Mr. and Mrs. Anuta appeared before ConCom to protest, in part, ConCom's reissuing of original OOCs for:



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- MassDEP # 100-0330 – Phase II Ridge View Heights infrastructure (Hickory Way, Deer Run, Littleton Road, and adjacent easements);
- MassDEP # 100-0337 – 187 Old Farm Way (Pingry Hill Lot 32);
- MassDEP # 100-0338 – 8 Hickory Way (Pingry Hill Lot 37);
- MassDEP # 100-0339 – 214 Old Farm Way (Pingry Hill Lot 84).
- BD addressed the Anuta's complaints and accusation of fraud as detailed, most recently, in Ms. Anuta's email dated 9/21/14.
 - BD said ConCom had reissued the original OOCs based on its understanding of advice from MassDEP and Town Counsel: that it was permissible to reissue the OOCs unless they had expired.
- Mr. Anuta asked if it was ConCom's intent, by reissuing the OOC, to encumber his property.
- BD said ConCom had been advised by Town Counsel, through the Town Administrator, that the Anuta's legal counsel should address these issues directly with Town Counsel.
- The Anutas asked what ConCom had done to make sure conditions of the OOCs were followed during construction.
 - Ms. Anuta asked if the OOC wasn't filed, how could they be sure of what was supervised during this time.
 - BD said ConCom always inspects erosion controls before work commences, and noted that Pingry Hill has been one of the most closely scrutinized developments in the Town.
- BD said ConCom does not have the responsibility to make sure the developer follows through in recording an OOC at the Registry.
- Ms. Anuta said they now have the burden of legal fees though no fault of their own.
 - BD asked the Anutas to consult with their attorney further on this.
- Mr. Anuta asked if ConCom intended to change its practices.
 - BD said this situation was an aberration and not a typical occurrence for Ayer ConCom.
- **Discussion: Duncan Brown, The Willows subdivision, DEP # 100-0288**
 - Residents of The Willows just formed an ad hoc homeowners board, in anticipation of taking over from the current Board of Trustees in June 2015.
 - Duncan Brown, a civil engineer and certified soil analyst, is part of this board and was present along with another resident, Sheila, who owns Unit 95.
 - Mr. Brown questioned ConCom's decision to approve field changes to OOC # 110-0288 at its meeting on 8/28/14.
 - Desheng Wang, of Creative Land & Water Engineering; Jesse Johnson, of David E. Ross Associates; and developer Mark O'Hagan, of MCO Associates, were present for that meeting.
 - At that time, a request was made to change the location of several units because of poor clayey soils at the originally planned locations.
 - Because of the cost of bringing in better fill, the developer chose instead to relocate.
 - Mr. Brown questioned this rationale and said, in relocating, the developer is still just guessing.
 - Of particular focus was the relocation of Units 56-58 to an area already cleared to the west of Unit 95.
 - This area is in the outer riparian zone to Bennetts Brook.
 - Mr. Brown said the ad hoc board would eventually become responsible for the development and it is unclear whether these relocated units would require flood insurance.



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- In addition, Mr. Brown questioned why ConCom approved field changes when abutters were not notified, and also why there was no 10-day appeal period as follows the issuance of an OOC.
 - The current Board of Trustees (i.e. the developer) no longer owns the buildings already constructed, including Unit 95, so the current Board can no longer technically represent the abutters.
- Mr. Brown asked that ConCom review its decision in view of new information and expressed concerns.
- BD explained that the field change process is different from the NOI process, without the same requirement of abutter notification or an appeal period.
 - Field changes do not require a Public Hearing, and no new permit is issued, just a change to the existing permit.
- CA noted that ConCom is still waiting for receipt of a copy of the updated plan, previously requested.
- Sheila, the resident who owns Unit 95, asked for an opportunity to voice her concerns.
 - She purchased the unit on the understanding that no new construction was planned to the west of her unit.
 - The developer's new plan calls for constructing units 56-58 very close – 13 feet – to her building.
 - She said this would also affect parking in the area.
 - JG said the developer still has to go before the Zoning Board for approval of these plan changes.
 - CA suggested Sheila contact the BOS and ask to be put on the ZBA's next agenda.
- Mr. Brown asked if the original OOC had any mention of Unit 95 as the last lot in that area.
 - Mr. Brown asked if the area to the west of Unit 95 was already cleared because it was the required mitigation area for Unit 95.
- BD asked CA to contact Jesse Johnson for more information, and to place this item onto ConCom's 9/9/14 agenda for further discussion.
- **Discussion: Request for Certificate of Compliance (COC) – 5 Lilac Lane, Pondview Estates**
 - CA said the homeowner came in the day before asking for a COC because of a pending sale.
 - CA does not think this property has, or abuts, wetlands and therefore is likely not within ConCom's jurisdiction.
 - To not hold up the sale, CA will check the property tomorrow and meanwhile, ConCom will go ahead and sign a conditional COC.
 - LC moved to issue a COC for 5 Lilac Lane conditional on CA review of the property tomorrow in person; JG 2nd.
 - Motion approved unanimously.
- **8:50 PM – Adjourn Meeting**
 - JG moved to adjourn; LC 2nd.
 - Motion approved unanimously.