

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for **11/7/2013** – Approved 11/21/2013

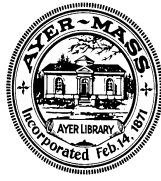
Location: Ayer Town Hall, 2nd Floor

Members present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Takashi Tada (TT), Lee Curtis (LC), Becky DaSilva-Conde (CA, Conservation Administrator), Jessica Gugino (JG, Clerk)

APAC taped: No

### **7:17 PM – Open Meeting**

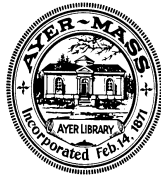
- **Confirmation of Agenda**
  - GB moved to confirm the agenda as amended; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
  
- **Public Hearing: NOI – Spectacle Pond Water Well, Ayer DPW, DEP # 100-0366**
  - DPW Superintendent Mark Wetzel described the basis for the NOI.
  - The DPW has replaced 1 of 2 existing Spectacle Pond wells with 3 replacement wells that are shallower and smaller in diameter.
  - The NOI covers the final installation phase for infrastructure connecting electrical and piping to the 3 wells.
    - The piping will tie-in to the existing water main.
    - The electrical will tie-in to the existing building.
  - Mr. Wetzel said they may need to cut back and re-shape an earthen bank to the east of the well heads to facilitate access.
    - The bank will be regraded to a 2-1 slope.
  - Because of restrictions due to existing turtle habitat, the work will be done during the winter or early spring.
    - The project has not yet gone out to bid.
  - Mr. Wetzel said things have been squared away with NHESP.
  - A site visit was scheduled for 11/16, meeting at 9 a.m. at the end of Nemco Way.
  - GB moved to continue the Public Hearing to 11/21; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
  
- **Discussion: OOC – Grove Pond Wells, Ayer DPW, DEP # 100-0320**
  - Mr. Wetzel requested approval of a minor field change to the existing OOC.
  - The project is at the stage of finalizing the electrical service layout.
    - The proposed revision changes the layout from underground trenched electrical service to aboveground utility poles and overhead wiring.
    - The change means far less disturbance within the buffer zone.
  - BD specified the change be properly recorded on the as-built upon completion of the project.
  - GB moved to approve the field change; TT 2<sup>nd</sup>.
    - Motion approved 4-0 (LC abstained due to her company's involvement in the project).
  
- **Public Hearing (cont'd.): NOI – Victor Drive Culvert Replacement, Ayer DPW, DEP #100-0364**
  - Mr. Wetzel reviewed the draft OOC and found no problems.
  - BD visited the site to confirm and approve the location planned for a temporary soil pile.
  - CA was contacted by abutter Frank Vita with questions about the proposed project and whether it had the potential to flood his basement.



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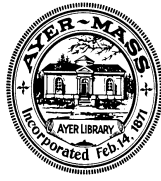
- After Mr. Vita spoke with Nick Pauling, of Goldsmith, Prest & Ringwall (GPR), Mr. Vita conveyed to CA that he had no objections to the project going forward.
- Mr. Pauling's emailed minor comments to the draft OOC were noted:
  - The recommendation that, where straw wattles are to be used instead of haybales, the condition be revised to require the stockpiling of 25 linear feet on-site;
    - This change will be incorporated into the OOC.
  - The wording for condition 48 did not need to be changed to add a reference to the date of the SKC-1;
  - Condition 56, regarding limitation of the use of sodium chloride on roadways, would remain as is.
- Mr. Wetzel said the project had not yet been put out to bid and there would be no work on the culvert until spring at the earliest, depending on flow conditions in the brook.
- JG moved to approve and issue the OOC for 100-0364; LC 2<sup>nd</sup>.
  - Motion approved 4-0 (GB abstained).
- **Public Hearing: NOI – Debra Turner, 5 Ledge way, DEP # 100-0367**
  - J.P. Connolly, of GPR, represented the Turners, who were not present.
  - CA has received proof of abutter notifications.
  - The project proposes to tear down an existing 818 sq. ft. house and replace it with a larger 2-story house whose footprint, including deck and bulkhead, would be 2244 sq. ft.
    - The property abuts Sandy Pond.
    - The closest point of house construction to the pond would be 50 ft.
    - A relocated gravel driveway would be 75 ft. at its closest point to the pond.
    - Approximately 20 mature trees were proposed for removal to facilitate the construction project, the closest being 35 ft. from the edge of the pond.
      - Most are pine, though a couple are oak and maple.
    - Impervious surfaces would be limited to the house itself.
      - Mr. Connelly said the Turners plan to keep the driveway as a graveled surface.
    - Planned erosion controls specify the use of straw wattles around the Limits of Clearing.
    - The plan proposes a fully excavated basement, not a slab foundation.
  - CA has received numerous calls from concerned abutters.
    - Approximately a dozen abutters were also present at the Hearing.
  - One abutter, Beverly Richardson, could not attend the Hearing but conveyed her concerns to CA.
    - Ms. Richardson's primary concern related to the impact of the excavation process, especially if blasting was used to remove ledge.
      - The Richardson house has a tunnel running from their basement to the pond.
    - Mr. Connelly said he had spoken to Ms. Richardson as well.
      - Mr. Connelly said that blasting was not being considered.
      - If encountered ledge could not be dealt with via excavator or use of epoxy, then the basement would be redesigned as a smaller work-around.
    - Per BD's request, CA will contact Ms. Richardson for permission for ConCom to walk on her property during the site walk to evaluate her concerns.
  - Before taking comments from the audience, BD clarified ConCom's role and procedures:
    - ConCom's jurisdiction for this project extended to the excavation process and tree removal;
    - ConCom's next step would be to perform a site walk on 11/16;



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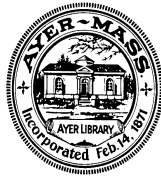
- The continuation of the Public Hearing would be 11/21;
- If there were no questions or concerns, ConCom could vote on an OOC at that time.
- If issues that needed to be addressed, the Hearing would be continued again to 12/5.
- Barbara Mack, of 3 Ledgeway, distributed a letter to ConCom members detailing concerns held by herself and other abutters:
  - The plan lacked detail and site specificity;
  - The plan did not address dewatering issues;
  - Lack of clarity as to how wetlands were delineated;
  - Lack of clarity as to the location of soil piles during construction;
  - Concerns about the excavation process;
  - Concerns about the impact of increased runoff from a 250%+ increase in the footprint of the new house.
  - Ms. Mack stressed that the submitted NOI called for a maximum build-out on an already non-conforming lot.
  - Ms. Mack also cited a provision for the consideration of aesthetic impact in Ayer's Wetland By-Law.
    - The proposed house would be substantially bigger and higher than the existing house, and the removal of 20 mature trees would also have an aesthetic impact.
- Ms. Mack's presentation was accompanied by another from environmental scientist David Haines, of Haines Hydrogeological Consulting.
  - Mr. Haines made the following comments:
    - No wetland boundaries, resource areas, or delineation are shown on the plans.
    - No BVW were noted, though Mr. Haines pointed out the existence of the bank;
    - Regarding excavation and construction, no test pits have been dug, nor questions about the potential need for dewatering addressed;
      - Because of existing glacial till, Mr. Haines cited the possibility for the presence of groundwater during construction and the threat of sediments entering the pond if no dewatering protocol was used.
    - If a portion of the proposed basement is in a seasonal highwater area, the homeowners would likely wind up using a sump pump.
      - Nothing in the plan addressed this possibility or its impact.
    - The impact of increased runoff from a much larger house and the removal of 20 mature trees was not addressed in the plan.
    - The proposal did not address the broader impact on Ledgeway or its already existing conditions of dealing with substantial sheet flow, erosion, and sedimentation problems.
      - The changes planned would make existing problems much worse.
    - In addition, the plan only details the use of straw wattles to the end of the property line.
      - Mr. Haines said that wattles would need to be extended beyond this during any construction project to protect the pond, but this detail is also not shown on the plan.
    - The plan did not provide details as to how the existing structure would be removed.
    - The plan did not address whether blasting would be used and if so, concerns about its impact.



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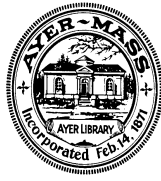
- BD said many of these are issues which ConCom would consider during a site walk.
  - A site walk was scheduled for 11/16, meeting at 10 a.m.
  - BD requested that the 4 corners of the proposed house be staked as well as the location of the gravel driveway.
  - GB requested that the trees planned for removal be taped for identification.
  - CA will contact the Richardson family for permission to enter their property.
  - Ms. Mack said she would secure permissions for ConCom members to walk on other properties that might be impacted on Ledgeway and Sedgeway.
- A resident whose driveway is on Sedgeway but her property is on Ledgeway, spoke to her concern for water quality issues.
  - She reiterated concerns expressed about increased runoff from a substantially larger house, and worried that too large a structure was being proposed on a small piece of land not equipped to handle that kind of runoff.
- BD asked whether the DPW had addressed the issue that this is not a Town road.
  - The road is privately owned by the Richardso's, with abutters having the right to pass.
  - However, the Town maintains the road (i.e. snow plowing) for fire protection.
- Several other abutters present reiterated concerns over the proposed size of the new house and its environmental impact.
- The question of whether deeded beach rights of others would be affected was also raised.
- BD reiterated the limited nature of ConCom's jurisdiction over the proposed project.
  - Several of the concerns raised by abutters fell, instead, under the jurisdiction of the Zoning Board.
    - It was noted that a hearing before this board is scheduled for the following Wednesday, 11/13.
- GB moved to continue the Public Hearing to 11/21; LC 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Meeting: RDA – Nashoba Valley Medical Center**
  - Tony Moura, of Stantec Planning and Landscape Architecture, and Attorney Thomas Gibbons were present.
  - CA was given a check for \$80.55 to pay for the expense of the legal notice in the *Public Spirit*.
  - Mr. Moura recapped the plan, as previously discussed at ConCom's 10/24 meeting, for the relocation of 3000 cubic yards of excess soil from its building extension project.
    - The soil is to be relocated to a meadow on hospital property, where it will be spread, graded and seeded with a native mix.
    - This area is outside of regulatory wetlands, but the existing dirt cart path to be used for the transport of the soil passes through buffer zone.
    - Erosion controls (haybales or straw wattles) will be used in this area to protect the path.
  - Per GB's question, any rutting to the cart path caused by the transport of the soil will be repaired.
  - BD said his primary concern was the lack of rip-rap or a tracking pad where the cart path exits to the parking lot.
    - Mr. Moura said it would be no problem to throw down crushed stone to prevent dirt being tracked out.
  - BD noted that the cart path is very narrow and said that if there was a need to clear brush, that it should be done on the side away from the wetlands.
  - GB moved to issue a Negative Determination of Applicability with conditions; TT 2<sup>nd</sup>.



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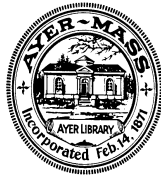
- A rip-rap strip be laid at the exit of the path to the parking lot, and that this stone be left in place at the conclusion of the project;
  - Any tree or brush-clearing be done to the north side of the cart path;
  - The cart path be restored to its original condition at the end of the project.
  - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – EPIC Enterprises, 11 Copeland Drive, DEP # 100-0365**
    - GB moved to continue the Public Hearing to 11/21; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI & Enforcement Order (EO), Molumpco Development (Calvin Moore), Nashua Street Extension subdivision**
    - JP Connolly, of GPR, and Calvin Moore were present.
    - Mr. Connolly detailed the winterization plan, as required by the EO.
      - The fill pile is to be pulled back to the 103 ft. contour line and built up from there.
        - It will rise at a 3-1 slope for 10 ft. to a bench, then another 3-1 slope to the top of the pile.
      - Straw wattles will be used around the fill pile and around the edge of the Limit of Clearing.
      - Straw wattles and silt fence will be used around the discharge point to the wetlands to the northwest.
      - Additional material that cannot fit within this existing layout will be removed off-site.
      - Once given clearance by ConCom, the work will be done as soon as possible before the ground freezes.
    - CA addressed the question of whether an entirely new NOI packet would need to be submitted in the spring or whether the current NOI could be used with revisions.
      - The latter was decided upon and ConCom will follow the procedure of continuing the Public Hearing until the NOI process is complete.
    - Mr. Connolly raised the concern that, with an EO in place, Mr. Moore might have trouble securing bank financing for the project.
      - CA said there was no formal procedure for releasing an EO.
      - However, since the EO was issued prior to an OOC, once ConCom does issue an OOC, that should effectively cancel out the EO.
        - In addition, the EO is only registered at the local level; no paperwork went to Mass DEP.
      - BD agreed that issuing an OOC down the road should constitute proof that the EO has been cleared.
        - BD said that he would be happy, if necessary, to write a letter confirming that the issues raised in the EO and the Cease & Desist had been satisfactorily addressed by the applicant.
    - BD asked Mr. Connolly to inform CA when the winterization work was complete.
    - Mr. Moore confirmed no additional work was planned on the project until the following spring.
      - Mr. Moore also has yet to have a definitive plan approved by the Planning Board.
    - Since Public Hearings need to be continued to a time certain, GB moved to continue this Public Hearing to 1/9/2014; TT 2<sup>nd</sup>.
      - Motion approved unanimously.



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- **Announcements**
  - CA noted that Town Hall closings for the upcoming holiday season included 11/11, 11/28 and 11/29, and 12/25.
- **Meeting Minutes Approval**
  - TT moved to accept the minutes for 10/24 as written; LC 2<sup>nd</sup>.
    - Motion approved 4-0 (GB abstained).
- **Public Meeting (cont'd.): Request for Certificate of Compliance (COC), Mass Broadband Institute, DEP # 100-0352**
  - GB moved to issue a complete COC; TT 2<sup>nd</sup>.
    - Motion approved unanimously and the COC signed.
- **Public Meeting (cont'd.): Request for COCs, Easy Street subdivision, Roger Kanniard**
  - CA has not yet received a correct as-built for the 3 house lots under consideration:
    - 11 Easy Street (Lot 8) – DEP #100-0299 (formerly 59 Easy Street);
    - 12 Easy Street (Lot 6) – DEP #100-0297 (formerly 64 Easy Street);
    - 13 Easy Street (Lot 7) – DEP #100-0298 (formerly 65 Easy Street).
  - GB moved to continue the Public Meeting for these three lots to 11/21; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Discussion: FY 2015 ConCom Budget**
  - The proposed level funded FY 2015 budget was reviewed.
    - It was noted that the line item for supplies (\$350) was low given the increased cost for color ink cartridges.
      - Other line items could make up for the deficit if necessary.
  - CA raised the issue of reimbursement for travel costs incurred by CA for site visits.
    - Two options for reimbursement exist: mileage reimbursement or a monthly car stipend.
    - BD and GB recollected that when they met with the Personnel Board at the time that CA's position was created, the offer letter included mileage reimbursement but probably not a monthly stipend.
    - BD asked CA to contact Town Administrator Robert Pontbriand and Town Accountant Lisa Gabree to find out how travel reimbursements are funded, and also to see how similar travel expenses (i.e. by the Building Inspector) are handled by the Town.
    - In the meantime, CA should submit for regular mileage reimbursement.
  - GB gave CA the dates of 11/20 (7:30 p.m.) or 11/19 (8 p.m.) as openings for him to meet with FinCom on behalf of ConCom.
    - BD will probably be unable to attend, therefore the Mighty Baconator will have to leap in to save the day.
- **CA Updates**
  - CA has yet to hear from Town Administrator Pontbriand on her inquiry into the status of the implementation of the new enforcement fees by ConCom.
    - The Attorney General's office has approved the Town Meeting vote to amend the Bylaws, but Town Counsel needs to specify details as to implementation.



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- Plow Shop Pond
  - CA received the latest report from Rachel Leary with details about the restoration work and seeding plan for areas disturbed this fall.
- West Main Street
  - CA spoke to Sean Duvall, of Brighter Horizons Environmental Inc.
  - They are the new owner of this property, located across from the veterinarian's office, and on which some clearing work has been recently observed.
  - Mr. Duvall told CA they delineated the wetlands and the work they have done to clean things up and renovate the building is over 300 ft. from the wetlands.
- **10:16 PM – Adjourn Meeting**
  - GB moved to adjourn; TT 2<sup>nd</sup>.
    - Motion approved unanimously.