

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for **3/14/2013** –Approved 3/21/2013

Location: Ayer Town Hall, 1st Floor

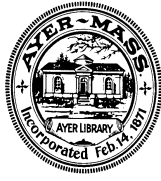
Members present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Takashi Tada (TT),  
Jessica Gugino (JG, Clerk), Lee Curtis (LC)

Not present: Becky DaSilva-Conde (CA, Conservation Administrator)

APAC taped: Yes

### **7:10 PM – Open Meeting**

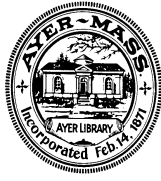
- **Confirmation of Agenda**
  - GB moved to confirm the agenda as posted; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Meeting Minutes Approval**
  - GB moved to accept the minutes for 2/28/2013 as corrected; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing: NOI – 1 Barnum Road, sewer connection**
  - Robert Oliva, of David E. Ross Associates, was present representing the applicant, Prit Patel, of Barnum Road Realty Trust, who was also present.
    - Proof of mailing to abutters and a check for \$59.07, for the legal ad, were given to JG.
  - The commercial building on the 1.19 acre site was purchased with the assumption that it was already connected to the existing town sewer line.
    - This turned out not to be the case; an old septic system/leaching field is in place.
    - No Title V was done, given the previous owner thought the sewer connection was valid.
    - The new owner/applicant now plans to install a sewer system and tie it in to the sewer line on Harvard Road.
      - At the same time, the current septic leaching field (precise size and location unknown) will be pumped out and filled in with clean gravel and sand.
      - A buried septic tank in the gravel parking area will also be removed.
  - The lot is within the buffer zone of both Bowers Brook and wetlands.
    - It is also within the Sqannassit ACEC as well as within a flood hazard area Zone AE, with an elevation of 279 ft.
    - It is not within any NHESP habitat area or Outstanding Resource Waters.
  - Two wetland areas have been delineated and flagged.
  - Approximately 3,987 sq. ft. of riverfront area will be temporarily altered during the installation process, nearly a third of which lies within the inner riparian zone.
    - None of the work is within 25 ft. of the resource areas.
  - Two manholes will be constructed, one on Barnum Road, the second on Harvard Road within the traffic circle.
  - DPW Superintendent Mark Wetzel has signed off on the plans for the sewer connection.
  - BD said the haybale lines marked on the plans looked good.
  - TT asked if a copy of the NOI filing had been sent to ACEC.
    - Mr. Oliva said no because there was no habitat area and therefore nothing to file with NHESP.
    - BD suggested that a copy of the NOI be sent in just to cover bases.
  - LC asked about the lot being within a flood zone.



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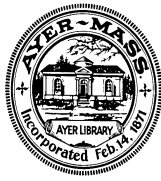
- Mr. Oliva said none of the actual work will be in the flood zone and no elevation changes will be made.
- BD asked that the OOC have a Special Condition that specifies no change in elevation or topography given the flood plain location.
- A site walk was scheduled for 8 a.m. on Saturday, 3/23.
  - BD asked that the approximate location of the haybales be indicated.
- Steve Mullaney, representing his client, abutter Gervais Ford, asked if the NOI had been filed with MEPA yet.
  - Mr. Mullaney added that connecting into a sewer line on a state highway requires this.
  - Mr. Oliva said this filing had not been done but that their permit application has been sent to Mass DOT.
  - Mr. Mullaney said he understood that Mass DOT can't issue a permit for a project in ACEC without a MEPA review.
  - BD asked Mr. Oliva to look into this and file accordingly.
- Mr. Mullaney also said his client was concerned that no expansion of the building or parking lots was planned.
  - Mr. Oliva said no, the project was simply to connect to the sewer line.
- GB moved to continue the Public Hearing to 4/11/2013; TT 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Hearings (cont'd): NOIs – Pingry Hill, Crabtree Development**
  - BD re-opened the Public Hearing for DEP # 100-0359 (8 Hemlock Drive, Lot 59)
    - Mr. Mullaney reported on snow conditions – open areas are clear but shaded areas remain snow-covered.
    - Mr. Mullaney asked ConCom to tentatively schedule its site visit for 3/23, and cancel/reschedule if necessary.
      - BD agreed, setting the time of the site visit for 9 a.m., meeting at the end of the paved area on Hickory Way, at the site of Lot 82 (DEP # 100-0360).
      - BD asked Mr. Mullaney to contact CA on 3/22 for a final decision to be made.
      - If 3/23 doesn't work out for a site visit, the next date available would be 4/13.
    - Mr. Mullaney said the copies of the SWPP reports to EPA for the past 2-1/2 years have been sent and asked with what frequency ConCom will want them.
      - Typically SWPP reports are generated weekly and after major stormwater events.
      - BD asked that Mr. Mullaney work this out with CA and discuss at the next Public Hearing.
    - GB moved to continue the Public Hearing for 100-0359 to 4/11/13; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
  - BD opened the Public Hearing for DEP # 100-0354 (23 Hemlock Drive, Lot 61).
    - GB moved to continue the Public Hearing to 4/11/13; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
  - BD opened the Public Hearing for DEP # 100-0358. (26 Hemlock Drive, Lot 58).
    - GB moved to continue the Public Hearing to 4/11/13; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
  - BD opened the Public Hearing for DEP # 100-0355 (37 Hemlock Drive, Lot 62).
    - GB moved to continue the Public Hearing to 4/11/13; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
  - BD opened the Public Hearing for DEP # 100-0356 (53 Hemlock Drive, Lot 63).



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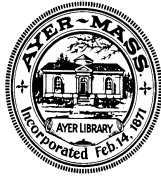
- GB moved to continue the Public Hearing to 4/11/13; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
  - BD opened the Public Hearing for DEP # 100-0357 (67 Hemlock Drive, Lot 64).
    - GB moved to continue the Public Hearing to 4/11/13; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
  - BD opened the Public Hearing for DEP # 100-0353 (74 Hemlock Drive, Lot 55).
    - GB moved to continue the Public Hearing to 4/11/13; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
  - DEP #100-0360 (116 Hickory Way, Lot 82) will be visited on the same site-walk but is still pending the official opening of its Public Hearing.
- **Public Meeting: PACE Update on Devens/RAB clean-up**
    - No one from PACE showed up.
  - **Public Meeting: Enforcement Order (EO) – 31 Central Avenue**
    - John Hillier, Trustee of Central Realty Trust appeared.
    - Mr. Hillier has been using heavy equipment to clear land for expanded parking.
      - While he put up haybales to protect what he thought was just a drainage ditch, he was unaware the ditch was actually an intermittent stream protected by the Wetlands Protection Act.
      - Mr. Hillier said that without additional parking, it was hard to rent the property to tenants.
    - BD explained to Mr. Hillier that work inside the buffer zone to a protected resource area generally requires an NOI.
    - BD asked Mr. Hillier to do the following:
      - Cease and Desist all further work.
      - Remove the tractor from the site.
      - Contact CA for a site walk to evaluate for an NOI and discuss any remediation if deemed necessary.
    - Mr. Hillier asked for clarification as to what classified this area as an intermittent stream since he had previously been told the drainage ditch formed from roof and stormwater runoff.
      - There is also no stream marked on any map.
      - Mr. Hillier bought the property 2 years ago.
      - TT said intermittent streams are not mapped, unlike perennial streams which are.
      - BD described the water system flow from further uphill and how the area is not simply stormwater drainage.
      - Mr. Hillier asked if there was any way to get the area ‘undeclared as a stream’.
        - The answer was no.
      - TT clarified also that the EO was for work in the buffer zone, not in the stream itself.
    - BD said Mr. Hillier’s plans to expand parking to increase the value of the property weren’t unfeasible but could not happen without an NOI review.
      - BD suggested Mr. Hillier hire a wetland specialist.
    - JG asked if Mr. Hillier planned to pave the area for parking, if approved.
      - Mr. Hillier said he planned on leaving it as a dirt surface, but stable enough to support cars.
    - Mr. Hillier asked what would have happened if the Town had bought the area for a parking garage.



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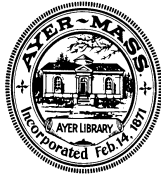
- BD said the Town would also have had to come before ConCom with an NOI so as to assure the stream was protected both during and after construction.
- LC said she would like to attend the site walk with CA if her schedule permits.
- GB moved to ratify the EO; TT 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Meeting: Enforcement Order – 186 Littleton Road**
  - Brent Routhier appeared before ConCom, along with Conrad Donell as his representative.
  - BD summarized details from the EO, which included unauthorized cleaning and scraping of the property, installation of a retaining wall, and formation of a large soil pile behind the house in close proximity to Bennetts Brook.
    - Mr. Donell said there is no haybale line or other protection between the soil pile and the brook.
    - Mr. Donell said the majority of the yard has been seeded with the exception of the soil pile.
    - Mr. Donell said most of the work that had been done involved cleaning up the area and changing the driveway area.
    - The retaining wall was put in because of the steep hill and is stabilized and grassed in.
    - Mr. Donell said no further earthwork is planned.
  - JG asked if any of the soil on the property had been scraped.
    - Mr. Donell said just a little where the driveway is.
  - BD asked that the soil pile be removed immediately to prevent washing into the brook.
    - Mr. Donell said he would have it removed within 2 weeks.
  - Discussion followed as to what should happen in the area after the pile is removed.
    - BD suggested seeding with something like rye grass.
    - TT said that, without a plan on paper, and without knowing what the area was like before it had been cleared, he was uncomfortable with putting down seed that might not be the right vegetation for the area.
      - It is unknown whether remediation will be necessary.
      - It is also unknown whether the area was wetland or scrubby vegetation before the clearing.
    - Mr. Donell said the area had been high and dry.
    - LC said scrub-shrub is one of the best barriers to protect a stream, and said she'd prefer something other than lawn there.
      - However, she added that if the area was wetland, rye grass would die out, and if it was grassed, shrubs would probably come back on their own.
  - ConCom therefore asked for the following steps:
    - removal of the soil pile immediately;
    - placement of a haybale line to protect the brook until the soils under the pile are stabilized;
    - hay or mulch of the area to hold the soil down for temporary stabilization;
    - notification of CA for a site visit (either by CA or ConCom as a whole) so that the site can be assessed and a decision reached as to the best vegetation to be planted for permanent stabilization.
- **Member Updates**
  - JG said she'd talked to CA earlier in the day.



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- CA had received a phone call from Joy, at Lycott Environmental, asking if the Flannagan Pond RFP was in error in requesting GPS plot points at 10 ft.
- The RFP for weed treatment on Flannagan Pond has a due date for proposals of 3/15.
- Lycott's proposal had not addressed this detail and Joy asked CA if it was necessary.
- JG said she had told CA that Lycott needed to at least address this in their cover letter.
- BD confirmed that Lycott needed to respond to the RFP as written.
- TT attended the 3/13 Montachusett Regional Planning Committee (MRPC) meeting regarding trails.
  - Since Ayer's Open Space & Recreation Plan (OSRP) expired several years ago, Ayer is not eligible to apply for grants that could help with its trail network.
    - TT volunteered to be ConCom's liaison should a group be put together to update the OSRP.
    - JG said the Community Preservation Committee (CPC) met on 3/6 and discussed this, among other things.
      - CPC is interested in helping renew the OSRP.
      - CPC met with consultant Jen Goldson to discuss the services she might provide on several projects.
        - Ms. Goldson had estimated that it would cost \$20,000 for her to update the OSRP, more if she also had to do the GIS work herself.
    - BD asked for an understanding of what benefits and value the Town would get on the basis of having an OSRP.
- LC said that, in previous Public Hearings, the issue of the State's Automatic Permit Extension Act had been mentioned as sustaining previously existing wetland delineation on renewed OOCs.
  - LC noted that this is not quite accurate: if ConCom saw an issue in the field, it has the jurisdiction to require wetland lines be redrawn.
- LC will be attending the 3/22 workshop in Worcester that will review Mass DEP's planned regulatory reforms.
- **Discussion: Comprehensive pond weed treatment survey**
  - LC recused herself and left the meeting.
  - JG said she had talked with Town Administrator Robert Pontbriand earlier about whether ConCom could proceed with an RFQ or other means to evaluate the cost of a baseline study.
    - Mr. Pontbriand had said an RFQ – Request for Quotation – was fine.
    - It was noted that the RFQ ConCom had previously discussed was a Request for Qualification.
      - GB wryly noted that the difference in RFQs was like apples and oranges.
    - BD suggested ConCom move forward with preparing something and then go back to Mr. Pontbriand to resolve the issue of what kind of RFQ to send out.
  - While ConCom is interested in a baseline survey and weed control management plan for Ayer's treatable ponds, TT said the Dam & Pond Management Committee is also interested in a wider comprehensive plan that covers all of Ayer's ponds – not just for weed management but also recreation, wildlife habitat, etc.
    - JG suggested a comprehensive survey be drawn up that seeks:
      - a baseline survey as well as a management plan for the ponds on which weed treatment was feasible (Sandy Pond, Flannagan Pond, Pine Meadow Pond, Long Pond, and possibly Balch Pond);



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- a baseline survey only of the condition of the rest of Ayer’s ponds (including Plow Shop Pond, Grove Pond, and possibly Rock Meadow Pond (the wetland area that abuts Autumn Ridge).
- The previous baseline survey was prepared for Ayer by Aquatic Control Technologies (ACT) in 2005.
  - ACT’s survey contained two sources of data/information:
    - field measurements (identification and mapping of aquatic plant distribution and a limited survey of wildlife habitat);
    - water tests (measuring pH, alkalinity, turbidity, nitrogen, phosphorus, color, bacterial, temperature/dissolved oxygen, water clarity, and algal identification/enumeration).
  - BD questioned the wisdom of relying solely on ACT’s template in determining what to ask for in an updated biological survey.
    - JG said she would contact the Town of Harvard to see what sort of data they have sought in studying their ponds.
- **9:30 PM – Adjourn Meeting**
  - GB moved to adjourn; TT 2<sup>nd</sup>.
    - Motion approved unanimously.