

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for 9/26/2013 – Approved 10/10/2013

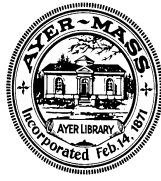
Location: Ayer Town Hall, 1st Floor

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: Yes

### **7:16 PM – Open Meeting**

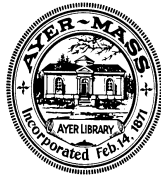
- **Confirmation of Agenda**
  - GB moved to confirm agenda as posted; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
  
- **Public Meeting: Requests for Certificates of Compliance (COC) – Easy Street subdivision**
  - CA received COC requests from Roger Kanniard for the following properties:
    - 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)
    - Easy Street Subdivision, DEP # 100-0300 (covering road work)
  - CA performed a site visit.
  - All three houses are occupied, lawns were lush, no erosion problems or violations were observed.
    - All erosion controls have been removed.
    - Mr. Kanniard is working on two additional houses but they are outside of the buffer zone.
  - CA did, however, have issues with the COC requests.
    - 12 Easy Street (Lot 6)
      - The as-built plan did not match the proposed plan.
      - While the yard itself looked fine, an unproposed/unapproved soil berm (approximately 6 +/- feet tall) was erected within the buffer zone behind this house and toward the wetland boundary.
      - An unapproved woodchip outlines the Limit-of-Work on this lot and continues into Lot 7 & 8 where it borders the wetland boundary.
    - 13 Easy Street (Lot 7)
      - The as-built plan did not match the proposed plan.
      - The as-built plan is incomplete (the backyard details are missing for half of the yard and a soil berm is not identified).
      - The proposed plan did not include a deck or the woodchip strip along the BVW / wetland boundary.
      - Shrubs along the wetland boundary make it unlikely that the resident will encroach into the wetland, but the strip of woodchips does go right up to the wetland boundary.
    - 11 Easy Street (Lot 8)
      - The as-built plan did not match the proposed plan.
      - The proposed plan did not include a retaining wall, patio-deck, or the woodchip strip along the BVW / wetland boundary.
      - BD asked if the retaining wall indicated on the as-built is actually in the wetland.



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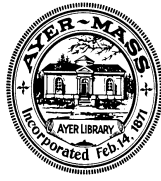
- CA stated that according to the as-built plan, it is in the buffer zone and borders the wetland boundary in one area.
  - The slope below the wall, in the buffer zone, is wood-chipped.
  - BD noted that ConCom has rejected permits in the past that have wanted to build this close to the wetland because it is not possible to place a retaining wall on the wetland boundary without doing work in the wetland itself.
  - CA was disappointed that the cover letters for all three lots were identical and that the deviations noted above were not pointed out as they are supposed to be.
  - BD asked CA to schedule a site visit for 10/12/13.
    - (Note: this site visit was re-scheduled for 8 a.m. on 10/19 at ConCom's 10/10 meeting.)
  - CA noted that if / when ConCom does issue COCs for these lots, the COCs will contain the condition in perpetuity that no dumpsters may be placed within the 100-ft buffer zone.
- **Announcements**
    - The fall MACC Conference will be held at Clark University on Nov. 16 from 8 a.m. to 3:45 p.m.
- **Public Meeting: RDA – Scott Pezza, 272 Old Farm Way**
    - Mr. Pezza plans to install a lawn irrigation system using a Ditch Witch system to minimize soil disturbance.
      - CA was given an accurate plot plan with the exact distances in the buffer zone noted.
    - GB moved to issue a Negative Determination of Applicability; LC 2<sup>nd</sup>.
      - CA added the stipulation, per BD's request, that any excess soil generated, however minimal, will be removed from the site.
      - Motion approved unanimously.
    - Mr. Pezza handed CA a check for \$60.80 to cover the expense of the newspaper notice.
    - BD told Mr. Pezza he can let his contractor begin work.
    - Mr. Pezza will pick up the signed DOA from ConCom's office the following Wednesday.
- **Meeting Minutes Approval**
    - GB moved to approve the minutes for 9/12/2013 as amended; LC 2<sup>nd</sup>.
      - Motion approved 4-0, 1 abstention (TT).
    - Discussion related to approval of the minutes:
      - Autumn Ridge
        - On the day following ConCom's 9/12 meeting, Cal Goldsmith, of Goldsmith, Prest & Ringwall (GPR), submitted an amended Operations and Maintenance Plan (OMP) to CA via email.
          - Mr. Goldsmith had distributed hard copies of the original plan to ConCom members on the 12<sup>th</sup>.
        - CA said that John Cadigan, representing the Autumn Ridge Homeowner's Association, has requested that ConCom formally affirm acceptance of the OMP as in good standing.
          - Steve Smith has indicated by email that the OMP seemed to meet standard best management practices.
          - BD asked CA to ask DPW Superintendent Mark Wetzel if he would review the OMP.



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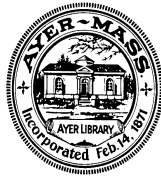
- While the OMP was not part of ConCom's OOC for this subdivision, it was part of ConCom's Enforcement Order discussion with the developer.
- CA has also heard that Misty-Anne Marold, of NHESP, will be coordinating a site visit by either herself or someone else from NHESP to inspect the turtle habitat.
  - CA is waiting to hear an exact date.
- 217 West Main Street, Calvin Moore
  - It was noted that erosion controls were not installed prior to the dumping of landfill from the High School onto this lot.
    - On 9/12, Mr. Goldsmith had requested, on Mr. Moore's behalf, informal permission to accept and store soil / fill from the High School.
    - ConCom members (GB, LC and JG) had given permission provided that erosion controls were installed prior to dumping and that the dumping was kept entirely out of the buffer zone.
  - BD asked CA to inform Mr. Goldsmith that if erosion controls were not installed by Saturday, 9/28, then an Enforcement Order (EO) would be issued.
  - It was at this point that Mr. Moore entered the meeting room and BD reiterated the discussion.
  - Mr. Moore said that he would see that erosion controls were installed the following day.
- **Public Hearing: NOI – Nashua Street Extension subdivision, Molumpco Development DEP # 100-0363**
  - J. P. Connolly, of GPR, and Calvin Moore, of Molumpco, were present.
  - Mr. Moore / Molumpco submitted a plan to build 7 residential dwellings on 5.76 acres located at the end of Nashua Street.
    - On tax map 13, this encompasses all of lot 10 and part of lot 11.
    - This parcel is currently undeveloped and includes bordering vegetated wetland (BVW) and an intermittent stream that is tributary to James Brook.
  - The NOI included plans to improve 172 linear feet of existing Nashua Street as well as the construction of 386 linear feet of new roadway to extend Nashua to a cul-de-sac.
    - Grinder pumps and a force main will be used to connect to the gravity sewer system already in Nashua Street.
    - Stormwater will be managed using 3 infiltration basins and a bio-retention area.
    - The plan called for a driveway crossing of the intermittent stream for lot 6.
      - This would entail disturbing 322 sq. ft. of wetland.
      - The plan proposed remediation of 389 sq. ft.
  - Though Mr. Moore had hoped to begin work in fall 2013, the project construction is now slated to start in spring 2014.
  - Meanwhile, Mr. Connolly said that Mr. Moore has already placed landfill on the parcel, with straw wattles for erosion control, and has done some land-clearing.
    - Mr. Connolly said that the wetlands do not seem to be at risk from the fill or the clearing that has been done.
  - BD asked if the wetlands have been flagged.



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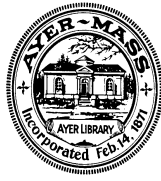
- Mr. Connolly said they have been flagged 3 times but someone in the neighborhood keeps removing the flags.
- GPR sent surveyors out the day before (9/25) to reflag yet again in anticipation that ConCom would schedule a site visit.
- A site visit was scheduled for 9/28, meeting at 8:30 a.m.
- GB moved to continue the Public Hearing to 10/10/2013; TT 2<sup>nd</sup>.
  - Motion approved unanimously.
- Additionally, Mr. Connolly asked if it would be possible for ConCom members to also perform a site visit to Victor Drive on the same morning.
  - GPR is working with Ayer DPW on the NOI submission for a culvert replacement.
  - Nick Pauling would be the GPR representative for this site visit.
  - CA distributed copies of this NOI to ConCom members, which is scheduled for ConCom's 10/10 agenda.
  - A site visit at Victor Drive was scheduled for 8 a.m. on 9/28.
- **Discussion: Nick Mancini, 45 Partridge Run**
  - Mr. Mancini appeared before ConCom to read a prepared statement asking for permission to perform extensive tree-cutting (20-25 trees) within the buffer zone on his property.
    - Mr. Mancini said his safety concerns stem from his observations of the devastation caused by last year's hurricane Sandy, and by having a handicapped family member who would be at risk if a tree fell on his house.
    - Some of the trees stand 60-80 ft. tall at a distance of 35-40 ft. from his house.
    - Mr. Mancini presented written affidavits in support of his concerns from the Ayer Tree Warden and several tree-cutting businesses.
  - BD scheduled a site visit with Mr. Mancini for 7:30 a.m. on 9/28.
- **CA Updates**
  - Comprehensive Pond Survey
    - ConCom is holding a joint meeting with the Pond & Dam Management Committee and Geosyntec on Monday, 9/30, at 7 p.m.
  - Pingry Hill
    - CA has been performing site visits and drive-throughs and reported that work has re-commenced on Hemlock Drive since ConCom lifted the Cease & Desist on 9/12.
      - However, CA's last update from erosion specialist Desheng Wang referred to some outstanding issues left from the most recent rainfall.
        - Sediment gathered behind the check dam 'pillows' on Hickory Way had not yet been removed to make ready for the next storm.
        - Mr. Wang expressed concern in his update that his suggestions were not being promptly followed up on by the developer and Powell Construction.
        - As an example, Mr. Wang had requested crushed stone be used at the construction exit area further up Hickory Way.
          - Sediment was being brought out into the roadway on truck tires.
          - Project Manager Lori Scanlan had said that crushed stone would be installed at least a couple of weeks earlier but this has not yet been done.
          - CA will check this out on the following day (9/27).



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- CA has also observed that the developer has begun to clear several lots on Hemlock Drive, but that no erosion control measures have yet been installed to prevent runoff during a major storm.
  - No significant rain is currently in the forecast, but it was noted that these small steps are easy to take care of as preventative measures and should be given a higher priority.
- CA said the State's Unilateral Administrative Order (UAO) has still not been sent out.
- Littleton Lyne Apartments (LLA)
  - CA has received numerous communications from LLA owner Jean Holmes and her attorney, Robert Markley, since ConCom's 9/12 meeting.
  - Ms. Holmes said she was concerned and upset that ConCom had authorized a drainage easement for Pingry Hill on LLA property.
    - ConCom voted on 8/22 to authorize a "field change" to Pingry Hill developer Rick Roper's OOC for stormwater drainage, given clogged State catchbasins on Rte. 2A.
  - In hearing of Ms. Holmes complaint, BD said for the record that ConCom didn't authorize anything being done on her property per se.
    - ConCom only authorized Mr. Roper's change in how he would go about facilitating stormwater drainage.
    - ConCom had been assured in good faith that attorneys for LLA and Pingry Hill had come to an agreement.
    - Regardless of ConCom's authorizing a field change to Mr. Roper's OOC, no actual work can be done by Pingry Hill contractors on LLA property without LLA permission.
  - In addition, it was noted that both Ms. Holmes and Attorney Markley were present at ConCom's 9/12 meeting when the drainage easement had been briefly mentioned.
    - At that time, Attorney Markley said the language for the easement had been agreed to by both sides but that Ms. Holmes wanted to see it staked out before signing.
    - It was observed that neither Ms. Holmes nor Attorney Markley expressed any concerns to ConCom at that time.
    - Attorney Markley, in fact, spoke in favor of ConCom lifting the Cease & Desist (C & D) on Pingry Hill so that LLA could move forward with its sewer connection tie-in on Hemlock Drive.
      - With Mr. Roper's consent, this tie-in had been approved by ConCom as a field change to Mr. Roper's OOC on 5/23/13.
        - The connection was not done at that time, however, for reasons unclear to ConCom.
    - When CA asked why Ms. Holmes did not voice concerns about the drainage easement at ConCom's 9/12 meeting, Ms. Holmes indicated she did not want to slow down LLA's sewer connection on Hemlock Drive, which was to take place with the lifting of the C & D.
  - CA had offered to place Ms. Holmes and Attorney Markley on tonight's ConCom's agenda as an amended agenda item, but Ms. Holmes withdrew this request earlier in the day.



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- CA said Ms. Holmes has now walked the staked-out drainage easement with Powell Construction, which would do the work for Pingry Hill.
  - Powell Construction observed problems with the plan and it will now have to be changed.
  - CA told Ms. Holmes and Attorney Markley, and will inform Mr. Roper and Powell Construction, that if there are changes to the drainage easement, the plan will need to be reviewed for approval by ConCom again.
  - BD said that while LLA property does not fall within ConCom's jurisdiction, the Pingry Hill drainage easement is a stormwater issue and it is ConCom's business insofar as the Commission oversees a project (Pingry Hill) from which stormwater runoff is generated.
- BD asked CA to convey to Ms. Holmes that there are to be no further off-the-record conversations pertaining to the drainage easement.
  - Any concerns related to this easement will need to be addressed publically in the open forum of a regular ConCom meeting.
- Mass DOT
  - CA spoke to Bill Clarity, of Mass DOT, who called to inform CA that DOT will be returning soon to complete paving on Rte. 2A, at the rotary itself.
    - Erosion controls will be installed.
    - Mass DOT repaved a portion of Rte. 2A the previous year but did not complete the planned repaving which was to include the rotary.
  - While on the phone with Mr. Clarity, CA took the opportunity to ask if Mass DOT had ever followed up on the erosion issues on Rte. 2A near Snake Hill Road and the Pinard property.
    - DOT did not erect curbing in this area when it repaved.
    - As a result, street runoff now goes directly into the wetland.
    - Soil erosion because of this is also now undermining the road pavement as well.
    - ConCom has been unsuccessful in its attempts to secure Mass DOT attention or response to this situation.
      - As CA wryly noted to BD's ecstatic approval, this issue has again "resurfaced."
- **8:43 PM – Adjourn Meeting**
  - GB moved to adjourn; TT 2<sup>nd</sup>.
    - Motion approved unanimously.