

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for 3/22/12 – Approved 4/12/12

Location: Ayer Town Hall, 2nd Floor

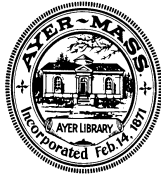
Members present: Bill Daniels (BD, Chair), George Bacon (GB), Takashi Tada (TT), Jessica Gugino (JG, Clerk), Becky DaSilva-Conde (CA, Conservation Administrator)

APAC taped: No

Not present: Warren Ball (WB)

7:12 PM – Open Meeting

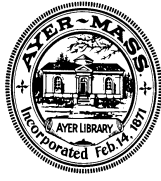
- **Discussion: Steve Smith, Volunteer Land Steward for Autumn Ridge**
 - Mr. Smith presented the 2nd annual monitoring update report for Autumn Ridge.
 - The baseline study was done by Mr. Smith in 2010.
 - Mr. Smith reported one violation.
 - The current developer removed the loam pile as requested last year but did not follow up with grading and hayfield quality seeding to return it to its baseline condition.
 - Native ‘panic grass’ has therefore taken over, preventing useful haying.
 - BD asked if this was a condition of the OOC.
 - CA said the initial placing of the loam pile was not in the original OOC.
 - The developer received permission for a temporary loam pile later, with the stipulation that they return the area to its original condition.
 - Mr. Smith reported that the upper beaver dam, which blew out in July 2011, draining the wetland and destroying much habitat, has now been restored by busy little big-toothed semi-aquatic rodents.
 - As a result, the level of 15-acre ‘Rock Meadow Pond’ has more or less been restored.
 - Mr. Smith offered to help train other volunteer stewards in Ayer interested in taking on the responsibility of monitoring another Conservation Restriction property.
- **Public Hearing (cont’d): NOI – Ed and Penelope Kelley, 20 Oak Ridge Drive, DEP # 100-0351**
 - A site walk took place on 3/17, at which ConCom members reviewed planned placement of erosion controls and relocation of excavated soils.
 - BD said the topography observed at the site walk allowed ConCom to approve the use of a shorter haybale line than the contractor, Steve Spiros, initially planned.
 - GB moved to issue an OOC for 100-0351; TT 2nd.
 - Motion approved unanimously.
 - The Kelleys were reminded that the OOC needs to be recorded at the Middlesex Registry of Deeds before work can commence.
 - GB moved to close the Public Hearing for 100-0351; TT 2nd.
 - Motion approved unanimously.
- **Public Meeting: Extension Permit for Order of Conditions, DEP # 100-0293**
 - The Town of Ayer’s OOC for pond weed treatment expired in December.
 - Lycott Environmental discovered this when they applied for a DEP permit for herbicide treatment of Flannagan Pond this spring.
 - Lycott provided a template for applying to MassDEP for renewal within the state’s temporary auto-extension.
 - While Ayer’s OOC is therefore covered under auto-extension for 2 years, CA asked ConCom sign and issue a 3-year permit to extend the OOC.
 - GB moved to issue the extension; TT 2nd.



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- Motion approved unanimously.
- In speaking with Rob Wheaton, of Lycott, about this, CA confirmed that treatment of Flannagan Pond will be at the top of Lycott's list as soon as weather and water levels are right.
 - CA will speak to Fire Chief Pedrazzi about checking for debris in the culvert as water levels still look high despite the boards having been removed from Balch Dam last fall.
- **Public Hearings (cont'd): NOIs – Crabtree Development, Ridge View Heights/Pingry Hill subdivision**
 - Steve Mullaney, of SJ Mullaney Engineering, and Rick Roper, of Crabtree Development, were present.
 - ConCom performed its site walk for each NOI application on 3/10, with BD, CA, GB and JG in attendance.
 - **NOI: 264 Old Farm Way (Lot 51A), DEP# 100-0350**
 - This lot had no real concerns for ConCom.
 - GB moved to issue an OOC for 100-0350; TT 2nd.
 - Motion approved unanimously.
 - GB moved to continue the Public Hearing to 4/12/12; TT 2nd.
 - Motion approved unanimously.
 - CA reminded Mr. Roper that trees within the Buffer Zone cannot be cut down until after the OOC is recorded at the Registry of Deeds.
 - **NOI: 272 Old Farm Way (Lot 50A), DEP# 100-0349**
 - Concerns here were that the original layout placed the house very close to the wetland.
 - On site, Mr. Roper showed where the house would now be placed, further from the wetland.
 - Mr. Roper indicated the house would be set back the minimum of 36 ft. from the Right of Way; the maximum depth of the house would be 28 ft.; and the maximum depth of the backyard beyond that would be 25 ft.
 - Mr. Mullaney said that, with the new configuration as stated above, CA's suggestion on 2/23 to curve the backyard away from the wetland was no longer an issue since the backyard will now be farther away.
 - GB moved to issue an OOC for 100-0349, with the new dimensions as noted at the 3/10 site walk; TT 2nd.
 - TT asked about use of a permanent demarcation of the treeline to prevent future encroachment into the wetland by a homeowner.
 - BD suggested that, since the house for this lot is entirely within the buffer zone, a vegetative barrier might be best.
 - Mr. Roper said this area, at the edge of the woods, would get little sun and a vegetative barrier would just die.
 - Mr. Roper did not want to use boulders for aesthetic reasons.
 - Mr. Mullaney then suggested that the developer could create a natural berm by mounding the edge of the 25-ft. backyard during final grading.
 - Such a berm would provide a good demarcation to protect the wetland and also prevent runoff.
 - ConCom thought this was a good suggestion and BD asked CA to put this in the OOC.
 - If Mr. Roper has any later comments or thoughts on this requirement, he should make them known before the OOC is finalized.



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- BD summarized what had been discussed:
 - the new dimensions (36 ft. from ROW; 28 ft. max. for house; 25 ft. backyard)
 - the need to re-stake the haybale line on site given the above change in dimensions
 - (Mr. Mullaney said he would email ‘Mark’ about this)
 - the condition requiring the creation of a berm 25 ft. from the back of the house
- GB re-moved to issue an OOC for 100-0349 with these changes as discussed; TT 2nd.
 - Motion approved unanimously.
- GB moved to continue the Public Hearing to 4/12/12; TT 2nd.
 - Motion approved unanimously.
- **NOI: 282 Old Farm Way (Lot 49A), DEP# 100-0348**
 - Mr. Roper will use the same setback and dimensions (36-28-25) as in the previous lot.
 - The new placement of the house takes it further up from the slope leading to the wetland.
 - Mr. Mullaney said they will place haybales around the catchbasin on Littleton Road as requested on 2/23.
 - BD said the creation of a berm at the edge of the backyard will also be a condition for this lot.
 - GB moved to issue an OOC for 100-0348, assuming the 36-28-25 dimension, and with the special conditions of a berm and haybales around the catchbasin; TT 2nd.
 - Motion approved unanimously.
 - GB moved to continue the Public Hearing to 4/12/12; TT 2nd.
 - Motion approved unanimously.
- **NOI: 31 Partridge Run (Lot 34), DEP# 100-0347**
 - BD said that ConCom had asked for the footing drain to be staked for the site walk.
 - Mr. Mullaney said the original staking was based on a larger house-print.
 - With the new dimensions (36-28-25), the house may be completely outside the buffer zone.
 - BD asked that regardless of whether the house is located closer or moved up the hill and out of the buffer zone, ConCom be notified if the drain line is to be tied into any catchbasin as this remains within ConCom jurisdiction.
 - No berm will be required as this is a very flat lot.
 - A sketch of the revised plan for this lot was requested.
 - GB moved to issue an OOC for 100-0347; TT 2nd.
 - Motion approved unanimously.
 - GB moved to continue the Public Hearing to 4/12/12; TT 2nd.
 - Motion approved unanimously.
- CA will email the draft OOCs to Mr. Roper; there is no need for Mr. Roper or Mr. Mullaney to attend the 4/12 Hearing.
- CA asked Mr. Roper to forward contact information for the homeowner of Lot 88 for issuance of an Enforcement Order.
- **Public Meeting: Epic Enterprises, COC Request and violations**
 - Mark Davies, Kyle Carson, and Roger McClure, of the Stahlman Group, were present.
 - On its 3/17 site walk, ConCom added on a visit to Epic Enterprises, given their recent request for a partial COC which was denied by vote on 2/23.

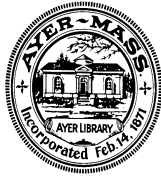


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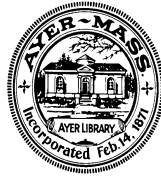
- Several problems were noted, including observation of the active flow of sediments directly into Day Brook.
 - Because of fencing, part of the stream could not be directly observed, although it appeared to have siltation on both sides of haybales.
- BD contacted Mr. Davies about this and asked for a representative of the Stahlman Group to attend tonight's meeting.
- BD said the two perforated pipes that dump directly into Day Brook, discovered on the 5/14/11 site walk and assumed by the Stahlman Group to be underdrains, needed to be definitively corrected so that water no longer flows directly into the brook.
 - Mr. Davies said the excavated hole observed by ConCom in the east basin was being improved upon.
 - The underdrain pipe has been located for this basin.
 - It has been capped, wrapped in filter fabric and mounded over with gravel to improve it.
 - Mr. McClure said that since this was done, the water running from the pipe into Day Brook is now running clean without siltation.
 - The pipe leading into the brook from the west basin is more of a problem as it cannot be followed back to its starting point.
 - BD asked that the pipe be located in this basin, capped and vee-ed off so that its flow is redirected to dump into the basin rather than directly into the brook.
 - Mr. McClure said they would do two excavations simultaneously, installing a new drain and leaving the old one, vee-ed off and exposed for CA to check before being covered over again.
- ConCom moved on to discuss the request for a partial COC.
 - BD asked where work on the new parking lot stood.
 - Mr. McClure said they were 1/3 of the way through, expected to compact it on 3/26 and have it ready for basecoating by 4/2.
 - Mr. McClure said 3 attempts were made last fall to hydroseed the area but none of them took.
 - CA emphasized that a request for a partial COC requires a summary of what is complete along with what is not complete and why.
 - The reason the request for a partial COC was denied was because, while the new building was complete, none of the work specific to ConCom's OOC/jurisdiction was even close to completion at the time of the request.
 - Mr. McClure said they have a Temporary Certificate of Occupancy for use of the building from Building Inspector Gabe Vallente.
 - This expires on 7/1/12.
 - BD said ConCom could not issue a partial COC at this time but would revisit the issue at its 6/14 meeting.
 - In the meantime, Mr. McClure said the parking lot should be done by 4/15, work will be done promptly to correct the mystery pipe situation, and hydroseeding will be done as soon as possible.
 - BD said that if only minor issues, like the hydroseeding fully taking, remain by 6/14, ConCom can address this with Mr. Vallente.
- **Public Meeting: Enforcement Order: Groton-Harvard Road at Railroad crossing**
 - On its 3/17/12 site walk, ConCom observed from the road an area of ongoing violations to the intermittent stream adjacent to the railroad.



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- This included alteration of the bank area, tree-clearing, and filling in of the stream.
- From a distance it appeared as if the railroad property was being trespassed onto.
- As parcel/property lines were hard to definitively discern in the area of disturbance, CA sent out 2 Enforcement Orders:
 - B & M Railroad (aka Guilford)
 - Roger and Loretta McPadden, owners of 76 East Main Street (and parcels 125 and 126)
- The EOs specified the area in question is jurisdictional, and ordered a Cease & Desist of further work in this area, a return of the resource area to its original condition, and the filing of a restoration plan.
- GB moved to ratify and sign the EO to B & M Railroad (map 27, parcel 183); TT 2nd.
 - Motion approved unanimously.
- GB moved to ratify and sign the EO to the McPaddens (map 27, parcels 125 and 126); TT 2nd.
 - Motion approved unanimously.
- Resident David Bodurtha, who initially reported the violation based on information received from another resident, asked if ConCom observed tree-cutting directly in School House Pond itself (to the west of the condo complex).
 - BD said ConCom did not on that occasion have permission to enter onto private property to see this.
- **Public Meeting: Certificate of Compliance, Matt Pinard, 66 Littleton Road, DEP # 100-0270.**
 - BD has visited the property and everything now seems in order.
 - GB moved to issue a COC; TT 2nd.
 - Motion approved unanimously.
- **Discussion: Public attendance at ConCom site walks**
 - BD referred to the situation that arose on ConCom's 3/10 site walk to Pingry Hill, at which time Mr. Roper refused to sign a waiver of liability so that Mr. Bodurtha, who chose to attend on his own initiative, could accompany the site walk.
 - In the wake of this, ConCom sought a definitive ruling from Town Administrator Pontbriand as to whether members of the public have a right to attend site walks on private property.
 - BD read Mr. Pontbriand's response which included an opinion from Town Counsel.
 - Site walks are excluded as a meeting of a public body under the Open Meeting Law.
 - The general public thus does not have a specific right to attend a site walk on private property.
 - There is therefore no question as to the validity of the site walk at Pingry Hill on 3/10, given Mr. Bodurtha's exclusion by the property owner.
 - Under MGL and Open Meeting Law, ConCom has no legal requirement to invite members of the public to attend site walks on private property, nor does the general public have a specific right to attend.
 - BD asked that, to avoid similar situations in the future, ConCom adopt a policy of limiting attendance at its site walks to the applicant, the applicant's representative/s, and any folks specifically invited by the applicant.
 - There was no disagreement from ConCom members as to this new policy.
 - In addition, to avoid confusion, CA will no longer post site walks, a practice done in the past out of courtesy rather than legal requirement.
- **CA Updates**
 - Autumn Ridge subdivision



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- CA will finalize and mail and Enforcement Order to Calvin Goldsmith, of Goldsmith, Prest & Ringwall, Inc., the last known contact for the latest developer, Woodstone Homes, of the subdivision.
- The ongoing violations include problems with the old loam pile area (not graded or reseeded); failure to properly construct or maintain the turtle nesting area; failure of the detention basin behind Building 5; failure to maintain the stormwater management systems on site; and failure to maintain erosion controls throughout the site.
 - BD asked whether these violations were now the responsibility of the newly-formed homeowners association and not the developer.
 - CA said the developer is still building on the site, and therefore the responsibility still lies there.
 - DEP would never go for the responsibility being passed to the homeowners association when building is still taking place.
- Twin Valley Homes, Nashua and Pleasant Street
 - Homeowners at 50 and 52 Nashua Street contacted CA about getting COCs for their lots.
 - CA noted that granite postings were never placed, as required in the OOC.
 - One of the residents was hoping this could be revoked for aesthetic reasons.
 - As-builts were also never provided by developer Mike Sheehy to ConCom.
- Stratton Hill
 - CA emailed developer Dave Moulton's attorney and representative.
 - Mr. Moulton still needs to submit a replication plan before an OOC is issued and work can begin.
 - In addition, Mr. Moulton still has an open OOC for Wright Road which expires this coming summer.
- **Member Updates**
 - JG asked what ConCom should do in looking for a new commissioner.
 - For the record, BD announced that WB has submitted a letter of resignation due to expanded responsibilities at his job.
 - BD asked CA if she could find the name of a woman who had applied too late to be considered last summer.
 - GB has observed from his train ride that tree-clearing has been done on lot H1 at Pingry Hill, and it looks pretty bad.
- **10:02 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.