



## PLANNING BOARD

Town of Ayer

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Approve 4/26/2022

### **Minutes of April 12, 2022 - Ayer Planning Board Meeting**

Location: 1<sup>st</sup> Floor Meeting Room, Ayer Town Hall

Meeting was recorded and then broadcasted on APAC

**Members Present:** Geof Tillotson, Chairman; Ken Diskin, Vice Chairman; and Jonathan Kranz, Clerk, Julie Murray and Nathan King

**Also Present:** Mark Archambault, Town Planner

**Chairman Tillotson called the meeting to order at 6:15 PM.**

#### General Business

##### **Approve the Agenda**

**At 6:15 PM Mr. Jonathan Kranz made a motion to approve the agenda as presented. Ms. Julie Murray seconded. No discussion. Unanimous vote to approve. (5-0-0)**

**Covenant and Bond Releases – None**

#### **Site Plan Review – 0 Littleton Road, Elizabeth Hamilton, Mobile Food Establishment**

*Present: Elizabeth Hamilton, applicant*

**At 6:19PM Mr. Jonathan Kranz read aloud the public hearing notice as it was published in the Nashoba Valley Voice to open the hearing.**

Ms. Elizabeth Hamilton said she wants to use converted camper as a food truck to sell hot dogs for lunch at the proposed location on Littleton Road during the warmer months.

The hours of operation would be from 11 AM to 2 or 3 PM depending on demand and will not operate in the winter. All items such as the camper, trash cans, and signs will be removed at the end of every day.

Mr. Archambault showed the location of the food truck on the screen from Mr. Mapper for those present.

Mr. Jonathan Kranz asked about the menu.

Ms. Hamilton stated that she will have hot dogs, chili, nachos and drinks.

Mr. Kranz asked about the trash.

Ms. Hamilton stated that she will have trash cans on site and will be bringing them home with her everyday along with the trailer and signs. Ms. Hamilton stated that she has her inspection scheduled with the Board of Health to start operating her business next week.

Mr. Ken Diskin wanted to discuss the abutter notification waiver that was requested.

Mr. Archambault read aloud the section of the Ayer Planning Board's Site Plan Regulations that states the requirement for abutter notification. Mr. Archambault mentioned that there is not state requirement for abutter notification only a local requirement. The question was sent to Town Council about the request to waive the abutter notification and Town Council stated that there was no language listed in the regulations that allowed for the Board to grant a waiver.

Mr. Diskin disagreed with Town Council's opinion stating that the regulation stated that a waiver can be requested and wanted to ask the Board for their opinion on the request for the wavier.

Mr. Kranz mentioned that similar requests have been brought to the Board before and feel that notifying abutters is important but for this site plan there is no construction that is occurring, and the business will be operating on a limited schedule on an existing commercial lot.

Mr. Diskin mentioned that he also feels that it is very important to inform the public on what is going on in their neighborhood when there is a major change like a subdivision or commercial construction.

Mr. Nathan King had a question for Ms. Hamilton about the energy source for the food truck.

Ms. Hamilton stated that she has a small gas generator that will be used for the trailer; there will be no fryer and the hot dogs will be cooked in a steamer.

Mr. King asked how the food truck differs from the Boy Scouts that sell Christmas trees on the same lot. Both are seasonal businesses with limited hours and the Boy Scouts have never gone for site plan review.

Chairman Tillotson did not have an answer to Mr. King's question.

The Board had a discussion regarding the request for the abutter notification and the proposed project.

Mr. Diskin asked if the Board had to follow Town Councils opinion on the waiver.

Mr. Archambault was not sure.

Mr. Diskin stated that he feels that abutter should be notified but thought maybe in this case with all the units at the abutting condominium complex that they could possibly notify just the association to help cut the number of abutters.

**At 6:49 PM Mr. Ken Diskin made a motion to allow the abutter notifications for the 55 Littleton Road condominium complex be reduced to only the association and not individual owners. Ms. Julie Murray seconded. No discussion. Vote to approve 4-0-1, Chairman Tillotson abstained.**

Mr. Archambault mentioned that at the next meeting the Board will need to vote on waivers to the site plan application regarding the need for landscaping plans, lighting plans and a traffic study. Mr. Archambault will have a full list of the wavers needed for the next meeting.

A site inspection is planned for Thursday April 21, 2022, at 9:00AM

**At 6:56 PM Mr. Jonathan Kranz made a motion to continue the public hearing to the next meeting on April 26, 2022. Ms. Julie Murray seconded. No discussion. Unanimous vote to approve. (5-0-0)**

**Continued Public Hearing, Citizen Petition Zoning Bylaw Amendment- Ted Maxant Re-zone property on Harvard Road**

*Present: Attorney Thomas Gibbons, Representative for Mr. Ted Maxant*

**At 6:57 PM Mr. Jonathan Kranz made a motion to open the continued public hearing for the Citizen Petition Zoning Bylaw Amendment. Mr. Ken Diskin seconded. No discussion. Unanimous vote to approve. (5-0-0)**

Attorney Thomas Gibbons gave a brief background on the property at 29 Harvard Road and the rezoning that was voted on at the Fall Town Meeting. Attorney Gibbons stated that Mr. Maxant is looking to now rezone 27 Harvard Road to General Business just like he did for 29 Harvard Road. Attorney Gibbons stated that he watched the last Planning Board meeting and understands that the Board has concerns with business on the property. Attorney Gibbons mentioned at the Fall Town Meeting the Board endorsed the zoning change with no reservations and encouraged them to do the same for the abutting property. Attorney Gibbons stated that with the gas station across the street and the abutting property both zoned General Business it only makes sense to have this lot rezoned as well to General Business. Having housing built on that lot would not be safe with the other businesses in the area.

Mr. Jonathan Kranz asked if the Board had to vote to endorse the Citizen Petition or could they just abstain.

Chairman Tillotson went over the Boards options for the Citizen Petition.

Mr. Nathan King had a comment regarding the Citizen Petition. Mr. King mentioned that last year the Board all agreed that rezoning both properties made sense. Mr. King asked if they just looked at 27 Harvard Road, would the property be in compliance with zoning?

Attorney Gibbons mentioned that he is aware of a zoning enforcement letter that was sent to Mr. Maxant from Mr. Charlie Shultz, Building Commissioner/Zoning Enforcement Officer. Attorney Gibbons stated that Mr. Maxant will go to the Zoning Board of Appeals for any use variances he may need once the property is rezoned if those uses do not meet zoning requirements. Attorney Gibbons stressed that the Board is being asked to endorse a zoning change, not being asked if the property complies with zoning.

Mr. Diskin said that the Board's concern with the property is not the question if it should or should not be rezoned to General Business. Mr. Diskin believes it is the best use of that property. His concern is that when the Town voted in the fall to rezone the property the property followed zoning with no businesses operating on site. With this zoning amendment request the property is not complaint with zoning. Mr. Diskin mentioned that he feels that with the property in violation of zoning it should not be on the Town

Meeting Warrant. HE would allow Mr. Maxant from now to Town Meeting to get the property into compliance and then he would endorse the Citizen Petition.

The Board held a discussion on the matter of the property and the zoning violations.

Mr. Diskin asked Mr. Archambault if the Board could endorse the Citizen Petition with conditions, recognizing that the property is not being used in accordance with the current zoning.

Attorney Gibbons mentioned that he did not think the Board could condition the endorsement: either the Board endorses the amendment or not. Attorney Gibbons mentioned that the Board is only endorsing the zoning change not the use of the property and encouraged them again to consider endorsing the amendment.

There were a few abutters present who spoke in favor of Mr. Maxant, as well as Mr. James O'Conor, Town Moderator, who mentioned to the Board that he would give the Board time at Town Meeting to express their concerns with this or any other warrant article.

**At 7:33PM Chairman Geof Tillotson made a motion to send a positive recommendation to Town Meeting and the Select Board for the Citizen Petition for the Zoning Bylaw Amendment for 27 Harvard Road as presented. Ms. Julie Murray seconded.**

**Discussion:**

**Mr. Ken Diskin had a recommendation for an amendment to the motion to add language to the endorsement of the zoning change stating that the Board does not approve the current use or any future use of the property.**

**Attorney Gibbons said that he did not believe that the Board could legally condition the endorsement of the Citizen Petition.**

**Vote: 0 – aye, 2 – nay, and 3 abstentions**

**At 7:37PM Mr. Jonathan Kranz made a motion to close the public hearing for the Citizen Petition Zoning Bylaw Amendment. Ms. Julie Murray seconded. No discussion. Unanimous vote to approve.**

**The Board had a brief recess and reconvened at 7:41 PM**

#### **Town Planner Report**

##### **New England Power minor changes to the decisions**

Chairman Tillotson mentioned that New England Power has requested some minor changes to the general conditions of the Site Plan and Stormwater Management Permits.

Mr. Mark Archambault said that the engineer for New England Power requested that general condition #7 stating that member or agents of the Planning Board have the right to enter to site be removed from the decision stating security reasons.

The Board held a brief discussion regarding the matter, and all agreed to remove the condition as it would be unsafe for any member to enter the site unsupervised.

Mr. Archambault mentioned that there is another request to change the wording in general condition #10 which lists the hours of construction. New England Power is requesting that the condition be changed to add that the hours can be extended with prior approval.

The Board discussed this requested and found it to be unnecessary stating that in an emergency work can be done on site without the approval of the Building Commissioner and the hours of construction are there to protect the abutters.

**At 7:49 PM Mr. Ken Diskin made a motion to approve the request to amend the Site Plan and Stormwater Management Permit general conditions to remove general condition #7 as requested. Mr. Jonathan Kranz seconded. No discussion. Unanimous vote to approve. (5-0-0)**

#### **MBTA**

Mr. Archambault will give his presentation on the MBTA Communities Act at the next meeting but wanted to mention that Board received a DLTA grant for reviewing the current zoning for compliance with the new Act.

#### **Meeting Minutes of March 22, 2022**

There was a brief discussion on the minutes and a minor correction made.

**At 7:38 PM Mr. Jonathan Kranz made a motion to approve the minutes of the March 22, 2022, meeting as amended. Mr. Nathan King seconded. No discussion. Vote to approve 4-0-1, Ms. Julie Murray abstained.**

#### **New Business/Old Business**

##### **Site Walks**

Chairman Tillotson mentioned that since the Board would be conducting a site visit on Thursday April 21<sup>st</sup>, it would be a good time for the Board to look at other sites in the area.

The Board members discussed different sites to go out to next week including Curley Circle and Catania Spagna, as well as scheduling a time to go and visit Ayer Solar II.

Mr. Diskin gave a brief update on the construction at Ayer Solar II and suggested that the Board go out to visit Pleasant Street Extension and Washington Street's approved ANR and subdivision as well.

##### **Pleasant Street Ext Guardrail Letter**

Chairman Tillotson stated that the Department of Public Works received a letter from several abutters on Pleasant Street regarding the request from Mr. Moore to change the style of guardrail. Chairman Tillotson mentioned that the Board has discussed the matter with Mr. Dan Van Schalkwyk.

Chairman Tillotson mentioned that there will need to be a more detailed discussion with the DPW regarding the guardrail.

##### **CPC**

Ms. Julie Murray mentioned to the Board that the CPC will be conducting a survey for the 5-year plan for the Community Preservation Committee. There will be a public form on May 4<sup>th</sup> via zoom that all are welcome to attend.

#### **Meeting Adjournment**

At 8:11 PM Jonathan Kranz made a motion to adjourn. Mr. Nathan King seconded. No discussion.  
Unanimous vote to approve. (5-0-0)

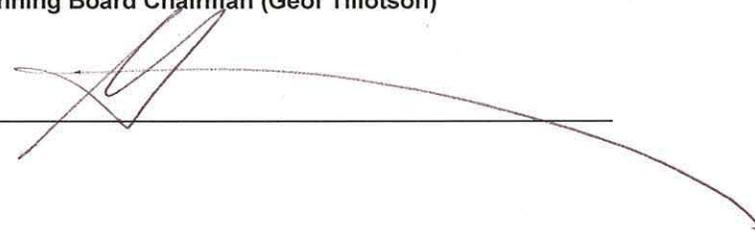
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Minutes recorded and submitted by Heather Hampson, Administrative Coordinator

Planning Board Approval

4/26/2022  
Date

Planning Board Chairman (Geof Tillotson)

  
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RECEIVED  
APR 28 2022

TOWN OF AYER  
TOWN CLERK

