



PLANNING BOARD

Town of Ayer

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2017 APR 12 AM 10:56

Minutes of the March 2, 2017 - Ayer Planning Board Meeting

Location: First Floor Meeting Room, Ayer Town Hall

Meeting was recorded by APAC

Members Present: James Fay, Chair, Mark Fermanian, Clerk, Geof Tillotson. Sue Kennedy and Jen Gibbons, Vice Chair.

Others present: Mark Smith, Ruth Rhonemus, Ken Diskin, Barb Wyman, Kathy Smith, Karen Sherwin, Robert Pontbriand, Kevin Hergan, David Gardner, Harold Herlgin, Sandy Bean.

Chairman Jim Fay called the meeting to order at 6:00 PM.

General Business

Approve the Agenda for the meeting. Jim Fay requested that the Agenda for March 2, 2017 be approved with the following amendments:

- ANR – for Littleton Rd/ Snake Hill Rd. will move to the April meeting. Applicant, Mill Corp. was unable to attend.
- Ayer Solar II will be moved to a later date.
- Public Input will be moved to first on the Agenda for discussion on Ayer Solar.

Geof Tillotson moved the agenda with changes, Jen Gibbons 2nd, Unanimous vote to accept. (5-0)

Jim Fay opened the public discussion with an overview of the project as it had been a long timeline. Geof Tillotson pointed out that the Ayer Solar II application came in on February 10 with no plans. Jim Fay noted that it is considered an incomplete application and the time clock would not start until the Board had a complete application.

Resident Ken Diskin was prepared to speak about Ayer Solar II but needed to get something at home, the meeting decided they would wait for his comment and proceeded with the ANR for Wright Rd.

ANR Wright Rd. – Kevin Conover, from David Ross Associates, presented a 3 - lot ANR on Wright Rd. The Board felt all requirements had been met. Geof Tillotson moved to approve the ANR, Mark Fermanian 2nd and the Board voted unanimously to approve. (5-0)

Ayer Solar Discussion - Returning to the discussion on Ayer Solar I, Jim Fay stated that Ayer Solar I is through the Planning Board so the Board has no further control. However, the Planning Board is willing to have the discussion. Mark Smith, resident at 23 Douglas Dr., told the Board that he had signed for two registered letters for a sub-division on Rosewood Ave. He said he reviewed the site and thought it would not affect his property. Jim Fay mentioned that the project had been presented to the Board as a sub-division. Mr. Smith said the neighbors had no idea that a Solar Field would be installed. Jim Fay told the group that the Legal notice in the Nashoba Valley Voice and Sun had stated the use would be a Solar Photovoltaic Field. Mr. Smith said that the neighbors realize "it's a done deal" but are very angry they didn't know about the solar field. He asked why a letter had not been sent for the Solar Field? Planning Board member Sue Kennedy asked for a review of the total project of Rosewood Ave. Extension and

Ayer Solar I. Geof Tillotson gave the overview - the project began with a request for a Subdivision to create frontage for access to a back property, later called a "Driveway". There was at the time a lot of discussion about a culvert and beavers with the abutters. Ayer Solar I has changed a great deal with development. Solar, by State statute, is treated like a church, can be located in any zone. The landowner has the right to do what they want as long as meeting State law and Town bylaws. Jim Fay mentioned that the project applications had also been handled by several different applicants.

Mr. Smith told how he had reviewed the layout of the Solar Field. He questioned if plans could change at this time? Jim Fay stated that Planning has no further say. Everything that needed to be done has been done. Mr. Smith also inquired as to how measurements to James Brook had been done. Jim Fay told Mr. Smith that Conservation Commission should answer the question. Town Administrator Robert Pontbriand spoke about the 61A Agricultural Law. He stated that everything was done properly. Regardless of folks not being happy, legal procedural regulations have been met. He offered to work with the neighbors to see, if in good faith, the developer could move the panels back from the setbacks. Mr. Pontbriand again stated that the James Brook question should be reviewed by Con. Com. and moving forward abutters should be notified.

Ayer Solar II – Ken Diskin, an abutter from Douglas St. to the Ayer Solar II project, asked to speak to Ayer Solar II. The legal notice had been published in the Nashoba Valley Voice with a promise to Planning from the engineers for the plans to be presented shortly following the Application. This had not happened. Jim Fay stated that going forward the Planning Board will not accept any partial applications. Jim Fay, Chair requested a decision from the Board as to whether information could be presented for discussion only on the Ayer Solar II project and the Board agreed.

Mr. Diskin had researched and found some questions about the map and parcels involving another recent sub-division, Riley Jayne Farm and Ayer Solar II. There are also questions about frontage being created on a "Driveway" rather than a road for Ayer Solar I.

Calvin R. Goldsmith asked the Board if he might show the group plans, for discussion only. The Board agreed. First, Mr. Goldsmith apologized to the Board and residents for their plans being presented late. He showed the large scale plan and the location. Mr. Pontbriand, again stated only a complete application will be accepted for Ayer Solar II and for all projects going forward. The Legal Notices with corrected parcels need to run again and the Town is waiting for advice from Legal Counsel. Cal Goldsmith mentioned the project has a pre-notice of intent with Con. Com. Geof Tillotson asked if the guard rail is presently open and how many acres of land Ayer Solar II has involved. Mr. Goldsmith replied that the guard rail is open and 34.4 acres total with 5-6 acres as panel array. Jim Fay again mentioned there being an Area of Critical Concern (ACEC) with Con. Com. and MGL Section 40 A, Section 3, covers Solar and treats Solar the same as a church or daycare unless the Town has passed a Zoning Bylaw. Mr. Fay then stated that a new application would have to be submitted as well with lot changes for Ayer Solar II and only complete applications will be accepted from now on.

A resident then requested of the Board that all further large scale Solar Projects be tabled until the Town has a chance to update the Bylaws? There had been many questions during the meeting with questions about Solar Fields being allowed in a residential zone.

Chair Jim Fay, then asked that discussion be continued so the plans and application can be presented to the Planning Board. He then reminded Mr. Goldsmith that March 27th is the deadline for the May

Planning Board meeting. Jim Fay then asked that all those present at the meeting to sign in before leaving.

Marijuana – Sue Kennedy has continued the research to educate Ayer about how to handle the marijuana law passed last November. Sue found out that recreational Marijuana cannot be blocked if the Town already has medicinal marijuana. Jim Fay said he thought he had read an article that stated that recreational and medicinal could not be sold in the same business. Sue Kennedy mentioned that there cannot be spot zoning but the Town could limit sales to 20% of the liquor licenses in Town. Sue Kennedy recommended the Town hold a public forum to get ideas and hear concerns from the Town's residents. The laws may change as the State and Federal regulations become established. Jim Fay stated that the taxes on the product will need to be set by the Board of Selectman and that Planning needed to focus on where to put it. Mark Fermanian commented that the State also needs to classify what the product is. Sue Kennedy stated she thought it was better that the Town have control and collect taxes than to have "Private Clubs" popping up as they have in Colorado. Sue Kennedy had to leave after her report for a prior work commitment.

ANR Snake Hill Road – There were several questions that the Board had about the ANR and a representative was not able to be at the meeting. Jen Gibbons stated that a decision must be filed within 21 days. April 5th is the deadline and April 6th is the next meeting. The Board decided to issue a letter of decision disapproving the ANR based on a lack of frontage on lot 4. The property being over 5 acres, triggers a CMR with Conservation and there is an Open Order of Conditions. The applicant will be notified and may come before the Board again in April with a representative.

Administrative Announcements

Time Change – Board members asked if the meeting could begin at 6:15 PM instead of 6:00 PM to allow time to travel from work. Vote was unanimous to accept the new time.

Public Input – Moved to the beginning of the meeting.

The next meeting will convene at 6:15 pm, April 6, 2017

The Working Group Meeting April 13, 2017 for further revisions to the Sub-division document.

Meeting Adjournment

7:35 PM Mark Fermanian motioned to adjourn, Jen Gibbons 2nd. The Board voted unanimously to adjourn.

Minutes recorded and submitted by Sandy Bean, Administrative Coordinator

Planning Board Approval

Date

Planning Board Chair (James M. Fay)

