

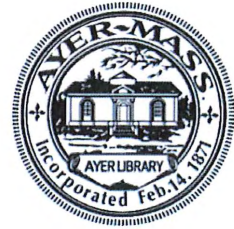
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TOWN OF AYER

Michael Gibbons

Town of Ayer
Zoning Board of Appeals
Ayer Town Hall
1 Main Street
Ayer, MA 01432



Recorded by APAC

Wednesday August 21, 2019
Open Session Meeting Minutes

Present: Samuel A. Goodwin, Jr., Chair; Michael Gibbons, Vice-Chair; Ron Defilippo, Clerk; John Ellis, Jess Gugino

Also Present: Carly M. Antonellis, Assistant Town Manager

Call to Order: S. Goodwin called the meeting to order at 6:00 PM.

Approval of Agenda:

Motion: A motion was made by M. Gibbons and seconded by J. Gugino to approve the agenda. **Motion passed 5-0.**

Public Hearing – Continued from June 19, 2019 & July 17, 2019 - Application for Variance – Eileen Hoskin – 17 James Brook Way (Filed 5/8/19): S. Goodwin reopened the public hearing. Eileen Hoskin was in attendance seeking a variance pursuant to Ayer Zoning Bylaw (2018, as amended October 22, 2018) 6.2 “Schedule of Dimensional Requirements” to allow for a 6’ 6” Side Yard Set Back, where 15’ is required for retaining wall. The wall has already been installed for drainage purposes. She stated that the surveying stakes were moved causing a discrepancy and the builder put the retaining wall over the side yard setback. Ms. Hoskin noted that her home on three sides is surrounded by Town of Groton Conservation restricted land.

M. Gibbons stated that this is a huge mistake by the contractor/builder and he is very hesitant to give a variance after the fact, but the only alternative is to tear the retaining wall out.

J. Gugino stated that she would rather not see additional disturbance to the area. Other Board members agreed.

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to approve the variance sought by Ms. Hoskin. **Motion passed 5-0.**

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to close the public hearing at 6:17 PM. **Motion passed 5-0.**

Public Hearing – Application for Variance – Robert Williams – 5 Hedgeway (Filed 8/2/19): S. Goodwin opened the public hearing at 6:18 PM by reading the public hearing notice as advertised in the *Lowell Sun* on August 5, 2019 and August 12, 2019. Applicant is seeking a use variance pursuant to Ayer Zoning Bylaw (2018, as amended October 22, 2018) 5.0 to allow for the use of the premises as a short term rental in a residential home.

J. Ellis asked for a point of order to see if a use variance was the correct relief being sought by the applicant. C. Antonellis explained that originally the Building Commissioner had informed the applicant to apply for a special permit, but after reviewing with Counsel, it was decided that a use variance was needed by the applicant.

Attorney Tracy Harden was in attendance with her client, Mr. Robert Williams. She stated that this home was at the end of a dead end road that abuts Sandy Pond. She stated that this is a unique property being large enough for short term rentals and being next to Sandy Pond. She stated that if the Williams' were not allowed to use their home as a short-term rental it would cause a financial hardship for them. She stated further that rentals have been going on for years and used to go through the local real estate market and now the Town is arguing that the technology (AirBnB) is ahead of the Town's bylaws. She stated that by allowing the property to be used as a short-term rental, downtown Ayer could see the benefits from an increase in business. She also stated that Ayer could benefit from additional tax revenue as allowed by recent state legislation.

S. Goodwin stated that with the large amount of people in the audience, he is limiting everyone's time to 3 minutes and that he wants to hear from certified abutters first.

M. Gibbons stated that though the property is beautiful, he doesn't feel comfortable moving forward with this, as the Town has not accepted the provisions of the recent legislation and has no mechanism, at this point, to levy a tax on short-term rentals.

Robert Gardner, 78 Sandy Pond Road, presented a petition from 56 abutters and neighbors of 5 Hedgeway "objecting to any action taken by the ZBA that would allow the petitioners, Mr. Williams and Ms. Tordella-Williams to operate a short term rental (rental unit occupied for a short period of time by different occupants) on the aforementioned property." Mr. Gardner also stressed that Ayer Zoning Bylaw expressly states that any use of premises not mentioned in the bylaw is prohibited. He continued that Sandy Pond is not set up for transients, some whom would not take pride in ownership in a temporary rental situation.

Mrs. Helen Barry, property owner of 3 Hedgeway, stated that she opposed the project. She said when she first moved in the right of way access to the pond was blocked by the Williams by placing a large dumpster in the middle of the road. She also stated that there is a "tiny house" on the Williams property that is adjacent to her property line. Mrs. Barry also stated that oftentimes access to Meadow Way is blocked by the short-term renters that have been renting 5 Hedgeway.

Mr. Dean Ryder, tenant at 3 Hedgeway, stated that he also opposed the proposal. He has been renting 3 Hedgeway for three years. He stated that while the short-term rentals are happening at 5 Hedgeway there are multiple cars lined up along side of the road and he has had to knock on the door of 5 Hedgeway to ask the short-term renters to move their cars. He says he has been challenged by the short-term renters when walking to the deeded access to the pond. He referenced an instance that the short-term renters at 5 Hedgeway were parked on his lawn and he attempted to contact the property owners and was unable to reach them. He says he and the neighbors have been policing their own neighborhood in response to the short-term rentals at 5 Hedgeway.

Mr. Bruce Cleary, 1 Wright Road, stated that he is sure the Williams' don't mean any harm, but he is concerned with his lack of privacy. He has also been challenged by some of the short-term renters while try to access the deeded access to the pond.

Attorney Harden then stated that the Williams' were willing to withdraw their application and they didn't realize the number of people opposed to them using their property as a short-term rental.

Ms. Mary Burbon, 2 Hedgeway, was speaking on behalf of her 83 year old mother. She is very concerned that with the number of cars on the street, access to her mother's property by the ambulance can be hindered.

Attorney Harden stated again that her clients were willing to withdraw their application. ZBA members and abutters raised concerns that if the Williams' withdrew, they were able to apply for the same variance again.

Motion: A motion was then made by J. Ellis and seconded by M. Gibbons to deny use variance as requested. **Motion passed 5-0.**

C. Antonellis then confirmed that the denial was now subject to a 20 day appeal after the decision is submitted to the Town Clerk's Office.

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to close the public hearing at 7:14 PM. **Motion passed 5-0.**

Approval of Meeting Minutes:

Motion: A motion was made by M. Gibbons and seconded by S. Goodwin to approve the minutes of July 17, 2019. **Motion passed 5-0.**

Adjournment:

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to adjourn at 7:18 PM. **Motion approved 5-0.**

Minutes Recorded and Submitted by Carly M. Antonellis, Assistant Town Manager

Date Minutes Approved by ZBA: 11/20/19

Signature of Clerk Indicating Approval: 