

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



Wednesday June 21, 2017  
Open Session Meeting Minutes

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

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

**Approval of Agenda:**

S. Goodwin added a discussion item re Global Petroleum to the agenda.

**Motion:** A motion was made by M. Gibbons and seconded by S. Goodwin to approve the agenda as amended. Motion passed 5-0.

**Public Hearing – Application for Variance – White Horse Builders LLC (456 Newtown Rd., Littleton) – 231 Snake Hill Road – (Filed May 3, 2017):** S. Goodwin opened the Public Hearing at 6:05 PM by reading the public hearing notice as advertised in the Nashoba Valley Voice on June 2, 2017 and June 9, 2017. The applicant is seeking a Variance from Ayer Zoning Bylaw Section 5.12 for rear setback (23'± where 25' is required) on a pre-existing nonconforming lot with substandard frontage (87.43' where 100' is required) and lot area (8,780'± where 12,000' is required) at 231 Snake Hill Road. The applicant proposes demolition of an existing abandoned dwelling in disrepair and the construction of a new single family dwelling covering 17% of the lot (where 25% is allowed).

Kevin Conover from David E. Ross Associates stated that the hardship needed to justify a variance was the pre-existing nonconforming and substandard nature of the lot. The new house would be further from Sandy Pond than the existing structure, would be consistent with the neighborhood and would therefore be an upgrade to existing conditions. He noted that the proposed project would also have to go before the Conservation Commission for permitting of work within buffer zone to the pond.

White Horse Builders currently has a Purchase & Sale Agreement for this property but does not yet own it. The application was accompanied by a letter (May 16, 2017) from the current owner, Patrick Flynn, 231 Snake Hill Road, granting permission for White Horse Builders to submit the application to ZBA.

Abutter David Salter, 229 Snake Hill, asked why the proposed house wasn't moved a little further from the pond, with a 20' rather than a 21.5' front setback.

S. Goodwin and J. Ellis stated that moving the house closer to the road and proposing a smaller footprint would negate the need for a rear setback variance.

**Motion:** A motion was made by S. Goodwin and seconded by J. Ellis to not grant a variance pursuant to Section 5.12 for rear setback and to only grant approval for construction of a new house on a pre-existing nonconforming lot under the condition that the house conform to current setback requirements. Motion passed 5-0.

**Motion:** A motion was made by S. Goodwin and seconded by M. Gibbons to close the Public Hearing. Motion passed 5-0.

**Public Hearing – Application for Variance – Regard, LLC – 126 West Main Street – (Filed May 25, 2017):** S. Goodwin opened the Public Hearing by reading the public hearing notice as advertised in the Nashoba Valley Voice on June 2, 2017 and June 9, 2017. The applicant is seeking a Variance from Ayer Zoning Bylaw Section 3.3.1.3(d)(1)(a) to allow for the creation of two lots from one existing lot, with each lot containing 7,260' (where 10,000' is required for a single family and 3000' for each additional dwelling unit) and from Section 3.3.1.3(d)(2) to allow frontage for each lot of 87.46' (where 100' is required) on Rogers Street.

Attorney Thomas A. Gibbons stated that the proposal to divide the existing lot into two lots for the construction of two single family homes is the best use of the property to maintain consistency with the neighborhood and improve the corner property. Two single-family lots would promote individual ownership and be better than a single duplex that would likely be rental units.

Mr. Gibbons also stated that 126 West Main Street is the only lot in this neighborhood that extends between two streets (West Main Street and Shirley Street, with Rogers Street running in between). Mr. Gibbons stated that this uniqueness of the lot shape and size (14,420'±) is the basis for seeking the variance. He provided documentation from 16 neighborhood property records from the Assessor's Office showing that, with the proposed division of the lot, the two resulting lots (7260') would still be larger than 12 of the 16, with the remaining 4 all 8000' or less (where 10,000' is required). A single-family house that previously existed on this lot was demolished in 2014; the ZBA in 2014 previously rejected a different application for a variance on this lot.

Mr. Gibbons stated that front and side setbacks would be adhered to. Because 126 West Main is a corner lot, each proposed lot would have two front setbacks and two side setbacks; no rear setback is therefore required. Mr. Gibbons referenced Ayer Zoning Bylaw Sections 2.2.30, 2.2.49, and 2.2.65 to establish the elimination of the need for a rear setback. Section 5.4, regarding Corner Lots, was also consulted.

Abutter Shirley Scullane, of 79 Pleasant Street asked if there was anything to prevent each new single-family home from being converted into a two-family. S. Goodwin said any such move would have to appear before the ZBA for approval.

Abutter Sarah White, of 109 West Main Street, spoke against the application and referenced the need to have more open space in the neighborhood for growing food in potential hard times.

J. Ellis and R. Defilippo spoke against the idea of splitting a conforming lot into two nonconforming lots. M. Gibbons and S. Goodwin spoke in favor of the variance on the grounds that two single family houses would match the existing neighborhood and be preferable to a much larger duplex structure.

**Motion:** A motion was made by M. Gibbons and seconded by S. Goodwin to grant a variance pursuant to Ayer Zoning Bylaw section 3.3.1.3(d)(1)(a) and 3.3.1.3(d)(2). Motion failed due to lack of supermajority (3-2).

**Motion:** A motion was made by S. Goodwin and seconded by M. Gibbons to close the Public Hearing. Motion passed 5-0.

**Public Hearing – Application for Variance – Mark Adams and Jennifer Walker – 5 Fourth Street, Ayer – (Filed May 31, 2017):** S. Goodwin opened the Public Hearing by reading the public hearing notice as advertised in The Lowell Sun on June 1, 2017 and June 8, 2017. The applicant is seeking a Variance from Ayer Zoning Bylaw Section 5.12 for minimum lot frontage to allow for 20' (where 100' is required) on a pre-existing non-conforming lot. This project has previously been approved twice by the ZBA but work was put on hold for personal reasons.

**Motion:** A motion was made by J. Ellis and seconded by S. Goodwin to grant a variance pursuant to Ayer Zoning Bylaw section 5.12. Motion approved 5-0.

**Motion:** A motion was made by S. Goodwin and seconded by J. Ellis to close the Public Hearing. Motion approved 5-0.

**Discussion:** S. Goodwin distributed copies of a June 16, 2017 letter from Scott Fenton, Deputy General Counsel for Global Montello Group Corp., requesting a one (1) year extension to the special permit granted by the Ayer Zoning Board on October 20, 2014 and extended one (1) year in October 2016. S. Goodwin asked ZBA members to consider this request in anticipation of a formal application appearing on an upcoming ZBA agenda.

**Approval of Meeting Minutes:**

**Motion:** A motion was made by M. Gibbons and seconded by S. Goodwin to approve the meeting minutes from April 19, 2017. Motion passed 5-0.

**Adjournment:**

**Motion:** A motion was made by S. Goodwin and seconded by J. Ellis to adjourn at 8:20 PM. Motion approved 5-0.

**Minutes Recorded and Submitted by Jess Gugino**

**Date Minutes Approved by ZBA:** \_\_\_\_\_

07/19/17

**Signature of Clerk Indicating Approval:** \_\_\_\_\_

