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



Wednesday, July 20, 2022
In Person and Remote Open Session Meeting Minutes

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

Also Present: Carly Antonellis, Assistant Town Manager

Call to Order: S. Goodwin called the meeting to order at 6:02 PM. He stated that this meeting will be held in-person and on Zoom. Members of the public are welcome to attend this in-person meeting. Please note that while an option for remote attendance and/or participation via Zoom is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law.

Approval of the Agenda: Motion was made by M. Gibbons to approve the agenda. Seconded by J. Gugino. **Motion Passed (5-0).**

Public Hearing - Application for a Comprehensive Permit (MGL 40B Sections 2Q-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road (Filed June 24, 2022). S. Goodwin opened the public hearing at 6:06pm as advertised.

Stephanie Kiefer representative of the applicant (NOAH) presented the plan and scope of the project on 65 Fitchburg Rd. The current property has a landscaping business, a welding shop, and an abandoned house. The proposal is to redevelop the land in to 100% affordable housing to be accomplished in two phases. S. Kiefer assured the board the NOAH has received a project eligibility letter from DHCD (Department of Housing and Community Development) and will be receiving funding from LIHTC (Low-Income Housing Tax Credit). This project will be on a 10.5-acre site and is a full redevelopment of the area. The first phase will consist of 64 units, and the second phase will have 42 units. The first phase will see development along Fitchburg Rd., the second phase will consist of a single four-story building set behind the first phase of buildings.

Phil Giffe, who works for NOAH, presented an overview of NOAH and the work they have done in other communities throughout the Commonwealth.

Taylor Dowdy of the BSC group, representing the site engineers, discussed the plans for the site. The current property is bisected by wetlands and has an intermittent stream. The lot's proximity to downtown Ayer, and the grocery store make it a good location for an affordable housing development. Phase I will consist of five buildings along the Fitchburg Rd, and a community building set behind. Many town entities

have been met with about this project and comments have been taken into consideration. The design was made compact, and the driveways were made narrower to avoid impacting the wetland buffer zones.

S. Goodwin asked if the narrower driveways would affect traffic, and larger vehicles like firetrucks. BSC has modeled emergency vehicles driving through the site and there has been no adverse effects.

S. Goodwin asked if any improvements will be made to Fitchburg Rd., with the increase in traffic the infrastructure will need to be updated. A traffic study has been completed and those issues will be addressed then. Fitchburg Rd is a state road and therefore falls under the purview of MassDOT.

S. Goodwin asked how the soil will change, since currently all rainwater runs off and is not absorbed into the ground. An infiltration system will be created with catch basins, and the water will be forced underground. A 75ft set back was included around an area in which climbing ferns were once protected. None can be found at this time, but the setback was included.

Utilities will be connected through Fitchburg Rd., there is pump station that will collect all the sewage onsite. The sewer pipe will cross the wetlands below ground and pump the sewage to the back of the property.

The project architect described the plans and design of the project. The five two-story buildings along Fitchburg Rd will create a typical residential front, to define the space a residential development. There will also be one three-story building and a community center. There will be a mix of one-, two-, and three-bedroom apartments. Four of the units will be fully ADA accessible. Studies have been done to determine the best orientations of the buildings in order to best use the sunlight and to create a community. The roofs of the building shall be sloped in order to take advantage of the southern light and allow for the use of solar panels. The intention is to create building that have a residential feel and look, using a variety of materials, and the addition of balconies.

The community building will include the mailroom, a large community space, the leasing office, and some health and fitness equipment. A small pets spa is also included in this space.

The development is looking to use a passive house design, and the entire complex is 100% electric. A passive house design is extremely energy efficient and takes little to heat and cool.

Phase II of the project will consist of one four-story building with a lobby and forty-four parking spaces on the ground floor. Stylistically it will be similar to the Phase I buildings. The upper three floors will contain 42 units. The landscape plan has also been developed to enhance the project and reduce the scale of the development and create areas of gathering. An enclosed dog park is also included.

The project proposed 157 parking spaces, with a combination of surface and structured parking. S. Goodwin asked if the parking would be assigned. At this time that is still under discussion, but enough parking will be created during each phase to accommodate what has been built.

M. Gibbons asked if there was less parking than is required. A waiver has been submitted so that there can be less parking than required. Given the proximity to the commuter rail and the nature of Affordable Housing, there is less of a demand for parking.

S. Goodwin asked the Board to come forward with any questions. J. Ellis will have more questions later when there is a greater understanding of what is expected of the Board. R. DeFilippo had no comments.

J. Gugino asked for clarification on the water and sewer. T. Dowdy explained that there is a town sewer line in the back of the property, a pump will be added to the front. The wetlands will be crossed in order to connect the pump to the existing sewer line.

J. Gugino commented that the other 40B projects did not need as much parking but were any of those developments like Ayer, and not have a lot of public transportation nearby. S. Kiefer responded that the ratio of 1:1.5 is acceptable and in a more urbanized area it can be lower. The commuter rail is within a mile of the development. The more affordable the project the less need for parking.

M. Gibbons had no questions at this time. He commented on the NOAH project in Hopkinton, and felt it was tight. He also asked for understanding in regard to the people who already live in the area and the changes this residential community will bring. S. Kiefer states that the communities on Isaac Ln, and John Riley will still have a buffer of vegetation and the new development should not encroach.

S. Goodwin opened the meeting to questions from the public.

Paul Marshall, 9 John Riley Rd. was concerned about the disturbance to the land with the extension of the sewer line. T. Dowdy says the disturbance will be minimal, with a path cut for equipment and then a two-foot-wide trench dug to add the sewer line. Once the work is complete the area will be seeded and restored to its previous condition. He then voiced his concern over the forcing of stormwater underground, since this happens in his development and there is flooding in the spring. T. Dowdy explained that there will be three underground catch basins, as well as recharge stations. Overflow from the recharge stations will be bleed into the stream in the wetlands area of the property. The system has been analyzed based on the conditions set forth by the state. Before the water is discharged it is being cleaned. S. Goodwin asked if test pits had been used. T. Dowdy responded that they have been, and that information is available in the stormwater study.

J. Gugino asked if horizontal directional drilling would be used for the sewer line. T. Dowdy was unwilling to commit to an answer, but it was discussed.

J. Gugino asked with the addition of the residences would the amount of stormwater runoff change. The intention is to match the current amount of runoff.

Janet Providakes noted that Isaac Lane is owned by the Housing Authority and therefore any changes to the property will have to go through DHCD.

Ken Diskin, 180 Washington Street asked about connecting the drainage system that already exists on Fitchburg Rd. T. Dowdy said that the Mass Stormwater Bylaw recommends that stormwater runoff should continue to flow in the existing direction. In this case if the flow of water is redirected it could dry out the wetlands.

Sara Withee, 11 Groton Shirley Road asked if the town will have to pay anything beyond the water and sewer connections. S. Goodwin noted that there are no answers at this time, as it is too early in the process.

J. Ellis was concerned the granting waivers for water and sewer did not fall under the jurisdiction of the ZBA. In the case of a 40B application it does.

Paul Haverty, representing the ZBA through a grant from the Massachusetts Housing Partnership, to better answer the previous question stated that waivers are encouraged to make a project financially feasible but not required. However, some waivers are required such as use waivers since the property is in three different zoning districts, and if the waivers are denied then the cost for the project will increase significantly. It is common in such projects for the list of waivers to grow and change as the project moves forward.

Paul Haverty discussed the importance of peer review of the project. The board is encouraged to retain an outside consultant, in order to review this kind of comprehensive application. The board should look at the areas in which they do not feel they have enough expertise within the board to properly review the application. Given the discussions that have taken place the board should consider a peer review for civil engineering, stormwater, traffic, and wetlands/wildlife impacts.

The applicant has requested waivers of local bylaws, and therefore those areas should be reviewed. The applicant has also submitted waivers that are not needed, since this is a comprehensive permit. It is however helpful for the administration of the project, such as knowing what has been waived and reviewed during the review of the final plans.

J. Ellis believed that the states says that a lot of local zoning bylaws do not apply. P. Haverty responded that the bylaws do apply, but that the board is the permit granting authority, and the applicant can request waivers. If the board does not grant the waiver, then the bylaw applies.

S. Goodwin asked if the state could supersede the board during this project. The state would only supersede if the board granted state permits. Only local rules and regulations can be governed by the board.

C. Antonellis asked for a meeting schedule recommendation. Currently the board meets once a month. P. Haverty recommends no more than every other week. Some months there will be need for more meetings than others. It will be based on how quickly the applicant can gather the appropriate information.

J. Gugino asked if the peer reviews must go through the RFP process. P. Haverty stated that peer reviews do not have to go through the RFP process. It is helpful to issue an RFP but not required. The applicant cannot reject a peer review unless there is a conflict of interest, or the peer reviewer does not have the appropriate credentials. The board should work with the applicant to keep the cost reasonable.

C. Antonellis proposed that the RFP be created by members of the town hall staff as well as two Zoning Board members. S. Kiefer offered to submit to the board some proposed scopes since the applicant have done 40B projects in the past.

NOAH is motivated to get answers to the board as quickly as possible, so that a decision can be made by the end of the year, and the plan can be eligible for state funding in the upcoming year. If the plan is not accepted, it could be another one to two years of waiting.

P. Haverty encouraged the board to discuss which areas of the peer review were most important. As discussed earlier in the meeting, civil engineering, stormwater, traffic, and wetlands should be included.

C. Antonellis asked that the board name two members to work with the town staff to continue moving this process forward. J. Gugino is interested in helping with wetlands/wildlife. S. Goodwin offered to help with civil engineering, and stormwater. M. Gibbons, and J. Ellis will work with the town hall staff on the traffic review.

Mark Archambault, Town Planner, offered the suggestion of a landscape architect for a peer review to look at the overall site design. He also offered to help with the traffic consultant RFP, since he has written several in the past.

C. Antonellis will help to coordinate the work between the town hall staff, the board, and P. Haverty.

J. Gugino asked for an explanation of Safe Harbor for 40B construction.

P. Haverty explained that there are two kinds of Safe Harbor, one is statutory, which includes 10% total housing units, or the 1.5% general land area, or the 0.3% which is never used. There are also regulatory Safe Harbors, which includes a large project exemption, recent progress, and housing production plans. The town of Ayer is looking for a housing production plan Safe Harbor.

Alicia Hersey, Community Development Program Manager, spoke to the fact that Ayer is losing its affordable housing. The town has gone from 8.6% to 6.4% in the last four years, due to a change in regulations. Only properties with deed restriction now count towards affordable housing. One of the goals of the town's housing production plan was to find a friendly, affordable housing program. NOAH's plan is for 100% affordable housing, which could bring the town over the required 10%.

S. Goodwin asked what it would do for the town if it were considered a Safe Harbor.

P. Haverty explained that the housing protection plan allows for a one-year Safe Harbor if the town approved 0.5% of total housing stock in a calendar year, or if 1% is approved then the town qualifies for two-years Safe Harbor. This is based off the date the application is submitted. If the town reaches either of these goals during the hearing process, that Safe Harbor status cannot be used against the applicant.

J. Gugino raised the issue of the upcoming meetings, whether they would be in person or over Zoom.

S. Goodwin would like to keep the meetings remote. J. Ellis believes if the board can continue to be productive then remote should be fine. The rest of the board agrees to continue to hold the meetings over Zoom, given how many meeting that may be needed in the coming months.

S. Withee raised concerns about public access to the meetings if they are held remotely? C. Antonellis pointed out the ZBA's web page on the town's website and the repository of information for this project. The next meeting is set for August 17th at 6:00pm over Zoom.

P. Haverty will be present at all hearings, schedule permitting, to guide the board. It is recommended that the next meeting focus on the traffic review if the applicant can have it submitted in time.

S. Kiefer would like to give responses to comments made by various town departments at the next meeting, she has found it helpful in the past.

M. Gibbons made a motion to continue Public Hearing - Application for a Comprehensive Permit (MGL 40B Sections 2Q-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road (Filed June 24, 2022) until Wednesday, August 17, 2022, at 6:00pm on Zoom. Seconded by J. Ellis.

Motion Passed (5-0)

Approval of Meeting Minutes of June 15, 2022. Motion made by J. Ellis to approve the June 15, 2022, minutes as written. Seconded by J. Gugino.

Motion Passed (5-0)

Motion to Adjourn. Motion made by S. Goodwin, seconded by J. Gugino.

Motion Passed (5-0)

Meeting adjourned at 7:45pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: 9/21/22

Signature of ZBA Clerk, Indicating Approval:


