




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

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MAY 10 2023
TOWN OF AYER
TOWN CLERK 

Wednesday, March 15, 2023

Remote Participation Open Session Meeting Minutes

Present: Michael Gibbons, Vice-Chair; Ronald Defilippo, Clerk; Jess Gugino; John Ellis

Absent: Samuel Goodwin, Chair

Also Present: Samantha Benoit, Administrative Coordinator

Call to Order: M. Gibbons called the meeting to order at 6:00pm. He stated that due to the ongoing COVID-19 Pandemic, in accordance with Chapter 22 of the Acts of 2022, suspending certain provisions of the Open Meeting Law (OML), public bodies otherwise governed by the OML are temporarily relieved from the requirement that meetings be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations "through adequate, alternative means." This meeting will be live on Zoom. The public may participate remotely by joining Zoom (Meeting ID# 857 9728 7177) or by calling (312-626-6799). For additional information about remote participation, please contact Samantha Benoit, Administrative Coordinator at sbenoit@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

Approval of the Agenda: Motion was made by J. Gugino to approve the agenda as written.

Seconded by J. Ellis.

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance (Building Height) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).

M. Gibbons opened the public hearing at 6:02pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on February 24, 2023, and March 3, 2023. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 10.5.16.C (Building Height) to increase the maximum building height to 4 stories in the T.5.1 Village zone where 3 stories is allowed.

Attorney Thomas Gibbons representing DMG Investments, LLC, asked that this hearing be continued until the next meeting in hopes that a full board will be present.

Motion: J. Gugino made a motion to continue the Public Hearing – Application for a Variance (Building Height) by DMG Investments, LLC, 201 W. Main St. (filed January 30, 2023) until April 19, 2023 at 6:00pm.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Motion: J. Ellis made a motion to accept the meeting minutes of January 11, 2023.

Seconded by J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Motion: J. Ellis made a motion to accept the meeting minutes of January 18, 2023.

Seconded by J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance (Width) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).

M. Gibbons opened the public hearing at 6:10pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on February 24, 2023, and March 3, 2023. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 10.5.16.B (Lot Width) to increase the maximum lot width to 254.1 feet in the T.5.1 Village Street zone where the maximum lot width is 192 feet.

Attorney Thomas Gibbons representing DMG Investments, LLC, asked that this hearing be continued until the next meeting in hopes that a full board will be present.

Motion: J. Gugino made a motion to continue the Public Hearing – Application for a Variance (Building Height) by DMG Investments, LLC, 201 W. Main St. (filed January 30, 2023) until April 19, 2023 at 6:00pm.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance (Parking) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).

M. Gibbons opened the public hearing at 6:15pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on February 24, 2023, and March 3, 2023. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 9.1.3 (Off Street Parking Requirements) and Section 9.1.5.A.2 (Compact Car Parking Spaces) to reduce the required off street parking from 288 spaces to 172 spaces and to increase the maximum percentage of compact car parking spaces from 10% to 20%.

Attorney Thomas Gibbons representing DMG Investments, LLC, asked that this hearing be continued until the next meeting in hopes that a full board will be present.

Motion: J. Gugino made a motion to continue the Public Hearing – Application for a Variance (Building Height) by DMG Investments, LLC, 201 W. Main St. (filed January 30, 2023) until April 19, 2023 at 6:00pm.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance – Air 22, LLC (Advance Auto Part) – 22-7 Fitchburg Rd. (Filed February 27, 2023)

M. Gibbons opened the public hearing at 6:20pm by reading the public notice as published in *The Lowell Sun* on March 1, 2023, and March 8, 2023. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 9.5.5 Appendix C to permit 3 signs where 2 are permitted and to allow the installation of wall signs at 17'11.5" where 15" is allowed.

Garry Potts, a representative of Advance Auto Parts, explained the requested variance. The company is looking to have the signage located on the building to be at a height of 17'11" from the ground rather than required

15" from the ground. This will put the signage in the red painted portion of the wall. They are also looking to have three signs, two on the building and one free-standing. The height and number of signs will increase visibility for motorists, and make the building easily identifiable within the existing shopping center. This signage will be a safe and effective form of way finding.

M. Gibbons asked where the third sign is located.

G. Potts answered that it is a free-standing sign on the road. That sign was already permitted by the building department. The request is to allow for the two wall signs.

J. Ellis asked at what height the current temporary signs are placed at.

G. Potts noted that the current signs are at 15' as allowed by the Zoning Bylaws. The building was designed to have the wall signs at 17'11", otherwise the signs will be only partially in the red painted portion of the wall.

M. Gibbons asked if this design is unique to this building.

G. Potts explained that this is the standard design Advance Auto Parts.

J. Ellis noted that the current signs are clearly legible, and asked why they would need to be larger.

M. Gibbons also asked if these signs would be a permanent fixture.

G. Potts explained that it is the height from the ground that they are asking a variance for not the height of the sign itself. He further explained that if kept at 15' then the signs would be resting at the top of the glass windows, and it would affect the aesthetics of the building. These would be permanent fixtures.

Ashton Quinto, an employee of Advance Auto Parts, asked if a variance for the total square footage of the signs could be discussed. This portion of the variance request was omitted from the public hearing posting, but was submitted on the application.

The Board did not feel comfortable with discussing this portion of the variance since it was not posted, and the Chair was not present for this meeting. The Board advised that the applicant discuss this matter with the Building Commissioner, and if need be, they could come before the Board in the future.

Motion: J. Gugino made a motion to grant a Variance pursuant to Ayer Zoning Bylaw Section 9.5.5 Appendix C to permit 3 signs where 2 are permitted and to allow the installation of wall signs at 17'11.5" where 15' is allowed.

Seconded J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Motion: M. Gibbons made a motion to close the hearing of Air 22, LLC at 6:48pm.

Seconded by J. Gugino.

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

M. Gibbons requested that Board Discussion be added to future agendas, so that the Board may have a designated time in which to discuss matters not pertaining to public hearings.

The Board agreed with this suggestion, and this item will be added to future meeting agendas.

Motion: R. Defilippo made a motion to adjourn the meeting.

Seconded by J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Meeting Adjourned at 6:52pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: April 19, 2023

Signature of ZBA Clerk, Indicating Approval: Amuel Alford