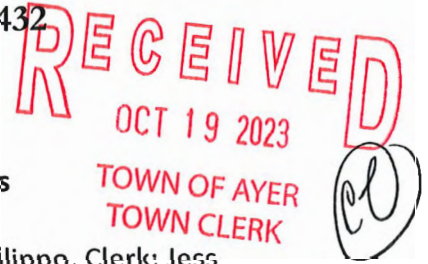




Town of Ayer
Zoning Board of Appeals
Ayer Town Hall – 1 Main Street – Ayer, MA 01432

Wednesday, September 20, 2023
Remote Participation Open Session Meeting Minutes



Present: Samuel Goodwin, Chair; Michael Gibbons, Vice-Chair; Ronald DeFilippo, Clerk; Jess Gugino; John Ellis; Marylin Schmalenberger, Alternate Member

Also Present: Samantha Benoit, Administrative Coordinator

Call to Order: S. Goodwin called the meeting to order at 6:01pm. He stated that in accordance with Chapter 2 of the Acts of 2023, 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: M. Gibbons made a motion to approve the agenda as written.
Seconded: J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.
Motion Passed (5-0)

Public Hearing – Application for a Special Permit – DMG Investments, LLC – 201-205 West Main Street (Filed August 30, 2023).

S. Goodwin opened the public hearing at 6:05pm by reading the public hearing notice as published in *The Lowell Sun* on September 6, 2023, and September 13, 2023. The applicant is seeking a Special Permit to build within the Floodplain Overlay District pursuant to the Ayer Zoning Bylaw Section 8.2.5.A.1, Section 8.2.5.A.2 (Use Regulations of the Floodplain Overlay District) and Section 8.2.5.C.2 (Uses allowed by Special Permit in the Floodplain Overlay District).

Attorney Tom Gibbons, representing DMG Investments, gave some background on the project. This project has previously been before the ZBA and was approved for two variance, height and width of building. The plans are currently being reviewed by the Planning Board and the Conservation Commission.

Drew Garvin, of Bohler Engineering, also representing DMG Investments explained that this project is 14.5 acres over two lots, and the rear of the lots contain wetlands. The proposed

building will consist of retail space with parking, and three floors of residential units. A retaining wall is being built in the Floodplain for proper elevations, and a portion of the emergency access is also being built in the Floodplain. The work being done in the Floodplain is necessary to meet grade. Snow storage will also be housed in the rear of the site. There are two areas of snow storage and any excess snow shall be removed.

J. Ellis commented that at the previous meeting it was discussed that there would be no snow storage on site.

J. Ellis was also concerned that this project is currently being heard before the Planning Board. J. Gugino noted that the Conservation Commission will not be making a decision until the Planning Board has made a decision.

S. Benoit explained that during the review process with the Planning Board it was determined that a portion of the construction was to take place in the Floodplain, and therefore the applicant needed to go before the ZBA before the review process could continue.

S. Goodwin was concerned that by snow storage in the Floodplain, and that snow storage was not indicated on the original plan.

J. Gugino noted that snow storage was a request of the Conservation Commission request the snow storage.

D. Garvin explained that the snow storage is not in the Floodplain. The construction in the Floodplain is limited to a portion of the emergency access and a portion of the retaining wall. He also noted that the Ayer DPW agreed with the flood compensation calculation were acceptable.

S. Goodwin asked about the possible update to the FEMA Floodplain Maps.

D. Garvin noted that the maps are being updated often.

R. Defilippo asked when the Floodplain line had been established.

D. Garvin believes the line was established in 2010.

M. Schmalenberger noticed that the drainage funneled into a single pipe, and asked if that will have an impact on the Floodplain.

D. Garvin explained the drainage system will improve the outflow and only in extreme storms will it overflow.

S. Goodwin opened the hearing up to public comment. There was none.

Motion: M. Gibbons made a motion to grant a Special Permit to allow the applicant, DMG Investments, LLC, to build within the Floodplain Overlay District pursuant to the Ayer Zoning Bylaw Section 8.2.5.A.1, Section 8.2.5.A.2 (Use Regulations of the Floodplain Overlay District) and Section 8.2.5.C.2 (Uses allowed by Special Permit in the Floodplain Overlay District) at the property located at 201-205 West Main Street.

Seconded: J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.
Motion Passed (5-0)

Motion: S. Goodwin made a motion to close the public hearing.

Seconded: J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.
Motion Passed (5-0)

Motion: S. Goodwin made a motion to accept the minutes of the July 19, 2023 meeting as corrected.

Seconded: M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.
Motion Passed (5-0)

Board Discussion

The next meeting of the ZBA will be on October 18th at 6:00pm at the Ayer Town Hall. The rules and procedures of the Board will be discussed.

Motion: S. Goodwin made a motion to adjourn the meeting.

Seconded by M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.
Motion Passed (5-0)

Meeting Adjourned at 6:49pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: 10/18/23

Signature of ZBA Clerk, Indicating Approval: 