



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

Wednesday November 15, 2023
Hybrid Open Session Meeting Minutes

RECEIVED
JAN 18 2024
TOWN OF AYER
TOWN CLERK

This meeting was recorded by APAC

Present: Samuel Goodwin (via Zoom), Chair; Michael Gibbons, Vice-Chair; Ronald Defilippo, Clerk; Jess Gugino; John Ellis; Marilyn Schmalenberger, Alternate Member

Also Present: Samantha Benoit, Administrative Coordinator

Call to Order: S. Goodwin called the meeting to order at 6:00pm. He stated that this meeting/hearing of the Zoning Board of Appeals will be held in-person at the location provided on this notice. 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. Members of the public with particular interest in a specific item on this agenda should make plans for in-person vs. virtual attendance accordingly. This meeting will be live on Zoom. The public may access the proceedings 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 zba@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

Approval of the Agenda: S. Goodwin made a motion to approve the agenda as written.

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)

Public Hearing – Application for a Special Permit – North Country Developers – 71 Sandy Pond Rd. (Filed September 28, 2023)

S. Goodwin opened the public hearing at 6:02pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on October 27, 2023 and November 3, 2023. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.2 (Table of Use Regulations – Residential Uses) to allow two 2-family dwellings in the A-2 district.

Kevin Conover of David E. Ross Associates, Inc. represented the applicant. He explained that the proposed plan was to remove the existing two-family home and replace it with 2 two-family homes. He noted that this project has already gone before the Conservation Commission.

M. Gibbons asked if the ANR has been filed with the Planning Board.

K. Conover explained it had not been filed yet, he noted that the Board had granted similar Special Permits in the past prior to the ANR being submitted. The ANR was not submitted because the applicant did not wish to revise it multiple times after comments from the Conservation Commission. The filing deadline for the ANR is next week.

J. Gugino noted in the plan that Parcel A would become an unbuildable lot.

R. Defilippo asked why they had decided on 2 two-family homes instead of 2 single-family homes.

K. Conover explained it was in keeping with the neighborhood and to maximize the development.

S. Goodwin asked if everything was being removed from the current lot.

K. Conover explained the house will be removed and there will be less pavement on the property. The Conservation Commission has asked for more plantings to be added.

M. Gibbons noted his biggest concern is the ANR has not been completed and therefore the Board would be approving a Special Permit for two non-existent lots.

J. Ellis asked if the home had septic, or town sewer.

K. Conover that the new homes would tie into the town sewer and water.

Rebecca Carol, of 4B Samantha Ln, had concerns about the wooded area in the rear of the property. She was worried about trees being removed and what damage that may cause to her property.

J. Gugino explained that the Conservation Commission has asked for more trees to be planted.

K. Conover explained the some of the wooded areas are in wetlands and therefore cannot be touched.

Motion: S. Goodwin made a motion to continue the Public Hearing until December 20th so the applicant can submit the ANR.

Seconded: R. Defilippo

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 Special Permit – Third Street Nominee Trust – 33 Third St. (Filed October 18, 2023)

S. Goodwin opened the public hearing at 6:30pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on October 27, 2023 and November 3, 2023. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.2 (Table of Use Regulations – Residential Uses) to allow two 2-family dwellings on separate lots in the A-2 district.

K. Conover represented the applicant. He explained the ANR had been submitted to the Planning Board the night before. The home that had been on the property was a two-family home and has since been demolished. There is an existing sewer on the property that bisects the lots, the easement for the sewer cannot be found but they are willing to put one in. The proposed plan is for two duplexes, one on each lot, with 100ft of frontage. He noted that there are multiple duplexes in the area.

S. Goodwin asked if these buildings would be on a gravel road.

K. Conover explained that the road changes from pavement to gravel in front of the second lot. This is also known as Pulpit Rock Rd.

Kelly and Gregory Robbins, of 29 Third St., are concerned about the addition of four families and homes on lots with small yards. They noted that the neighborhood is made up of older homes, many of which are single-family homes, and some of the two-family homes have been converted to single-family. They are concerned about large homes on small lots.

J. Gugino noted that a large portion of the property will be undeveloped.

K. Conover explained that portions of the property are in the floodplain and buffer zone, and the applicant does not wish to go before the Conservation Commission. Also, the units proposed are smaller than the ones on Marshall St. that were recently built.

S. Goodwin asked how many bedrooms each unit would have.

K. Conover explained each unit would have two bedrooms.

M. Gibbons noted he understands the neighbors' concerns, but the lots proposed are large.

J. Gugino has some concerns about the undeveloped lot in the future.

K. Conover explained that the applicant only intends to develop these two lots, and if they wanted to do anything with the third lot in the future the applicant would have to go before the ZBA and the Conservation Commission.

R. DeFilippo was concerned about the density of the area.

J. Ellis noted that there was no valid reason to oppose the proposal, everything on the plan is within the regulations, and there will be little negative impact.

Motion: S. Goodwin made a motion to grant the Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.2 (Table of Use Regulations – Residential Uses) to allow two 2-family dwellings on separate lots in the A-2 district.

Seconded: M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, nay; R. DeFilippo, nay; J. Ellis, aye; S. Goodwin, aye.

Motion Failed (3-2) (4 out of 5 votes in the affirmative is needed to pass)

Motion: S. Goodwin made a motion to close the public hearing at 6:53pm.

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)

Public Hearing – Application for Special Permit – Kristina Young – 3 Bennetts Crossing (Filed October 26, 2023)

S. Goodwin opened the public hearing at 6:54pm by reading the public hearing notice as published in *The Lowell Sun* on November 1, 2023 and November 8, 2023. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.10 (Table of Use Regulations – Residential Uses) to allow for a Home Occupation in the A-2 district.

Kristina Young and her business partner Kailey Young represented themselves. The two would like to run a business out of Kristina Young's home where they would make a variety of chocolate covered treats and gift boxes.

Kristina addressed the concerns of parking by explaining that the driveway to their home can accommodate up to eight vehicles, and all pick-ups will occur in the driveway. Pick-up times will be scheduled in advance so as to alleviate traffic concerns. There will be no signage or deliveries to the home.

S. Goodwin asked how supplies would be delivered.
Kristina explained that most supplies are delivered by UPS.

M. Schmalenberger asked if they would be doing any mail order business.
Kristina noted they are only looking to sell to locals.
Kailey also noted that the Board of Health will inspect the kitchen before they start to fill orders.

S. Goodwin asked what they would do if the business grew.
Kristina explained that if the business grew, they would look for a commercial location. The business is being run out of her home kitchen.

Lisa Darosa, of 3 Robbins Rd., has no issues with this request. She lives very close to the entrance of the neighborhood, as does the applicant. She recommended if the traffic increased too much that people picking up orders should be given a specific time.

M. Gibbons noted that for similar requests in the past a time limit has been conditioned with the Special Permits and recommended something similar be done in this case.

Motion: M. Gibbons made a motion to grant a Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.10 (Table of Use Regulations – Residential Uses) to allow for a Home Occupation in the A-2 district with an expiration date of May 1, 2025.

Seconded: S. Goodwin

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 at 7:09pm.

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)

Representative of Habitat for Humanity, Carolyn Reed and Tom Dufoe discussed with the Board the possibility of acquiring the property at 12 Newton St. and what possible variance may be required. The project would not be able to meet the commercial requirements of that zoning district. The proposed use is not unusual for the area, and a multi-family home had previously been on that lot.

M. Gibbons recommended that they have a discussion with the Building Commissioner and come back to speak with the Board at the December 20th meeting with a list of variance and special permits that would be needed.

Motion: M. Gibbons made a motion to accept the minutes of the October 20, 2023 meeting as amended.

Seconded: S. Goodwin

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 Board continued its discussion of its Rules and Procedures. A draft of the Rules and Procedures, and the Hearing Application were sent to Town Counsel after the last meeting. The edited versions were sent to the Board earlier in the day. The Board would like time to review the changes and vote at the next meeting.

Motion: M. Gibbons made a motion to adjourn the meeting.

Seconded by S. Goodwin

Motion Passed (5-0)

Meeting Adjourned at 7:55pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: December 20, 2023

Signature of ZBA Clerk, Indicating Approval: Amuel A. Goodwin Jr.