



PLANNING BOARD

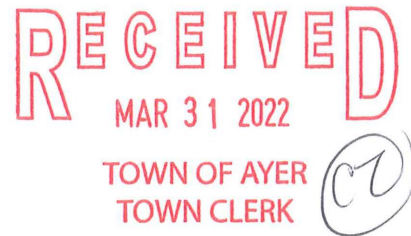
Town of Ayer

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Approved 5/22/2022



Minutes of May 12, 2021 - Ayer Planning Board Meeting

Location: First Floor Meeting Room, Ayer Town Hall via Zoom

Meeting was recorded and broadcast by APAC

Members Present: Geof Tillotson, Chairman; Ken Diskin, Vice Chairman; Jonathan Kranz, Clerk; Julie Murray and Nathan King (Mr. King arrived at 6:32PM) (all participating remotely)

Also Present: Mark Archambault, Town Planner

Chairman Tillotson called the meeting to order at 6:15 PM.

At 6:15 PM Chairman Tillotson read aloud the COVID-19 Emergency Order from Governor Baker allowing for remote participation meetings.

General Business

Approve the Agenda

At 6:17 PM Mr. Jonathan Kranz made a motion to approve the agenda as presented. Mr. Ken Diskin seconded.

Discussion:

Mr. Mark Archambault mentioned that the developers of Shaker Mill Pond have requested that the discussion on the covenant be conducted at the beginning of the meeting.

Chairman Tillotson stated the discussion on the covenant will be moved to the first item on the agenda.

Vote to approve by roll call vote: Mr. Ken Diskin, aye; Mr. Jonathan Kranz, aye; Ms. Julie Murray, aye; and Chairman Tillotson, aye.

Review, Shaker Mill Pond Subdivision, Shaker Road, Covenant and Surety

Present: Attorney Alan Shocket, attorney for Developer Dan Aho and Attorney Robin Stein, KP Law

Mr. Mark Archambault stated that Attorney Shocket has been working on the covenant and cash escrow surety for the subdivision off Shaker Road that were reviewed at the last meeting. Mr. Archambault stated that this morning he received a final version of the documents which Town Council had been working on with Attorney Shocket.

Attorney Shocket stated that he has not seen the newest version that the Board is referring to, stating that he had been communicating with Attorney Jonathan Murray at KP Law and has been working on editing the documents.

Attorney Robin Stein stated that there may be a bit of miscommunication on the matter. Attorney Jonathan Murray who has been in contact with Attorney Shocket was unable to attend this evening.

Attorney Shocket mentioned that Attorney Murray said that he would edit the documents and then send them to either himself or Mr. Archambault.

Mr. Archambault mentioned that he has believed both Attorneys had received and reviewed the documents.

Attorney Stein apologized for the misunderstanding on the matter stating that they did make changes to the document and sent it to Mr. Archambault and mentioned that once Attorney Shocket reviews and approves the document then the Board should be able to vote on the matter.

Mr. Ken Diskin asked to see the document.

Attorney Stein stated that they revised the document to the standard that all covenants are written and added only site and town specific language. Attorney Stein stated that she could review the document with the Board if they would like.

Attorney Shocket mentioned that he did not want to review and ok the document on the spot but would like to see the covenant approved pending agreement of both parties.

Chairman Tillotson asked Attorney Shocket to go over the outstanding items on the documents.

Attorney Shocket mentioned that when the Board met at the last meeting, there were two outstanding items which were to have KP Law review the documents as well as ask the Building Commissioner to see if he was ok with the model homes on site. Attorney Shocket stated that Mr. Aho spoke to the Building Commissioner, and he does not want any model homes built till the water and sewer lines are on site which is still a month or two away.

Mr. Diskin mentioned that he looked at the covenant was very detailed and only had one comment on item 11 which mentioned grantee were throughout the document the Planning Board and owner are mentioned.

Attorney Stein said that the grantee will be the person who grants the deed.

Mr. Diskin asked if the grantee needed to be named.

Attorney Stein mentioned that it did not. Attorney Stein suggested that the item be placed on the Boards next agenda for approval stating that any items can be worked out with Attorney Shocket by then.

Attorney Shocket asked if there was any way that he could get approval this evening if the Board is fine approval giving pending the agreement of both parties.

Mr. Archambault mentioned that the timing of the escrow may change due to the installation of the water and sewer lines and the building of the model homes.

Chairman Tillotson due to building permits not being issued to there is water and sewer on site and the escrow needs to be in place by the time the building permits issued.

Attorney Stein further explained the release of the covenant and the placement of the escrow timing for the Board.

Chairman Tillotson requested that Attorney Stein and Attorney Shocket work out the final details for the covenant and copy Mr. Archambault on the emails so that he is aware of the discussions and the covenant discussion can be on the next agenda.

Public Hearing – Special Permit, 1 Nemco Way, Catania Spagna Oils

Site Plan Review, 1 Nemco Way, Catania Spagna Oils

Present: Paul Chisolm and Bridget Souza from Keach-Nordstrom Associated, Inc. Joseph Basile, Scott Whitney and Dan Brackett from Catania.

At 6:35 PM Mr. Jonathan Kranz made a motion to open the continued public hearing for the Special Permit for 1 Nemco Way Catania Spagna Oils. Mr. Ken Diskin seconded. No discussion. Vote to approve by roll call vote: Mr. Jonathan Kranz, aye; Mr. Ken Diskin, aye; Mr. Nathan King, aye; Ms. Julie Murray, aye and Chairman Tillotson, aye.

At 6:36 PM Mr. Jonathan Kranz made a motion to open the continued Site Plan Review for 1 Nemco Way Catania Spagna Oils. Ms. Julie Murray seconded. No discussion. Vote to approve by roll call vote: Mr. Jonathan Kranz, aye; Ms. Julie Murray, aye; Mr. Nathan King, aye; Mr. Ken Diskin, aye and Chairman Tillotson, aye.

Mr. Paul Chisolm from Keach-Nordstrom Associates stated that they did receive a formal review letter from DPW based on the last set of plans. Mr. Chisolm mentioned that there are still a few technical items to finalize on the plans but did not feel that they should hold up the approval of the project. Mr. Chisolm mentioned that he spoke to Mr. Van Schalkwyk regarding the letter and is fine with the comments. Mr. Chisolm mentioned that another item left from the last meeting was research on the landscape plan requirements; there is no requirement for a landscape island and number of spaces and their plan meets any regulation in place. Mr. Chisolm mentioned that the Conservation Commission should be issuing the Order of Conditions for the project this week and is looking to get a conditional approval this evening on the plans and asked if there were any further questions.

Mr. Diskin asked Mr. Archambault to give a summary of number 3 on his staff report.

Mr. Archambault mentioned that he prepared a conditional approval for the Special Permit and Site Plan for this evening and can go through it with the Board to ensure they have no questions.

Mr. Archambault started with the site plan and mentioned that there is a waiver request that the Board still needs to act on for Section 9.1.2 regarding parking. There will only be an additional 5 new employees associated with the addition so they are requesting a waiver for providing the number of spaces required for an addition of this size. Mr. Archambault went over the findings of the Site Plan approval. Mr. Archambault then went over the conditions for the Site Plan decision which were based on the comment letter from the DPW.

Mr. Chisolm mentioned that he was able to review the conditions and have no issue with them.

Mr. Archambault went over the findings for the Special Permit for the project stating that the project and plans meet the requirements for Section 3.4.B.

Mr. Diskin asked a question regarding Condition #6 asking why both DPW and Town Council are reviewing the maintenance bond and inspection agreement.

Mr. Archambault stated that he saw this agreement and bond as like the bonding for roadways that the Board and council review.

Mr. Diskin thought that it was a bit of an overreach.

Mr. Chisolm mentioned that these types of documents are usually reviewed by council and has no issue with it. If the Board does not see it as necessary, the documents are something that they can work with the DPW on drafting as well.

Chairman Tillotson commented that the project includes a great deal of stormwater control and feel that the documents were given a great deal of thought and review.

Mr. Diskin mentioned that he did not want to see the project held up due to review by Town Council.

Mr. Scott Whitney, from Catania Spagna mentioned that in DPW review it was suggested that \$5,000 a year be placed in account for maintenance. Mr. Whitney stated that it is a relatively small amount and does not see the need for Council to review.

Chairman Tillotson asked Mr. Diskin to make a motion to remove the wording from the condition.

At 6:51 PM Mr. Ken Diskin made a motion that the Planning Board strike the words "subject to review and approval by Town Council" from Special Condition number 6 for the Site Plan approval. Mr. Jonathan Kranz seconded. No discussion. Vote to approve by roll call vote: Mr. Jonathan Kranz, aye; Mr. Ken Diskin, aye; Mr. Nathan King, aye; Ms. Julie Murray, aye and Chairman Tillotson, abstained.

Chairman Tillotson had a question on Condition number 5, regarding the Conservation Commission issuing an Order of Conditions and the time frame in which they do so.

Mr. Scott Whitney, from Catania Spanga mentioned that they have the draft Order of Conditions now and believe the Commission will close the hearing at their meeting later this week and issue the Order. There is a 10-day appeal period for approval but do not anticipate any appeals. Mr. Brackett further explained that he did not feel that the language in the condition is correct for the period to issue an Order of Conditions.

Mr. Chisolm mentioned that at the Conservation Commission meeting tomorrow they will vote to approve the Order of Conditions and close the hearing. They have 21 days to issue the Order, then there is a 10-day appeal period. Mr. Chisolm mentioned that he is not sure if the language is restrictive in any way but mentioned that he does not see it taking up to 3 months to get the Order of Conditions.

Mr. Chisolm had a comment for condition number 7 the date on the revised plans is not April 19th but is in fact April 8th. The plans were submitted on the 19th but were drafted on the 8th.

Mr. Archambault made the date correction.

Mr. Archambault asked about condition number 5.

Mr. Diskin suggested removing the last part of the last sentence where it states the three-month time frame and have the sentence end with, "the issuing of the Order of Conditions".

At 6:56 PM Mr. Ken Diskin made a motion that the Planning Board amend condition number 5 of the Special Conditions of Approval for Site Plan to remove the last part of the last sentence and state "that the Order of Conditions has been issued". Mr. Jonathan Kranz seconded. No discussion. Vote to approve by roll call vote: Mr. Nathan King, aye; Ms. Julie Murray, aye; Mr. Ken Diskin, aye; Mr. Jonathan Kranz, aye and Chairman Tillotson, aye.

Mr. King had a quick question for Mr. Chisolm, to confirm the new wastewater system will be installed prior to the dewatering and removal of the pond.

Mr. Chisolm stated that as of right now those pipes are not being replaced. Replacement is one possibility; another possibility is the easements are relocated. They are working with DPW and Nasoya to find the best way to move forward with the force main.

Mr. King stated that the question regards the stormwater from across the street, stating that the pond will not be removed until the new system is in place.

Mr. Chisolm stated that was correct. The first step is to construct the new underground system and then connect the system from across the street before the dewatering of the pond.

Mr. Archambault reminded the Board to vote on the waiver request before moving on to the Site Plan and Special permit approvals.

At 7:03 PM Mr. Jonathan Kranz made a motion that the Ayer Planning Board grant a waiver to the Ayer Zoning Bylaw Section 9.1.2 to allow for fewer parking spaces the required by the section. Mr. Ken Diskin seconded. No discussion. Vote to approve by roll call vote: Mr. Nathan King, aye; Mr. Jonathan Kranz, aye; Ms. Julie Murray, aye; Mr. Ken Diskin, aye and Chairman Tillotson, aye.

At 7:03 PM Mr. Jonathan Kranz made a motion that the Ayer Planning Board finds that the proposed site plan meets all the requirements of Ayer Zoning Bylaw Section 3.5.4. Mr. Ken Diskin seconded. No discussion. Vote to approve by roll call vote: Mr. Nathan King, aye; Mr. Jonathan Kranz, aye; Ms. Julie Murray, aye; Mr. Ken Diskin, aye and Chairman Tillotson, aye.

At 7:04 PM Mr. Jonathan Kranz made a motion that the Ayer Planning Board approve the site plan for the building project at Catania Spanga Oils subject to the conditions as reviewed and amended in Staff Report 3.0 on May 12, 2021. Mr. Nathan King seconded. Vote to approve by roll call vote: Mr. Ken Diskin, aye; Mr. Nathan King, aye; Mr. Jonathan Kranz, aye; Ms. Julie Murray, aye and Chairman Tillotson, aye.

At 7:06 PM Mr. Jonathan Kranz made a motion that the Ayer Planning Board find that the special permit criteria of the Ayer Zoning Bylaw Section 3.4.B have been met and further the Board finds that the design guidelines and Performance Standards of Ayer Zoning Bylaw Section 8.1.6 have been met by the proposed project, as documented in the April 27, 2021, letter from Keach-Nordstrom Associates to the Ayer Planning Board. Mr. Nathan King seconded. Vote to approve by roll call vote: Mr. Ken Diskin, aye; Mr. Nathan King, aye; Mr. Jonathan Kranz, aye; Ms. Julie Murray, aye and Chairman Tillotson, aye.

At 7:06 PM Mr. Jonathan Kranz made a motion that the Ayer Planning Board approve the Special Permit pursuant to the Ayer Zoning Bylaw Section 8.1.4(C)(3), Use Regulation allowed by Special Permit, for any site work resulting in more than 15%, or 2,500 sq.ft., of impervious area in the Aquifer Protection Overlay District. Mr. Nathan King seconded. Vote to approve by roll call vote: Ms. Julie Murray, aye; Mr. Ken Diskin, aye; Mr. Nathan King, aye; Mr. Jonathan Kranz, aye and Chairman Tillotson, aye.

At 7:08 PM Mr. Jonathan Kranz made a motion to close the public hearing for the Special Permit for 1 Nemco Way, Catania Spagna Oils. Ms. Julie Murray seconded. No discussion. Vote to approve by roll call vote: Mr. Jonathan Kranz, aye; Mr. Ken Diskin, aye; Mr. Nathan King, aye; Ms. Julie Murray, aye and Chairman Tillotson, aye.

At 7:09 PM Mr. Jonathan Kranz made a motion to close the public hearing for the Site Plan Review for 1 Nemco Way, Catania Spagna Oils. Mr. Ken Diskin seconded. No discussion. Vote to approve by roll call vote: Ms. Julie Murray, aye; Mr. Ken Diskin, aye; Mr. Jonathan Kranz, aye; Mr. Nathan King, aye, and Chairman Tillotson aye.

ANR, 37 Sandy Pond Road

Present: Mr. Kevin Conover, Engineer from David E. Ross Associates, Inc. Representative for the applicant

Mr. Kevin Conover stated that he is representing the property owner Mr. Jeffery and Ms. Andrea Greco who own a piece of land on the south side of Sand Pond Road. This is a unique property division as there are two buildings on the property that preexisted subdivision control in Ayer. According to Mass Chapter 41 Section 81L you are allowed to divide a piece of land into two lots if there are two building prior to subdivision control, there are no lot size, set back requirements or dimension requirement on an 81L plan. There have been a few of these in the Town of Ayer most recently for Saint Mary's church.

Mr. Diskin stated that he contacted Mr. Conover at his office and recommended that the Board do the same if they ever have any questions. Mr. Diskin mentioned that this is an unusual plan and after some research and speaking with the professionals involved realized it is an acceptable plan and is ready to be endorsed.

Chairman Tillotson mentioned that there is some language that was worked out between Mr. Archambault, Mr. Conover and Mr. Diskin that will be added to the plan itself.

Mr. Conover stated language will be added to the mylar that defines an 81L plan as well as a typical note suggested by Mr. Diskin stating that there is no certification of the existing no conforming.

Chairman Tillotson stated that the Board received the additional notes that will be added to the plan and shared a copy of the plan with the note for the Board and those present at the meeting.

At 7:16 PM Mr. Jonathan Kranz made a motion to endorse the ANR plan for Sandy Pond Road as submitted for Mr. Jeffery and Ms. Andrea Greco with the plan dated May 5, 2021. Mr. Ken Diskin seconded. No discussion. Vote to approve by roll call vote: Mr. Jonathan Kranz, aye; Mr. Nathan King, aye; Mr. Ken Diskin, aye; Ms. Julie Murry, aye and Chairman Tillotson, aye.

Town Planner Update

Mr. Archambault stated that he wanted the Board to know that he started a subcommittee to start drafting regulation for the Open Space Residential Subdivision. These regulations will go along with the Subdivision Regulations that were adopted in 2020 and will be design guidelines and clarify some of the grey areas in the regulations like flag lots and designating the Open Space. Mr. Archambault stated that the group has met a few times already and hope to get the full regulations to the Board in the late summer.

Mr. Archambault mentioned that he did receive the traffic report from GPI on behalf of McDonald's and he will begin his review of the document. The hearing for the site plan will be at the next meeting on May 25th. At that meeting the main topic will be discussing the traffic study.

Mr. Archambault mentioned that at the next meeting they will be opening the definitive subdivision plan for the project on Washington Street.

New Business/Old Business

Planning Board Overview of Projects

Chairman Tillotson had a brief PowerPoint of a future look of items that may be coming before the Board over the next year. These projects include site plans and subdivisions that may take up a lot of the Boards time. Chairman Tillotson wanted to give the Board a heads up on all the items that may be coming to the Board in the future. Chairman Tillotson mentioned that the town is working on getting a software to help streamline the communication between departments.

Chairman Tillotson also stated that to get through all the items that may be coming to the Board timelines, agendas and plan revision dates need to be closely looked at and submitted in a timely manner.

Board reorganization

Chairman Tillotson asked to have Board reorganization added to the agenda for the May 25th meeting.

Minutes from April 27, 2021

At 7:58 PM Mr. Jonathan Kranz made a motion to approve the minutes from the April 27, 2021, Planning Board meeting as submitted. Mr. Nathan King seconded. No discussion. Vote to approve by roll call vote: Mr. Jonathan Kranz, aye; Mr. Ken Diskin, aye; Mr. Nathan King, aye; Ms. Julie Murray, aye and Chairman Tillotson, aye.

Meeting Adjournment

At 8:10 PM Mr. Jonathan Kranz made a motion to adjourn. Mr. Nathan King seconded.

Minutes recorded and submitted by Heather Hampson, Administrative Coordinator

Planning Board Approval 3/23/2022
Date

Planning Board Chairman (Geof Tillotson)

