



Town of Ayer
Ayer Planning Board
Ayer Town Hall – 1st Floor Meeting Room
Ayer, MA 01432



Broadcast and Recorded by APAC

Tuesday June 14, 2022
Open Session Meeting Minutes

PB Present: Jonathan Kranz, Chair, Ken Diskin, Vice-Chair, Geof Tillotson, Clerk, Julie Murray, Member
PB Not Present: Nathan King, Member
Also Present: Mark Archambault, Ayer Town Planner

Call to Order: J. Kranz called the meeting to order at 6:15 PM.

Announcements: J. Kranz announced Board Reorganization

Approval of Meeting Agenda:

Discussion of change in Agenda, RE Architects item removed from Agenda.

Motion: G. Tillotson moved to remove agenda item, Seconded by J. Murrey **Vote 4-0**

Discussion, Pleasant Street Extension Guardrail: The board continued the discussion re: the Pleasant Street Extension Guardrail. Present for the discussion:

Calvin Moore, Ayer MA –Proponent
Jana Kurs, 124 Pleasant St
Andre Jurs 124 Pleasant St
Nick Newman 123 Pleasant St
Francis Mungai 122 Pleasant St

The Board continued to discuss the letter from the neighbors sent to the DPW requesting that the guardrail around the center of the road be built in compliance with the depiction in the plans. The proponent claims that the change was approved per verbal discussion with the DPW.

Calvin Moore read bullet points:

- Metal guardrails are stronger and will last longer than wood
- Treated rails are one of those items that are still caught up in the supply chain
- Metal rails were installed at that time for public safety because of the non-availability of the treated rails
- CJ Moore had a discussion with the Superintendent of the DPW and states that they received permission to install the metal guardrails.
- Town By-Laws do not have material regulations
- The installed rails meet or exceed the requirements
- Our family has had many projects in the Town of Ayer and has always worked closely with the town and boards regarding these projects for a win-win situation
- The guardrail has been installed for over a year and it is unfair to require that it be changed or modified
- Replacement of the rails is purely based on someone's aesthetic opinion, not on local or state regulations
- The town uses metal rails, if the town does it, then other people should be allowed to use them too
- Pulling up the posts will damage the asphalt

- The bottom line is that "We want to finish the project and cannot finish this with this mandate, I do not want this to become another project with an unaccepted road like "Madigan Lane."
- We want Pleasant Street Extension to be approved at the Fall Town Meeting and we're running out of time.
- Based on these statements the rails installed will provide the same or more protection than the wood rails shown on the plan

Ken Diskin recused himself from the discussion on this project because he is an abutter to another project involving Calvin Moore.

Geof Tillotson asked what was presented in the marketing materials. Mr. Moore sold the eight lots to Gallagher; he did not know what was marketed

The discussion was opened to the public:

Andre Kurs, 124 Pleasant St stated that the current guard rails were installed as a temporary measure and that the present guardrail is not up to spec. The rusty guardrail also presents a hazard to the safety of the children. He reiterated that the plans were approved and that they want the guardrail to be built to the plans.

Nick Newmann, 123 Pleasant St stated that his concerns are the same as Mr. Kurs concerns and that he is concerned for the safety of his two small children, another concern is that the guardrail is not appealing to look at. Does not remember anyone saying that the metal guardrail was temporary, but they assumed that given that the plans showed a wooden guardrail. The guardrail in the adjacent project on Nashua St. has wooden guardrails.

Francis Mungai, 122 Pleasant St stated that he has two kids and that one of the children almost hit the guardrail while riding his bike; he is concerned that the metal rail is dangerous.

Calvin stated that he would rather have rust on his hand vs. a pressure-treated sliver in his hand. He stated that he gets that the aesthetics are an opinion, but he feels that the current installation far exceeds the safety standards and meet the DPW's verbal permission for the change. If the shiny ones were put in, he would agree, but to him, the rusty ones are better. Restated that they need to meet local and state regulations. He restated that they are stronger, will last longer than wood, and would be preferable. It's not fair that the town can do it, and they can't.

Chairman Kranz asked for an example of where in town there is a similar installation in a residential neighborhood; Mr. Moore did not specify a location.

Chairman Kranz reminded Calvin that it comes down to the approved site plan.

Geof Tillotson asked if the plans meet state and federal guidelines, Mr. Moore stated that he believed that they did.

Julie Murray asked for background on why we are discussing a change to an accepted set of plans. Mark Archambault responded. The understanding is that any changes need to be handled through an amendment to the plans.

Andre Kurs commented that it is "very sharp metal."

Chairman Kranz asked Mr. Moore what he would do to correct the situation. Mr. Moore said that in the past a verbal discussion was all that was needed in a small town; he was reminded that it's not the way things are done now. Regarding the installation of new asphalt, Member Murray stated that they knew this discussion was planned, why did they pave?

Jana Kurs, 124 Pleasant St -Asked why it's hard to take out the guardrail? Also stated that she had spoken to CJ with plenty of time for CJ to be informed. She said that they wanted things built to the plans and does not understand why the discussion is happening.

Calvin asked if the metal posts stayed, would that work. There was a discussion of how the posts were set, Nick Kurs started that the posts were driven in, he's not sure if they were set in concrete. This was discussed.

Chairman Kranz commented that there might be a compromise on the table, metal posts with a wooden rail. Mark Archambault had spoken with DPW re: a compromise; the DPW would like to review the solution.

Covering the existing metal posts as a possible solution was discussed.

Board discussed that there wasn't enough information offered to reverse the previous unanimous decision to build the guard rail to plan. There may be a possible compromise, however, what constitutes the criteria to change a plan?

Chair Kranz commented that building to the plan is the default option, otherwise, a compromise with the homeowners is to the next best solution. Mr. Moore commented that he understands.

The Chair asked the residents if they would meet with Mr. Moore to discuss to discuss options. The Planning Board would be willing to discuss with DPW to see if a compromise can be done without causing damage.

Mr. Moore commented that they are trying to get the project completed for Town Meeting acceptance. He agreed to go along with changing the rails but not the posts.

A new design would be needed for the DPW to agree to accept it, a cut sheet would be acceptable.

Chair stated that he prefers that the parties get together, and that the agenda item not be voted on now.

There was discussion about replacing posts and rails, just posts etc. Mr. Moore expressed concern that removing the posts may damage the road leading to an unaccepted road.

Ms. Murray stated that she is uncomfortable asking the residents to handle this with Mr. Moore outside of the meeting. It was decided to postpone the vote until the next meeting. Mr. Moore will provide a cutsheet for a win-win situation that is obtainable in time for Town Meeting. Mr. Moore stated that he will not replace a damaged road but will work to get it done for an accepted road at town meeting.

Board discussed if two weeks of time would delay the solution. The neighbors stated that they are not interested in a compromise, more information re: the replacement process is needed regarding the other work needed.

Member Tillotson suggested to put the discussion on the table until the following meeting.

The Board discussed covering the metal post with wood sides so that it looks like a wooden post. This would possibly solve the problem without damaging the road.

Member Tillotson described the long-term costs of a non-accepted road.

Residents asked to see a mock-up. Mr. Moore will look into a mock-up that the residents can see.

Motion: G. Tillotson moved to place this decision on the table until Mr. Moore can come up with a possible solution for sleeving the current uprights we can all take a look at and discuss. Seconded by J. Murray **Vote 3-0**

Chair Kranz recessed for 5 minutes.

Member Diskin returned to the meeting.

Meeting reconvened with the Hearing for the Open Space Residential Design, while Mr. Archambault left to retrieve a copy of the motion from the planning office, the Board handled other agenda items.

MRPC, MJTC Appointees: Motion: Chair Kranz moved that G. Tilltson represent PB on MRPC, J. Murray seconded.
Vote 4-0

Mark Archambault volunteered to be the representative to **MJTC**.

Motion: G. Tillotson moved to appoint Mark Archambault the MJTC rep. Seconded by J Murray **Vote: 4-0**

Motion: J. Murray moved to approve the May 24, 2022, PB Meeting Minutes, Seconded by G. Tillotson, Discussion of edits by Chairman Kranz. **Voted 4-0**

Motion: G. Tillotson moved to open the public hearing on the Draft Regulations for the OSRD, Seconded by J. Murray. G. Tillotson read the Public Hearing Notice. **Vote: 4-0**

Town Planner made a presentation on the process followed by Board Discussion and Public Input.

The Board discussed the process, how Conservation and Planning cooperate on a project. The outcome of an OSRD is to preserve 50% or more of a project in perpetuity. Chair Kranz stated that an OSRD is a major tool in preserving space going forward.

Member Diskin mentioned some technical issues with the document and requested a change to the labeling of the graphics to reflect "OSRD", replacing "Conservation" throughout the document. Mark Archambault agreed that this is minor change and can be done.

Public Comment: Sara Withee, 11 Groton Shirley Rd. Requested that the "Steps" Graphic be placed on the screen, **Question: Are the first four steps out of the public view?** Mark Archambault Answered: Starting with the first step all steps are in the public view. The Board clarified that all steps are in public meetings. The Board follows Massachusetts Open Meeting Law.

Question: What is a Conservation Finding? What is an example of it? Board responded that a conservation finding is provided to the Board determining relative conservation value of portions of a property. The Planning Board votes to accept the finding as is or with changes.

Question: What about the utility easements? This is a complex question that is handled in the Design Guidelines on Page 18. An example was given by the Town Planner and discussed by the board. Land in utility easements is considered per project based on who may have jurisdiction or ownership.

Question: If you have a Conservation Analysis and an Impact Statement, when will you relax the rules? The Board discussed that there may be exigent circumstances that will require a Board to re-consider a past decision based on changes from external granting authorities. The Board considers requests for waivers very seriously. Chair Kranz stated that waivers must be included with original plans and the applicant must articulate why each waiver is being requested and be accompanied by legitimate reasons.

Question: Density Bonuses: What's going to happen with density bonuses and future plans? The Board Discussed that density bonuses are there to incent better design for more open space, and tie-in the OSRD with the Master Plan and other regulations regarding density. The Board also discussed the tool as something that creates more open space and allows the creative use of different solutions to achieve the goal of more open space.

Motion: J Murray moved to approve OSRD regulations as discussed with amendments made by Ken Diskin. G. Tillotson Seconded. **Vote 4-0**

Motion: K. Diskin moved to close the public hearing, J. Murray seconded, **Vote 4-0**

Town Planner Update: Shaker Mill Pond, Panther Place, John Carroll Reserve and Central Ave Updates were given. Ayer Solar 2 – There are concerns about the work. Mark Archambault contacted the proponent and will schedule a time when the proponent can meet with the Board on a site-walk, due to the proponents travel schedule, it would be almost a month before

a time could be scheduled. Board would rather meet sooner with a representative in place of the proponent. The Board decided to meet as soon as possible. Cataldo site walk is still to be set up.

Ken Diskin asked about any news on other approved projects, for instance, the propane storage facility. Other projects were discussed, Catania Oil and the Ayer Shirley Regional High School were discussed.

Old/New Business: J. Murray asked about dissolving a paper road. The Board held a general discussion re: paper roads and how that process is approached. Ken Diskin has researched this, and there are different outcomes. A "paper street" or "paper road" may have been on a development plan, but never constructed. A town "paper road" needs to be abandoned at a Town Meeting. Ownership of this type of road post abandonment is to the center of the street. DPW will have records and can give you an opinion about the road. Roads could be abandoned due to cost of maintenance etc.

The Board discussed the format of meeting minutes.

Adjournment:

Motion: A motion was made by K. Diskin and seconded by J. Murray to adjourn at 8:14PM. **Motion passed 4-0.**

Minutes Recorded and Respectfully Submitted by Geof Tillotson, Clerk

Date Minutes Approved by PB: July 12, 2022

Signature Indicating Approval: 

Chair - Jonathan Kranz