

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



Wednesday November 15, 2017
Open Session Meeting Minutes

Present: Samuel A. Goodwin, Jr., Chair; Michael Gibbons, Vice-Chair; Ron Defilippo, Clerk; John Ellis, Jess Gugino

Carly M. Antonellis, Assistant to the Town Administrator

Call to Order: S. Goodwin called the meeting to order at 6:00 PM.

Approval of Agenda: A motion was made by J. Ellis and seconded by M. Gibbons to approve the agenda. **Motion passed 5-0.**

Public Hearing – Appeal of Building Commissioner – Mark Saydah - 41 East Main Street (Filed September 25, 2017): S. Goodwin opened the Public Hearing at 6:01 PM by reading the public hearing notice as advertised in the Nashoba Valley Voice on October 27, 2017 and November 3, 2017. The applicant is appealing Building Commissioner’s determination dated 9/7/17 relative to Ayer Zoning Bylaw, Section 5.12, (GR) that additional dwelling units must be connected to the original dwelling based on lot size.

Michael Norris, Attorney for Mark Saydah, asked that the ZBA consider overturning the Building Commissioner, as this project has been submitted to the Town at least three times and the issue of the buildings being connected had never been raised. He further stated that the Zoning Bylaw doesn’t state that the dwellings need to be attached.

S. Goodwin stated that in his opinion that the omission doesn’t give permission to essentially subdivide the lot.

The ZBA discussed the definition of dwelling “a building designed for human habitation and containing one or more dwelling units” vs. dwelling units “A building or portion of a building designed to be occupied separately by one or more persons forming a household and having its own cooking and toilet facilities, and a distinct separate entrance from the outside or from a common hallway or stairway”

Mr. Todd Johnson, 49 East Main St. felt that the units had to be attached to meet the definition of the bylaw.

M. Gibbons stated that he didn't feel that allowing the project to move forward as is would be detrimental to the characteristics of the neighborhood.

R. Defilippo echoed S. Goodwin's concerns and stated that the intent of the Bylaw is not to allow a property owner to essentially subdivide this size lot and construct as many dwellings as possible.

J. Gugino stated that she was inclined to uphold the Building Commissioners.

The applicant asked to be allow to caucus with his Attorney for 5 minutes and left the room.

Motion: A motion was made by M. Gibbons and seconded by J. Gugino to overturn the Building Commissioner's Decision. **Motion failed 4-1.**

Motion: A motion was made by S. Goodwin and seconded by J. Ellis to close the Public Hearing at 6:35 PM. **Motion passed 5-0.**

Public Hearing – Application for Variance – Town of Ayer - Commuter Rail Parking Facility (currently DCR Rail Trail Lot) accessed via Groton Street (Filed October 30, 2017): S. Goodwin opened the Public Hearing at 6:46 PM by reading the public hearing notice as advertised in the Lowell Sun on October 31, 2017 and November 7, 2017 . The applicant is seeking a variance from Ayer Zoning Bylaw (2009) 6.3(c) for the following: parking space dimensions (8.5'x18' (general use) and 10'x18' (rail trail use) where 10'x20' is required); minimum parking area per car (350 sq. ft. required); and maximum curb cut (53' where 25' is maximum, current curb cut is pre-existing non-conforming at 50').

Alyssa Peck, Project Manager from Weston & Sampson and George Kahale, Transit Director for Montachusett Regional Planning Commission were in attendance to address the ZBA on behalf of the Town of Ayer and MART. Ms. Peck stated that given the size constraints of the site and the project goal to increase the number of parking spaces, the Town is applying for the variances.

G. Kahale stated that the proposed variances meet the national highway safety standards.

The Town of Ayer's Director of Community and Economic Development Mr. Alan Manoian stated that the proposed size of the parking spaces is standard in urban areas.

Ms. Pat Lynch, 33 Park Street stated that she was concerned with increasing the number of traffic in the area.

Motion: A motion was made by J. Ellis and seconded by J. Gugino to grant variances as requested. **Motion passed 5-0.**

Motion: A motion was made by J. Ellis and seconded by M. Gibbons to close the hearing at 7:17 PM. **Motion passed 5-0.**

Attorney Tom Gibbons for Global Montello Corp. – Zoning Discussion: Attorney Gibbons was in attendance regarding an upcoming submission by Global Montello Corp for a use variance for the Maxant property on Harvard Road. Global Montello is proposing building a gas station/retail store at the site. He stated that is currently zoned Light Industrial and that the former facility at the site predated zoning in the Town. Filling stations are not permitted in the Light Industrial District without a variance from the ZBA. His assumption is that the parcel was zoned light industrial because that was the use at the time of zoning implementation. He stated further that Global Montello has a permitted project on Littleton Road that they will proceed with if the upcoming application for a use variance fails. He plans to reach out to abutters prior to submitting his application to the Zoning Board of Appeals. He wanted to meet with the ZBA to “take the temperature” about the possibility of granting a use variance.

Board members were not adamantly opposed and will weigh the merits of the project when formally submitted to the Zoning Board.

Approval of Meeting Minutes:

Motion: A motion was made by J. Gugino and seconded by S. Goodwin to approve the meeting minutes from October 18, 2017. **Motion passed 5-0.**

Adjournment:

Motion: A motion was made by S. Goodwin and seconded by J. Ellis to adjourn at 7:32 PM. **Motion passed 5-0.**

Minutes Recorded and Submitted by Carly M. Antonellis

Date Minutes Approved by ZBA: 12/20/17

Signature of Clerk Indicating Approval: 