



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

Wednesday April 19, 2023

6:00 PM

Remote Participation Meeting Agenda

RECEIVED
APR 14 2023

TOWN OF AYER
TOWN CLERK

11:15am

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.

6:00 PM Call to Order

Approval of Agenda

Continued Public Hearing – Application for Variance (Building Height)– DMG Investments, LLC

201 W. Main Street (Filed January 30, 2023)

Continued Public Hearing – Application for Variance (Width)– DMG Investments, LLC

201 W. Main Street (Filed January 30, 2023)

Continued Public Hearing – Application for Variance (Parking Requirements)– DMG Investments, LLC

201 W. Main Street (Filed January 30, 2023)

Approval of Meeting Minutes

March 15, 2023

Board Discussion

Adjournment

The next regularly scheduled ZBA Meeting is Wednesday May 17, 2023 at 6:00 PM.

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TOWN OF AYER
TOWN CLERK

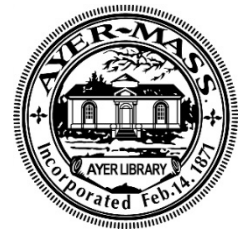
12:30pm (80)

Town of Ayer
Zoning Board of Appeals
Public Hearing Notice



The Ayer ZBA will conduct a remote public hearing at 6:00 PM on Wednesday March 15, 2023 regarding an application by DMG Investments, LLC for property located at 201 W. Main St. Ayer, MA. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 10.5.16.C (Building Height) to increase the maximum building height to 4 stories in the T.5.1 Village Street zone where 3 stories is allowed. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised February 24, 2023 and March 3, 2023, *The Nashoba Valley Voice*



**Town of Ayer
ZONING BOARD OF APPEALS
APPLICATION FOR A HEARING**

Name of Applicant: Cian Hamill on behalf of DMG Investments LLC
(Full Name)
100 Wall Street, Suite 1601, New York, NY 10005
(Address)
(347) 574-3454
(Phone Number)
cianhamill@dmginvestments.com
(Email Address)

Applicant is: Owner Tenant Licensee Prospective Buyer*
**If you are a tenant, licensee or prospective buyer please include a letter from the property owner acknowledging the application with the Zoning Board of Appeals.*

The name and address of each holder or legal title to the land which is the subject of this petition (list as it appears on the Deed):

S&J West Main Realty Trust

Location of Property:

201 West Main Street AYER, MA 01432

Assessor's Map 32 **Parcel** 14 & 15 **Land Size** 203,262 sf/4.67 acres

Zoning District: A-1 A-2 GR **GB** DB LI I MUT HCS
Circle One ***WEST AYER VILLAGE - VILLAGE CORE (Lot 15) & VILLAGE STREET (Lot 14) ZONES

Registry of Deeds Book 62369 **Page** 524 & 526

Aquifer Protection Overlay District (circle one) Zone I **Zone II** N/A

The undersigned hereby petitions the Town of Ayer Zoning Board of Appeals to vary the terms of the Zoning Bylaws for the following purpose:

- X A VARIANCE from the requirements of the Town of Ayer Zoning Bylaws
- A SPECIAL PERMIT for a specific use which is subject the approval of the Zoning Board of Appeals
- A SPECIAL PERMIT to expand, alter, or change a non-conforming use or structure.
- ADMINISTRATIVE APPEAL (i.e. Building Inspector Decision)

Did you request a building permit from the Town of Ayer Building Inspector? no

If yes, were you denied a permit by the Town of Ayer Building Inspector? N/A

If you were denied a permit, please attach a copy of the decision from Building Commissioner's Office.

State briefly the reasons for application and include the appropriate citation(s) from the Ayer Zoning Bylaw:

Town of Ayer Zoning Bylaw §10.5.16.C. - Building Height. The Applicant respectfully requests relief
to increase the maximum building height to four (4) stories. Please refer to the attached narrative for
additional information.

Date: 01/20/2023

Signed by Cian Hamill

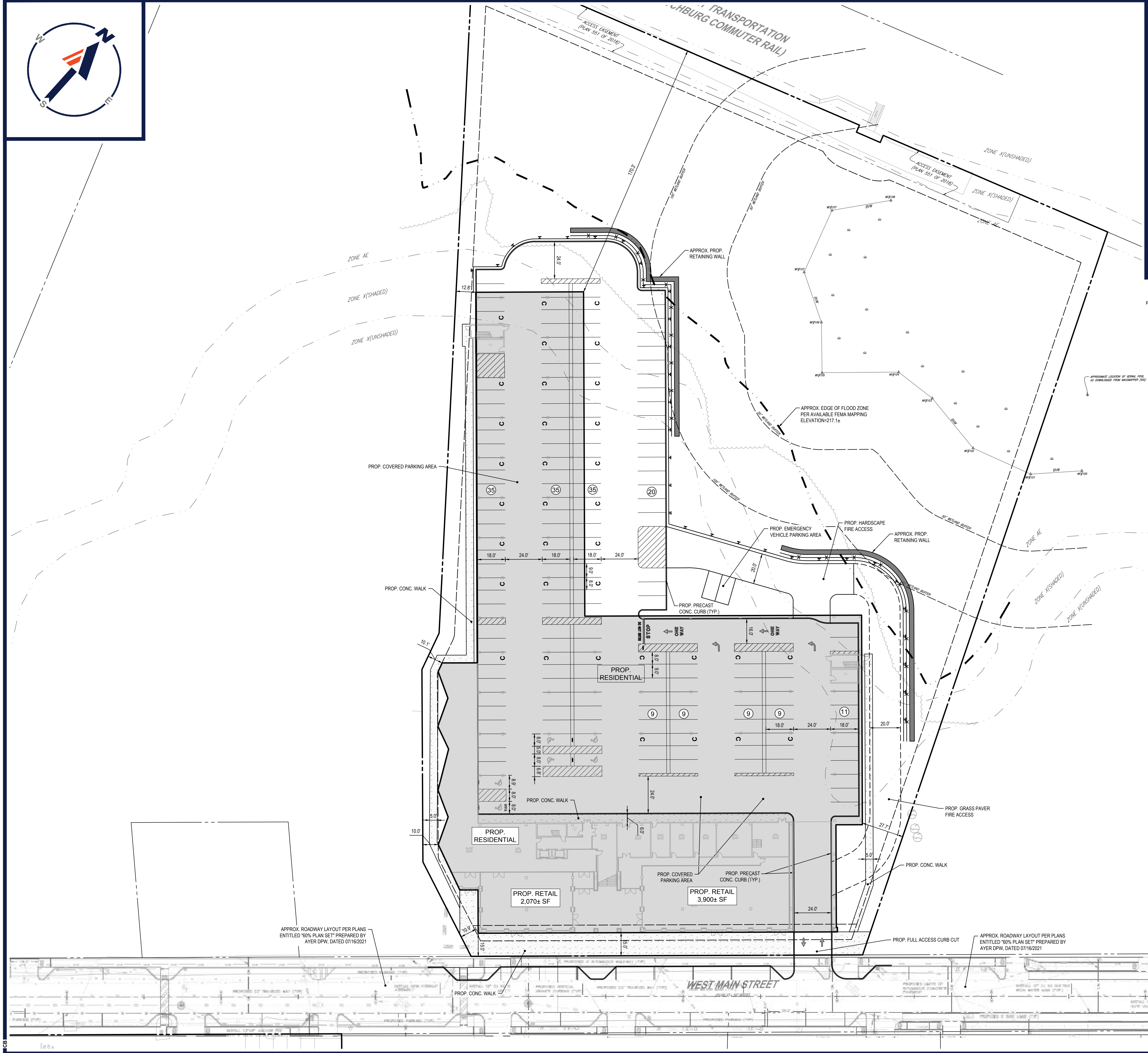
(Petitioner) on behalf of DMG Investments LLC

(347) 574-3454

(Daytime Phone Number)

cianhamill@dmginvestments.com

(Email)



ZONING ANALYSIS TABLE			
ZONING DISTRICT	WEST AYER VILLAGE (VILLAGE CORE & VILLAGE STREET ZONES)		
OVERLAY DISTRICT	AQUIFER PROTECTION OVERLAY DISTRICT		
REQUIRED PERMIT	SPECIAL PERMIT FROM PLANNING BOARD REQUIRED FOR GREATER THAN 15% PROP. IMPERVIOUS AREA		
ZONE CRITERIA	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	NS	203,362 SF	NO CHANGE
LOT WIDTH	60 FT (MIN.) / 192 FT (MAX.)	254.1 FT (E)	NO CHANGE
MAX. BLDG COVERAGE	60%	1.0%	33.5%
FRONT SETBACK	10 FT (MIN.) / 20 FT (MAX.)	23.2 FT (E)	15.0 FT
MIN. SIDE SETBACK	10 FT	23.4 FT	10.0 FT
MIN. REAR SETBACK	25 FT	417.1 FT	170.3 FT
BUILDING HEIGHT	1 STORY (MIN.) / 3 STORIES (MAX.)	2 STORIES	4 STORIES (V)
MAX. IMPER. COVERAGE	NS	8.6%	45.8%
PARKING SPACES	288	5	172 (V)(1)
ACCESS. PARKING SPACES	6	NA	6
PARKING STALL CRITERIA	USE/CATEGORY: RETAIL, RESIDENTIAL		
STANDARD: 9 FT x 18 FT	RETAIL: MIN. 3 SPACES PER 1,000 SF GFA		
COMPACT: 8 FT x 16 FT	MAX. 1 SPACE PER 200 SF GFA		
	RESIDENTIAL: 1 SPACE PER STUDIO UNIT		
	1.5 SPACES PER ONE BEDROOM UNIT		
	2 SPACES PER 2+ BEDROOM UNIT		
	PLUS 5% ADDITIONAL SPACES FOR VISITOR PARKING		
CALCULATION:	RESIDENTIAL: [APPROX. 21 STUDIO UNITS X (1 SPACE/UNIT)] + APPROX. 125 1-BEDROOM UNITS X (1.5 SPACES/UNIT) + APPROX. 24 2+ BEDROOM UNITS X (2 SPACES/UNIT) X 1.05 = 270 SPACES		
	RETAIL: 5,970± SF X (3 SPACES/1,000 SF) = 18 SPACES		
ACCESSIBLE PARKING CRITERIA	1-25 SPACES = 1 MIN. ACCESSIBLE SPACE	26-50 SPACES = 2 MIN. ACCESSIBLE SPACES	51-75 SPACES = 3 MIN. ACCESSIBLE SPACES
	76-100 SPACES = 4 MIN. ACCESSIBLE SPACES	101-150 SPACES = 5 MIN. ACCESSIBLE SPACES	151-200 SPACES = 6 MIN. ACCESSIBLE SPACES
	201-300 SPACES = 7 MIN. ACCESSIBLE SPACES	301-400 SPACES = 8 MIN. ACCESSIBLE SPACES	
	401-500 SPACES = 9 MIN. ACCESSIBLE SPACES	501-1,000 SPACES = MIN. 2% OF TOTAL	1001+ SPACES = MIN. 2% + 1 FOR EACH 100 SPACES OVER 1,000
VAN:	1 ACCESSIBLE VAN SPACE PER 6 STANDARD ACCESSIBLE SPACES (MIN.)		

- (1) 10% OF REQUIRED PARKING SPACES MAY BE COMPACT SPACES (8 FT X 16 FT) IN PARKING AREAS EXCEEDING 50 SPACES.
- REQUESTED RELIEF:
- \$10.5.16.B - LOT WIDTH. THE APPLICANT IS REQUESTING RELIEF TO INCREASE THE MAXIMUM LOT WIDTH TO 254.1 FT.
 - \$10.5.16.C - BUILDING HEIGHT. THE APPLICANT IS REQUESTING RELIEF TO INCREASE THE MAXIMUM BUILDING HEIGHT TO FOUR (4) STORIES.
 - \$9.1.2 - OFF-STREET PARKING REQUIREMENTS. THE APPLICANT IS REQUESTING RELIEF TO REDUCE THE REQUIRED OFF-STREET PARKING TO 172 SPACES.
 - \$9.1.5 - OFF-STREET PARKING DESIGN STANDARDS. THE APPLICANT REQUESTING RELIEF TO INCREASE THE MAXIMUM PERCENTAGE OF SMALL-CAR PARKING SPACES TO 20%.

BOHLER
 SITE CIVIL AND CONSULTING ENGINEERING
 PROGRAM MANAGEMENT
 LANDSCAPE ARCHITECTURE
 SUSTAINABLE DESIGN
 PERMITTING SERVICES
 TRANSPORTATION SERVICES

REVISIONS			
REV	DATE	COMMENT	DRAWN BY

811
 Know what's below.
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ISSUED FOR PERMIT

THIS DRAWING IS INTENDED FOR MUNICIPAL AND/OR AGENCY REVIEW AND APPROVAL. IT IS NOT INTENDED AS A CONSTRUCTION DOCUMENT UNLESS INDICATED OTHERWISE.

PROJECT No.: MAA220121.00
 DRAWN BY: CPB
 CHECKED BY: DGL/MD
 DATE: 01/30/2023
 CAD ID: MAA220121.00-SPDP-01

PROPOSED SITE PLAN DOCUMENTS

FOR

DMG INVESTMENTS

PROPOSED MIXED USE RESIDENTIAL DEVELOPMENT

MAP: 32 LOT: 14, 15 & 30
 193, 201 & 210 WEST MAIN STREET,
 TOWN OF AYER,
 MIDDLESEX COUNTY,
 MASSACHUSETTS

BOHLER

352 TURNPIKE ROAD
 SOUTHBOROUGH, MA 01772
 Phone: (508) 480-9900

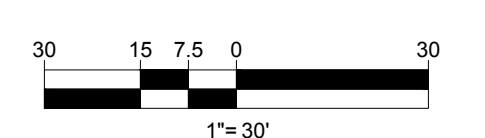
www.BohlerEngineering.com

SHEET TITLE:
SITE LAYOUT PLAN - ZBA VARIANCE APPLICATION

SHEET NUMBER:
C-301

ORG. DATE - 01/30/2023

THIS PLAN TO BE UTILIZED FOR SITE LAYOUT PURPOSES ONLY. REFER TO GENERAL NOTES SHEET FOR ADDITIONAL NOTES



P:\2022\MAA220121.00\CAD\DRAWINGS\PLAN SET\CIVIL SITE PLANS\MAA220121.00-SPDP-01.dwg - LAYOUT, C-301 - SITE



FRONT ELEVATION (WEST MAIN STREET)



PERSPECTIVE

Bergmeyer

BOS 51 Sleeper St. 800 South Figueroa St. 875 N High St.
 6th Floor Suite 1080 Suite 300
 Boston, MA 02210 Los Angeles, CA 90017 Columbus, OH 43215
 617.542.1025 213.571.025 380.900.8887
 www.bergmeyer.com

NO.	BY	DATE	DESCRIPTION

DMG Ayer West Village

201-205 W MAIN ST.
 AYER, MA 01432

RENDERED IMAGES

DRAWN BY:	Author
REVIEWED BY:	Checker
JOB NO:	20220047.00

A901

Variance Request Narrative
DMG Investments LLC
201-205 West Main Street, Ayer, MA

Sec. 10.5.16.C – Building Height


3 stories allowed – 4 stories proposed

The proposed building consists of retail space fronting West Main Street, with residential units on the 2nd – 4th floors above, and ground level parking behind the retail space (and below the residential floors). The site limits the footprint that can be proposed due to a wetlands area and flood zone located at the rear of the property. In lieu of expanding the footprint towards the rear, the alternative was to go up one additional floor. The intent of the proposed layout is to provide as much off-street parking as possible for the associated uses in an efficient and aesthetically pleasing way (not visible), while providing enough retail space and residential units to make the project economically feasible. If the project was limited to 3 stories, it would not provide enough area to allow the project to move forward. It should be noted that the proposed retail/residential uses will provide a significant tax increase as a benefit to the Town of Ayer over what its current use (or a proposed 3 story use) provides.

Should you have any questions or require additional information, please do not hesitate to contact me at 508-480-9900.

Sincerely,

BOHLER



Drew Garvin
Project Manager



**Town of Ayer
Zoning Board of Appeals
Department Head Review Summary**

Application for Variance – 201 W. Main St. – Building Height

Department	Comments
Town Manager	Defer to ZBA
Board of Health	This property is in Zone II. What percentage of this property is impervious? Any use that will render impervious more than 15% or 2,500 sq ft of any lot whichever is greater requires special permit – Aquifer Protection Regs. Storage area for snow removal? Will there be an area for dumpsters?
Department of Public Works	The DPW does not have concerns with this request.
Police Department	No Comment at this time.
Fire Department	Must comply with 527 CMR Chapter #18, fire department access.
Building Commissioner/Zoning Enforcement Officer	Please see attached letter.
Conservation Commission	The Conservation Commission has no concern with the variance requested, but the property does have wetlands on it and any work within the 100ft Buffer will need to be permitted by the commission.
Treasurer/Tax Collector	No comment
Town Clerk	No Issues
Assessor's Office	No comment
Economic & Community Development	Please see attached letter.
Town Planner	Please see attached letter.



ZONING/BUILDING DEPARTMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

March 3, 2023.

Re: Comments for 201 West Main St.

Dear Board Members,

Before I comment on the applicants' narratives and site plan, I as a resident participated at Town meeting on October 28th, 2019, along with 133 other voters that unanimously approved the parameters for the WAVFBC. Which were 192' Max lot width and 3 stories in height for WAVFBC. The Town already approved an area which allows 4 stories (DAPSFBC) which is consistent with the prescriptive method of FBC.

The applicant states in part, that the proposed retail/residential will provide a significant tax increase as a benefit to the Town.

What the applicant failed to provide is the cost to the town to determine if the Tax increase is a benefit.

Per the DOE website the average cost to educate one child in Ayer is \$18,092.

Per the State Sanitary Code, you may have two occupants per 100sq' and another 1 for every 50sq' there after per bedroom. Not knowing the exact dimensions of the bedrooms I am estimating that out of the 170 units there is the possibility that there could be at least 110 school aged kids living there.(we must use the state formula for the max amount allowed, we cant go on the premises that it will be all adults or very few kids because in reality it can be what the max design standard allows)

110 kids@ 18,092.00 per = \$1,990,120.00

Per the Town assessment of the Zodiac apartment complex each unit is assessed @ 50,000 per unit.

If we value, the new apartment units @ 125,000 per unit @ 12.42 per unit =1,552.00 @ 170 units =263,840.00 then add in another 36,160.00 for the commercial area it = 300,000.00 in tax revenue.

Cost to Town to Educate additional children	\$1,990,120.00.
Additional Tax revenue	-\$300,000.00.

According to these calculations they are suggesting that a 1.69 million cost to the Town is a benefit. I have never heard of a cost to the Town being a benefit, but they say it is, I disagree.

I also disagree with there statement that it meets the General Guiding Principles for the WAVFBC. The General Guiding Principles were voted on 10/28/2019 by 134 residents, that the Max height would be 3 Stories high not 4 and the Max lot width 192' not 254'.4.

If you take the footprint as designed @ the requested 254', 1 story would be 64,530 sq'. At 4 stories the Building would be 258,120 sq'.

Scaling back there designed Building to the 192' lot width and 3 stories the Building would be 163,710 sq'. That would make the variance Building 36.8% larger.

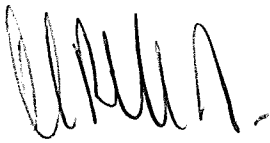
If you compare it to the abutting lot on the right side the largest footprint they can have is roughly 21,000 sq'

@ 3 stories is 63,000 sq' that Building would be 75.6% smaller than the variance Building beside it. This is totally inconsistent with the General Guiding Principles that the Town approved.

Their argument that a Hardship exist here due to the wetlands and flood plain, should hold no water as the wetlands and floodplain did not magically appear after they started there due diligence process, furthermore the Town already zoned a area for 4 story buildings.

It is my opinion that this project does not meet any of the criteria that the Town approved and should not be granted any of the variance's requested.

Please contact me if you need any other information or questions on my numbers. I have scaled down models of the buildings and a site plan showing the size constraints of the abutting lot.

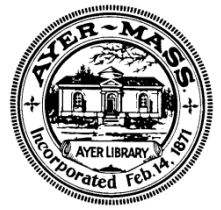
A handwritten signature in black ink, appearing to read 'Charles R. Shultz Jr.', with a stylized, cursive script.

Charles R. Shultz Jr.
Building Commissioner/Zoning Enforcement

Copy: Town Manager's Office
File

Town of Ayer

Office of the Town Planner



Town of Ayer | Ayer Town Hall | 1 Main Street, 3rd Floor | Ayer, MA 01432 | 978-772-8218 | www.ayer.ma.us

Memorandum

To: Ayer Zoning Board of Appeals

From: Mark Archambault, Town Planner

Re: Three (3) Variance Requests for DMG Investments, LLC at 201 West Main St.

Date: February 23, 2023

Dear members of the ZBA,

I offer the following comments on the three (3) Variance requests by DMG Investments, LLC for the property at 201 West Main Street. I will preface my comments on each specific Variance request with overall comments on the project itself, and why I believe it is important for Ayer's future that these Variances be granted. First, I offer the big picture overview as reflected in Ayer's most recent **Master Plan**. The Implementation chapter of Ayer's Master Plan contains two goals of relevance to this proposal:

- Increase housing opportunities for Ayer's residents.
- Improve and enhance Ayer's Gateways.

Ayer, as well as Devens, is the employment center for this part of Middlesex County. Workers need housing, and Ayer, with its diversity of zoning districts and water and sewer infrastructure, is in a unique situation compared to its neighbors in that it has the capacity to provide this housing at a density that can make a difference. Ayer can do this in a manner that is both physically and fiscally viable.

Of Ayer's gateways, I don't think it would be inappropriate to say that the Devens gateway is particularly unattractive, underutilized and in need of improvement. The recent MassWorks grant which is helping to fund much needed improvements to West Main Street, is 'setting the table' for the private sector to provide the capital and buildings that have the potential to dramatically improve this gateway into one Ayer can be proud of.

To not approve these Variance requests because they are perceived as going too far, or in the hope that another development firm will come along that does not require such Variances, is very unrealistic in my opinion, especially as interest rates rise and given that another recession will eventually come along, as they typically do. An opportunity like this does not come along often, and I urge the ZBA to seize the moment and grant these Variance requests that are needed to make this project viable. In so doing, the transformation towards a more beautiful and vibrant town of Ayer will have truly begun.

Approving these Variances will also likely encourage other landowners and developers to undertake similar projects in West Ayer Village, which will further help transform this corridor and gateway into a vibrant mixed-use center, as well as generating substantial tax revenues for the Town.

-
1. Ayer Zoning Bylaw (AZB) Section 10.5.16.C – **Building Height** to allow for 4-stories in T.5.1 West Ayer Village Form-Based Code district:

I strongly recommend that the ZBA **grant** relief to allow for a 4-story building at 201 West Main Street. I believe the applicant has made a good faith effort to try to design a building within the full scope of the requirements of the WAVFBC District, but that due to land, material and construction costs, etc., that such would not be economically viable. I believe that granting a Variance to allow for a 4-story building at this location is not only justified, but is imperative to begin the transformation of this vital Ayer gateway into a mixed-use Village that will not only provide much needed rental housing, but will provide enormous fiscal benefit to the town.

2. AZB Section 10.5.16.B. Lot Width to allow for **max. lot width** of 254.1 feet where the maximum lot width is 192 feet.

For similar reasons, I believe that relief from the lot width requirement is necessary in order for this project to be economically viable. The building and parking design works with a lot width of 254.1 feet, and it's not reasonable to expect that the lot width be arbitrarily reduced for any reason.

3. AZB Section 9.1.5 A.2 to **reduce the required off-street parking** from 288 spaces to 172 spaces and increase the number of compact car spaces to 20% from 10%.

Over the last few decades, the planning profession has come to realize that the parking requirements of most Zoning Bylaws and Codes, often developed in the 1970's and 1980's, resulted in excessive space being devoted to parking, not only for large retail surface parking lots, but also for residential uses as well. This resulted in an overabundance of impervious surfaces that transport contaminated stormwater to our streams and rivers, and which also contributes to the urban heat island effect.

The transit and multi-modal orientation of this proposed 170-unit project will help to reduce the typical parking demand called for in similar projects if they were developed in towns without a commuter rail station or not in close proximity to employment centers such as Devens or the industrial district off of Westford Road. 146 of the proposed 170 units will be either one bedroom or studio apartments, with only 24 two-bedroom apartments. This mix of unit types, with an emphasis on one-bedroom units, is compatible with a parking demand of one space per unit.

This type of residential living will also attract more single people and young professionals who are likely to not be as enamored of large SUVs and pick-up trucks in comparison to residents of new single-family homes, which lends itself to increasing the share of compact car spaces as is being requested.

It is my understanding that provisions for van shuttle service to Devens and the train station has been discussed, as it may lessen demand for the use of private automobiles. The newly improved West Main Street will also be safer for bicycling and walking. As part of its Site Plan review process, the Planning Board can require a parking management plan to ensure that these transportation options are available for residents of 201 West Main Street.

I again urge the ZBA to grant all three of the requested Variances so that this project may go forward and jump start the transformation of this important gateway for the town of Ayer.

Sincerely,

Mark Archambault

Mark Archambault, AICP
Ayer Town Planner

Town of Ayer

Office of Community & Economic Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8206 ♦ Fax: 978-772-8208



Subject Property: 201 West Main Street, Ayer MA

Item: Height Variance

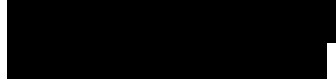
The Ayer Office of Community & Economic Development (AOCED) recommends not granting approval (denial) of the requested Height Variance from 3-stories to 4-stories for the proposed mixed-use development at 201 West Main Street -the future West Ayer Village.

The AOCED is encouraged by the mixed-use development proposed by the DMG Investment Group, however we believe it is important for the first new development proposed under the recently adopted "West Ayer Village Form-Based Code" – and within the future West Ayer Village District be in accordance with the prescriptive Form-Based Code development standards as adopted at Ayer Town Meeting.

From: [Dan Gleason](#)
To: zba@ayer.ma.us
Subject: Fw: Zoning Enforcement Officer Schultz comments on Proposed West Main St Development
Date: Monday, March 20, 2023 7:17:33 PM

Apologies for typo in email address. Please see below. Thanks.

Dan Gleason



----- Forwarded Message -----

From: Dan Gleason [REDACTED]
To: zba@ayew.ma.us <zba@ayew.ma.us>
Cc: Robert Pontbriand <rpontbriand@ayer.ma.us>; Carly Antonellis <cantonellis@ayer.ma.us>; Mark Archambault <marchambault@ayer.ma.us>; Alan Manoian <amanoian@ayer.ma.us>
Sent: Monday, March 20, 2023 at 07:14:07 PM EDT
Subject: Zoning Enforcement Officer Schultz comments on Proposed West Main St Development

Dear ZBA,

My name is Dan Gleason, 24 Howard St., Ayer. I am a 25 year resident of Ayer. I spent 11 years on the Ayer and Ayer Shirley Regional School Committees. I resigned in March, 2019.

I reviewed the ZBA packet for its meeting of March 15, 2023. One passage that stood out was Mr. Schultz's calculation of \$1,990,120 for educating a potential 110 new students in the proposed West Main St. development.

Admittedly, Massachusetts school finance is complex. It is even more complex in regional districts. I don't expect Mr. Schultz or any town official to deeply understand it. It took years on the school committee to develop a deep knowledge of MA K-12 finance.

If you would like to better understand the Ayer portion of the \$18k average cost per pupil, I suggest someone contact Bill Plunkett, the business manager for the district. His office is at 115 Washington St in Ayer. The main phone number is 978-772-8600.

The average per pupil expenditure in the Ayer Shirley Regional School District per the Massachusetts Department of Elementary and Secondary Education (DESE) is \$18,364 (FY '22). However, the town of Ayer does not finance all of that as Mr. Schultz's calculation would have you believe. Ayer is in a regional school district with Shirley. The \$18k per pupil cost is an average cost for educating all of the children in the district, including those residing in Shirley. Shirley finances a portion of the \$18k number.

In a highly simplified model, the school budget process results in the school committee voting on a total operating budget for the next fiscal year. Then there are various calculations that determine how that total amount will be financed. Ultimately, that results in a portion of the

budget that is financed by the towns. This is called the assessment. It is based on a model described in the regional agreement between the two towns.

However, the district has more revenue sources than the assessment to the taxpayers in the towns.

- The Commonwealth provides education assistance to municipal and regional districts. This is done via a law known as Chapter 70. This further reduces the per student cost to the Ayer taxpayers.
- The Commonwealth further assists regional districts by providing regional transportation reimbursement for a portion of the district's transportation cost (busing).
- Massachusetts has a school choice law, meaning families can choose to send their students outside their home district for public education. There is a tuition cost borne by the sending district. Ayer Shirley takes in more in school choice tuition than it pays to other districts to educate Ayer Shirley kids. That is another revenue source.
- The school district also has other revenue sources beyond the amounts in the assessment and the Commonwealth. While the towns and state are by far the largest revenue sources, there are others. For example, there are Federal grants such as Title 1 (to assist the cost of educating low income students) and IDEA (same for special education students).

I'll stop there. I think you get the picture.

Thank you.

Dan Gleason



From: [Dan Gleason](#)
To: zba@ayer.ma.us
Cc: [Mark Archambault](#); [Alan Manoian](#); [Robert Pontbriand](#); [Carly Antonellis](#)
Subject: Personal comment on West Main St
Date: Monday, March 20, 2023 7:43:20 PM

While composing my email on Mr. Schultz's comments, I had a few of my own thoughts I would like to share.

First, my comments are very much consistent with Mr. Archambeault's, so, ditto.

Additionally, I'm concerned this was never resolved by changes to the form-based code. I recall watching a planning board meeting (I believe late last summer) where Mr. Manoian asked the planning board for support with changes. What he discussed was precisely what the developer is now bringing forward to the ZBA. In his discussions with potential developers, they told Mr. Manoian they would need the exceptions similar to what is now before the ZBA to make projects economically feasible.

I don't know what happened after Mr. Manoian's presentation to the planning board, but there was plenty of time for proposed changes to come before the voters at Fall '22 or Annual '23 town meetings. Rather than voters having a change to weigh in on the changes with knowledge of why they were being requested, now we have the fate of an extremely important project being decided in the dark of a ZBA meeting.

This should have come before voters long ago. We could have the changes already in place for this project, and others like it, to move forward. Or at least have a sense of the voters that they do not want a project of this size and scope. You all now have no idea how the voters feel.

Dan Gleason



RECEIVED
FEB 09 2023

TOWN OF AYER
TOWN CLERK

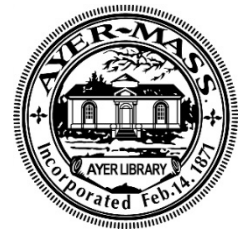
12:30pm @

Town of Ayer
Zoning Board of Appeals
Public Hearing Notice



The Ayer ZBA will conduct a remote public hearing at 6:10 PM on Wednesday March 15, 2023 regarding an application by DMG Investments, LLC for property located at 201 W. Main St. Ayer, MA. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 10.5.16.B (Lot Width) to increase the maximum lot width to 254.1 feet in the T.5.1 Village Street zone where the maximum lot width is 192 feet. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised February 24, 2023 and March 3, 2023, *The Nashoba Valley Voice*



**Town of Ayer
ZONING BOARD OF APPEALS
APPLICATION FOR A HEARING**

Name of Applicant: Cian Hamill on behalf of DMG Investments LLC
(Full Name)
100 Wall Street, Suite 1601, New York, NY 10005
(Address)
(347) 574-3454
(Phone Number)
cianhamill@dmginvestments.com
(Email Address)

Applicant is: Owner Tenant Licensee Prospective Buyer*
**If you are a tenant, licensee or prospective buyer please include a letter from the property owner acknowledging the application with the Zoning Board of Appeals.*

The name and address of each holder or legal title to the land which is the subject of this petition (list as it appears on the Deed):

S&J West Main Realty Trust

Location of Property:

201 West Main Street AYER, MA 01432

Assessor's Map 32 **Parcel** 14 & 15 **Land Size** 203,262 sf/4.67 acres

Zoning District: A-1 A-2 GR **GB** DB LI I MUT HCS
Circle One ***WEST AYER VILLAGE - VILLAGE CORE (Lot 15) & VILLAGE STREET (Lot 14) ZONES

Registry of Deeds Book 62369 **Page** 524 & 526

Aquifer Protection Overlay District (circle one) Zone I **Zone II** N/A

The undersigned hereby petitions the Town of Ayer Zoning Board of Appeals to vary the terms of the Zoning Bylaws for the following purpose:

- X A VARIANCE from the requirements of the Town of Ayer Zoning Bylaws
- A SPECIAL PERMIT for a specific use which is subject the approval of the Zoning Board of Appeals
- A SPECIAL PERMIT to expand, alter, or change a non-conforming use or structure.
- ADMINISTRATIVE APPEAL (i.e. Building Inspector Decision)

Did you request a building permit from the Town of Ayer Building Inspector? no

If yes, were you denied a permit by the Town of Ayer Building Inspector? N/A
If you were denied a permit, please attach a copy of the decision from Building Commissioner's Office.

State briefly the reasons for application and include the appropriate citation(s) from the Ayer Zoning Bylaw:

 Town of Ayer Zoning Bylaw §10.5.16.B. - Lot Width. The Applicant respectfully requests relief

 to increase the maximum lot width to 254.1 feet. Please refer to the attached narrative for

 additional information.

Date: 01/20/2023

Signed by Cian Hamill
(Petitioner) on behalf of DMG Investments LLC

 (347) 574-3454
(Daytime Phone Number)

 cianhamill@dmginvestments.com
(Email)

Variance Request Narrative
DMG Investments LLC
201-205 West Main Street, Ayer, MA

Sec. 10.5.16.B – Building Development Standards – Lot Width


60 ft. min., 192 ft. max. allowed (T.5.1 Village Street) – 254.14 ft.+ proposed.

The proposed project consists of parcels 32-14 & 32-15 which provide a total frontage/lot width of 254.14 ft. at northerly right of way line along West Main Street. While both of these parcels are within the West Ayer Village Form Based Code District (WAVFBC), parcel 32-14 is within the T.5.1 Village Street section and parcel 32-15 is within the T.5 Village Core section. We are requesting relief from the more restrictive T.5.1 Village Street Lot Width requirement, however, the T.5 Village Core Lot Width requirement is 260 ft., which the project meets. It appears the intent of the Lot Width requirement is to limit buildings being constructed on narrow lots, as opposed to meeting the maximum. The size and width of the total property are necessary for the proposed retail/residential improvements and consistent with Ayer's Master Plan for West Main Street and the General Guiding Principles for the WAVFBC. The site as designed would meet the Lot Width requirement by the Village Core criteria.

Should you have any questions or require additional information, please do not hesitate to contact me at 508-480-9900.

Sincerely,

BOHLER



Drew Garvin
Project Manager



Town of Ayer

Zoning Board of Appeals

Department Head Review Summary

Application for Variance – 201 W. Main St. – Building Width

Department	Comments
Town Manager	Defer to ZBA
Board of Health	Variances not recommended for new construction. Sets precedent for future projects in town.
Department of Public Works	No comments
Police Department	No Comment at this time.
Fire Department	Must comply with 527 CMR Chapter #18, fire department access.
Building Commissioner/Zoning Enforcement Officer	Please see letter attached to Height Variance.
Conservation Commission	The Conservation Commission has no concern with the variance as requested. Allowing for the building width will help keep the project out of the 100ft buffer. The applicant should be notified that any work in the Buffer needs a permit from the commission and note there is a 50ft no disturb zone.
Treasurer/Tax Collector	No comment
Town Clerk	No Issues
Assessor's Office	No comment
Economic & Community Development	Please See attached letter.
Town Planner	Please see letter attached to Height Variance.

Town of Ayer

Office of Community & Economic Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8206 ♦ Fax: 978-772-8208



Subject Property: 201 West Main Street, Ayer MA

Item: Maximum Lot Width Variance

The Ayer Office of Community & Economic Development (AOCED) recommends not granting approval (denial) of the requested Maximum Lot Width Variance for the proposed mixed-use development at 201 West Main Street -the future West Ayer Village.

The AOCED is encouraged by the mixed-use development proposed by the DMG Investment Group, however we believe it is important for the first new development proposed under the recently adopted "West Ayer Village Form-Based Code" – and within the future West Ayer Village District be in accordance with the prescriptive Form-Based Code development standards as adopted at Ayer Town Meeting.

RECEIVED
FEB 09 2023

TOWN OF AYER
TOWN CLERK

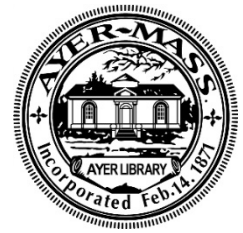
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Advertised February 24, 2023 and March 3, 2023, *The Nashoba Valley Voice*



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Registry of Deeds Book 62369 **Page** 524 & 526

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- A SPECIAL PERMIT to expand, alter, or change a non-conforming use or structure.
- ADMINISTRATIVE APPEAL (i.e. Building Inspector Decision)

Did you request a building permit from the Town of Ayer Building Inspector? no

If yes, were you denied a permit by the Town of Ayer Building Inspector? N/A

If you were denied a permit, please attach a copy of the decision from Building Commissioner's Office.

State briefly the reasons for application and include the appropriate citation(s) from the Ayer Zoning Bylaw:

Town of Ayer Zoning Bylaw §9.1.2. - Off street parking requirements. The Applicant respectfully
requests relief to reduce the required off-street parking to 172 spaces; and Town of Ayer Zoning
Bylaw §9.1.2. - Off street parking design standards. The Applicant respectfully requests relief
to increase the maximum percentage of small-car parking spaces to 20%. Please refer to the
attached narrative for additional information.

Date: 01/20/2023

Signed by Cian Hamill

(Petitioner) on behalf of DMG Investments LLC

(347) 574-3454

(Daytime Phone Number)

cianhamill@dmginvestments.com

(Email)

Variance Request Narrative
DMG Investments LLC
201-205 West Main Street, Ayer, MA

Sec. 9.1.3 Off-Street Parking Requirements

288 parking spaces required – 172 spaces proposed (see parking calculation provided within the Zoning Analysis Table on the Site Layout Plan)

The intent of the project layout is to provide as much street parking as possible on the site, and at a minimum, one space for each dwelling unit. Again, this site is limited in area to maximize the parking count due to the wetlands and flood zone in the rear of the property. It is anticipated that a good portion of the prospective tenants will be working locally within Fort Devens and be able to commute/shuttle to/from work without the need (or ownership) of a vehicle. The retail/residential uses are also intended to share a portion of the provided parking during prime working hours. It should also be noted that there will be additional parking available as part of the West Main Street improvements (not included in the project parking count), approximately 13 proposed in front of this project (both sides of West Main St).

Sec. 9.1.5.A.2 – Small-Car (Compact) Parking Spaces

10% allowed – 20% proposed

Spaces designated for small-car parking shall be grouped in contiguous areas – spaces proposed intermittently withing parking area.

Due to the layout and intended uses for this project, more small-car (compact) spaces were an efficient use of the space to maximize the parking count in relation to anticipated column placement for the proposed building and appropriate egress throughout the parking area. Due to the proposed studio and one-bedroom units, it is anticipated that more compact cars (and/or motorcycles) is a realistic expectation for parking use.

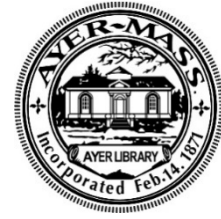
Should you have any questions or require additional information, please do not hesitate to contact me at 508-480-9900.

Sincerely,

BOHLER



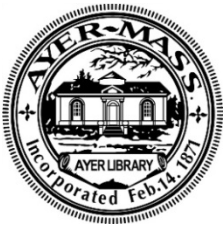
Drew Garvin
Project Manager



Town of Ayer Zoning Board of Appeals Department Head Review Summary

Application for Variance – 201 W. Main St. – Parking

Department	Comments
Town Manager	Defer to ZBA
Board of Health	Variances for new construction not recommended. Sets precedent for future projects in town.
Department of Public Works	No Comments
Police Department	<ol style="list-style-type: none"> 1. Will parking spaces be assigned to unit? 2. How much parking, if any, is being made available to comm. Property. 3. Strategies to prevent “creative parking”
Fire Department	Must comply with 527 CMR Chapter #18, fire department access.
Building Commissioner/Zoning Enforcement Officer	Please see letter attached to Height Variance.
Conservation Commission	While a reduction in parking and parking surface would benefit the nearby wetlands and keep disturbance out of the 100ft buffer what will the reduction have to those that live/visit the area. May cause those to park in areas not designated causing more harm to the sensitive area.
Treasurer/Tax Collector	No comment
Town Clerk	No Issues
Assessor's Office	No comment
Economic & Community Development	Recommend parking management plan.
Town Planner	Please see letter attached to Height Variance.



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

Wednesday, March 15, 2023

Remote Participation Open Session Meeting Minutes

Present: Michael Gibbons, Vice-Chair; Ronald Defilippo, Clerk; Jess Gugino; John Ellis

Absent: Samuel Goodwin, Chair

Also Present: Samantha Benoit, Administrative Coordinator

Call to Order: M. Gibbons called the meeting to order at 6:00pm. He stated that due to the ongoing COVID-19 Pandemic, in accordance with Chapter 22 of the Acts of 2022, 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: Motion was made by J. Gugino to approve the agenda as written.
Seconded by J. Ellis.

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance (Building Height) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).

M. Gibbons opened the public hearing at 6:02pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on February 24, 2023, and March 3, 2023. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 10.5.16.C (Building Height) to increase the maximum building height to 4 stories in the T.5.1 Village zone where 3 stories is allowed.

Attorney Thomas Gibbons representing DMG Investments, LLC, asked that this hearing be continued until the next meeting in hopes that a full board will be present.

Motion: J. Gugino made a motion to continue the Public Hearing – Application for a Variance (Building Height) by DMG Investments, LLC, 201 W. Main St. (filed January 30, 2023) until April 19, 2023 at 6:00pm.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Motion: J. Ellis made a motion to accept the meeting minutes of January 11, 2023.

Seconded by J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Motion: J. Ellis made a motion to accept the meeting minutes of January 18, 2023.

Seconded by J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance (Width) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).

M. Gibbons opened the public hearing at 6:10pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on February 24, 2023, and March 3, 2023. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 10.5.16.B (Lot Width) to increase the maximum lot width to 254.1 feet in the T.5.1 Village Street zone where the maximum lot width is 192 feet.

Attorney Thomas Gibbons representing DMG Investments, LLC, asked that this hearing be continued until the next meeting in hopes that a full board will be present.

Motion: J. Gugino made a motion to continue the Public Hearing – Application for a Variance (Building Height) by DMG Investments, LLC, 201 W. Main St. (filed January 30, 2023) until April 19, 2023 at 6:00pm.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance (Parking) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).

M. Gibbons opened the public hearing at 6:15pm by reading the public hearing notice as published in *The Nashoba Valley Voice* on February 24, 2023, and March 3, 2023. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 9.1.3 (Off Street Parking Requirements) and Section 9.1.5.A.2 (Compact Car Parking Spaces) to reduce the required off street parking from 288 spaces to 172 spaces and to increase the maximum percentage of compact car parking spaces from 10% to 20%.

Attorney Thomas Gibbons representing DMG Investments, LLC, asked that this hearing be continued until the next meeting in hopes that a full board will be present.

Motion: J. Gugino made a motion to continue the Public Hearing – Application for a Variance (Building Height) by DMG Investments, LLC, 201 W. Main St. (filed January 30, 2023) until April 19, 2023 at 6:00pm.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance – Air 22, LLC (Advance Auto Part) – 22-7 Fitchburg Rd. (Filed February 27, 2023)

M. Gibbons opened the public hearing at 6:20pm by reading the public notice as published in *The Lowell Sun* on March 1, 2023, and March 8, 2023. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 9.5.5 Appendix C to permit 3 signs where 2 are permitted and to allow the installation of wall signs at 17'11.5" where 15" is allowed.

Garry Potts, a representative of Advance Auto Parts, explained the requested variance. The company is looking to have the signage located on the building to be at a height of 17'11" from the ground rather than required

15" from the ground. This will put the signage in the red painted portion of the wall. They are also looking to have three signs, two on the building and one free-standing. The height and number of signs will increase visibility for motorists, and make the building easily identifiable within the existing shopping center. This signage will be a safe and effective form of way finding.

M. Gibbons asked where the third sign is located.

G. Potts answered that it is a free-standing sign on the road. That sign was already permitted by the building department. The request is to allow for the two wall signs.

J. Ellis asked at what height the current temporary signs are placed at.

G. Potts noted that the current signs are at 15' as allowed by the Zoning Bylaws. The building was designed to have the wall signs at 17'11", otherwise the signs will be only partially in the red painted portion of the wall.

M. Gibbons asked if this design is unique to this building.

G. Potts explained that this is the standard design Advance Auto Parts.

J. Ellis noted that the current signs are clearly legible, and asked why they would need to be larger.

M. Gibbons also asked if these signs would be a permanent fixture.

G. Potts explained that it is the height from the ground that they are asking a variance for not the height of the sign itself. He further explained that if kept at 15' then the signs would be resting at the top of the glass windows, and it would affect the aesthetics of the building. These would be permanent fixtures.

Ashton Quinto, an employee of Advance Auto Parts, asked if a variance for the total square footage of the signs could be discussed. This portion of the variance request was omitted from the public hearing posting, but was submitted on the application.

The Board did not feel comfortable with discussing this portion of the variance since it was not posted, and the Chair was not present for this meeting. The Board advised that the applicant discuss this matter with the Building Commissioner, and if need be, they could come before the Board in the future.

Motion: J. Gugino made a motion to grant a Variance pursuant to Ayer Zoning Bylaw Section 9.5.5 Appendix C to permit 3 signs where 2 are permitted and to allow the installation of wall signs at 17'11.5" where 15' is allowed.

Seconded J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Motion: M. Gibbons made a motion to close the hearing of Air 22, LLC at 6:48pm.

Seconded by J. Gugino.

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

M. Gibbons requested that Board Discussion be added to future agendas, so that the Board may have a designated time in which to discuss matters not pertaining to public hearings.

The Board agreed with this suggestion, and this item will be added to future meeting agendas.

Motion: R. Defilippo made a motion to adjourn the meeting.

Seconded by J. Gugino

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; John Ellis, aye; R. Defillippo, aye.

Motion Passed (4-0)

Meeting Adjourned at 6:52pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: _____

Signature of ZBA Clerk, Indicating Approval: _____