

RECEIVED

JAN 12 2021

TOWN OF AYER
TOWN CLERK

11:35am
Susan Copland

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



Wednesday January 20, 2021
Open Session Remote Participation Meeting Agenda

Due to the ongoing COVID-19 Pandemic, Governor Baker issued an Emergency Order Temporarily Suspending Certain Provisions of the Open Meeting Law. 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 broadcast live on Channel 8, and on Zoom. The public may participate remotely by following the call-in information on the bottom of the live broadcast screen.) For the Zoom meeting information relating to remote participation, please contact IT Director Cindy Knox at cknox@ayer.ma.us or 978-772-8252 or Assistant Town Manager Carly Antonellis at atm@ayer.ma.us or 978-772-8220.

6:00 PM **Call to Order**

Approval of Agenda

Public Hearing - Application for Variance – Catania Spagna Corp.
1 Nemco Way (Filed 12/28/20)

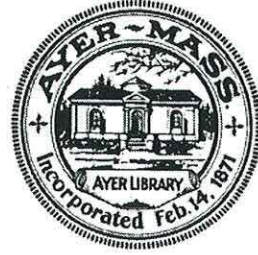
Approval of Meeting Minutes
December 16, 2020

Adjournment

The next regularly scheduled ZBA Meeting is February 17, 2021

RECEIVED
DEC 28 2020
2:47 PM
TOWN OF AYER
TOWN CLERK

**Town of Ayer
Zoning Board of Appeals
Public Hearing Notice**



The Ayer ZBA will conduct a remote public hearing at 6:00PM on Wednesday January 20, 2021 regarding the application by Catania Oils Corp, 1 Nemco Way Ayer, MA. Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) 6.2 Schedule of Dimensional Requirements to allow for a side yard setback of 12.4', where 25' is required and a rear yard setback of 17.8' where 30' is required for proposed building expansion. For Zoom/Call-In information please contact atm@ayer.ma.us or 978-772-8220.

Advertised January 1, 2021 and January 8, 2021, *The Nashoba Valley Voice*

RECEIVED
DEC 28 2020
1:06 PM
TOWN OF AYER
TOWN CLERK



Town of Ayer
ZONING BOARD OF APPEALS
APPLICATION FOR A HEARING

Name of Applicant: Catania Spagna Corporation

(Full Name)

1 Nemco Way Ayer, MA 01432

(Address)

978-772-7900

(Phone Number)

jbasile@cataniaoil.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):

JAR Realty Corporation

Location of Property:

1 Nemco Way

Assessor's Map 17 Parcel 21 Land Size 9.820 Acres, 427,780.266 s.f.

Zoning District: A-1 A-2 GR GB DB LI I MUT HCS
Circle One

Registry of Deeds Book 56185 Page 107

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:

- 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? No.
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, March 19, 2018 Version:

See attached cover letter.

b. 2 schedule of dimensional requirements
① setbacks side yard 25' seeking 12.4'
Rear yard 30' seeking 17.8'

Date: 12/15/2020

Signed by JBL
(Petitioner)

(978) 772-7900
(Daytime Phone Number)

jbasile@cataniaoils.com
(Email)



James G. Ward

Direct Line: (617) 439-2818

Fax: (617) 310-9818

E-mail: jward@nutter.com

December 23, 2020
119093-1

Via Electronic Mail

Ayer Zoning Board of Appeals
Chair Samuel A. Goodwin, Jr.
Ayer Town Hall
1 Main Street
Ayer, MA 01432
zba@ayer.ma.us

Re: Catania-Spagna Corp., 1 Nemco Way- Variance Application

Dear Members of the Board of Appeals:

Nutter McClennen & Fish LLP represents the Catania-Spagna Corporation ("Catania"). Catania seeks to expand its facility located at 1 Nemco Way in Ayer, Massachusetts (the "Property"). In order to do so, Catania requires a variance from the side and rear yard setback requirement.

The Property is located in the Industry Zone and the Aquifer Protection Overlay Zone under the Ayer Zoning By-law. The required Side Yard Setback is 25' and the Rear Yard Setback is 30'. Catania seeks a variance to allow a Side Yard Setback of 12.4' and a Rear Yard Setback of 17.8'. As part of its 51,000 s.f. expansion, Catania proposes to begin manufacturing its own plastic containers for its oils. The proposed expansion of the building is designed to be large enough to accommodate the production lines for the containers for the oils. As set forth in the accompanying letter from Joe Basile of Catania ("Catania Letter"), the proposed new production lines will generate 4-5 new jobs across shifts and accordingly will not increase traffic associated with the manufacturing facility itself.

Section 3.2 of the Zoning By-Law authorizes the Board of Appeals to grant variances from the use, dimensional, or density requirements of the Bylaw with respect to particular land or structures, as set forth in G.L. c. 40A, § 10. Section 10 of chapter 40A of the General Laws authorizes the Board to grant a variance where the Board "specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that

desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

With respect to the Property, there are several unique circumstances specifically affecting the Property and its structures that would involve a substantial hardship to the petitioner if the relief is not granted. First and foremost, at the Southeast corner of the Property, there is a railroad track and associated spur tracks serving the Property, which is distinct from the majority of the Industry Zoning District. Catania relies on the railroad tracks in order to obtain supplies for its products (both oil and plastic supply and for as many manufacturing inputs as possible) and to avoid using trucks to receive supplies. As shown on the attached proposed site plan, the reduced Rear Yard Setback will allow the proposed building addition to be as close to the railroad track as possible to facilitate unloading of materials directly into the building where they will be used. This avoids the financial hardship of constructing other means of unloading products from rail cars within the facility. Without the ability to build in close proximity to the rail line, supplies would need to be brought in by truck at significant additional cost, as well as increased traffic and carbon emissions. *See Catania Letter.* This additional cost would render the pricing of Catania’s products uncompetitive. *See id.*

Second, the proposed expansion cannot be pulled further toward Westford Road because there is bedrock at only 10’ below the surface as the Property approaches Westford Road, as well as a significant drop off in elevation from Westford Road towards the sewer lift station of approximately 12’-15’. If the proposed expansion were to be constructed on that part of the Property, substantial blasting would be required in order to construct the foundation for the building. Allowing the building to be further into the rear yard setback avoids the extraordinary cost associated with blasting through the bedrock.

Finally, keeping the proposed expansion closer to the rear yard setback, rather than in proximity to Westford Road or at the front of the property near Nemco Way, keeps the proposed expansion as far from the residential neighbors on Westford Road as is possible. Catania works to control odors and noise and has never received complaints of odors or noise from its residential neighbors. Catania will continue to control any potential impacts in its proposed expansion.

The proposed relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning by-law. In this case, the proposed expansion is not abutting a residential property, but will take the place of an existing stormwater retention facility and be closer to the loading terminals at the abutting Nasoya Foods/Pulmone Foods facility. Catania has shared its plans with Nasoya and has worked to accommodate Nasoya’s needs. The area closest to Nasoya has a steep incline and is thus difficult to access. As part of this expansion, Catania will improve this area and will maintain a

clear access for Nasoya's main electrical service, entrance which currently passes through a sparsely wooded area. The proposed addition to the Catania facility is in close proximity Nasoya's loading docks and will improve the area for access. Additionally, the proposed modifications to the storm water retention system will result in a better system to help control pests between the two food manufacturing facilities.

One of the purposes of the Zoning Bylaw is to "promote the general welfare of the Town of Ayer" and to "encourage the most appropriate use of land throughout the town." The proposed expansion serves these purposes by promoting economic and job growth in Ayer, thus contributing to the general welfare of the Town and is it the most appropriate use of land in this section of Town. The proposed expansion is located within the Industry zone and is further within an industrial park that was designed around the utilization of a railroad track. The location is thus ideally suited for the existing manufacturing use.

As set forth herein, the unique features of a railroad track and shallow bedrock, not seen throughout the Industry Zone in general, warrant a variance from the side and rear yard setback requirement of the Zoning Bylaw. Without a variance, the proposed expansion cannot be constructed to meet all of our needs which will cause great hardship to the Catania facility and cause us to expand outside of this area sooner than any of us want and will not help to reduce and control the traffic and the host of other impacts. We look forward to discussing Catania's request for relief further with Board at its hearing on January 20, 2021.

Should you have any questions, please contact me.

Very Truly Yours,

James G. Ward

JGW:vam
Enclosures



Processors & Packers
of Vegetable, Olive
& Blended Oils

www.cataniaoils.com | [oils@cataniaoils.com](mailto: oils@cataniaoils.com)

Via Electronic Mail

Ayer Zoning Board of Appeals
Chair Samuel A. Goodwin, Jr.
Ayer Town Hall
1 Main Street
Ayer, MA 01432
zba@ayer.ma.us

Re: Catania-Spagna Corp., 1 Nemco Way- Variance Application

Dear Members of the Board of Appeals:

I am the president at Catania Oils (Catania-Spagna Corp.) and write to you in support of Catania's application for a variance. Catania seeks to expand its facility at 1 Nemco Way in order to begin manufacturing its own plastic containers for its oils. Catania is a fourth-generation family owned and operated business. Catania has been located at 1 Nemco Way since 1994 and takes great pride in its role in the community.

Catania has always worked to ensure it is a good neighbor to the nearby residences by working to control sound and odors and has maintained good working relationships with its neighbors and with the Town. Catania is proactive in all we do and supports the community through many activities throughout the year, here are some examples

- Local Salvation Army, employee gift donations for Christmas
- Financial support to Ayer public Gardens
- Employee Social Committee, we have one that has done more with the town but this year due to COVID lot of events were canceled.
- Committed to help improve the truck traffic on Nemco way, we paid for a trucking lane for trucks to safely pull off of and wait on Nemco Way vs. what was happening before where they pulled onto the curve and had their trucks sticking out onto the street.
- Worked in conjunction with the town to improve and clear the corner of Nemco Way and Westford Road. Removed all of the brush to make the area more presentable which also created a better line of sight at the intersection

To continue our investment in the community of Ayer, Catania now proposes to maximize its facility. The proposed 51,000 square foot expansion will house new production lines for the containers and will generate 4-5 new jobs. This proposed expanded operation over time will may lead to additional employees within Catania's adjacent office and warehouse facility at 3 Nemco Way.

The proposed expansion is specifically designed to be as close as possible to the railroad track. This allows Catania to use the rail line to receive materials. Without direct access to the existing rail infrastructure, Catania would incur substantial additional costs because it would have to use trucks to bring in its materials, which would also increase traffic and carbon emissions. Accordingly, Catania designed the proposed expansion to maximize its use of rail shipping in order to minimize community traffic and emissions impacts that would otherwise occur as a result of using truck shipping. If Catania cannot build in proximity to the rail line, the additional costs associated with truck shipping would render Catania's product pricing uncompetitive and thus impact the long term viability of our business.

We have worked to make the building expansion as small as we can while still accommodating the proposed production lines. Any further reduction in the size of the production lines would require substantial additional costs or a reduction in the capabilities of the production lines. Without the variance from the setback requirement to accommodate the facility, Catania will be limited in what operations we can perform on site, thus limiting our growth. We hope to continue to be a good neighbor and member of the Ayer community for many years to come and hope the Zoning Board will consider granting this relief.

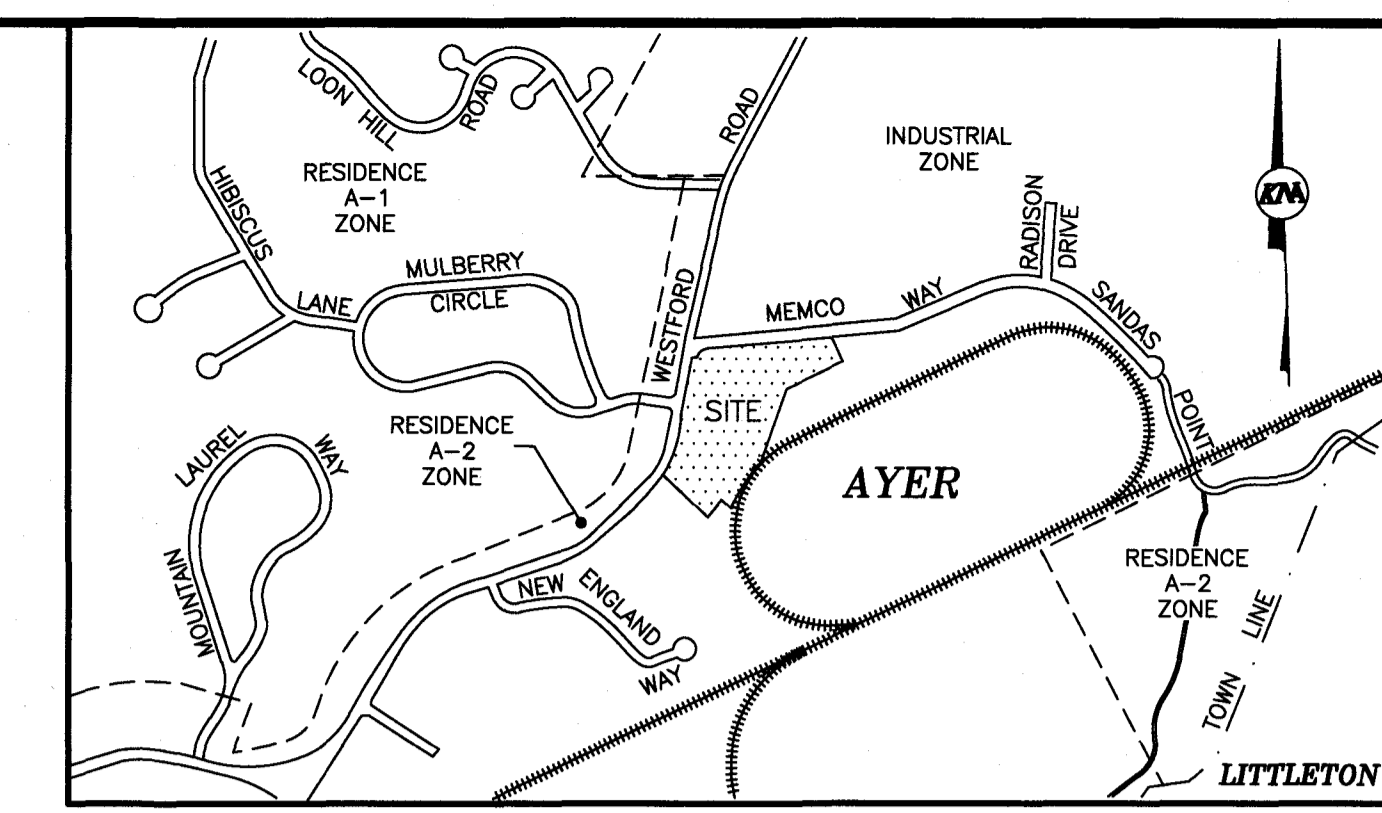
Thank you for considering our request.

Sincerely,



Joseph Basile

President

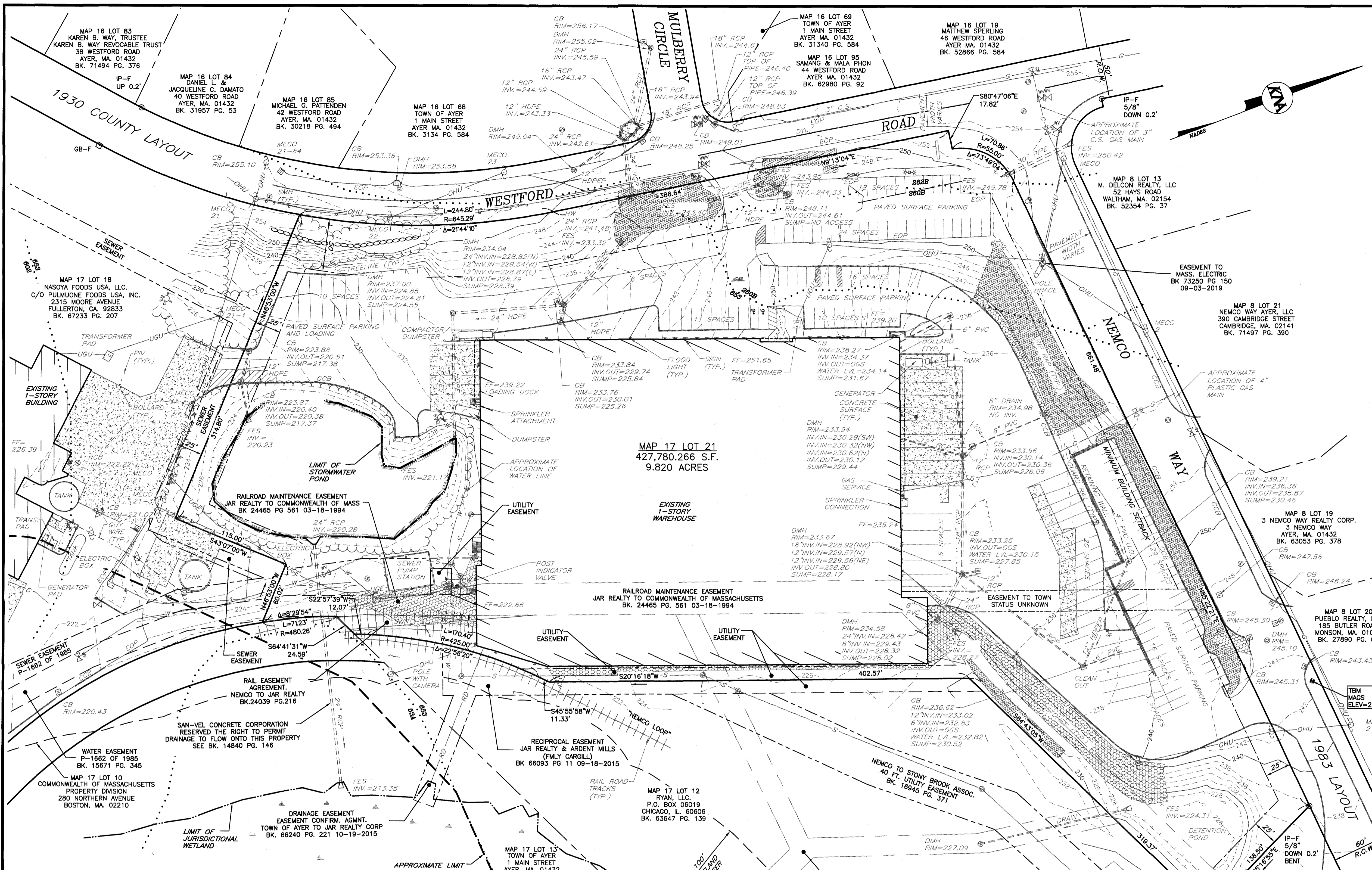
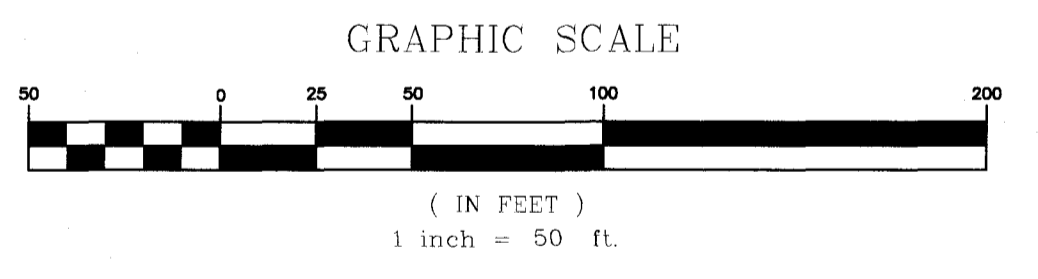


VICINITY PLAN
1" = 1000'

NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE EXISTING CONDITIONS PRESENT ON ASSESSORS MAP 17 LOT 21 IN AYER, MA, AND NO OTHER PURPOSE.
2. TOTAL SITE AREA = 427,780 S.F. OR 9.820 ACRES.
3. OWNER OF RECORD: JAR REALTY CORPORATION, 3 NEMCO WAY, AYER, MA 01432, BK. 52354 PG. 37.
4. PRESENT ZONING: INDUSTRIAL. MINIMUM BUILDING SETBACKS: FRONT 25 FT, SIDE 25 FT (EXCEPT 50 FT ABUTTING A RESIDENTIAL DISTRICT), REAR 30 FT, WETLAND 100 FT.
5. THE SITE IS SERVICED BY MUNICIPAL SEWER AND WATER.
6. BOUNDARY AND TOPOGRAPHIC INFORMATION IS BASED ON A FIELD SURVEY PERFORMED BY THIS OFFICE IN APRIL AND MAY OF 2020.
7. HORIZONTAL DATUM IS NAD83, VERTICAL DATUM IS NAVD88 FROM GPS SURVEY METHODS POST PROCESSED THROUGH NOAA-OPUS.
8. NORTH ORIENTATION IS NAD83.
9. WETLANDS MAPPING WAS PERFORMED BY EPSILON ASSOCIATES, INC. IN DECEMBER 2020.
10. EXAMINATION OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) FOR THE TOWN OF AYER, MASSACHUSETTS, MIDDLESEX COUNTY COMMUNITY NUMBER 250170202B, PANEL NUMBER 208 OF 656 EFFECTIVE DATE JUNE 4, 2010 INDICATES THAT A PORTION OF THE SUBJECT PARCEL IS LOCATED WITHIN A DESIGNATED FLOOD HAZARD ZONE "A" WITH NO BASE FLOOD ELEVATIONS DETERMINED.
11. THE LOCATION OF ANY UNDERGROUND UTILITY INFORMATION SHOWN ON THIS PLAN IS APPROXIMATE. KEACH-NORDSTROM ASSOCIATES, INC. MAKES NO CLAIM TO THE ACCURACY OR COMPLETENESS OF UTILITIES SHOWN, PRIOR TO ANY EXCAVATION ON SITE THE OWNER OR CONTRACTOR SHALL CONTACT DIG SAFE AT 811.
12. EASEMENTS, RIGHTS AND RESTRICTIONS SHOWN OR IDENTIFIED HEREON ARE THOSE FOUND DURING RESEARCH AT THE MIDDLESEX COUNTY REGISTRY OF DEEDS. OTHER EASEMENTS, RIGHTS AND RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF THE SUBJECT PREMISES MAY DETERMINE.

UTILITY NOTE
THE UNDERGROUND UTILITIES DEPICTED HEREON HAVE BEEN DRAWN FROM FIELD SURVEY INFORMATION AND OR PLOTTED FROM EXISTING DRAWINGS. KEACH-NORDSTROM ASSOCIATES, INC. MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES DEPICTED COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. FURTHER, KEACH-NORDSTROM ASSOCIATES, INC. DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. KEACH-NORDSTROM ASSOCIATES, INC. HAS NOT PHYSICALLY LOCATED THE UNDERGROUND PORTIONS OF THE UTILITIES.



MAP 17 LOT 21
427,780.266 S.F.
9.820 ACRES

LEGEND

□ GB-F	GRANITE BOUND FOUND	— UGE	CHAIN LINK FENCE GUARDRAIL
● IP-F	IRON PIN FOUND	— OHU	UNDERGROUND ELECTRIC
⊙	BENCHMARK	— G	OVERHEAD UTILITIES
⊙	UTILITY POLE	— W	GAS LINE
⊙	SIGN	— S	WATER LINE
⊙	LIGHT POLE	— S	SEWER LINE
⊙	LIGHT POLE	—	DRAINAGE LINE
⊙	SPOT LIGHT	—	TREELINE
⊙	GAS VALVE	—	RETAINING WALL
⊙	WATER VALVE	—	CAP COD BURM
⊙	HYDRANT	—	EDGE OF PAVEMENT
⊙	WATER SHUT OFF	—	EDGE OF GRAVEL
⊙	SEWER MANHOLE	—	10' CONTOUR
⊙	DRAINAGE MANHOLE	—	2' CONTOUR
⊙	CATCH BASIN	—	STONEWALL
⊙	FLARED END SECTION	—	SOIL LINE
⊙	ABUTTER LINE	—	SETBACK
⊙	PROPERTY LINE	—	EASEMENT
⊙	WETLAND	—	SOIL TYPE INDICATOR
⊙	FLOOD LINE	—	
⊙	RAILROAD TRACKS	—	
⊙	CHAIN LINK FENCE	—	

SCS SOILS LEGEND

53A	FREETOWN MUCK, PONDED 0 TO 1 PERCENT SLOPES
260B	SUBURBY FINE SANDY LOAM 3 TO 8 PERCENT SLOPES
262B	QUONSET SANDY LOAM 3 TO 8 PERCENT SLOPES
653	UDORTHENTS, SANDY

SOURCE: USDA-SCS WEB SOIL SURVEY MIDDLESEX COUNTY

SURVEYOR'S CERTIFICATION:
I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION, FURTHER, THAT THIS PLAN IS BASED ON ACTUAL FIELD SURVEY MADE BY THIS OFFICE IN APRIL AND MAY OF 2020. SAID SURVEY HAS A RELATIVE ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND (1:10,000) OR BETTER. FURTHERMORE, I CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF, THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.
M. DeLuca
LICENSED LAND SURVEYOR
DATE: 12-28-20

EXISTING CONDITIONS PLAN
CATANIA SPAGNA CORPORATION
MAP 17 LOT 21
1 NEMCO WAY
AYER, MASSACHUSETTS
MIDDLESEX COUNTY

OWNER/APPLICANT:
JAR REALTY CORPORATION
3 NEMCO WAY
AYER, MA 01432
M.S.D.R.D. BK. 58185 PG. 107
M.S.D.R.D. BK. 64906 PG. 567
P-1096 OF 1992 & P-1003 OF 2014

KEACH-NORDSTROM ASSOCIATES, INC.
Civil Engineering Land Surveying Landscape Architecture
10 Commerce Park North, Suite 3B, Bedford, NH 03110 Phone (603) 627-2861

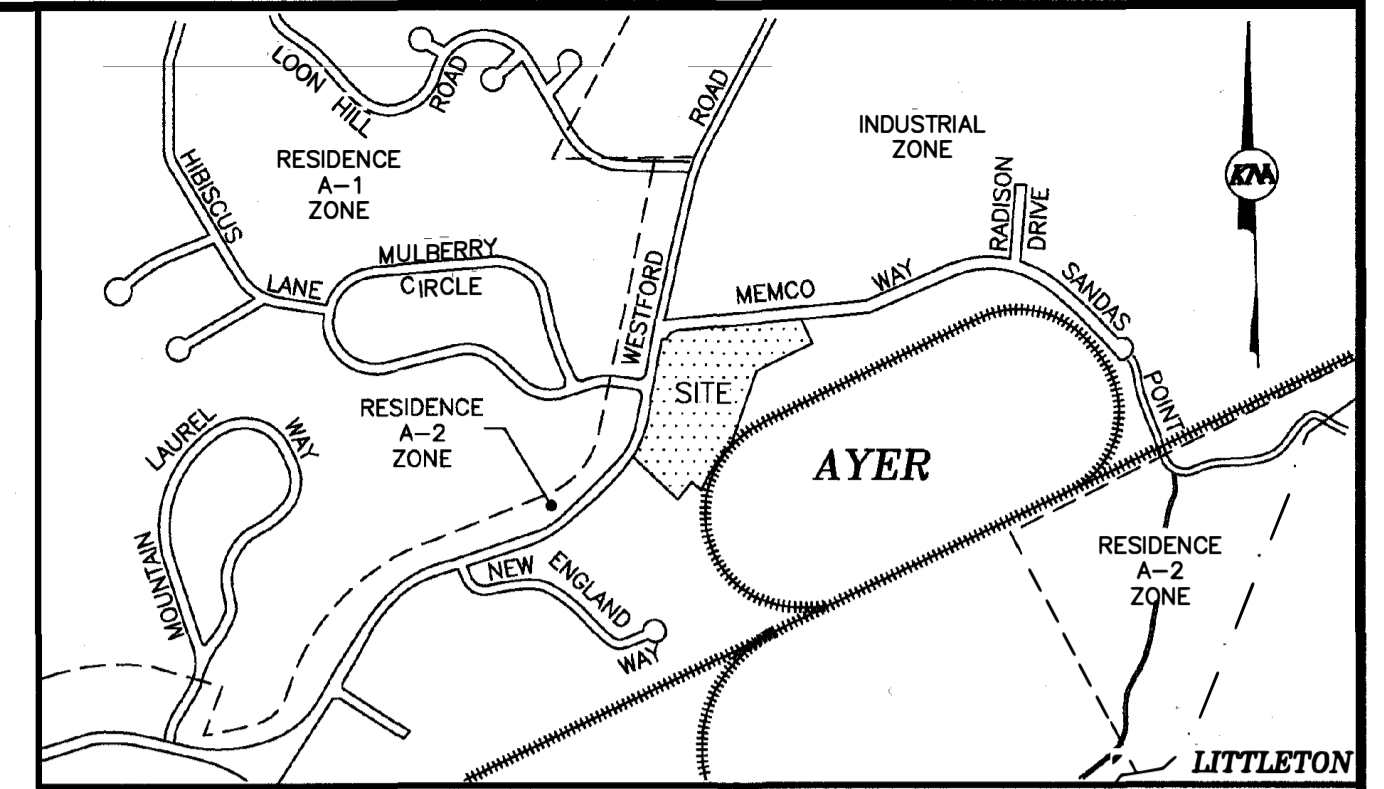
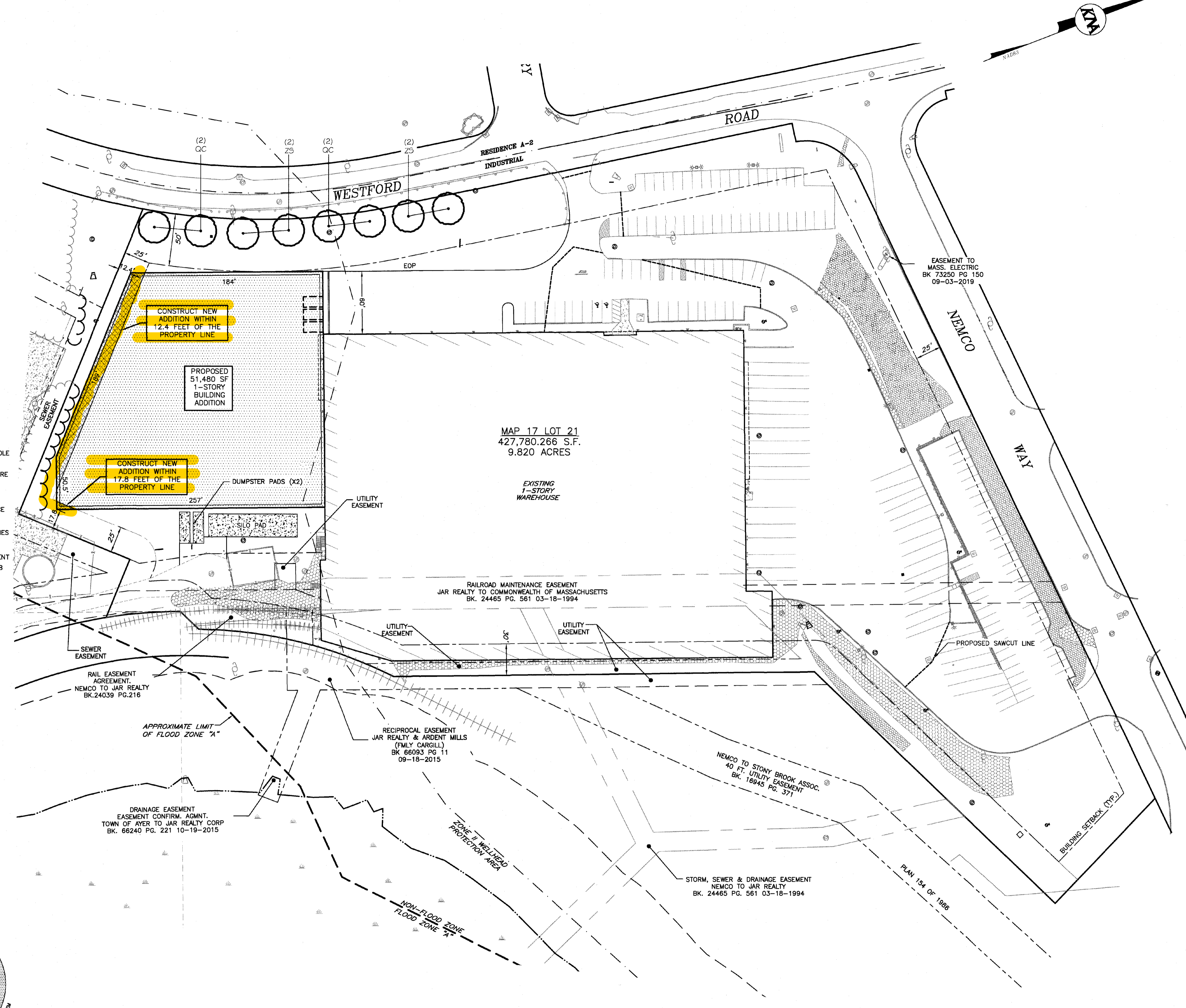
REVISIONS

No.	DATE	DESCRIPTION	BY
1	12/18/2020	REVISED TO LOCATE WETLAND FLAGS	PDC

DATE: MAY 6, 2020 SCALE: 1" = 50'
PROJECT NO: 20-0318-1 SHEET 1 OF 2

LEGEND

- GB-F GRANITE BOUND FOUND
- IPIN-F IRON PIN FOUND
- ⊙ DH-F DRILL HOLE FOUND
- ⊙ IPP-F IRON PIPE FOUND
- △ RRS-F RAILROAD SPIKE FOUND
- UTILITY POLE
- SIGN
- LIGHT
- HYDRANT
- WELL
- SEWER MANHOLE
- DRAINAGE MANHOLE
- CATCH BASIN
- FLARED END SECTION
- ABUTTER LINE
- PROPERTY LINE
- WETLAND
- CHAIN LINK FENCE
- GUARDRAIL
- OVERHEAD UTILITIES
- TREELINE
- RETAINING WALL
- EDGE OF PAVEMENT
- BITUMINOUS CURB
- EDGE OF GRAVEL
- 10' CONTOUR
- 2' CONTOUR
- STONEWALL
- SCS SOIL LINE
- BUILDING SETBACK
- EASEMENT
- GB-TBS GRANITE BOUND TO BE SET
- IPIN-TBS IRON PIN TO BE SET
- ⊙ DH-TBS DRILL HOLE TO BE SET
- PROPOSED UTILITY POLE
- PROPOSED SIGN
- PROPOSED LIGHT
- PROPOSED HYDRANT
- PROPOSED SEWER MANHOLE
- PROPOSED DRAINAGE MANHOLE
- PROPOSED CATCH BASIN
- PROPOSED OUTLET STRUCTURE
- PROPOSED END SECTION
- PROPOSED PROPERTY LINE
- PROPOSED CHAIN LINK FENCE
- PROPOSED GUARDRAIL
- PROPOSED OVERHEAD UTILITIES
- PROPOSED TREELINE
- PROPOSED EDGE OF PAVEMENT
- PROPOSED BITUMINOUS CURB
- PROPOSED 2' CONTOUR
- PROPOSED RETAINING WALL
- EASEMENT



VICINITY PLAN
1" = 1000'

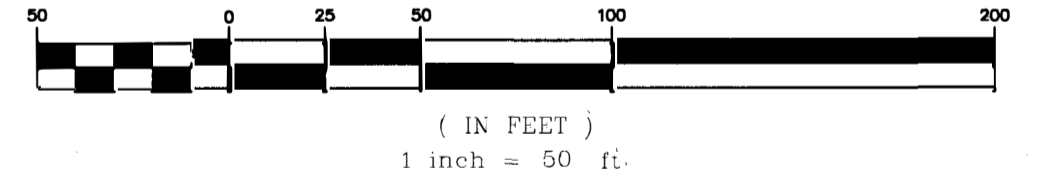
NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE PROPOSED BUILDING EXPANSION & ENCROACHMENTS INTO THE BUILDING SETBACKS ON ASSESSORS MAP 17 LOT 21 IN AYER, MA. AND NO OTHER PURPOSE.
2. TOTAL SITE AREA = 427,780 S.F. OR 9.820 ACRES.
3. OWNER OF RECORD: JAR REALTY CORPORATION
3 NEMCO WAY
AYER MA 01432
4. AYER MA 01432
5. PRESENT ZONING: INDUSTRIAL

	REQUIRED	EXISTING	PROPOSED
MINIMUM LOT AREA	30,000 SF	427,780± SF	427,780± SF
MAX. BUILDABLE COVERAGE	50%	29.7%	40.2%
MINIMUM LOT FRONTAGE	150'	1,381 LF	1,381 LF
MINIMUM BUILDING SETBACKS:			
FRONT (1)	25'	112.2'	50.3'
SIDE	30'	162.75'	12.4'
REAR (2)	30'	6.7'	6.7'
MINIMUM OPEN SPACE	20%	39%	32%
MAXIMUM BUILDING HEIGHT	40'		

1. (EXCEPT 50 FT ABUTTING A RESIDENTIAL DISTRICT)
2. (EXCEPT FOR 30 FT BUILDINGS THROUGH BLOCK OR ABUTTING RAIL ROAD SIDING)
6. THE SITE IS SERVICED BY MUNICIPAL SEWER AND WATER.
7. BOUNDARY AND TOPOGRAPHIC INFORMATION IS BASED ON A FIELD SURVEY PERFORMED BY THIS OFFICE IN APRIL AND MAY OF 2020.
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13. EASEMENTS, RIGHTS AND RESTRICTIONS SHOWN OR IDENTIFIED HEREON ARE THOSE FOUND DURING RESEARCH AT THE MIDDLESEX COUNTY REGISTRY OF DEEDS. OTHER EASEMENTS, RIGHTS AND RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF THE SUBJECT PREMISES MAY DETERMINE.
14. PARKING REQUIREMENTS:
PARKING REQUIRED = 178,425 SF / 1 SPACE PER 1,500 SF = 119 TOTAL SPACES
PARKING PROVIDED = 125 SPACES
A VARIANCE IS REQUIRED TO ALLOW THE CONSTRUCTION OF A NEW STRUCTURE WITHIN THE SIDE YARD SETBACKS.

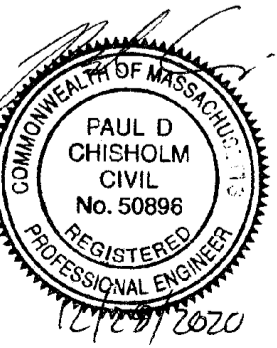
GRAPHIC SCALE



ZONING BOARD OF APPEALS SITEPLAN
CATANIA SPAGNA CORPORATION
MAP 17 LOT 21
1 NEMCO WAY
AYER, MASSACHUSETTS
MIDDLESEX COUNTY

OWNER:
JAR REALTY CORPORATION
3 NEMCO WAY
AYER, MA 01432
M.C.R.D. BK. 56185 PG. 107

KEACH-NORDSTROM ASSOCIATES, INC.
Civil Engineering Land Surveying Landscape Architecture
10 Commerce Park North, Suite 3B, Bedford, NH 03110 Phone (603) 627-2881



REVISIONS			
No.	DATE	DESCRIPTION	BY

DATE: DECEMBER 12, 2020 SCALE: 1" = 50'
PROJECT NO: 20-0318-1 SHEET 2 OF 2

PLANTING SCHEDULE					
Botanical Name / Common Name	Size	Label	Quantity	Mature Height	
Trees					
<i>Quercus coccinea</i> / Scarlet Oak	3-3.5" CAL.	QC	4	60'+	
<i>Zelkova serrata</i> 'Green Vase' / Green Vase Zelkova	3-3.5" CAL.	ZS	4	60'+	



UTILITY NOTE

THE UNDERGROUND UTILITIES DEPICTED HEREON HAVE BEEN DRAWN FROM FIELD SURVEY INFORMATION AND OR PLOTTED FROM EXISTING DRAWINGS. KEACH-NORDSTROM ASSOCIATES, INC. MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES DEPICTED COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. FURTHER, KEACH-NORDSTROM ASSOCIATES, INC. DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. KEACH-NORDSTROM ASSOCIATES, INC. HAS NOT PHYSICALLY LOCATED THE UNDERGROUND PORTIONS OF THE UTILITIES.



Town of Ayer
Zoning Board of Appeals
Transmittal Form – Department Head Review

<u> </u> BOS/Town Manager	Review Deadline Date <u>Tuesday January 12, 2021</u>
<u> </u> Board of Health	
<u> </u> Department of Public Works	Public Hearing Date <u>Wednesday January 20, 2021</u>
<u> </u> Police Department	
<u> </u> Fire Department	
<u> </u> Building Inspector/Zoning Enforcement Officer	
<u> </u> Conservation Committee	
<u> </u> Treasurer/Tax Collector	
<u> </u> Town Clerk	
<u> </u> Assessor's Office	
<u> </u> Economic & Community Development	
<u> </u> Town Planner	

 X Variance Special Permit Finding/Appeal

Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) 6.2 Schedule of Dimensional Requirements to allow for a side yard setback of 12.4', where 25' is required and a Description rear yard setback of 17.8' where 30' is required for proposed building expansion.

Submitted by Catania Spagna, Corp. Date 12/28/2020

Address 1 Nemco Way Telephone 978-772-7900

This plan is submitted for your review, comments, and recommendations. Please return to the Town Manager's Office by the Review Deadline Date so that the Zoning Board can consider your recommendation.

Comments: Defer to ZBA.

Signed *Robert A. Pithell* Title Town Manager

Date 12/28/2020

From: [Mark Wetzel](#)
To: [Carly Antonellis](#)
Subject: ZBA Comments - Catania Spagna
Date: Tuesday, January 12, 2021 3:19:20 PM

As requested, the Ayer DPW has reviewed the information provided by the ZBA related to the proposed addition to the Catania Spagna facility on Westford Road. The DPW has no comments or objections to the proposed variance. However we will work closely with the Ayer Planning Board during site plan review process to address stormwater and infrastructure related issues.

Mark L Wetzel, P.E.
Superintendent
Town of Ayer - Public Works Department
25 Brook Street
Ayer, Massachusetts 01432
t: 978.772.8240
c:978.833-2365
f: 978.772.8244
e: mwetzel@ayer.ma.us

 Please consider the environment before printing this email.



Town of Ayer
Zoning Board of Appeals
Transmittal Form – Department Head Review

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Variance _____ Special Permit _____ Finding/Appeal


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Submitted by Catania Spagna, Corp. Date 12/28/2020

Address 1 Nemco Way Telephone 978-772-7900

This plan is submitted for your review, comments, and recommendations. Please return to the Town Manager's Office by the Review Deadline Date so that the Zoning Board can consider your recommendation.

Comments: No ISSUES

Signed  Title chief

Date 12/29/20



Town of Ayer
Zoning Board of Appeals
Transmittal Form – Department Head Review

<u> </u>	BOS/Town Manager	Review Deadline Date	<u>Tuesday January 12, 2021</u>
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Variance Special Permit Finding/Appeal

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Submitted by Catania Spagna, Corp. Date 12/28/2020

Address 1 Nemco Way Telephone 978-772-7900

This plan is submitted for your review, comments, and recommendations. Please return to the Town Manager's Office by the Review Deadline Date so that the Zoning Board can consider your recommendation.

Comments: Approve - Catania Spagna, Corp.

Signed Title Building Commissioner / Zoning Officer

Date 1/6/21



Town of Ayer
Zoning Board of Appeals
Transmittal Form – Department Head Review

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_____	Board of Health		
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<input checked="" type="checkbox"/>	Conservation Committee		
_____	Treasurer/Tax Collector		
_____	Town Clerk		
_____	Assessor's Office		
_____	Economic & Community Development		
_____	Town Planner		

Variance _____ Special Permit _____ Finding/Appeal

Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) 6.2 Schedule of Dimensional Requirements to allow for a side yard setback of 12.4', where 25' is required and a Description rear yard setback of 17.8' where 30' is required for proposed building expansion.

Submitted by Catania Spagna, Corp. Date 12/28/2020

Address 1 Nemco Way Telephone 978-772-7900

This plan is submitted for your review, comments, and recommendations. Please return to the Town Manager's Office by the Review Deadline Date so that the Zoning Board can consider your recommendation.

Comments:

conservation has no concerns with this application for a variance. However, the applicant will likely need to permit the building project through the conservation Commission. In a side note, the Commission would prefer native species for the tree planting shown on this plan.

Signed *[Signature]* Title conservation administrator

Date 1/6/20



Town of Ayer
Zoning Board of Appeals
Transmittal Form – Department Head Review

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<u>1</u> _____	Treasurer/Tax Collector		<i>- Texas Current</i>
_____	Town Clerk		
_____	Assessor's Office		
_____	Economic & Community Development		
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Variance _____ Special Permit _____ Finding/Appeal

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Submitted by Catania Spagna, Corp. Date 12/28/2020

Address 1 Nemco Way Telephone 978-772-7900

This plan is submitted for your review, comments, and recommendations. Please return to the Town Manager's Office by the Review Deadline Date so that the Zoning Board can consider your recommendation.

Comments: _____

Signed *Christina Boudreau* Title *Assistant Treasurer/Collector*

Date *12/29/2020*

From: [Susan Copeland](#)
To: [Carly Antonellis](#)
Subject: Catania Spagna - 1 Nemco Way
Date: Tuesday, January 12, 2021 12:24:28 PM

Hello,

There are no objections from the Town Clerk's office for the ZBA Application received in my office 12/28/2020.

Thank you,

Susan E Copeland
Ayer Town Clerk



Town of Ayer
Zoning Board of Appeals
Transmittal Form – Department Head Review

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<u>1</u>	Assessor's Office		
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_____	Town Planner		

Variance _____ Special Permit _____ Finding/Appeal

Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) 6.2 Schedule of Dimensional Requirements to allow for a side yard setback of 12.4', where 25' is required and a Description rear yard setback of 17.8' where 30' is required for proposed building expansion.

Submitted by Catania Spagna, Corp. Date 12/28/2020

Address 1 Nemco Way Telephone 978-772-7900

This plan is submitted for your review, comments, and recommendations. Please return to the Town Manager's Office by the Review Deadline Date so that the Zoning Board can consider your recommendation.

Comments:

Signed Thomas Hogan Title Assessing Administrator
Date 12/30/2020



Town of Ayer
Zoning Board of Appeals
Transmittal Form – Department Head Review

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Variance _____ Special Permit _____ Finding/Appeal

Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) 6.2 Schedule of Dimensional Requirements to allow for a side yard setback of 12.4', where 25' is required and a Description rear yard setback of 17.8' where 30' is required for proposed building expansion.

Submitted by Catania Spagna, Corp. Date 12/28/2020

Address 1 Nemco Way Telephone 978-772-7900

This plan is submitted for your review, comments, and recommendations. Please return to the Town Manager's Office by the Review Deadline Date so that the Zoning Board can consider your recommendation.

Comments: RECOMMEND APPROVAL.

Signed  Title DM. NOGAI

Date 1/6/21



Town of Ayer
Zoning Board of Appeals
Transmittal Form – Department Head Review

_____ BOS/Town Manager _____ Board of Health _____ Department of Public Works _____ Police Department _____ Fire Department _____ Building Inspector/Zoning Enforcement Officer _____ Conservation Committee _____ Treasurer/Tax Collector _____ Town Clerk _____ Assessor's Office _____ Economic & Community Development _____ Town Planner	Review Deadline Date <u>Tuesday January 12, 2021</u> Public Hearing Date <u>Wednesday January 20, 2021</u>
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Variance _____ Special Permit _____ Finding/Appeal
 Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) 6.2 Schedule of Dimensional Requirements to allow for a side yard setback of 12.4', where 25' is required and a Description rear yard setback of 17.8' where 30' is required for proposed building expansion.

Submitted by Catania Spagna, Corp. Date 12/28/2020

Address 1 Nemco Way Telephone 978-772-7900

This plan is submitted for your review, comments, and recommendations. Please return to the Town Manager's Office by the Review Deadline Date so that the Zoning Board can consider your recommendation.

Comments: *After last week's special "Land-Use" meeting, I am satisfied that this project can meet the concerns of the D.P.W. I approve the granting of the variances.*

Signed Title Town Planner

Date 1-12-2021

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



Broadcast on Zoom and by APAC

Wednesday December 16, 2020
Remote Participation Open Session Meeting Minutes

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

Call to Order: S. Goodwin called the meeting to order at 6:01 PM.

COVID-19 Order: S. Goodwin stated that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A, Section 18 and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Ayer Zoning Board of Appeals is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort has been made to ensure that the public can adequately access the proceedings as provided in the Order. All votes will be taken by Roll Call.

Approval of Meeting Agenda: A motion was made by M. Gibbons and seconded by J. Ellis to approve the agenda as posted. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, aye; J. Ellis, aye. **Motion passed by Roll Call Vote 5-0.**

Public Hearing - Application for Variance – Richard Simpson, Jr. - 38 Washington Street (Filed 11/18/20): S. Goodwin open the public hearing at 6:02 PM by reading the Public Hearing Notice as advertised in the *Nashoba Valley Voice* on November 27, 2020 & December 4, 2020. Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.2, Dimensional Requirements to allow for 8,077 sq. ft. lot where 10,000 sq. ft. is required in the GR District. Kevin Conover from David E. Ross and Associates was representing the applicant.

S. Goodwin stated in reading the packet materials, he noticed a review from Mr. Alan Manoian, Director of Community and Economic Development. S. Goodwin stated that while he appreciated the feedback, the ZBA's scope is very limited to the square footage request in front of them. S. Goodwin then stated that there was no such thing as historical district that was referenced in Mr. Manoian's review.

Kevin Conover stated that the total lot size was approximately 18,000 sq. ft. Mr. Conover's client is looking to split his lot in two, thereby requiring the requested variance (lot size in that GR is 10,000 sq. ft.). He noted that the neighborhood is densely populated; and the average lot close to downtown is about 7,600 sq. ft. He feels that this request is consistent with the neighborhood. He explained that the request will then go to the Planning Board for their consideration of an ANR lot endorsement.

S. Goodwin asked what the hardship was. K. Conover stated that the inherent lot size of 18,000 sq. ft. is the hardship.

Dennis Curran, 51 Pleasant Street stated that in essence the lot is too big. S. Goodwin stated that Mr. Curran's comments were semantics and reminded the ZBA that we are not here for a use variance but rather a dimensional variance.

Michael Halal, 47 Pleasant Street had questions relative to which type of dwelling it being proposed. S. Goodwin stated that the type of dwelling is out of the scope of the ZBA at this point. S. Goodwin stated that if successful, the applicant would have to adhere to all other Zoning Bylaw requirements as reviewed by the Building Commissioner.

Dennis Curran asked how tall the structure was going to be and the proposed parking. S. Goodwin stated that it was out of the ZBA's purview.

Susan and Bob Williams, 8 Nashua St. asked what the minimum square footage would need to be of the dwelling if approved. C. Antonellis stated she is not aware of a minimum square footage of a single-family residence and would consult with the Building Commissioner.

Ms. Kristen Morico, 28 Pleasant Street spoke in favor of the request.

Michael Halal spoke about his concerns with the neighborhood density.

There was further general discussion about the request. Michael Halal stated that its difficult to make a determination about supporting the project as he does not know the proposed use.

Motion: A motion was made by M. Gibbons and seconded by J. Gugino to approve the variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.2, Dimensional Requirements to allow for 8,077 sq. ft. lot where 10,000 sq. ft. is required in the GR District. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, no; J. Ellis, aye. **Motion passed by Roll Call Vote 4-1.**

Close Public Hearing: A motion was made by S. Goodwin and seconded by M. Gibbons to close the Public Hearing at 6:33 PM. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, aye; J. Ellis, aye. **Motion passed by Roll Call Vote 5-0.**

Public Hearing - Application for Variance – Matthew and Synath DeLorie - 114 Pleasant Street (Filed 11/19/20): S. Goodwin open the public hearing at 6:32 PM by reading the Public Hearing Notice as advertised in the *Nashoba Valley Voice* on November 27, 2020 & December 4, 2020. Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.3.G.2, to allow for accessory structures (pool and gazebo) to be closer to the front lot line than the front building line of the principal building on the lot. Ms. Synath "Nat" DeLorie was in attendance remotely.

Ms. DeLorie stated that when she is looking to put in an in-ground pool and gazebo. When she bought the house at 114 Pleasant Street, it was located on a dead-end street and a had a pool before. She stated that extension of Pleasant Street, due to newly constructed subdivision to the east, reconfigured the locus lot by making the side yard, now the front yard. She further stated that the lot is encumbered by an easement to the rear for the National Grid utility lines. The lot also contains wetlands; after meeting with the Conservation Administrator, she determined that the proposed location of the pool and gazebo is the best location.

ZBA members had no concerns.

Motion: A motion was made by J. Ellis and seconded by M. Gibbons to approve the variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.3.G.2, to allow for accessory structures (pool and gazebo) to be closer to the front lot line than the front building line of the principal building on the lot. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, no; J. Ellis, aye. **Motion passed by Roll Call Vote 4-1.**

Close Public Hearing: A motion was made by S. Goodwin and seconded by M. Gibbons to close the Public Hearing at 6:45 PM. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, aye; J. Ellis, aye. **Motion passed by Roll Call Vote**

Approval of Meeting Minutes:

Motion: A motion was made by S. Goodwin and seconded by J. Ellis to approve the meeting minutes from August 19, 2020 as written. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, abstain; J. Ellis, aye. **Motion passed by Roll Call Vote 4-0-1.**

Adjournment:

Motion: A motion was made by S. Goodwin and seconded by J. Gugino to adjourn at 6:48 PM. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, aye; J. Ellis, aye. **Motion passed by Roll Call Vote 5-0.**

Minutes Recorded and Submitted by Carly M. Antonellis, Assistant Town Manager

Date Minutes Approved by ZBA: _____

Signature of Clerk Indicating Approval: _____