

RECEIVED

JUL 15 2022

TOWN OF AYER
TOWN CLERK

1:30 pm 

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



Wednesday July 20, 2022

6:00 PM

Open Session In-Person and Remote Participation Meeting Agenda

This meeting/hearing of the Ayer Zoning Board of Appeals will be held in-person at the location provided on this notice. Members of the public are welcome to attend this in-person meeting. Please note that while an option for remote attendance and/or participation via Zoom is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. Members of the public with particular interest in a specific item on this agenda should make plans for in-person vs. virtual attendance accordingly. This meeting will be live on Zoom. The public may access the proceedings by joining Zoom (Meeting ID# 857 9728 7177) or by calling (312-626-6799). For additional information about remote participation, please contact Carly Antonellis, Assistant Town Manager at atm@ayer.ma.us or 978-772-8220 ext. 100 prior to the meeting.

6:00 PM Call to Order

Approval of Agenda

Public Hearing – Application for a Comprehensive Permit (MGL 40B, Sections 20-23) Neighborhood of Affordable Housing, Inc.
65 Fitchburg Road (Filed June 24, 2022)

Application Materials can be found at: ayer.ma.us/zoning-board-appeals/pages/ayer-commons-proposed-comprehensive-permit40b

Approval of Meeting Minutes

June 15, 2022

Adjournment

The next regularly scheduled ZBA Meeting is July 20, 2022 at 6:00 PM via remote participation.



Town of Ayer
Zoning Board of Appeals
Public Hearing Notice

RECEIVED
JUL 01 2022

TOWN OF AYER
TOWN CLERK

10:15 AM
[Signature]

Notice is hereby given that the Ayer Zoning Board of Appeals will hold a **Public Hearing on Wednesday, July 20, 2022 at 6:00 p.m., at Ayer Town Hall, 1 Main Street, Ayer, MA**, on the petition of Neighborhood of Affordable Housing, Inc., 143 Border Street, East Boston 02128, relative to an application for a Comprehensive Permit (pursuant to M.G.L. Chapter 40B, Sections 20-23) seeking authorization for the construction of one hundred and six (106) rental dwelling units on property located at 65 Fitchburg Road, Ayer, MA. A copy of the application is on file at the Office of the Town Clerk, Town Hall, 1 Main Street, Ayer, MA. Any persons interested may review said petition and appear at the hearing. If special services, assistance or accommodations are required to participate in this meeting, please contact the Town Manager's Office within sufficient time prior to the scheduled meeting time.

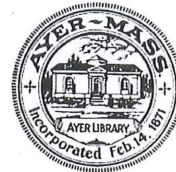
Pursuant to Chapter 20 of the Acts of 2022, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law.

For Zoom/Call-in information, please contact atm@ayer.ma.us or call (978) 772-8220, extension 100.

July 1, 2022

Samuel A. Goodwin, Jr.

Chair of the Zoning Board of Appeals



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

Select Board/Town Manager Review Deadline Date: ****July 13, 2022****
 Board of Health
 Department of Public Works Public Hearing Date: **July 20, 2022**
 Police Department
 Fire Department
 Building Inspector/Zoning Enforcement Officer
 Conservation Committee
 Treasurer/Tax Collector
 Town Clerk
 Assessor's Office
 Economic & Community Development
 Town Planner

Variance *Special Permit Finding/Appeal
 *Comprehensive 40B Permit Application

Description: Ayer Commons Comprehensive Permit Application Pursuant to M.G.L. Chapter 40B, 20-23
Property at 65 Fitchburg Road, Ayer, MA

Submitted by: Neighborhood of Affordable Housing, Inc. ("NOAH") Date: June 24, 2022

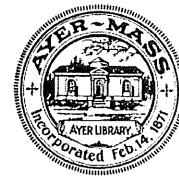
Address: 143 Border Street, East Boston, MA 02128 Telephone: 617-418-8626

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: *The Select Board and Town Manager are supportive of Affordable Housing and recognize the need for affordable housing in Ayer. Refer to ZBA.*

Signed *Mark A. Patten* Title *Town Manager*

Date *7/15/2022*



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

<input type="checkbox"/>	Select Board/Town Manager	Review Deadline Date: **July 13, 2022**
<input checked="" type="checkbox"/>	Board of Health	
<input type="checkbox"/>	Department of Public Works	Public Hearing Date: July 20, 2022
<input type="checkbox"/>	Police Department	
<input type="checkbox"/>	Fire Department	
<input type="checkbox"/>	Building Inspector/Zoning Enforcement Officer	
<input type="checkbox"/>	Conservation Committee	
<input type="checkbox"/>	Treasurer/Tax Collector	
<input type="checkbox"/>	Town Clerk	
<input type="checkbox"/>	Assessor's Office	
<input type="checkbox"/>	Economic & Community Development	
<input type="checkbox"/>	Town Planner	

Received *BM*
JUL 06 2022
 Town of Ayer
 Board of Health

Variance *Special Permit Finding/Appeal

*Comprehensive 40B Permit Application

Description: Ayer Commons Comprehensive Permit Application Pursuant to M.G.L. Chapter 40B, 20-23 Property at 65 Fitchburg Road, Ayer, MA

Submitted by: Neighborhood of Affordable Housing, Inc. ("NOAH") Date: June 24, 2022

Address: 143 Border Street, East Boston, MA 02128 Telephone: 617-418-8626

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:

This is in a light industrial area - with a considerable amount of units. (very close to Fitchburg Rd) Will there be consideration for dust, odor, & noise complaints? Will areas for trash be fenced in?

Signed *Bridgette Maley* Title *Health Agent*

Date *7/6/2022*

DEPARTMENT OF PUBLIC WORKS

Dan Van Schalkwyk, P.E., Director
Kimberly Abraham, Water and Sewer Superintendent
Pam Martin, Business Manager



Water, Wastewater, Highway & Solid Waste Divisions

25 BROOK STREET
AYER, MASSACHUSETTS 01432
T: (978) 772-8240
F: (978) 772-8244

July 12, 2022

Zoning Board of Appeals
Town of Ayer
Town Hall
Ayer, MA 01432

**RE: Ayer Commons Comprehensive Permit Application Pursuant to MGL 40B, 20-23
Property at 65 Fitchburg Road, Ayer, MA**

Dear Board Members:

The Ayer DPW has reviewed the June 24, 2022 submission for the subject permit application. The following documents were reviewed.

Documents and Correspondence

- Town of Ayer Zoning Board of Appeals Application for a Hearing, by Neighborhood of Affordable Housing, Inc. (NOAH), dated June 23, 2022
- Application for Comprehensive Permit, Project: Ayer Commons, by NOAH, dated June 24, 2022
- Stormwater Report, Ayer Commons, prepared by BSC Group, dated June 14, 2022

General Comments

1. Fitchburg Road is a MassDOT State Highway and the traffic impacts and mitigation will need to be coordinated, reviewed and approved by MassDOT.
2. All infrastructure improvements must comply with Ayer DPW / MassDOT requirements.
3. DPW has included an allowance for this size project in our water and wastewater capacity planning.
4. Requested Waivers:
I am not completely familiar with the waiver process for a 40B development. However, I must question the following waivers:
 - a. Water and Sewer connection fees – Estimated connection fees for the water and sewer are as follows:

Units	Number of bedrooms	Total Number of Bedrooms	Total Water Connection Fee at \$1,500 per bedroom	Total Sewer Connection Fee at \$1,800 per bedroom
76	2 or 3 bed units (assume 2 bed units)	182	\$273,000.00	\$327,600.00
30	1 bed units			

Note: The above table does not include water connection fees for fire sprinkler connections

Water and sewer connection fees are developed to cover costs of providing capacity in the water supply and wastewater collection and treatment system. In addition to capacity, they consider future treatment costs and infiltration/inflow removal (sewer only).

b. I did not see a waiver from the Town’s Stormwater Bylaw and Regulations.

5. Granite curbing should be required at all radii.
6. A sidewalk along the frontage and connection to the Shop n Save should be required in accordance with the Town’s Complete Streets Policy.
7. The parking access driveway width of 20-ft should be increased to 24-ft.
8. Will there be any speed humps to slow internal traffic?
9. Where will mailboxes be located?
10. Show proposed lighting on a photometric plan.
11. Show proposed plantings on a planting plan.
12. Does the existing site have a septic system?
13. Will the property be managed by a real estate management company or an HOA?

Water and Sewer Utilities

1. Water and sewer utilities on the site shall be privately owned and maintained. The DPW will not take over ownership of the wastewater pumping station, collection system, and pumping system (including force main). Water system components such as valves, hydrants, and fire lines shall be privately owned and maintained.
2. The water system design is not complete. Applicant must submit water hydrant flow testing data. It’s not clear where water system components, such as hydrants, valves and curb stops, will be located, where the street connection will be made, and pipe sizes. I did not see any details for the water system.
3. The existing house has a water service that will need to be abandoned.
4. Sewer pump station design and layout will be approved by Ayer DPW.

Stormwater

1. There is a significant number of water quality and underground infiltration units which will require routine maintenance. The Owner of the Long-Term Pollution Prevention and O&M shall be required to submit an annual report to DPW detailing stormwater maintenance and inspections performed each year.
2. As noted in General Comment 5b, the Town’s Stormwater Bylaw was not identified in the waivers. If this is the case, the design must meet the requirements of the Town’s Stormwater

Bylaw and Regulations. Due to the potential redesign of stormwater, I did not perform a detailed review of the stormwater calculations.

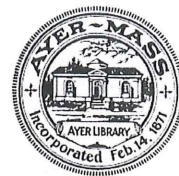
Should you have any questions or comments, please do not hesitate to contact this office.

Regards,

AYER PUBLIC WORKS DEPARTMENT

A handwritten signature in black ink, appearing to read "Daniel Van Schalkwyk". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Daniel Van Schalkwyk, P.E.
DPW Director



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

_____	Select Board/Town Manager	Review Deadline Date: **July 13, 2022**
_____	Board of Health	
_____	Department of Public Works	Public Hearing Date: July 20, 2022
<u> X </u>	Police Department	
_____	Fire Department	
_____	Building Inspector/Zoning Enforcement Officer	
_____	Conservation Committee	
_____	Treasurer/Tax Collector	
_____	Town Clerk	
_____	Assessor's Office	
_____	Economic & Community Development	
_____	Town Planner	



_____ Variance X * Special Permit _____ Finding/Appeal

*Comprehensive 40B Permit Application

Description: Ayer Commons Comprehensive Permit Application Pursuant to M.G.L. Chapter 40B, 20-23
Property at 65 Fitchburg Road, Ayer, MA

Submitted by: Neighborhood of Affordable Housing, Inc. ("NOAH") Date: June 24, 2022

Address: 143 Border Street, East Boston, MA 02128 Telephone: 617-418-8626

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:

None @ this time

Signed

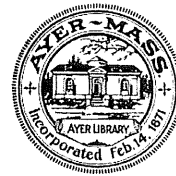
[Signature]

Title

Police Chief

Date

7/5/22



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

_____ Select Board/Town Manager Review Deadline Date: ****July 13, 2022****
 _____ Board of Health
 _____ Department of Public Works Public Hearing Date: **July 20, 2022**
 _____ Police Department
 X Fire Department
 _____ Building Inspector/Zoning Enforcement Officer
 _____ Conservation Committee
 _____ Treasurer/Tax Collector
 _____ Town Clerk
 _____ Assessor's Office
 _____ Economic & Community Development
 _____ Town Planner

_____ Variance X* Special Permit _____ Finding/Appeal

*Comprehensive 40B Permit Application

Description: Ayer Commons Comprehensive Permit Application Pursuant to M.G.L. Chapter 40B, 20-23
Property at 65 Fitchburg Road, Ayer, MA

Submitted by: Neighborhood of Affordable Housing, Inc. ("NOAH") Date: June 24, 2022

Address: 143 Border Street, East Boston, MA 02128 Telephone: 617-418-8626

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: Make sure the parking lot areas accommodate the turning radius of our longest fire truck (Ladder - 1). We can provide that information if needed

Signed  Title Fire Chief

Date 7/11/22

Town of Ayer CONSERVATION COMMISSION

Town Hall ♦ One Main Street ♦ Ayer, MA 01432
Phone 978-772-8220 ext. 143 ♦ Fax 978-772-8208 ♦ concom@ayer.ma.us



To: Zoning Board of Appeals
From: Heather Hampson, Conservation Agent
Re: 65 Fitchburg Rd, Ayer Commons Comprehensive Permit Application
Date: July 12, 2022

Greetings,

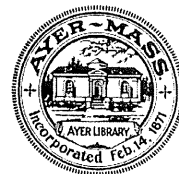
Thank you for the opportunity to review and comment on the Comprehensive Permit for the proposed 40B Affordable Housing Development, to be located at 65 Fitchburg Road. After viewing the application and documents provided the comments of the Commission office are:

- A Notice of Intent (NOI) will need to be filled with the Conservation Commission office since there is work to be conducted within the Commission's jurisdictional area of 100 feet from a wetland.
- As stated on page 11 of the Application for Comprehensive Permit, Natural Heritage, and Endangered Species Program (NHESP) had been contacted and Priority Habitat has been identified. A permit from NHESP will need to be obtained for the work on site to protect the species found on site. The Commission requests a copy of the letter from NHESP.
- The proposed project is split into two phases, both phases will have buffer zone disturbance. The Conservation Commission office is requesting more information regarding to the phasing of this project and the extent of the work that will be conducted in each phase. For example, will the site be cleared in phase one, with only construction of buildings and infrastructure to be in two phases.

Thank you

A handwritten signature in black ink, appearing to read "Heather Hampson", with a long, sweeping underline that extends to the right.

Heather Hampson
Conservation Agent
Ayer Conservation Commission



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

_____ Select Board/Town Manager Review Deadline Date: ****July 13, 2022****
 _____ Board of Health
 _____ Department of Public Works Public Hearing Date: **July 20, 2022**
 _____ Police Department
 _____ Fire Department
 _____ Building Inspector/Zoning Enforcement Officer
 _____ Conservation Commission
 X _____ Treasurer/Tax Collector
 _____ Town Clerk
 _____ Assessor's Office
 _____ Economic & Community Development
 _____ Town Planner

_____ Variance X* _____ Special Permit _____ Finding/Appeal

*Comprehensive 40B Permit Application

Description: Ayer Commons Comprehensive Permit Application Pursuant to M.G.L. Chapter 40B, 20-23 Property at 65 Fitchburg Road, Ayer, MA

Submitted by: Neighborhood of Affordable Housing, Inc. ("NOAH") Date: June 24, 2022

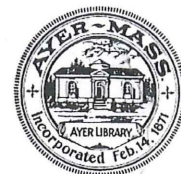
Address: 143 Border Street, East Boston, MA 02128 Telephone: 617-418-8626

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: faxes pd .

Signed Barbara Tierney Title treas/Tax Com

Date 6/30/22



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

_____	Select Board/Town Manager	Review Deadline Date: **July 13, 2022**
_____	Board of Health	
_____	Department of Public Works	Public Hearing Date: July 20, 2022
_____	Police Department	
_____	Fire Department	
_____	Building Inspector/Zoning Enforcement Officer	
_____	Conservation Commission	
_____	Treasurer/Tax Collector	
<u> X </u>	Town Clerk	
_____	Assessor's Office	
_____	Economic & Community Development	
_____	Town Planner	

_____ Variance X* Special Permit _____ Finding/Appeal

*Comprehensive 40B Permit Application

Description: Ayer Commons Comprehensive Permit Application Pursuant to M.G.L. Chapter 40B, 20-23
Property at 65 Fitchburg Road, Ayer, MA

Submitted by: Neighborhood of Affordable Housing, Inc. ("NOAH") Date: June 24, 2022

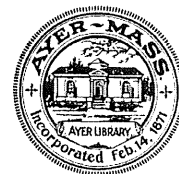
Address: 143 Border Street, East Boston, MA 02128 Telephone: 617-418-8626

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: 100% support of Affordable Housing for Ayer!!

Signed *[Signature]* Title Town Clerk

Date July 5, 2022



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

_____	Select Board/Town Manager	Review Deadline Date: **July 13, 2022**
_____	Board of Health	
_____	Department of Public Works	Public Hearing Date: July 20, 2022
_____	Police Department	
_____	Fire Department	
_____	Building Inspector/Zoning Enforcement Officer	
_____	Conservation Commission	
_____	Treasurer/Tax Collector	
_____	Town Clerk	
_____	Assessor's Office	
<u> X </u>	Economic & Community Development	
_____	Town Planner	

_____ Variance X* Special Permit _____ Finding/Appeal

*Comprehensive 40B Permit Application

Description: Ayer Commons Comprehensive Permit Application Pursuant to M.G.L. Chapter 40B, 20-23 Property at 65 Fitchburg Road, Ayer, MA

Submitted by: Neighborhood of Affordable Housing, Inc. ("NOAH") Date: June 24, 2022

Address: 143 Border Street, East Boston, MA 02128 Telephone: 617-418-8626

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: Recommended APPROVAL.

Signed *[Signature]* Title Dir. Assoc

Date 7/12/22

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: Ayer Commons Comprehensive Permit – first comments

Date: July 13, 2022

In general, I am very supportive of the proposed Ayer Commons Comprehensive Permit application and project. The town of Ayer certainly needs this quantity and quality of affordable housing. I also believe that this development may finally spur redevelopment and improvements to the Fitchburg Road corridor, which is perhaps not one of Ayer's most scenic roads.

On initial review, it appears that the general site plan is well laid out and designed, though I desire more time to go through the site plan in depth so as to be able to provide more specific comments. I know the Planning Board is also eager to review the application and plans and offer its comments on the proposed project.

I look forward to learning more about this project at the forthcoming opening of the public hearing on July 20.

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



Wednesday June 15, 2022
Open Session Remote Participation Meeting Minutes

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

Also Present: Carly M. Antonellis, Assistant Town Manager

Call to Order: S. Goodwin called the meeting to order at 6:00 PM. He stated that due to the ongoing COVID19 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. S. Goodwin stated that all votes will be taken by Roll Call.

Approval of Agenda:

Motion: A motion was made by M. Gibbons and seconded by J. Gugino to approve the meeting agenda. S. Goodwin, aye; J. Ellis, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, aye. **Motion approved by Roll Call Vote 5-0.**

Public Hearing – Appeal of Building Commissioner Decision – Lexvest Ayer, LLC. 0-1 Scully Road

(Filed May 6, 2022): S. Goodwin opened the public hearing at 6:02 PM. The applicant is seeking an Administrative Appeal of a Building Commissioner's decision pursuant to Ayer Zoning Bylaw (2019, as amended) Section 3.1.F regarding a decision on a zoning determination in the Light Industrial District.

Attorney Mark Bobrowski was in attendance on behalf of the applicant. He stated that he disagrees with the building commissioner's determination that the proposed use does not meet the current zoning allowed in the Light Industrial District. The owner of the building is Lexvest Ayer, LLC and the tenant Pumpkin Brook Organic Gardening. Pumpkin Brook provides off-site landscaping services. It currently occupies 4,000 square feet of interior space and some outdoor area. Pumpkin Brook uses the interior space for storage of landscaping tools, trucks and equipment and stores landscaping materials, such as mulch, outdoors. They also use an interior administrative office inside the building. Attorney Bobrowski stated that all uses warehousing and interior storage, exterior storage and professional or business office are permitted in the Light Industrial District. He stated that Matthew Blackham from Lexvest Ayer, LLC. was also in attendance.

S. Goodwin stated that the Zoning Bylaw states that there is no permission by omission, in other words if it is not listed in the Bylaw, it is not permitted. S. Goodwin stated that landscaping is not listed in the table of use. Attorney Bobrowski stated they are not doing landscaping; they are storing landscape equipment.

M. Blackham stated that many of their buildings have many different types of businesses that use their building space for storage. He stated that this is not a retail operation and not open to the public.

Charlie Shultz, Building Commissioner, stated that the Zoning Bylaw states that if something is not expressly permitted than it is prohibited. He stated that he looked under the table of use and landscaping is not listed. Attorney Bobrowski stated that the bylaw is written generically and it doesn't specify what can be stored on the interior or the exterior.

There was further discussion.

M. Gibbons asked how long they have been operating? C. Shultz stated that there was a change in ownership which triggered the need for an inspection of the property.

Priscilla Williams is the Founder of Pumpkin Brook and they have been in the building since March of 2021. P. Williams stated that the company is now under one roof and that the public is not welcome in the building.

C. Shultz stated that though they have been there since 2021, he hasn't seen an application come through for a business certificate or Site Plan Review. He does not have an issue with the business location.

Attorney Bobrowski stated that Site Plan Review may be applicable and if the appeal is approved they will submit an application to the Planning Board for Site Plan Review.

J. Gugino stated that she did not have a problem with this business in the Light Industrial District and would condition the approval for the applicant to go for Site Plan Review with the Planning Board. J. Ellis stated he would also like to condition that a business certificate is filed with the Town. R. Defilippo agrees.

There were no abutter in attendance.

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to overturn the decision of the Building Commissioner with the condition that the applicant files for a business certificate and that they submit an application for Site Plan Approval with the Planning Board. S. Goodwin, aye; J. Ellis, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, aye. **Motion approved by Roll Call Vote 5-0.**

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to close the public hearing at 6:24 PM. S. Goodwin, aye; J. Ellis, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, aye. **Motion approved by Roll Call Vote 5-0.**

Public Hearing – Appeal of Building Commissioner Decision – Mimi's Place, LLC. 94-96 East Main St. & 12-14 Page St.: Vice-Chair M. Gibbons recused himself as he is a direct abutter to the property. S. Goodwin opened the public hearing at 6:20 PM. The applicant is seeking an administrative appeal pursuant to Section 3.1.F of the Ayer Zoning Bylaw and G.L. c. 40A, §§8 and 15, relative to the Building Commissioner's cease and desist order (the "Order") issued for property located at 14-96 East Main Street and 12-14 Page Street Ayer, MA (the "Property"). The Order orders Mimi's Place, LLC to cease

and desist operating a motel without a license from the Board of Health. Attorney Christopher Lilly was in attendance for the applicant.

S. Goodwin stated that this was as far as the hearing was going to go, as the ZBA has no authority to issue a hotel/motel license. He advised Attorney Lilly that he needed to go to the Board of Health.

Attorney Lilly asked if he could be heard further. S. Goodwin said no, as the ZBA has no authority to issue the license. Attorney Lilly stated that he wanted to overturn a determination in the letter from the Building Commissioner that states that they must cease and desist operating as a motel and that they are not operating as a motel. S. Goodwin advised again that to obtain a motel/hotel license, they must appear before the Board of Health.

Attorney Lilly stated he was looking for guidance from the ZBA on whether or not there needs to be a change of use and he can refile an application. Attorney Lilly stated he understands what the Board is saying but they are not operating a motel currently.

ZBA member J. Gugino stated she understood that the ZBA could not discuss this from a Board of Health perspective, but her question was if the units that they appear to want to designate as residential units, not hotel/motel units, would need a Board of Health license. S. Goodwin stated he did not know, and it was not up for discussion, as the only matter on the table was the Building Commissioner's decision.

Attorney Lilly stated he wished to put facts before the Board. S. Goodwin said no, it was a waste of time. He again advised they needed to go to the Board of Health. Attorney Lilly stated he understood.

ZBA member J. Ellis asked how the Chair wanted to proceed and he agreed with the Chair's position. J. Ellis stated that the issues with the Board of Health need to be resolved first.

ZBA member R. Defilippo stated that he sees other options, such as change of use a possibility, but not for tonight, as it wasn't on the table.

Motion: A motion was made S. Goodwin and seconded by J. Gugino that the Ayer ZBA does not overturn the Cease-and-Desist Order from the Building Commissioner as written. J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye; S. Goodwin, aye. **Motion passed by Roll Call Vote 4-0.**

Motion: A motion was made at 6:33 PM by S. Goodwin and seconded by J. Ellis to close the public hearing for Mimi's Place, LLC. J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye; S. Goodwin, aye. **Motion passed by Roll Call Vote 4-0.**

M. Gibbons rejoined the meeting.

634 Public Hearing – Application for Special Permit – R.D. Kanniard Homes, Inc. - #33 & 33B Sandy Pond Road: S. Goodwin opened the public hearing at 6:33 PM. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.2 (Table of Use Regs.) to permit two 2-family dwellings on the property designated as Lot 1 & Lot 2 in the A-2 Zoning District. One 2-family dwelling is proposed for each lot. Kevin Conover was in attendance on behalf of the applicant. S. Goodwin stated that this application had come before the Board before, but there was in an error in the

previous application. K. Conover was experiencing technical problems, the Board waited until he signed back on. He stated that the newly created lots were both over 35,000 ft., where 24,000 is required.

There were no abutters present.

M. Gibbons stated that he was not opposed to the project, but he is concerned with the proximity to corner/intersection. He noted that the primary concern was from the fire department relating to the addresses, which has been rectified. J. Gugino asked about the frontage on each lot. K. Conover stated that Lot 1 had 107 feet and Lot 2 had 103 feet.

Motion: A motion was made J. Ellis and seconded by J. Gugino to approve the Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.2 (Table of Use Regs.) to permit two 2-family dwellings on the property designated as Lot 1 & Lot 2 in the A-2 Zoning District. One 2-family dwelling is proposed for each lot. J. Gugino, aye; J. Ellis, aye; M. Gibbons, aye; R. Defilippo, aye; S. Goodwin, aye. **Motion passed by Roll Call Vote 5-0.**

Motion: A motion was made at 6:53 PM by S. Goodwin and seconded by J. Ellis to close the public hearing. J. Gugino, aye; J. Ellis, aye; M. Gibbons, aye; R. Defilippo, aye; S. Goodwin, aye. **Motion passed by Roll Call Vote 5-0.**

Approval of Meeting Minutes:

Motion: A motion was made by S. Goodwin and seconded by J. Ellis to approve the meeting minutes from May 18, 2022. J. Gugino, aye; J. Ellis, aye; M. Gibbons, aye; R. Defilippo, aye; S. Goodwin, aye. **Motion passed by Roll Call Vote 5-0.**

C. Antonellis stated that she anticipated that the 40B/Affordable Housing application for 65 Fitchburg Road would be filed prior to the next meeting.

Adjournment: A motion was made by M. Gibbons and seconded by J. Gugino to adjourn at 6:55 PM. J. Gugino, aye; J. Ellis, aye; M. Gibbons, aye; R. Defilippo, aye; S. Goodwin, aye. **Motion passed by Roll Call Vote 5-0.**

Minutes Recorded by Carly M. Antonellis, Assistant Town Manager

Date Minutes Approved by ZBA: _____

Signature of Clerk Indicating Approval: _____