

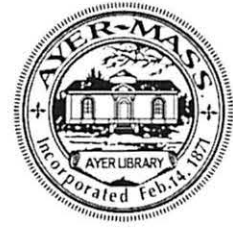
RECEIVED

MAR 10 2021

TOWN OF AYER  
TOWN CLERK

2:15pm

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



Wednesday March 17, 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 Assistant Town Manager Carly Antonellis at [atm@ayer.ma.us](mailto:atm@ayer.ma.us) or 978-772-8220 x100.*

6:00 PM **Call to Order**

**Approval of Agenda**

**Chapter 40B/Comprehensive Permit Training**

Paul J. Haverty; Blatman, Bobrowski & Haverty, LLC

**Approval of Meeting Minutes**

January 20, 2021

**Adjournment**

**Note – There was originally a public hearing scheduled for a variance request for 15 Gardner Lane; however, that application was withdrawn by the applicant.**

*The next regularly scheduled ZBA Meeting is April 21, 2021*

# **CHAPTER 40B TRAINING: FUNDAMENTALS**

**Chapter of 40B:  
A Training on the Affordable Housing  
Law  
Ayer Zoning Board of Appeals**

**March 17, 2021**

**Blatman, Bobrowski &  
Haverty, LLC**

# Reviewing the initial application

---

Eligibility and  
Submission  
Requirements

# Statutory Minima/Statutory Safe Harbor Requirements

- Less than 10% of year-round housing units
- Municipalities have less than 1.50% of total land area zoned for residential, commercial, or industrial use
- Project involves no more than 0.3% of the total land area zoned in community for residential, commercial, or industrial use or ten acres, whichever is larger



# Regulatory Safe Harbor Provisions

- **Housing Production Plan**
- **Recent Progress Toward Housing Unit Minimum**
- **Review of Large Projects**
- **Related Applications**



# Critical 40B Application Submission Requirements

- **Applicant Status: Public Agency, Non-Profit, or Limited Dividend Organization**
- **Evidence of Site Control**
- **Project Eligibility Letter from Subsidizing Agency**



# Other 40B Application Submission Requirements

- Preliminary Plans versus Final Plans
- Existing site conditions and locus map
- Preliminary, scaled, architectural drawings
- A tabulation of proposed buildings by type, size and ground coverage
- A preliminary subdivision plan (if applicable)
- A preliminary utilities plan
- A list of requested waivers

# Noticing and conducting the required public hearing

**7/14/30/15/15/30/180/40/20  
DAYS**



# Chapter 40B Performance Requirement Deadlines

- **Distribute Application - 7 Days**
- **Notice of Public Hearing – 14 Days**
- **Open Public Hearing - Within 30 days**
- **Safe Harbor Notification - 15 days**
- **Applicant appeal safe harbor - 15 days**
- **DHCD Answer - 30 days**
- **Close Hearing - 180 days**
- **Decision - 40 days**
- **Appeal - 20 days**

# Scheduling a Site Visit

- Conduct a site/neighborhood visit early in the review process
- Understand...
  - Site and neighborhood existing conditions
  - The proposed site plan and building design
  - The location of abutters who will be most affected by the proposed development

# Retaining Peer Review Consultants

- Employment of outside consultants
- Civil Engineering, Traffic, Architecture, Financial
- Review of studies prepared on behalf of the Applicant, **not** preparation of independent studies
- All written results and reports are made part of the record



# Securing sufficient project information to make an informed decision

- Focus on the “real” project issues/impacts early in the review process
- Peer review should be commenced as soon as possible
- If needed request additional information from the Applicant
- Don't hesitate to ask for graphics that help clarify height, massing, setbacks and overall relationship to neighbors

# Negotiation and Work Sessions

- Negotiating with developers is possible
- Work sessions with developers can often be productive after initial more formal public hearings.
- Neighbors can be invited to these sessions.
- All discussions during the session are advisory in nature.
- No decisions can be made
- Comply with Open Meeting Law



# Balance Regional Housing Needs with Local Concerns

- Health
- Safety
- Environmental
- Design
- Open Space
- Planning
- Other Local Concerns

# Holding Deliberation Sessions



- The Public Hearing is closed
- Deliberate in a logical and orderly fashion
- Discuss potential conditions
- Review the requested waivers

# Drafting and issuing the Comprehensive Permit decision

- The ZBA has three decision alternatives

Denial

Approval as submitted

Approval with conditions





# Approval with Conditions

- The conditions should not make the Project Uneconomic
- Conditions and/or requirements must be consistent with Local Needs
- The Board shall not reduce the number of units for reasons other than evidence of Local Concerns within the Board's purview



# Appeal of Decision

- Appeals by the Applicant are made with the Housing Appeals Committee (HAC)
- Appeals for other aggrieved parties are made with Superior Court or the Land Court



# Managing the Comprehensive Permit

- Regulatory Agreement, Deed Riders, and Monitoring Agreement
- Lottery and fair housing
- Income, asset and first-time buyer status requirements for affordable units
- Lapse of the permit
- Transfer of the Comprehensive Permit
- Inspections during construction

# OVERVIEW OF CHAPTER 40B FUNDAMENTALS

- Conclusions
- Questions and Answers

Paul Haverty

Blatman, Bobrowski & Haverty, LLC

[paul@bbhlaw.net](mailto:paul@bbhlaw.net)

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



**Broadcast on Zoom and by APAC**

**Wednesday January 20, 2021  
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 6:00 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. Gugino to approve the agenda. **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 – Catania Spagna Corp. - 1 Nemco Way (Filed 12/28/20):** S. Goodwin opened the Public Hearing at 6:02 PM by reading the Public Hearing Notice as advertised in *The Nashoba Valley Voice* on January 1, 2021 and January 8, 2021. The 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. Scott Whitney, from Concord Building Services and Paul Chism from Keach -Nordstrom Associates, Inc. were in attendance and speaking on behalf of the applicant. He stated that the company was looking to add a 51,000 sq.ft. addition to the building at 1 Nemco Way. He noted that the locus was in the Town's Industrial Zone and that the company is looking to utilize the existing rail spur, which will reduce truck traffic. They are proposing the building expansion to increase their production lines for the containers for the oils.

J. Ellis asked how much distance would be in between the Catania Spagna building expansion and the existing Nasoya building. P. Chism stated that it would be approximately 125-150 feet.

He stated that they will be going before the Conservation Commission to replace an existing stormwater pond with an underground filtration system. They will also be going before the Planning Board for Site Plan Approval.

S. Goodwin asked about elevation and grades for the proposed expansion relating to Westford Road. P. Chism answered specific questions relating to elevations and grades.

J. Gugino stated that it looked fine to her and that there are good reasons to keep this company in Ayer.

J. Ellis stated that he had no issues with this proposal.

M. Gibbons stated that it was a pretty good plan and the company has made aesthetic improvements over the past 5 years. He was also glad to hear that the company will be using the rail, which will cut down on Westford Road Traffic.

R. Defilippo stated he was in agreement and encourages the company to use screening in between the building and Westford Road.

**Motion:** A motion was made by M. Gibbons and seconded by J. Ellis to approve the 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 **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.**

**Close Public Hearing:** A motion was made by S. Goodwin and seconded by J. Ellis to close the Public Hearing at 6:27 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.**

**Approval of Meeting Minutes:**

**Motion:** A motion was made by S. Goodwin and seconded by J. Ellis to approve the meeting minutes from December 16, 2021 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 6:29PM. **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:** \_\_\_\_\_

**Electronic Signature of Chairman inserted by Direction due to COVID-19**