

RECEIVED
MAY 12 2022

TOWN OF AYER
TOWN CLERK

10:10am

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



Wednesday May 18, 2022

6:00 PM

Open Session Remote Participation Meeting Agenda

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 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 Special Permit – R. D. Kanniard Homes, Inc.
33 & 33B Sandy Pond Road (Filed April 27, 2022)

6:15 PM **Alan Manoian, Director, Office of Community and Economic Development**
Ayer (Downtown & West Ayer Village) Form-Based Zoning Code Refresher
Presentation

6:30 PM **Approval of Meeting Minutes**
February 16, 2022

Adjournment

The next regularly scheduled ZBA Meeting is June 15, 2022 at 6:00 PM via remote participation.

RECEIVED
MAY 02 2022

8:00am
CV
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 6:00 PM on Wednesday May 18, 2022 regarding an application by R.D. Kanniard Homes, Inc., for property located at 33 & 33B Sandy Pond Road Ayer, MA. Applicant is seeking a special permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 5.2.1.2 (Table of Use Regulations) to allow for a two-family dwelling in the A-2 Residence Zoning District.

For Zoom/Call-In information please contact atm@ayer.ma.us or 978-772-8220 x100.

Advertised May 3, 2022 and May 10, 2022, *The Lowell Sun*

DAVID E. ROSS ASSOCIATES, INC.

Civil Engineers, Land Surveyors, Environmental Consultants

April 27, 2022

Town of Ayer
Zoning Board of Appeals
1 Main Street
Ayer, Ma. 01432

Re: R.D. Kanniard Homes, Inc.
33 & 33B Sandy Pond Road
Ayer, Ma.
Project No.32774

Dear Board Members,

On Behalf of our client, R.D. Kanniard Homes, Inc., this office is requesting a Special Permit to allow a two-family dwelling on two separate lots situated on the southerly side of Sandy Pond Road situated within the Residence A-2 Zoning District.

Currently the property has two separate dwelling units on a property being described in Deed Book 48915 Page507. In June of 2020, an Approval Not Required Plan was endorsed by the Planning Board to divide the property into Lot 1 & Lot 2 with the notation that the two existing structures will be removed or razed. Pursuant to Section 5.2 1.2 (Table of Use Regulations) a Special Permit is required to allow a two-family dwelling on a lot with a lot area of at least 24,000 Square Feet. Both lots contain a lot area in excess of this requirement and conform to the frontage and area requirements for a building lot within this Zoning District. As indicated on the enclosed plan, the proposed development is consistent with a multi-family property directly adjacent to the subject property and there are several similar properties in the direct vicinity.

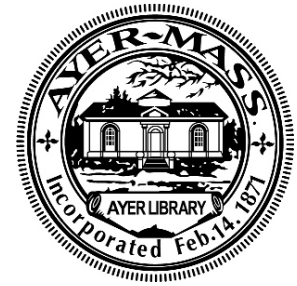
If you have any additional comments or questions regarding this submission, please contact the undersigned.

Very Truly Yours;
David E. Ross Associates, Inc.:



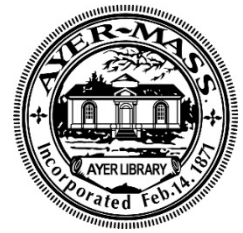
Kevin R. Conover

Town of Ayer
ZONING BOARD OF APPEALS
APPLICATION FOR A HEARING



Notes to the Petitioner:

1. The Zoning Board of Appeals meets on the 3rd Wednesday of the month at 6:00 PM at the Ayer Town Hall or remotely due to COVID-19. Because of the requirements set forth in Massachusetts General Law, Chapter 40A, completed application submissions must be received by the Town approximately 3 to 3.5 weeks ahead of the meeting date. Please contact the Town Manager's Office to inquire about submission deadlines at 978-772-8220 x 100 or zba@ayer.ma.us
2. All applications for a hearing must be received by the Town Manager's Office and accompanied by:
 - Thirteen (13) copies of a certified plot plan (8 ½ x 11 or 11 x 17) and/or relevant certified drawings/sketches
 - One (1) electronic copy of the application and plans in PDF format emailed to zba@ayer.ma.us
 - Certified list of abutters obtained from the Assessor's Office.
3. The application, when completed and signed, must be filed with a non-refundable application fee of one hundred-sixty-five dollars (\$165.00). Check should be made payable to the "Town of Ayer".
4. The applicant is responsible for the cost of the legal ad, which will run in either the Nashoba Valley Voice or the Lowell Sun. This amount will be determined after the application is submitted. This can be paid online at ayer.ma.us/home/pages/online-payments. Checks should be made payable to the "Town of Ayer". The Town Manager's Office will email you the cost of the ad, which is determined by length.
5. The applicant is responsible for mailing a "Notice to Abutters", which is provided in PDF format via e-mail by the Town Manager's Office. More information on the mailing can be found on Page 4.
6. Notice of the Public Hearing including the time and date will be posted on the Town Hall Posting Board (located outside Town Hall at the Columbia Street entrance) at least 48 hours in advance of Public Hearing.
7. **Application will not be heard unless both checks are received at least 2 weeks prior to hearing.**
8. The ZBA shall duly post and conduct a public hearing within 65 days of receiving a completed application and render a decision within 14 days of the close of the Public Hearing. Most decisions are subject to a twenty (20) day appeal period. After the 20-day appeal period, the decision must be filed by the applicant, at the South Middlesex County Registry of Deeds in Cambridge. Prior to obtaining a building permit, the applicant must present evidence of Registry filing to the Building Inspector and ZBA. This evidence may be a receipt from the Registry with an Instrument number or proof of the Book and Page assigned.



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

Name of Applicant: R. D. Kanniard Homes, Inc.
(Full Name)

P.O. Box 1321 Littleton, Mass. 01460
(Address)

978-502-8557
(Phone Number)

rdkanniard@gmail.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):

Location of Property:

#33 & 33B Sandy Pond Road

Assessor's Map 28 **Parcel** 92 & 151 **Land Size** 36,079 s.f. & 39,388 s.f.

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

Registry of Deeds Book 48915 **Page** 507

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
- X 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? _____
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:

The applicant is seeking s Special Permit pursuant to Section 5.2 1.2 (Table of Use Regulations) to permit a Two-Family dwelling in a Residence A-2 Zoning District

Date: April 25, 2022

Signed by _____
(Petitioner)

978-502-8557
(Daytime Phone Number)

rdkanniard@gmail.com
(Email)

SANDY POND DUPLEX



AREA BREAK DOWN

FIRST FLOOR LIVING AREA	885 sf
SECOND FLOOR LIVING AREA	1,316 sf
TOTAL LIVING AREA	2,201 sf
GARAGE AREA	480 sf
BASEMENT AREA	885 sf

Damon McQuaid
Architect

Architecture - Interiors - Land Planning
49 Brookview Terr. Lunenburg, MA 01462
mcquaid@gmail.com
978-340-5922

R.D. Kanniard Homes Inc.

P.O. BOX 1321
LITTLETON, MA 01460
978-486-0711

Date: 04/14/21

Scale: 12" = 1'-0"

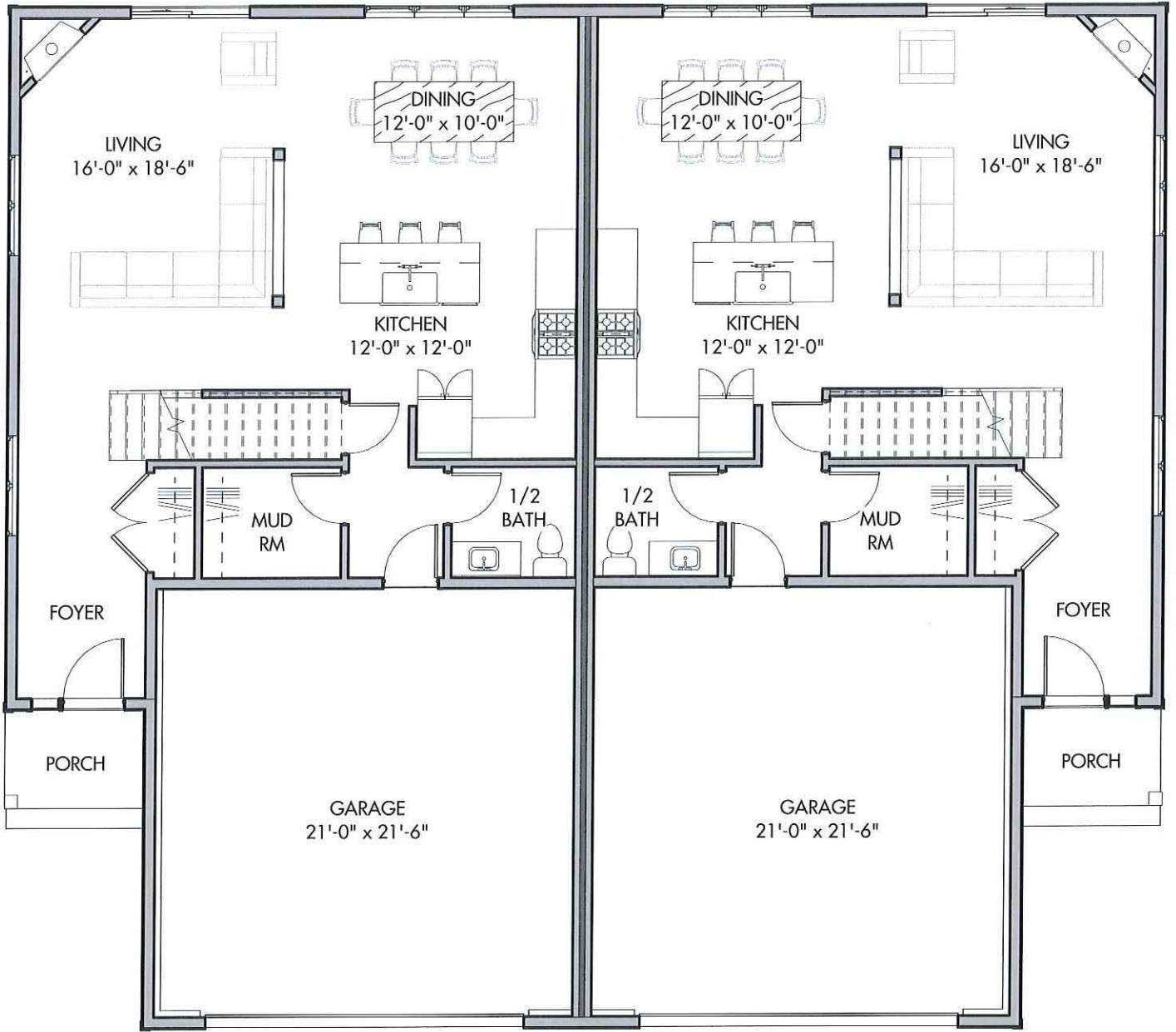
Plan No: 210309

Sheet:

1

PATIO

PATIO



LEVEL 1

Damon McQuaid
Architect

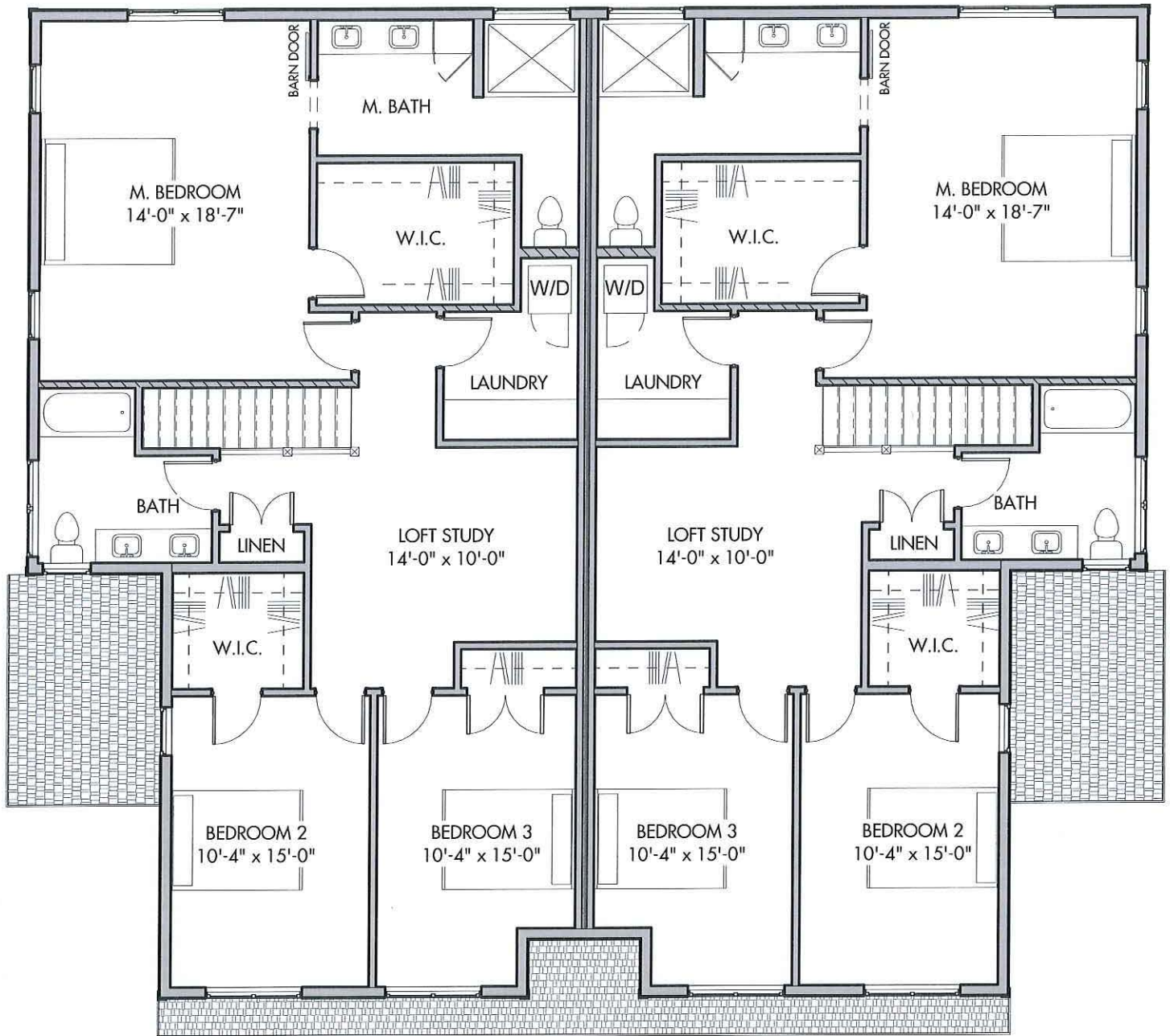
Architecture - Interiors - Land Planning
 49 Brookview Terr. Lunenburg, MA 01462
 mcquaid@gmail.com
 978-340-5922

R.D. Kanniard Homes Inc.

P.O. BOX 1321
 LITTLETON, MA 01460
 978-486-0711

Date: 04/14/21
 Scale: 1/8" = 1'-0"
 Plan No: 210309
 Sheet:

2



LEVEL 2

Damon McQuaid
Architect
 Architecture - Interiors - Land Planning
 49 Brookview Terr. Lunenburg, MA 01462
 mcquaid@gmail.com
 978-340-5922

R.D. Kanniard Homes Inc.
 P.O. BOX 1321
 LITTLETON, MA 01460
 978-486-0711

Date: 04/14/21
 Scale: 1/8" = 1'-0"
 Plan No: 210309
 Sheet:
3

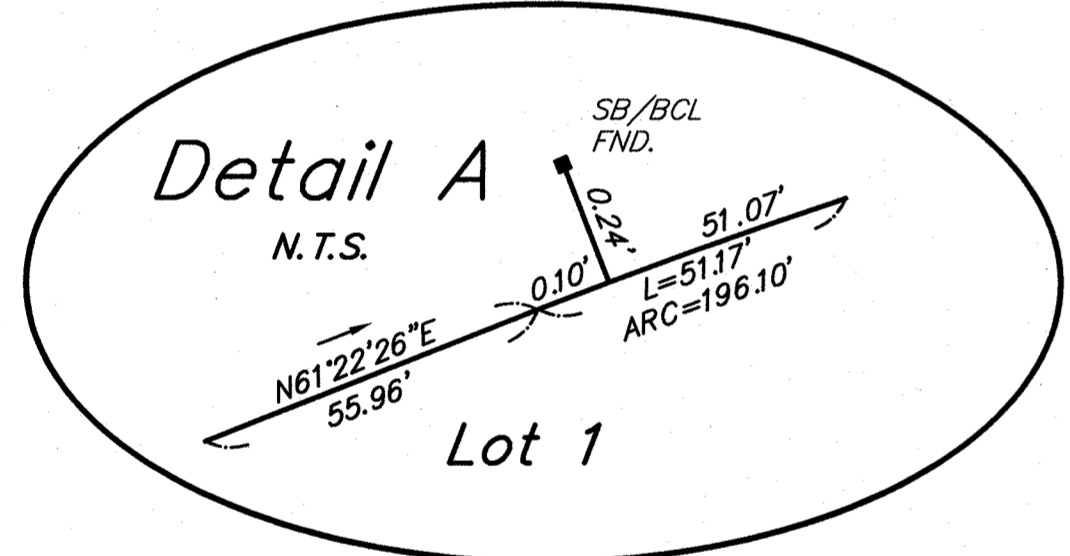
Central Avenue
(PUBLIC ~ 60' WIDE)

Sandy Pond Road
(PUBLIC ~ 1930 COUNTY LAYOUT 50' WIDE)

Sandy Pond Road
(PUBLIC ~ 1930 COUNTY LAYOUT 50' WIDE)

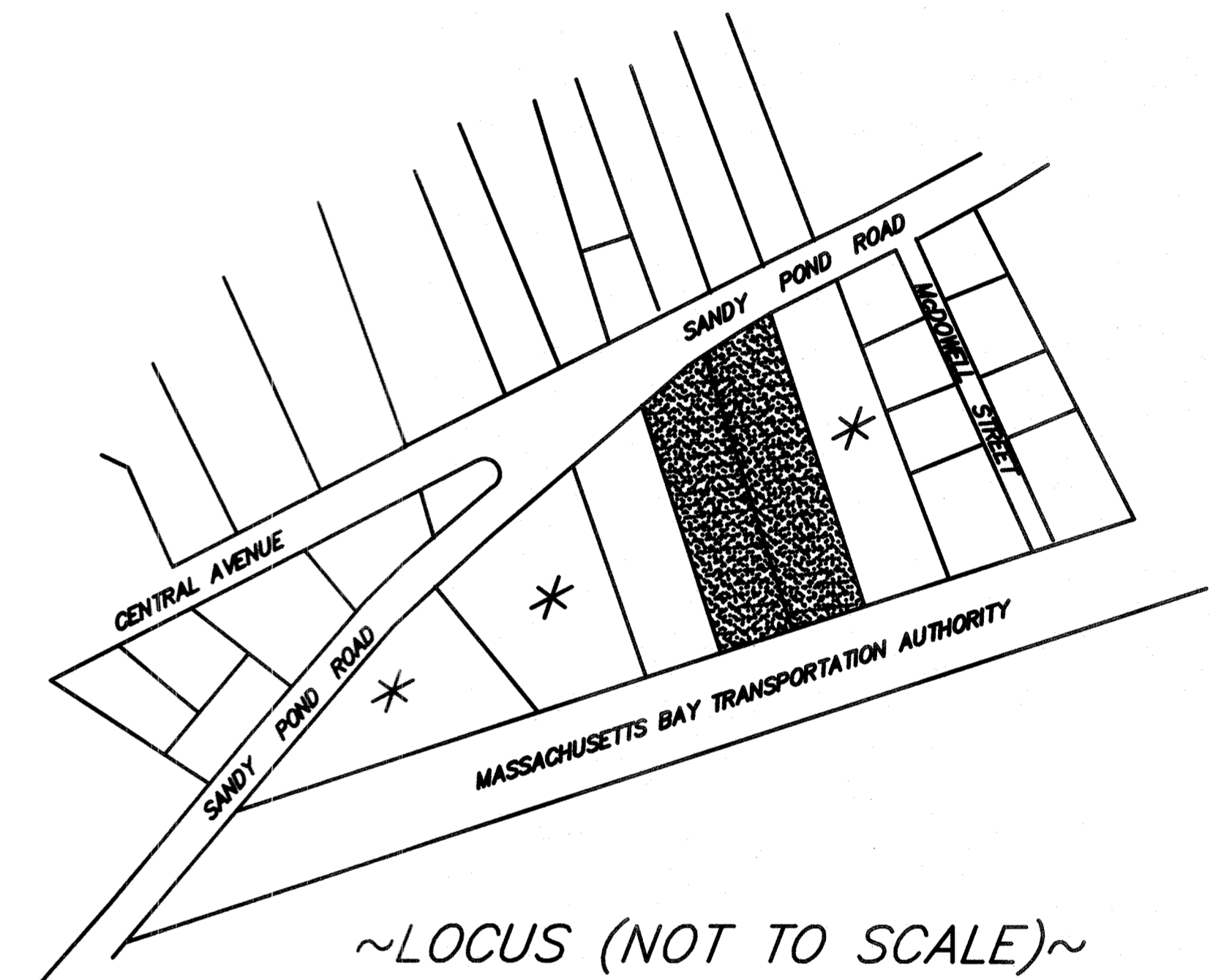
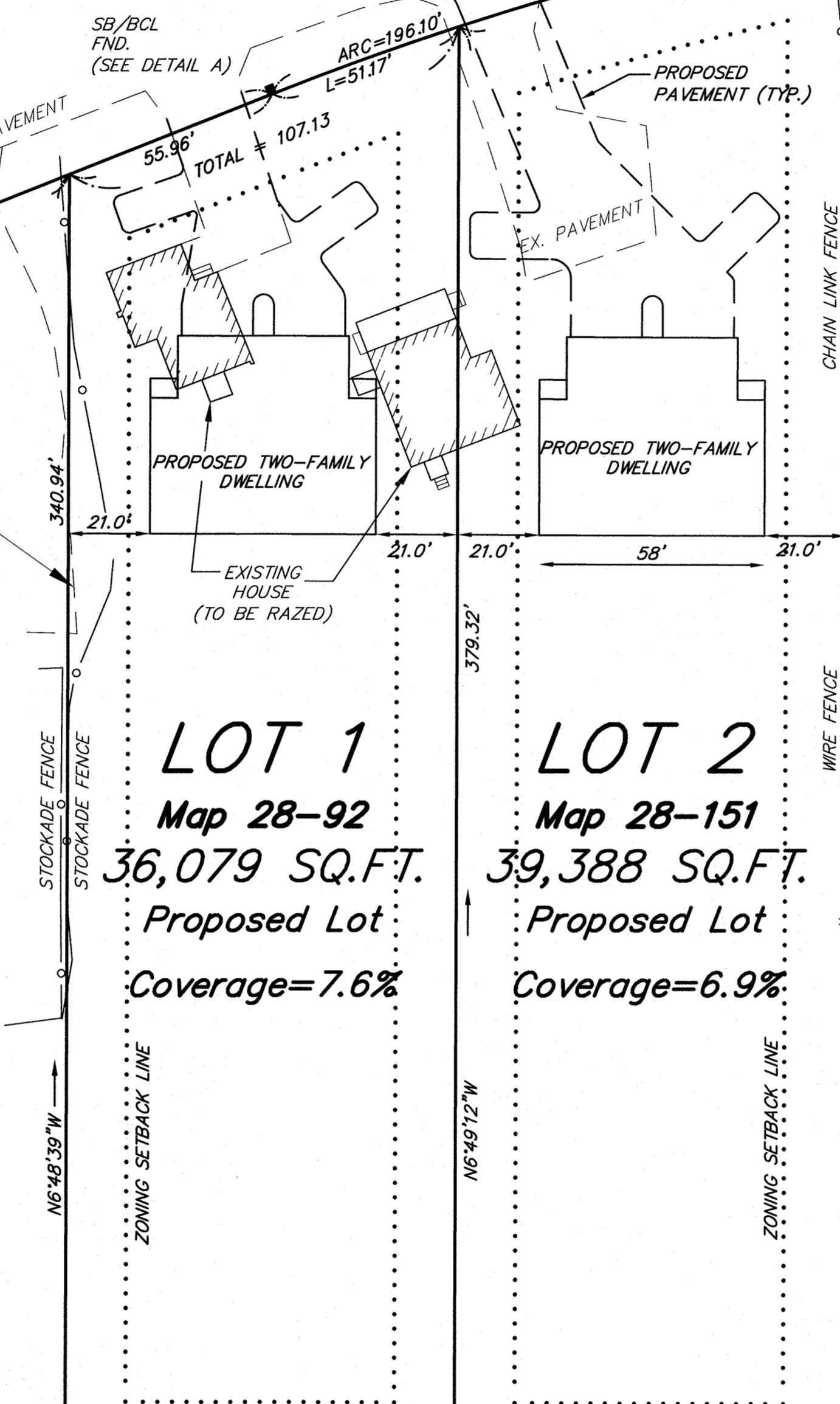
Patrick Feehan & Kara Whitcomb
BK 72161-467; PL NO 1859 OF 1986

Jeffrey E. & Andrea I. Greco
BK 77328-128; PL NO 1467 OF 1946



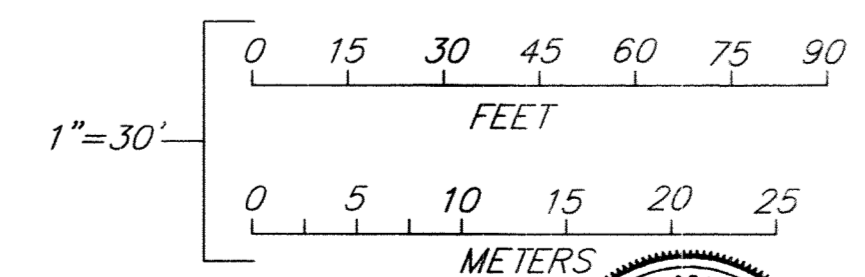
ZONING DISTRICT: RESIDENCE A-2
MIN LOT AREA = 12,000 S.F. (TWO FAMILY: 24,000 S.F.)
MIN FRONTAGE = 100'
MIN SIDE YARD = 15'
MIN FRONT YARD = 20'
MIN REAR YARD = 25'

NOTE:
LOTS 1, AND 2 ARE A RE-DIVISION OF LAND DESCRIBED IN DEED (BK. 48915-507) TO R.D. KANNIARD HOMES, INC. AND SHOWN ON A PLAN ENTITLED "PLAN OF LAND IN AYER, MASS., SURVEYED FOR FISKE WARREN ESTATE" DATED OCTOBER 1938 BY J.H. JENNINGS, CIVIL ENGINEER AND ARE SHOWN ON A PLAN ENTITLED "PLAN OF LAND IN AYER, MASS. PREPARED FOR R.D. KANNIARD HOMES, INC." DATED JUNE, 2020-PLAN NO.667 OF 2020.
THE APPLICANT IS SEEKING A SPECIAL PERMIT FROM THE TOWN OF AYER ZONING BOARD OF APPEALS PURSUANT TO SECTION 5.2 1.2 (TABLE OF USE REGULATIONS) TO PERMIT A TWO-FAMILY DWELLING IN A RESIDENCE A-2 ZONING DISTRICT.
THE PROPOSED TWO-FAMILY DWELLINGS ARE DEPICTED ON PLANS PREPARED BY DAMON McQUAID ARCHITECT DATED 05/10/2021.

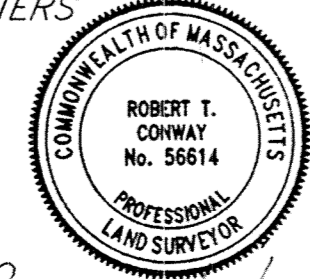


M. B. T. A.

OWNER / APPLICANT
R.D. Kanniard Homes, Inc.
P.O. Box 1321
Littleton, Ma. 01460
(BK 48915-507)
ASSESSOR MAP 28-92



Legend
FND. CB/DH □ CONCRETE BOUND WITH DRILL HOLE
FND. SB/BCL ■ STONE BOUND BACK CENTERLINE
- - - - - EDGE OF PAVEMENT
o - - - - - CHAIN LINK FENCE/STOCKADE FENCE
x - - - - - WIRE FENCE



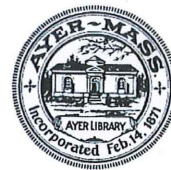
SITE PLAN OF LAND IN
Ayer, Mass.
PREPARED FOR
R.D. Kanniard Homes, Inc.
SCALE: 1"=30' APRIL, 2022
David E. Ross Associates, Inc.
CIVIL ENGINEERS - LAND SURVEYORS
ENVIRONMENTAL CONSULTANTS
PO BOX 795-6 LANCASTER COUNTY RD, HARVARD, MA 01451
(TEL. NO. 978-772-6232)
JOB NO. 32774 SHEET 1 OF 1 PLAN NO.L-14064-A



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

Application for Special Permit – 33 & 33B Sandy Pond Road

Department	Comments
Town Manager	Defer to ZBA
Board of Health	No Issues as long as there is town water/ town sewer
Department of Public Works	No Issues from DPW
Police Department	No comments at this time
Fire Department	See Attached
Building Commissioner/Zoning Enforcement Officer	No Issues
Conservation Commission	No Issues for Conservation Commission
Treasurer/Tax Collector	Taxes paid
Town Clerk	No issues
Assessor's Office	Lot 1 is 28-92 Lot 2 is 28-151
Economic & Community Development	Recommend approval
Town Planner	I approve of this request



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

_____	Select Board/Town Manager	Review Deadline Date <u>May 11, 2022</u>
_____	Board of Health	
_____	Department of Public Works	Public Hearing Date <u>May 18, 2022 at 6:00 PM</u>
_____	Police Department	
<u>X</u>	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
 Applicant is seeking a special permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 5.2.1.2 (Table of Use Regulations) to allow for two-family dwelling unit on each lot in the A-2
 Description Residence Zoning District.

Submitted by R.D. Kanniard Homes, Inc. Date April 27, 2022

Address 33 & 33B Sandy Pond Road Telephone Kevin Conover, David E. Ross 978-772-6232

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: IN the interest of Public Safety I would suggest the following house numbers changes. Lot #1 to 33 A/B AND Lot # to 35 A/B. See attached map

Signed [Signature] Title Fire Chief
 Date 5/10/22

SEE DETAIL A) /

L=51.1'



PAVEMENT (TYP.)

EX. PAVEMENT

CHAIN LINK FENCE
405.94'

PROPOSED TWO-FAMILY DWELLING

PROPOSED TWO-FAMILY DWELLING

EXISTING HOUSE
(TO BE RAZED)

21.0'

21.0'

21.0'

58'

21.0'

379.32'

33 A/B

35 A/B

LOT 1

LOT 2

Map 28-92

Map 28-151

36,079 SQ.FT.

39,388 SQ.FT.

Proposed Lot

Proposed Lot

Coverage=7.6%

Coverage=6.9%

STOCKADE FENCE

WIRE FENCE

ZONING SETBACK LINE

ZONING SETBACK LINE

N6°49'12"W

S6°49'12"E

N6°48'39"W

Town of Ayer

Office of Community & Economic Development (AOCED)

Town Hall - One Main Street - Ayer, MA 01432 - 978.772.8220 X141



To: Sam Goodwin, Chairman – Ayer Zoning Board of Appeals

From: Alan S. Manoian, Dir. AOCED

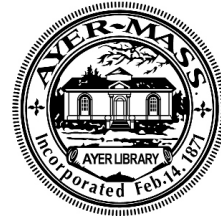
Date: 5/9/2022

Re: Request Placement on 5/18/22 Ayer Zoning Board of Appeals Agenda
re: Ayer (Downtown & West Ayer Village) Form-Based Zoning Code Re-Fresher
Presentation

As there are an increasing number of prospective developments being advanced in both the Downtown/Park Street Form-Based Code District & the West Ayer Village Form-Based Code District, the Dir. of the Ayer Office of Community & Economic Development (AOCED) requests placement on the upcoming 5/18/2022 Agenda of the Ayer Zoning Board of Appeals to provide a (15-20 minute) “Re-Fresher Presentation” on the Purpose of the FBC’s, How the Code functions “prescriptively”, and an update on some proposed amendments to the Downtown & West Ayer Village for the Ayer Fall Town Meeting.

The AOCED thanks the Ayer ZBA for consideration of this request for placement on the upcoming Agenda.

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



Recorded by APAC

Wednesday February 16, 2022
Open Session Meeting Minutes

Present: Samuel A. Goodwin Jr., Chair; Michael Gibbons, Vice-Chair; John Ellis; Jess Gugino; Ron Defilippo, Clerk (Entered at 6:12 PM)

Also Present: Carly Antonellis, Assistant Town Manager

Call to Order: S. Goodwin called the meeting to order at 6:06 PM. He stated that due to the ongoing COVID-19 Pandemic, in accordance with Chapter 20 of the Acts of 2021, 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 agenda. **By Roll Call Vote:** J. Gugino, aye; M. Gibbons, aye; J. Ellis, aye; S. Goodwin, aye. **Motion passed 4-0.**

Public Hearing - Application for Variance – Jeffrey & Andrea Greco - 37 Sandy Pond Road (Filed January 24, 2022): S. Goodwin opened the public hearing at 6:08 PM by reading the public hearing notice as advertised in the *Nashoba Valley Voice* on January 28, 2022 and February 4, 2022. The applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.2 to allow for 68.89 feet of frontage where 100' is required in the A2 District to raze current single-family home and construct new family home which will conform with all yard setback requirements. The ZBA was joined by Jeff and Andrea Greco, as well as Kevin Conover from David E. Ross Associates.

K. Conover stated that the existing lot has 69' feet of frontage. They wish to raze the existing house and built a new house further back on the lot. The new home will adhere to all the setback requirements, but they need a variance on the frontage requirement.

S. Goodwin asked if the lot was just subdivided? K. Conover stated that it was divided in September of 2021 under MGL c. 40A, sec. 81, which allows you to subdivide a lot with two structures, if they were in place prior to the implementation of zoning.

R. Defilippo entered at 6:12 PM.

M. Gibbons stated that this proposal will be a great improvement to the neighborhood, but the hardship was created in September when the applicant split the lot. K. Conover stated that the hardship was actually created in the 1950's when both the houses were built. He stated that the Planning Board approved the splitting of the lot in September. K. Conover stated that with two primary structures on one lot, you couldn't sell it because there is not a line division.

S. Goodwin asked why would you make such a small lot? He stated that there is no minimum lot size, and it relates to the current structure on Lot 1.

Building Commissioner Charlie Shultz stated that he did a lot of research on MGL 40A, sec. 81L. He is in favor of razing the current structure as it would be an improvement to the neighborhood.

J. Ellis stated that he has an aversion to making a non-conforming lot, more non-conforming. He had several follow-up questions about the lot subdivision. C. Shultz stated that by moving the house back on the lot, it'll actually become more conforming.

J. Gugino asked about the lot size and stated she was fine with the application, as it is an improvement to the neighborhood and does not increase density.

R. Defilippo said he hadn't studied the 81L statute and it was ok that we are moving in the conforming direction on this application.

S. Goodwin asked if there were any abutters?

Luanne Francis Picard, 39 Sandy Pond Road, stated she was very much in favor of moving the house back.

Pauline Conley, 40 Cambridge Street, stated she is not an abutter but very much in support of this application.

Motion: A motion was made by M. Gibbons and seconded by S. Goodwin to approve a variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.2 to allow for 68.89 feet of frontage where 100' is required in the A2 District to raze current single-family home and construct new family home which will conform with all yard setback requirements. **By Roll Call Vote:** J. Gugino, aye; M. Gibbons, aye; J. Ellis, aye; S. Goodwin, aye; R. Defilippo, aye. **Motion passed 5-0.**

Motion: A motion was made by S. Goodwin and seconded by J. Ellis to close the public hearing at 6:32 PM. **By Roll Call Vote:** J. Gugino, aye; M. Gibbons, aye; J. Ellis, aye; S. Goodwin, aye; R. Defilippo, aye. **Motion passed 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 November 17, 2021. **By Roll Call Vote:** J. Gugino, aye; M. Gibbons, aye; J. Ellis, aye; S. Goodwin, aye; R. Defilippo, aye. **Motion passed 5-0.**

The Board discussed a new meeting date for March due to a scheduling conflict with an upcoming budget forum. If needed, the Board will meet on Wednesday March 23, 2022.

Adjournment:

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to adjourn at 6:36 PM. **By Roll Call Vote:** J. Gugino, aye; M. Gibbons, aye; J. Ellis, aye; S. Goodwin, aye. **Motion passed 4-0.**

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

Date Minutes Approved by ZBA: _____

Signature of Clerk Indicating Approval: _____