

Town of Ayer

Zoning Board of Appeals

Ayer Town Hall - 1 Main Street - Ayer, MA 01432



Public Hearing Notice

TOWN OF AYER
TOWN CLERK

The Ayer ZBA will be conducting a hybrid public hearing at 6:00pm on Wednesday, February 21, 2024 at Ayer Town Hall, 1 Main Street, regarding an application per Section 7.4 of the Ayer Zoning Bylaw submitted by Ellyson Ross Stout for the property located at 52 Pearl Street Ayer, MA. The applicant is seeking a Variance from the Ayer Zoning Bylaw Section 6.2 Appendix B (Schedule of Dimensional Requirements) to allow for a 12 foot side setback where is 15 foot side setback is required to accommodate the construction of a deck. For Zoom/Call-In information please contact zba@ayer.ma.us or 978-772-8220 x 114.

Advertised: February 2, 2024 and February 9, 2024 - The Nashoba Valley Voice

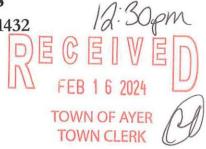


Town of Ayer

Zoning Board of Appeals

Ayer Town Hall – 1 Main Street – Ayer, MA 01432

Wednesday February 21, 2024 6:00 PM Hybrid Meeting Agenda



This meeting/hearing of the 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 Samantha Benoit, Administrative Coordinator at zba@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

6:00 PM

Call to Order

Approval of Agenda

<u>Public Hearing – Application for Variance – Ellyson Ross Stout</u> 52 Pearl St. (Filed January 19, 2024)

Affordable Housing Committee Working Group Presentation - Janet Providakes

Approval of Minutes

- December 20, 2023
- January 17, 2024

Board Discussion

- Special Permits
- Upcoming meetings and topics of discussion

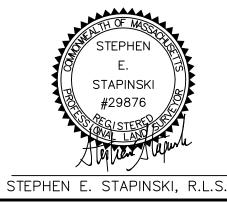
Adjournment



Town of Ayer ZONING BOARD OF APPEALS APPLICATION FOR A HEARING

Name of Applicant:	Ellyson	Ross S	Hout			1
	3		(Full Na	ame)		
	52 Pear	1 Strust	Ayer	AM,	01432	
			(Addre	ss)		
	1.		(Phone	Number)		
	_					
			(Email	Address)	100	
~		34				
Applicant is: *If you are a tenant, licens						
acknowledging the applic				ice from a	ie property ow	The I
The name and addre this petition (list as i Modthew W. H	t appears on	the Deed):			1	subject of
Location of Property		J				
52 Pearl	Street, A	yer, m	A 041	32		Water trade of the state of
Assessor's Map 19		Parcel_	0_	Land Si	ze 0.31 /	Acres
Zoning District: Circle One	A-1 (A-2)	GR GB	DB	Ц	I MUT	HCS
Registry of Deeds Bo	ook 67552	Page(4			
on the state of th				con 9-\$()		
Aquifer Protection C	verlay Distri	ct (circle one) Zone	1	Zone II	(N/A)
	AND THE REAL PROPERTY OF THE PARTY OF THE PA		*** TOTAL TO	201	APRILITATION OF THE PERSON OF	

		ned hereby petitions the Town of Ayer Zoning Board of Appeals to vary the Zoning Bylaws for the following purpose:
	X	A VARIANCE from the requirements of the Town of Ayer Zoning Bylaws
	Annual territory of the second	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 reque	est a building permit from the Town of Ayer Building Inspector?
		ou denied a permit by the Town of Ayer Building Inspector? ed a permit, please attach a copy of the decision from Building Commissioner's Office.
	State briefly the Ayer Zon	the reasons for application and include the appropriate citation(s) from ing Bylaw:
-	De request	a variance from the required property line setback for our
P	roposed a	addition. Per Ayer Zoning Bylaw Section 6.2/Appendix B, our
r	buse (Resi	dence A-2) requires a 15-foot side setback from the property line
١	orner of	a 3-foot (36inch) variance to accommodate the the proposed deck and Hairs (as depicted in the attached plan)
	Date: 1/19	12024 Signed by Mycon Stown (Petitioner)
	ř.	(Daytime Phone Number)
		(Email)
		4 2



9/19/23 DATE

AYER, MASSACHUSETTS 01432

DATE: SEPTEMBER 19, 2023

SCALE: 1"=40'



66 PARK STREET

ANDOVER, MASSACHUSETTS 01810 PHONE: (978) 475-3555

FAX: (978) 475-1448 EMAIL: MERRENG@AOL.COM

Re: 52 Pearl Street easement question

From: Mike Wallace (mwallace@ayer.ma.us)

To:

Date: Monday, December 18, 2023 at 01:58 PM EST

Good morning, Ellyson. It is still my interpretation that you only meet the 15' side yard setbacks. -Mike

Michael J Wallace Zoning Enforcement Building Department 1 Main Street Ayer Town Hall

From: Ellyson Stout

Sent: Thursday, December 14, 2023 9:55 AM

To: Mike Wallace <mwallace@ayer.ma.us>
Cc: Samantha Benoit <building@ayer.ma.us>
Subject: Re: 52 Pearl Street easement question

Hi Mike,

Thank you again for your advice on the variance we would need for our project. Our architect has one other question that I am hoping you can confirm: she pointed out that the right-of-way next to our property is labeled on our plot plan as 'Howard Street (undeveloped)'. I just wanted to confirm with you that the setback required is NOT based on that being a street (in which case we understand the required setback would be 20' instead of 15')?

Thanks for your help confirming this! -Elly

On Tuesday, December 5, 2023 at 11:12:07 AM EST, Mike Wallace <mwallace@ayer.ma.us> wrote:

Elly, its a huge step that you already have had your lot surveyed. The Zoning Board of Appeals (ZBA) will require it. You can go to the ZBA to ask for a variance to grant you the 1.54' of setback you will need from the corner of the proposed deck to the lot line. It looks like the corner of the landing from the deck encroaches even more, though. Maybe speak with your architect to double check that you ask for enough distance. If the ZBA grants your variance, then you can go ahead and fill out a building permit application to the Building Department. Thank you, Elly and good luck with moving forward with your project. - Mike

you can find information to contact the ZBA on the town website

Michael J Wallace Zoning Enforcement Building Department

1 of 3 1/19/2024, 10:03 AM

|| T1

Addition to the Elly Stout and Matt Henderson Residence 52 Pearl Street, Ayer, MA 01432

Variance Submission

Drawing Schedule

T1 Cover Sheet

T2 GIS Information Plan from Mass Mapper

C1 Site Survey

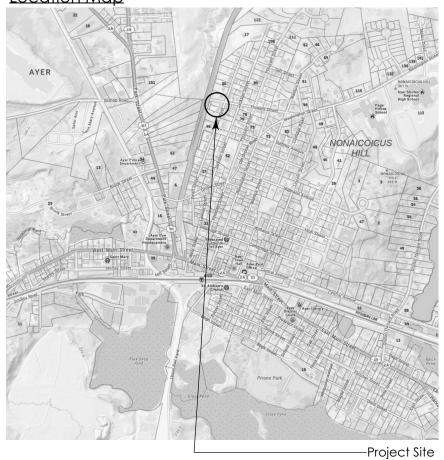
EX Existing Floor Plan and Photos

A1 Floor Plan - Proposed

A2 Exterior Elevations - Proposed

A3 Perspectives - Proposed

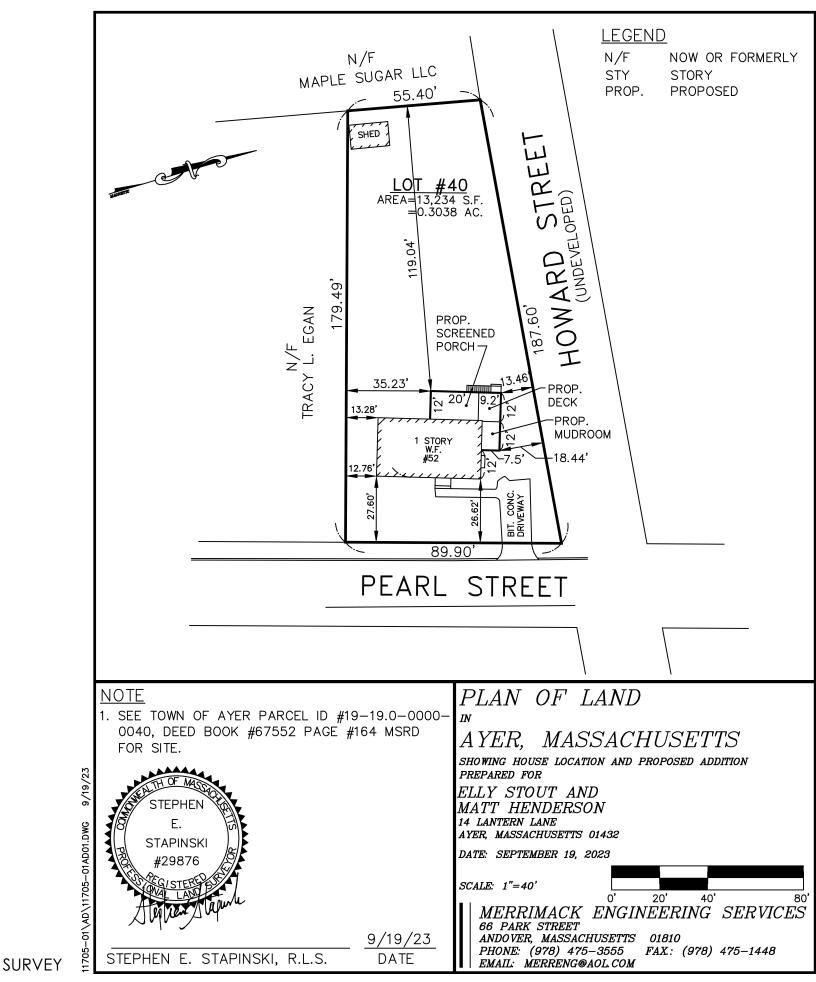
Location Map



Date: 1/17/2024

TC





Residence

Date: 1/17/2024

SITE SURVEY



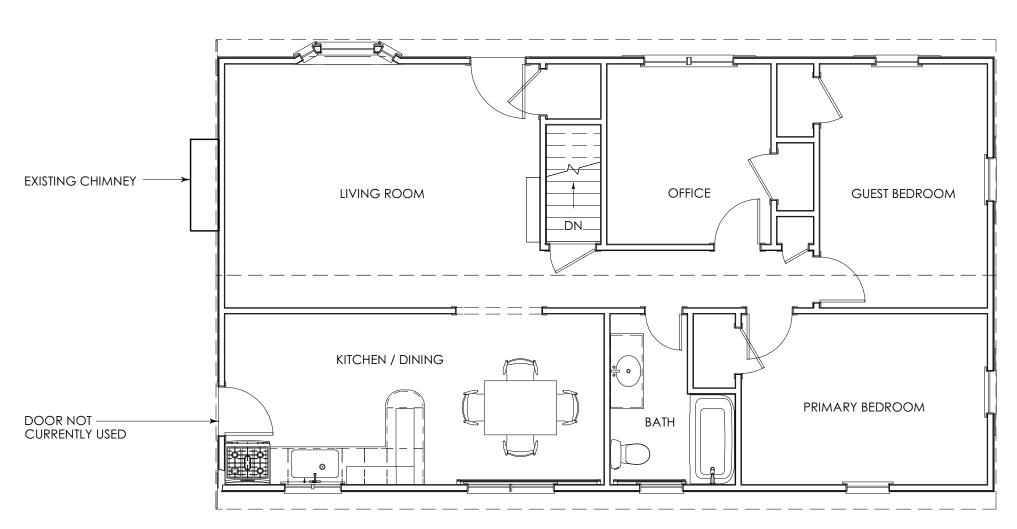






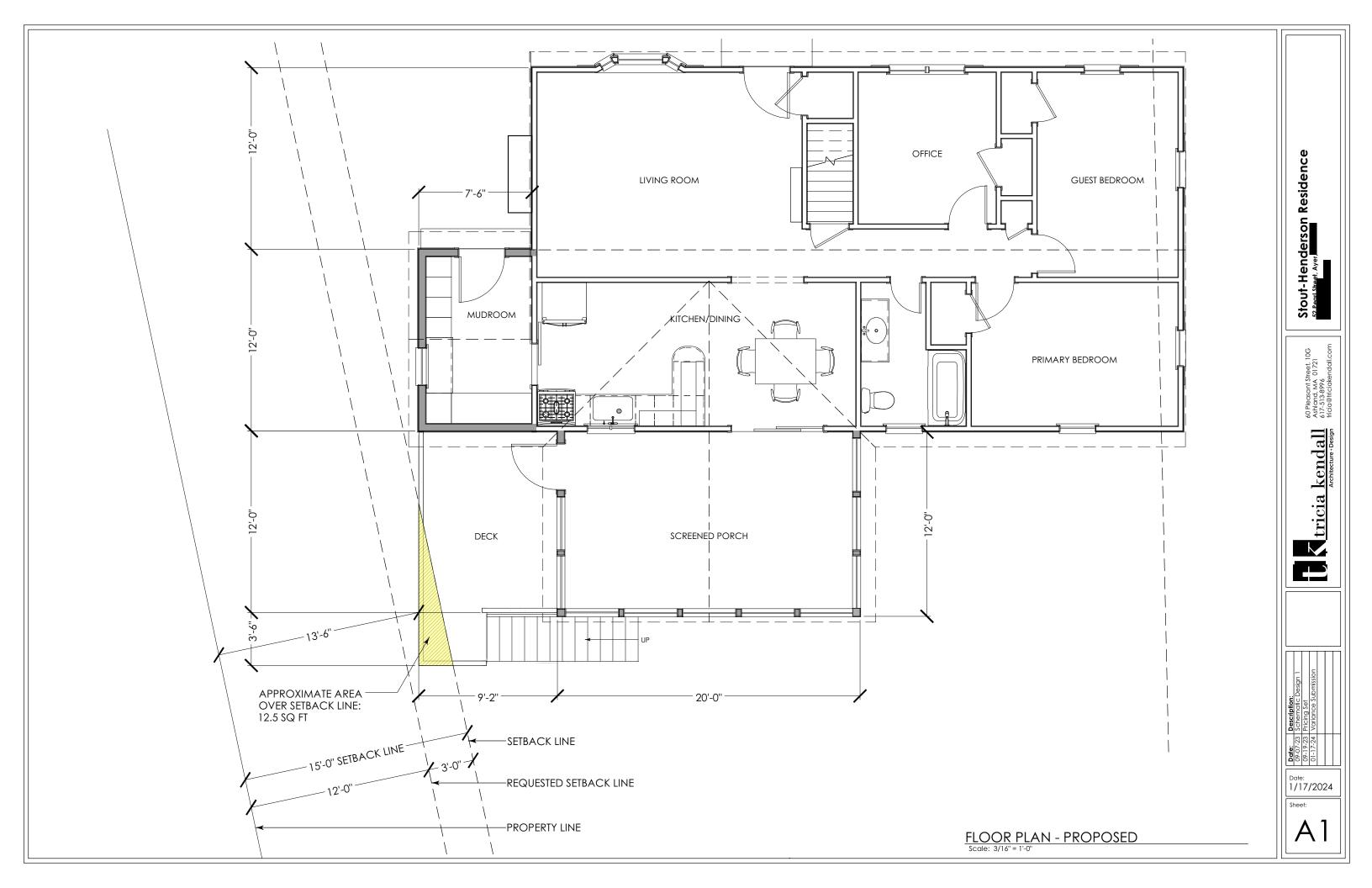
EXISTING CONDITIONS PHOTOGRAPHS
Scale: 3/16" = 1'-0"

STREET SIDE



BACKYARD

FLOOR PLAN - EXISTING





Date: 1/17/2024

A3







PERSPECTIVES Scale: N.T.S

Department Head Review Summary

Applicant: Ellyson Ross Stout

Address: 52 Pearl St. Application for: Variance

Department	Comments		
Town Manager	Defer to ZBA		
Board of Health	No issues as long as property is on Town sewer and water.		
Department of Public Works	DPW does not have any comments or concerns with this proposed variance.		
Fire Department	No fire department issues.		
Police Department	Police Dept. has no concerns and defers to ZBA.		
Building Commissioner/Zoning Enforcement Officer	No issues defer to neighbors.		
Conservation Commission/Agent	There are no wetlands on the property or adjacent properties. Therefore, the commission does not have any jurisdiction on this property.		
Treasurer/Tax Collector	No Comment.		
Town Clerk	No Issues.		
Assessor	No Comment.		
Economic & Community Development	Recommends Approval		
Town Planner	My recommendation to the ZBA would be to approve the variance. I support the applicants proposed design and application.		

Wednesday December 20, 2023 Hybrid Open Session Meeting Minutes

This meeting was recorded by APAC.

Present: Samuel Goodwin, Chair; Ronald Defilippo, Clerk; Jess Gugino (via Zoom); John Ellis

Absent: Michael Gibbons, Vice-Chair; Marilyn Schmalenberger, Alternate Member

Also Present: Samantha Benoit, Administrative Coordinator; Danny Ruiz, Town Planner

Call to Order: S. Goodwin called the meeting to order at 6:00pm. He stated that this meeting/hearing of the 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 Samantha Benoit, Administrative Coordinator at zba@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

Approval of the Agenda: S. Goodwin made a motion to approve the agenda as written.

Seconded: J. Ellis

Roll Call Vote: J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (4-0)

Town Manager, Robert Pontbriand, introduced Danny Ruiz, the Town Planner, to the Board. D. Ruiz was hired in July 2023, and has previously worked in the Town of Salisbury. He is willing to work with the Board as a resource for future projects.

Continued Public Hearing – Application for a Special Permit – North Country Developers – 71 Sandy Pond Rd. (Filed September 28, 2023)

Kevin Conover sent an email to the Board on behalf of his client to continue the hearing until the meeting scheduled for January 17, 2024.

Motion: S. Goodwin made a motion to continue the Public Hearing until January 17, 2024 at the applicant's request.

Seconded: J. Ellis

Roll Call Vote: J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye. **Motion Passed (4-0)**

Public Hearing – Application for Special Permit – Alexandria Goldinak – 42 Park St. (Filed November 27, 2023)

S. Goodwin opened the Public Hearing at 6:11pm by reading the public hearing notice as published in the Nashoba Valley Voice on December 1, 2023 and December 8, 2023. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw Section 7.3.B to allow for the construction in the front setback.

Alexandria Goldinak and Justine LeClair were both present and requested a continuance until the January 17, 2024 meeting.

Motion: S. Goodwin made a motion to continue the Public Hearing until January 17, 2024 at the applicant's request.

Seconded: J. Ellis

Roll Call Vote: J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (4-0)

S. Benoit gave an update from Habitat for Humanity. The Building Commissioner further reviewed the Zoning Bylaws, and it was determined that they would not be required to have a commercial space on the first floor. They will not be coming before the Board for that request.

Motion: S. Goodwin made a motion to accept the minutes of November 15, 2023 as amended.

Seconded: J. Ellis

Roll Call Vote: J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (4-0)

Board Discussion:

The Board continued its discussion of its Rules and Procedures, and the updated Hearing Application. The Board would like to table the discussion and vote until all Board members are present.

The Board held a general discussion about building and population density. R. Defilippo and J. Gugino both expressed concerns about the size of the town and the increases in buildings. Ken Diskin explained that this has been a topic of discussion with other Board and organizations in town, including the Affordable Housing Trust and Planning Board.

Motion: S. Goodwin made a motion to adjourn the meeting.

Seconded: J. Ellis

Roll Call Vote: J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (4-0)

Meeting Adjourned at 6:56pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator
Date Minutes Approved by the ZBA:
Signature of ZBA Clerk, Indicating Approval:

Wednesday January 17, 2024 Hybrid Open Session Meeting Minutes

This meeting was recorded by APAC.

Present: Samuel Goodwin, Chair; Michael Gibbons, Vice-Chair; Ronald Defilippo, Clerk; Jess Gugino (via Zoom); John Ellis; Marilyn Schmalenberger, Alternate Member

Also Present: Samantha Benoit, Administrative Coordinator; Danny Ruiz, Town Planner

Call to Order: S. Goodwin called the meeting to order at 6:00pm. He stated that this meeting/hearing of the 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 Samantha Benoit, Administrative Coordinator at zba@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

Approval of the Agenda: M. Gibbons made a motion to approve the agenda as written.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Town Manager, Robert Pontbriand, introduced Danny Ruiz, the Town Planner, to the Board. D. Ruiz was hired in July 2023, and has previously worked in the Town of Salisbury. He is willing to work with the Board as a resource for future projects.

Continued Public Hearing – Application for a Special Permit – North Country Developers – 71 Sandy Pond Rd. (Filed September 28, 2023)

Kevin Conover, from David E. Ross Associates, represented the applicant. He gave an overview of the request in which the applicant is seeking a Special Permit to build two two-family homes on two lots. The Board has previously asked that the hearing be continued so that an ANR may be submitted to the Planning Board. A portion of the proposed work will be in the buffer zone and the applicant has already been before the Conservation Commission. The proposed plan will have the new home tied into the Town Sewer and Water.

- J. Ellis asked if there would be one two-family unit on each lot, and why the tax bill was in the previous owner's name.
- K. Conover confirmed that is the plan and there will also be less pavement on the property, and the owed taxes have been paid.
- J. Ellis asked if these homes would be managed by a company or an individual.
- K. Conover explained that the units would be sold individually, but there may be an association.
- R. Defilippo expressed concerns about the height.
- K. Conover noted that the building falls within the height requirements of the Town.
- J. Gugino noted that about the current water restrictions and the increased density of the area.
- K. Conover explained that the DPW would have commented if the the construction of the two two-family homes would impact the water restrictions. He also noted that Samantha Ln. and Cannongate are nearby, and both developments have multi-family homes.
- M. Gibbons discussed the list of requirements for Special Permits as provided by the Zoning Bylaws. He felt that this project met all the requirements of a Special Permit.
- M. Schmalenberger commented that she felt the proposed buildings were out of character of the surrounding neighborhood as many homes are single-family homes.

The Hearing was opened to public comment.

Pauline Conley recommended that the Board look at the most recent water report from the DPW if they have concerns about water capacity. She also feels that this project will be an improvement of what already exists.

Ken Diskin explained to the Board that two-family homes are allowed in that area, but only with a Special Permit. He also noted that 35% of water usage in Town is used by residents.

Geof Tillotson noted that there are many multi-family homes in the area around the proposed project.

Motion: M. Gibbons made a motion to approve a Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.2 (Table of Use Regulations – Residential Uses) to allow two 2-family dwellings in the A-2 district for the property located at 71 Sandy Pond Rd.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, nay; R. DeFilippo, nay; J. Ellis, aye; S. Goodwin, aye. **Motion Failed (3-2)** (4 out of 5 votes in the affirmative for a Special Permit)

The Board discussed reasons for denial being the increase in density, traffic, access to utilities, and the character of the neighborhood.

Motion: S. Goodwin made a motion to close the Public Hearing.

Seconded: M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Continued Public Hearing – Application for Special Permit – Alexandria Goldinak – 42 Park St. (Filed November 27, 2023)

Alexandria Goldinak, the applicant, and Justin LeClair, of McCarty Engineering were both present. The applicant is looking to add an addition and rehab the existing structure. The existing home was built within the front setback to attach the old structure to the new structure they will have to build within the front setback 35 square feet.

This project has already gone before the Planning Board for Site Plan Review and Stormwater. The proposed project will have a first-floor commercial space and the second floor will have residential units.

- J. Ellis asked what the existing front setback is.
- J. LeClair believes it is 2.5 feet, but the property does meet the side setback requirements.
- J. LeClair further explained that this project will be adding a new business and cleaning up the property. The was also a recent site walk with the Conservation Commission in which more debris was found on the property.

A. Goldinak also explained that the back taxes will be paid upon closing, and they will maintain the existing utilities.

- R. Defilippo noted that the building next door is partially on this property and is owned by another person.
- J. LeClair explained that all parties are aware of this.
- R. Defilippo also asked if the existing home is to be demolished.
- J. LeClair explained that the existing home will be given a facelift but not demolished.

Motion: M. Gibbons made a motion to approve a Special Permit pursuant to Ayer Zoning Bylaw Section 7.3.B to allow for the construction in the front setback for the property located at 42 Park St.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye. **Motion Passed (5-0)**

Motion: S. Goodwin made a motion to close the Public Hearing at 6:44pm.

Seconded: M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Board Discussion:

The Board made final comments on the Rules and Procedures, and the Hearing Application.

Motion: S. Goodwin made a motion to approve the Rules and Procedures as submitted.

Seconded: M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Motion: S. Goodwin made a motion to approve the Hearing Application as submitted.

Seconded: M. Gibbons

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

The Board discussed potential future items for the Board to discuss. It was requested that the hearing application fee of other towns be investigated and reviewed.

The Board also requested that Danny Ruiz, Town Planner, come to the next meeting to give a presentation on Special Permits.

The Board continued their discussion of density and population growth within the Town.

Motion: M. Gibbons made a motion to adjourn the meeting.

Seconded: J. Ellis

Roll Call Vote: M. Gibbons, aye; J. Gugino, aye; R. DeFilippo, aye; J. Ellis, aye; S. Goodwin, aye.

Motion Passed (5-0)

Meeting <i>F</i>	ldjourned	∣at 7:49 _l	pm
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Minutes Submitted by Samantha Benoit, Administrative Coordinator
Date Minutes Approved by the ZBA:
Signature of ZBA Clerk, Indicating Approval: