



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



Wednesday December 21, 2022
6:00 PM
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 Samantha Benoit, Administrative Coordinator at sbenoit@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

6:00 PM **Call to Order**

Approval of Agenda

Public Hearing – Application for a Special Permit – Evelio Herreros
8 Rosewood Ave. (Filed November 2, 2022)

6:10 PM **Public Hearing – Application for a Variance – Teddy's Honey Hut**
27 Harvard Rd. (Filed November 7, 2022)

6:13 PM **Public Hearing – Administrative Appeal – Theodore Maxant**
27 Harvard Rd. (Filed November 15, 2022)

6:15 PM **Continued 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/40b

Approval of Meeting Minutes
November 16, 2022 & November 30, 2022

Adjournment

The next regularly scheduled ZBA Meeting is Wednesday January 18, 2023 at 6:00 PM
via remote participation.

1:30 pm
RECEIVED
NOV 28 2022

CT

TOWN OF AYER
TOWN CLERK

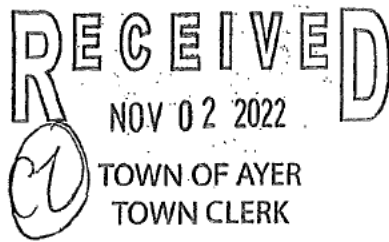
Town of Ayer
Zoning Board of Appeals
Public Hearing Notice



The Ayer ZBA will conduct a remote public hearing at 6:00 PM on Wednesday December 21, 2022 regarding an application by Evelio Herreros, for property located at 8 Rosewood Ave. Ayer, MA. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw Section 5.2.1.10 (Table of Use Regs.) to permit a home occupation (landscaping) in residential zone A-2. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

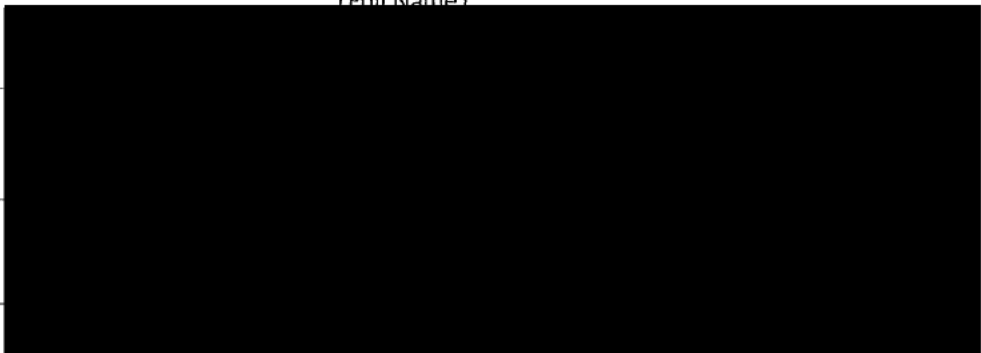
Advertised December 2, 2022 and December 9, 2022, *The Nashoba Valley Voice*

10:50am



Town of Ayer
ZONING BOARD OF APPEALS
APPLICATION FOR A HEARING

Name of Applicant: Evelio Herrerias
(Full Name)



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: _____

Assessor's Map _____ Parcel _____ Land Size _____

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

Registry of Deeds Book 66195 Page 539

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? _____

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:

Section 5-2 Table use regulations. Class of use 1.10

Home occupation is residential zone. A-2 requires SPZ

Any home occupation that requires outdoor equipment to be stored in yard needs Special Permit. Commercial vehicles more than 1. need special permit.

Date: 11-2-2022

Signed by ~~Evelio Herrera~~
(Petitioner)



RECEIVED
NOV 02 2022

W.D. Ham
CO
TOWN OF AYER
TOWN CLERK

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT



ZONING/BUILDING DEPARTMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

October 26, 2022

RE: Zoning Violation
Mo and D Landscaping



Violation/s: 4

1. Section 5.2 Table Use Regulations

Class of use 1.10 Home occupation in Residential Zone A-2 requires SPZ (Special Permit by Zoning Board)

2. Section 5.3.2 Residential Accessory Uses

A. An accessory building, such as a garage for parking and storage of up to three (3) vehicles, not more than one shall be for commercial use; including a barn or shed.

3. HOME OCCUPATION (definitions) An occupation conducted as an accessory use in an owner-occupied dwelling or detached structure, by the resident owner or members of the owner's family. Any home occupation that requires outdoor equipment to be stored in the yard must obtain a Special Permit from the ZBA (Zoning Board of Appeals), with the exception of Class II vehicles and one-ton pick-up trucks, as approved by the Building Commissioner.

Section 3.1.F gives you the right to appeal my decision.

Section 3.1.H Noncriminal Disposition. Pursuant to Provisions of G.L. c. 40, ss 21D, each day on which your violation continues shall be deemed to be a separate offense. The penalty for violation of any provision of the Bylaw shall be \$25 for the first offense; \$50 for the second offense; \$100 for the third offense; and \$200 for the fourth and each subsequent offense.

You have 30 days (November 26) to comply before being subject to fines.

If you have any questions, please contact me at 978-772-8214 ext 4 between the hours of 8 a.m.

and 11 a.m. on Mondays and Tuesdays.

A handwritten signature in black ink, appearing to read "Michael J. Wallace". The signature is fluid and cursive, with the first name being the most prominent.

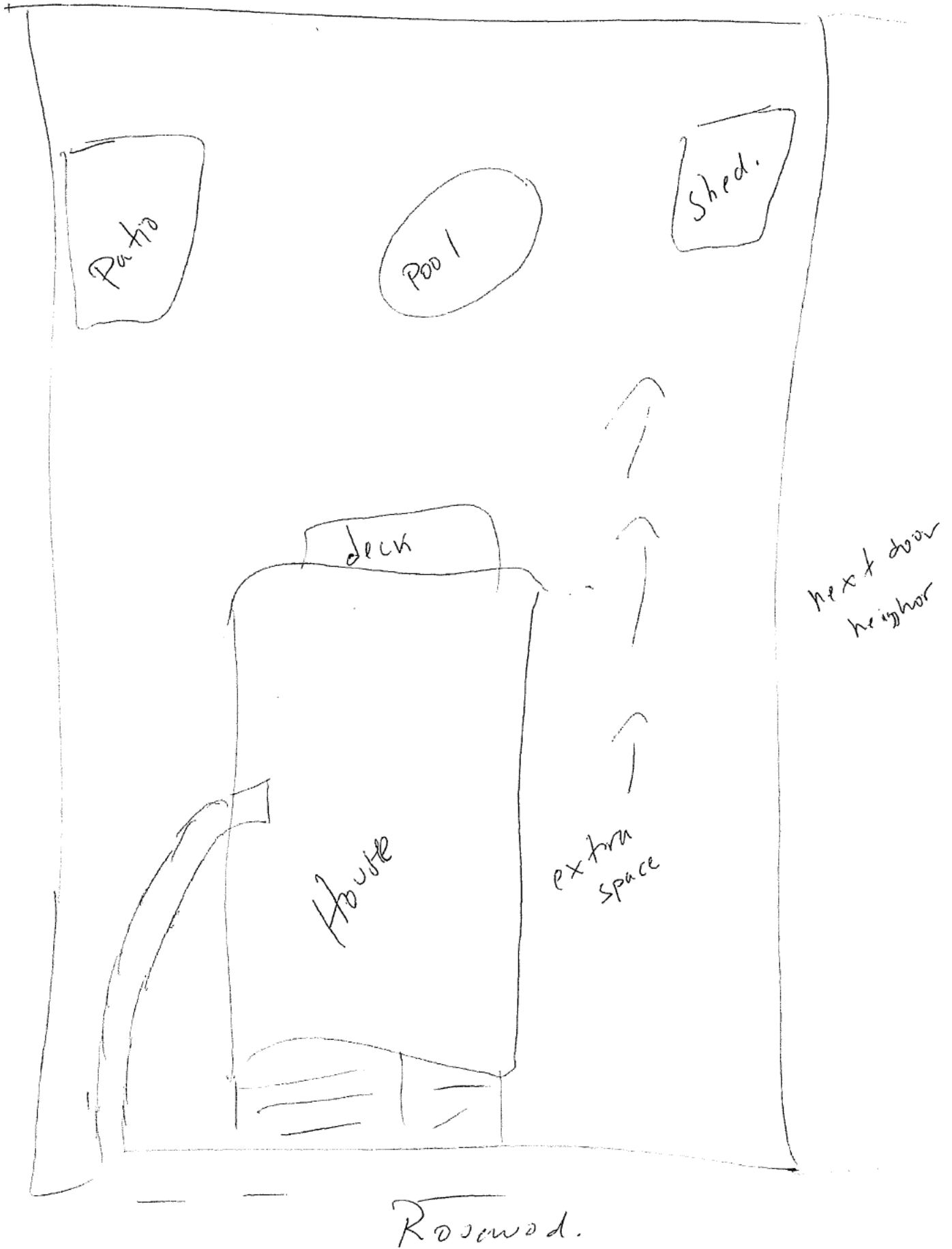
Michael J. Wallace
Assistant Building Inspector/Zoning Enforcement

Copy: Town Manager's Office
File

8 Rosewood ave Ayer

My name is Evelio Herreros and I reside at [REDACTED]
My wife and myself run a landscaping company. We started very small and slowly want to grow enough to eventually move the equipment part of business to a different location. As of now we store 2 comercial trucks, 1 for regular daily business which is a GMC 3500 and the second one a GMC Sierra 2500 that I use a back up 50% to 60% of the time and serves as my personal use as well. Also a Toyota suv which is my wife's full time personal. Both trucks came with plow and those get stored in back of property by shed for 9 to 10 months, second one is back up as we have run into mechanical problems in the past. We have 2 trailers one we use more than the other for landscaping equipment and second one as back up or when I do small walkways since is a closed trailer. We have 2 blowers, 2 comercial mowers, trimers, a small snow blower, and I just started Hydro seeding so I got a tank for that. Most of it fits in one of the garage or out side in the shed and gets pulled out depending on what time of the year it is. I am registered with the state as a corporation as of 6/2/2022, before that as a dba. I do mowing, form June to October. Fall clean up from October to December. Plowing in winter. Spring clean up, power wash decks, patios if customers ask. The rest of some of the equipment is rented local at Moore's or Home Depot. If any questions I can be reached at [REDACTED]
Evelio Herreros

8 Roswood ave





Town of Ayer
Zoning Board of Appeals
Department Head Review Summary

Application for Special Permit – 8 Rosewood Ave.

Department	Comments
Town Manager	Defer to ZBA
Board of Health	Will any chemicals be stored on the property- such as weed killers, pesticides, salt, etc... Will landscaping materials be stored on the property – mulch etc.
Department of Public Works	No issues for DPW
Police Department	Parking plan is not identified/clear. Concerned w/parking and street parking.
Fire Department	No Fire department issues.
Building Commissioner/Zoning Enforcement Officer	Up to the neighbors
Conservation Commission	Property is outside the commission's jurisdiction.
Treasurer/Tax Collector	No Comment
Town Clerk	No issues with clerk's office.
Assessor's Office	No Comment
Economic & Community Development	Recommends Denial
Town Planner	

Gary E Warren



To: Zoning Board of Appeals, Town of Ayer, MA

Re: Evelio Herreros, 

Date: December 9, 2022

My name is Gary Warren. I live at 14 Rosewood Avenue and I am responding to Evelio Herreros's request for a special permit for a home occupation (landscaping).

As a neighbor and an abutter, I have no objection, complaints or concerns and wish him the best of luck in his endeavors.

Mr. Herreros maintains his property and his spring flower garden adds beauty to the neighborhood.

Thank you,

Gary Warren

3:30 pm
RECEIVED

NOV 17 2022

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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 6:10 PM on Wednesday December 21, 2022 regarding an application by Teddy's Honey Hut, for property located at 27 Harvard Rd. Ayer, MA. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw Section 9.5.5 part 1 to allow for 3 signs on the existing canopy. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised December 2, 2022 and December 9, 2022, *The Nashoba Valley Voice*

RECEIVED

NOV 23 2022

10:40am

TOWN OF AYER
TOWN CLERK



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



Amended

The Ayer ZBA will conduct a remote public hearing at 6:10 PM on Wednesday December 21, 2022 regarding an application by Teddy's Honey Hut, for property located at 27 Harvard Rd. Ayer, MA. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 9.5.5 part 1 to allow for 3 signs on the existing canopy. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised December 2, 2022 and December 9, 2022, *The Nashoba Valley Voice*

8:36am

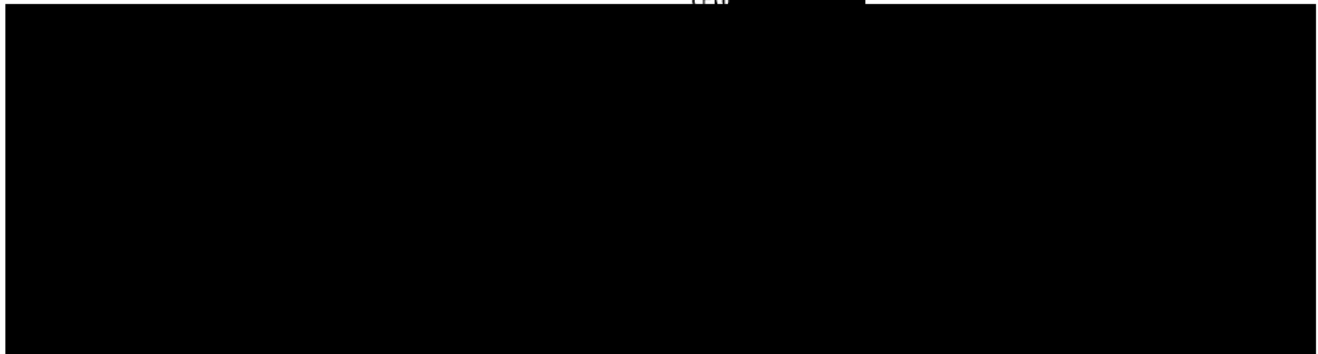


RECEIVED
NOV 07 2022
TOWN OF AYER
TOWN CLERK

Town of Ayer
ZONING BOARD OF APPEALS
APPLICATION FOR A HEARING

Name of Applicant:

29 Harvard Road LLC (dba teddy's Honey Hut)
(Full Name)



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):

29 Harvard Road LLC 53 Willard Lane Still River, MA 01467

Location of Property:

27 Harvard Road

Assessor's Map 035.0 Parcel 0035000021 Land Size 5.3 AC

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

Registry of Deeds Book 76461 Page 90

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:

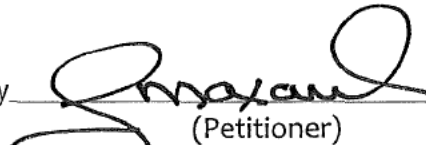
- A VARIANCE from the requirements of the Town of Ayer Zoning Bylaws
- A SPECIAL PERMIT for a specific use which is subject the approval of the Zoning Board of Appeals
- A SPECIAL PERMIT to expand, alter, or change a non-conforming use or structure.
- ADMINISTRATIVE APPEAL (i.e. Building Inspector Decision)

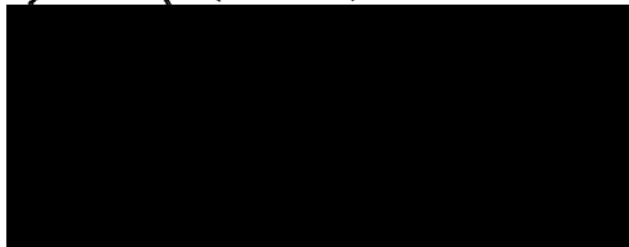
Did you request a building permit from the Town of Ayer Building Inspector? No

If yes, were you denied a permit by the Town of Ayer Building Inspector? _____
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:

RELIEF from section 9.5.5 part 1
Application is for 3 signs on the existing
Canopy - 1 Facing South on Road to Harwood 1
Facing North to traffic circle 1 facing east to
GLOBAL GAS station.

Date: Nov 04 2022 Signed by 
(Petitioner)



ZBA
AYER, MA

REF: teddy's HONEY HUT SIGNAGE

HISTORY

The main purpose of acquiring this property from Global Energy was to establish a retail outlet for the sale of honey. Upon transfer of title the first objective was to clean up the problems left behind by Global.

After remediation of the building as it existed, the problem to solve was how to make this former gas station more attractive in appearance.

The long blank surfaces of the canopy were a distraction. A talented designer suggested decals with bees and hives.

PERMIT

In November of 2021 the first application was made for a sign permit. To support the request a second application was submitted to the ZBA in the same month. In April of 2022 the second application remained unopened and the check for \$165 uncashed, Therefore a third sign permit was submitted in May of 2022. No response was received until November 2022. A fourth application for signage was submitted in November 2022

REQUEST

The applicant desires that the three decals "teddy's HONEY HUT" on the three large canopy surfaces be permitted. The applicant suggests that these decals are iconic, present the existing building in a new and fresh form, are necessary for traffic safety, and help create the revenue necessary to support the property tax burden.

The applicant suggests that the affirmative decision is not precedent setting in that many business properties in the GB district have multiple signage.

Sincerely
teddy's HONEY HUT



From: theodore maxant tmaxant@me.com
Subject: Hut
Date: November 17, 2022 at 12:46 PM
To: theodore maxant tmaxant@me.com



Northbound:

The canopy signage gives motorists ample time to apply turn signals.

This particular section of road is compromised by the permitting of a mega gas station without turning lanes. At times the turning traffic is fierce.

This applies to both directions of travel for the approaching motorist that may unfamiliar just where teddy's HONEY HUT is located.

Rear end collisions may be a possibility with lack of advance notice signage.



Reddy's HONEY HUT

Reddy's HONEY HUT

ALBANY fresh

FRESH FOOD CHOICES - MADE TO ORDER

Regular

4.69

Diesel

6.09

BULK ~~DEP~~ HERE



Town of Ayer
Zoning Board of Appeals
Department Head Review Summary

Application for Variance – 27 Harvard Rd. – Teddy’s Honey Hut

Department	Comments
Town Manager	Defer to ZBA
Board of Health	D-Box for septic system still need to be replaced.
Department of Public Works	No concern for DPW
Police Department	No comment at this time
Fire Department	No fire department issues
Building Commissioner/Zoning Enforcement Officer	
Conservation Commission	No comment. Outside commission’s jurisdiction.
Treasurer/Tax Collector	No comment
Town Clerk	No issues with clerk’s office
Assessor’s Office	No comment
Economic & Community Development	Strongly recommends denial to allow three signs. This site should have and must proceed with a site plan review from the Planning Board.
Town Planner	I’m fine with the granting the Special Permit for signage on his existing canopy. I will have further comments on other aspects of the site later.

1:30 pm
RECEIVED
NOV 28 2022

CO

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 6:13 PM on Wednesday December 21, 2022 regarding an application by Theodore Maxant, for property located at 27 Harvard Rd. Ayer, MA. The applicant is seeking an Administrative Appeal to overturn the Ayer Zoning/Building Department classification of Flagg Welding under Section 6.2 in the Ayer Zoning Bylaw Table of Use and classify instead under Section 5.9. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

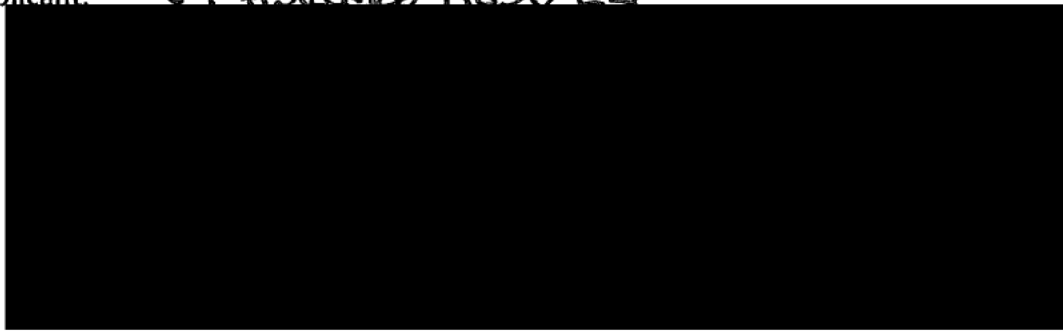
Advertised December 2, 2022 and December 9, 2022, *The Nashoba Valley Voice*

2:10pm
RECEIVED
NOV 15 2022
TOWN OF AYER
TOWN CLERK



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

Name of Applicant: 29 Howard Road LLC



(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:



Assessor's Map 035.0 Parcel 03500021 Land Size 5.3 AC

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

Registry of Deeds Book 76461 Page 90

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.

X _____ ADMINISTRATIVE APPEAL (i.e. Building Inspector Decision)

Did you request a building permit from the Town of Ayer Building Inspector? _____

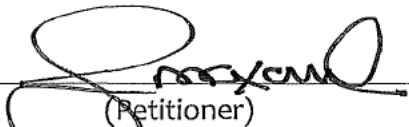
If yes, were you denied a permit by the Town of Ayer Building Inspector? _____

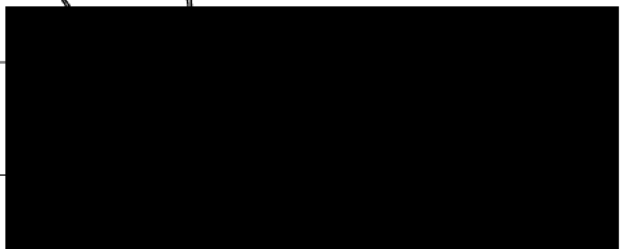
If you were denied a permit, please attach a copy of the decision from Building Commissioner's Office.

State briefly the reasons for application and include the appropriate citation(s) from the Ayer Zoning Bylaw:

Overturn zoning/building department
classifying flag welding 6.2 as a
fabrication factory & place flag in
section 5.9 sale of custom goods mfg
on the premises

Date: Nov 15 2022

Signed by 
(Petitioner)



From: **theodore maxant** tmaxant@me.com
Subject: **Flagg**
Date: **May 10, 2022 at 8:27 AM**
To: **Ted Maxant** tmaxant@mac.com



This is 5.9
custom goods only
on
onemisis

**27-29 Harvard Road LLC
PO Box 454
Ayer, Ma. 01432**

Michael Wallace
Zoning Dept
Ayer Ma.

Dear Michael

See below definition of a fabrication shop.

describe fabrication shop - Saferbrowser Yahoo Search Results

describe fabrication shop

kaast-usa.com · 6-machine types that every

6 machine types that every fabrication shop needs

- Hydraulic Press Brakes. Hydraulic press brakes offer accuracy and versatility for bending simpl...
- Swing-beam Shears. Shears are a cost-effective cutting solution because they are fast to set-u...
- Ironworkers. A KAAST ironworker can be the "Swiss Army Knife" of your machine shop — with ...
- Plate Rolls. Plate rolls are designed to quickly and efficiently transform flat sheet metal into cyl...

What is the meaning of fabrication shop?

Fabrication uses semi-finished or raw materials to make something from start to finish, as opposed to simply assembling it. This work is typically completed by a fabrication shop (or fab shop) that will bid on the contract for the job based on engineering drawings and specifications.

Mr Flagg has no Press Brakes, No shears, No Plate Rollers and does not work from engineered drawings.

Mt Flagg is a small custom goods shop (400 sq ft) providing hand made items. Section 5.9 allowed use in the GB (commercial) zoning

Theodore Maxant

From: theodore maxant tmaxant@me.com
Subject: Fab
Date: November 15, 2022 at 11:06 AM
To: Ted Maxant tmaxant@mac.com



This a Fabrication Factory.
SECTION 6.2



Town of Ayer
Zoning Board of Appeals
Department Head Review Summary

Application for Administrative Appeal – 27 Harvard Rd. – Flagg Welding

Department	Comments
Town Manager	Defer to ZBA
Board of Health	Current septic system did not pass Title 5 inspection. BOH needs list of all business in facility and use of each business.
Department of Public Works	Only concern is proximity to Woodlawn Cemetery and any nuisance that may cause.
Police Department	No comment at this time
Fire Department	No fire department issues
Building Commissioner/Zoning Enforcement Officer	Please see attached letter refuting the applicant's reasoning for appeal. I have also included 7 notices of violations for this property from the Building Dept. 1 from Planning and 1 from BOH.
Conservation Commission	The property does have wetlands, buffer zone, and flood plain on it. I feel it is important to have more details and an understanding of what is being done on site to ensure no wetlands violations are occurring.
Treasurer/Tax Collector	No comment
Town Clerk	I defer to the ZBA for decision
Assessor's Office	No comment
Economic & Community Development	Strongly supports the determination of the Code Enforcement Officer. Recommends denial of appeal. This site should have and must proceed with site plan review through the Planning Board.
Town Planner	



ZONING/BUILDING DEPARTMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

December 13, 2022

Re: Maxant's Appeal

Dear Mr. Chairman and Board Members,

We do not believe Mr. Maxant's assertion that the Welding company should be classified under Section 5.9, Sale of custom goods manufactured on the premises, and that it belongs under Section 6.2, enclosed manufacturing, processing, assembly, and fabrication.

To Manufacture custom goods on site for sale means you must first fabricate them to assemble them. The Town's definition in Section 2 states in part, Manufacturing includes but is not limited to the processing and fabrication of metal products. Which is what Section 6.2 is saying, more so than Section 5.9.

Section 1 #1.5 states in part, the most restrictive or the one imposing the highest standard shall govern. Which would also be Section 6.2.

Mr. Maxant references a Manufacturing Factory in his evidence, we are not insinuating that the welding company is a factory. He also is referring to the welding company as being a one-man operation. Our Bylaw does not differentiate between small, medium, or large Business's, as over the course of time a business could either downsize or grow.

Mr. Maxant is permitted by right to apply for a Special Permit for this type of business through the Planning Board, per the Town's Table of Use in GB. therefore, there is no hardship here. Mr. Maxant should be aware as a Business Owner and member of the Town of Harvard's ZBA for many years that you just can't open a business with out going through the proper regulatory boards. He has filed applications before, which upon review were incomplete so could never be acted upon as the material needed to complete his submission was never received.

Also the Building Department has never received an Existing Building Evaluation Report to ensure that building meets code for the intended change of use.

Charles R. Shultz Jr.
Building Commissioner/Zoning Enforcement

Copy: Town Manager's Office
File



ZONING/BUILDING DEPARTMENT

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

October 14, 2021

27 Harvard Rd.

Re: Zoning violations

Dear Mr. Maxant,

It appears that you have 3 different business's (The Honey Hut, Chestnut Landscaping and Flagg Welding) open at 27 Harvard Rd.

This property is in the Towns General Residence Zone and the businesses are not an allowed use in that zone. (Section 5.2 Table of Use, Sub Section 5.3 Class of Use). This is a violation of the Town's Zoning Bylaw.

You have also installed/erected Signs with no permits, (Section 9.5.1 A.) This is a violation of the Town's Zoning Bylaw.

You must Cease and Desist operations immediately.

Please contact me to discuss what options you have to bring your property into compliance.

My office hours are Monday through Friday from 8 a.m. to 11 a.m.

Charles R. Shultz Jr.
Building Commissioner/Zoning Enforcement

Copy: Town Manager's Office
File

Use of
2014-01-14
ed States
tal Service



ZONING/BUILDING DEPARTMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

October 31, 2022

RE: Zoning Violation
Teddy's Honey Hut
27 Harvard Road
Ayer, MA 01432

Theodore Maxant
[REDACTED]

Mr. Maxant,

I have in my possession one sign permit you submitted well after you went ahead and applied signage on three signs of your canopy. You were instructed on two occasions, in person, after applying for a sign permit to go before the ZBA. Once again, your options are to remove the signs on two sides of the canopy or go before the ZBA for approval. The violations stand.

I also understand your concern for what your neighboring businesses have been permitted to do. I am addressing **your** situation...not theirs.

Violations:

1. Zoning Bylaw Section 9.5.1.A No sign shall be erected on the exterior of any building or on land unless and until the Building Inspector has issued a sign permit.
2. Ayer Zoning Bylaw Violation Section 9.5.5 part 1 – Maximum number of permanent signs per single use building in a General Business zone is 2. It is apparent from the road you have at least 3 unpermitted signs on the building.

Section 3.1.F gives you the right to appeal my decision.

Section 3.1.H Noncriminal Disposition. Pursuant to Provisions of G.L. c. 40, ss 21D, each day on which your violation continues shall be deemed to be a separate offense. The penalty for violation of any provision of the Bylaw shall be \$25 for the first offense; \$50 for the second offense; \$100 for the third offense; and \$200 for the fourth and each subsequent offense.

You **had** 14 days (November 2nd) to comply before being subject to fines. You now have 2 remaining days.

If you have any questions, please contact me at 978-772-8214 ext 4 between the hours of 8 a.m. and 11 a.m. on Mondays and Tuesdays.



ZONING/BUILDING DEPARTMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

April 28, 2022

27 Harvard Rd.

Re: Zoning violations

Dear Mr. Maxant,

This letter is to serve you formal notice that you are violation of the Towns Zoning Bylaw and 780 CMR.

1. Zoning Bylaw Section 9.5.1 A. No sign shall be erected on the exterior of any building or on any land unless and until the Building Inspector has issued a sign permit.
2. Section 5.2 Table of Use Regulations. Does not allow a contractor/landscaper by right in GB. You also have a welding/fabrication company on property which is only permitted by right with a special permit from the Planning Board.
3. 780 CMR. Section 105.1 Required. States in part, it shall be unlawful to change the Use or Occupancy of a Building without first filing an application with the Building Official and obtaining the required permit.

Section 3.1 F. Gives you the right to appeal my decision.

H. Noncriminal Disposition. G.L. c. 40, ss 21D. Each day a violation continues shall be deemed to be a separate offence. The penalty for Violation of any provision of this Bylaw shall be \$25 for the first offence; \$50 for the second offence; \$100 for the third offence; and \$200 for the fourth and each subsequent offence.

You must Cease and Desist operations immediately.

My office hours are Monday through Friday from 8 a.m. to 11 a.m.
If you have any questions, please feel free to call.

Charles R. Shultz Jr.
Building Commissioner/Zoning Enforcement

Copy: Town Manager's Office
File



ZONING/BUILDING DEPARTMENT

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

October 19, 2022

RE: Zoning Violation
Teddy's Honey Hut
27 Harvard Road
Ayer, MA 01432

Theodore Maxant
[REDACTED]

It has been brought to my attention your building is being used for one or more unauthorized uses. Without an SPB (special permit by planning board).

Violation/s:

1. Zoning Bylaw Section 5.1 Principal Uses under Use Regulations. No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations Section 5.2 including the notes to the Table, or as otherwise set forth herein, or as exempted under G.L. c. 40A, ss 3. Any building or use of premises not herein expressly permitted in hereby prohibited. (See attached Table of use regulations)

Section 6.2 states Enclosed manufacturing, processing, assembling, and fabrication is prohibited within the General Business Zone except with a Special Permit by The Planning Board.

Section 3.1.F gives you the right to appeal my decision.

If you wish to continue welding/fabrication, you must apply for a permit for that use to the Planning Board.

Starting seven days from the date of this notice (October 27).

Section 3.1.H Noncriminal Disposition. Pursuant to Provisions of G.L. c. 40, ss 21D, each day on which your violation continues shall be deemed to be a separate offense. The penalty for violation of any provision of the Bylaw shall be \$25 for the first offense; \$50 for the second offense; \$100 for the third offense; and \$200 for the fourth and each subsequent offense.

If you have any questions, please contact me at 978-772-8214 ext 4 between the hours of 8




ZONING/BUILDING DEPARTMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

October 18, 2022

RE: Zoning Violation
Teddy's Honey Hut
27 Harvard Road
Ayer, MA 01432

Theodore Maxant


Violations:

1. Zoning Bylaw Section 9.5.1.A No sign shall be erected on the exterior of any building or on land unless and until the Building Inspector has issued a sign permit.
2. Ayer Zoning Bylaw Violation Section 9.5.5 part 1 – Maximum number of permanent signs per single use building in a General Business zone is 2. It is apparent from the road you have at least 3 unpermitted signs on the building.

Section 3.1.F gives you the right to appeal my decision.

Section 3.1.H Noncriminal Disposition. Pursuant to Provisions of G.L. c. 40, ss 21D, each day on which your violation continues shall be deemed to be a separate offense. The penalty for violation of any provision of the Bylaw shall be \$25 for the first offense; \$50 for the second offense; \$100 for the third offense; and \$200 for the fourth and each subsequent offense.

You have 14 days (November 2nd) to comply before being subject to fines.

If you have any questions, please contact me at 978-772-8214 ext 4 between the hours of 8 a.m. and 11 a.m. on Mondays and Tuesdays.

Michael J. Wallace
Assistant Building Inspector/Zoning Enforcement

Copy: Town Manager's Office
File



ZONING/BUILDING DEPARTMENT

Town of Ayer
TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432
978-772-8214

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

November 9, 2022

RE: Zoning Violation
Teddy's Honey Hut
27 Harvard Road
Ayer, MA 01432

Theodore Maxant
[REDACTED]

Mr. Maxant,

Thank you for opinion. I agree with you as far as fabrication and manufacturing being permitted in light industrial zones. It is however prohibited in a GB zone. It is the Town's opinion that welding is considered fabricating and manufacturing.

You are still in violation without an SPB (special permit by planning board).

Violation/s:

Section 6.2 states Enclosed manufacturing, processing, assembling, and fabrication is prohibited within the General Business Zone except with a Special Permit by The Planning Board.

If you wish to continue welding/fabrication, you must apply for a permit for that use to the Planning Board.

Starting seven days (November 17) from the date of this notice fines will commence.

Please let our office know if you would like to resolve this by applying for a SPB. If not, Section 3.1.F gives you the right to appeal my decision to the ZBA, but this is our interpretation of the bylaw in the Building/Zoning Dept., and this interpretation is final.

Section 3.1.H Noncriminal Disposition. Pursuant to Provisions of G.L. c. 40, ss 21D, each day on which your violation continues shall be deemed to be a separate offense. The penalty for violation of any provision of the Bylaw shall be \$25 for the first offense; \$50 for the second offense; \$100 for the third offense; and \$200 for the fourth and each subsequent offense.



ZONING/BUILDING DEPARTMENT

Town of Ayer

TOWN HALL 1 MAIN ST. AYER, MASSACHUSETTS. 01432

978-772-8214

CHARLES R. SHULTZ, JR.
BUILDING COMMISSIONER/ZONING ENFORCEMENT

January 4, 2021

27 Harvard Rd.

Re: Zoning violations/2nd Notice

Dear Mr. Maxant,

This letter is to serve you formal notice that you may not open any business at 27 Harvard Rd. until the property is either rezoned at Town meeting or you apply for and receive a variance from the ZBA that allows you to open a business in the General Residential Zone. Furthermore, any business that opens must apply for a business certificate from the Town, to ensure it meets the Town's Table of Use Regulations, at this time there appears to be 3 different company's doing business at your property, none of which has applied for a certificate from the Town for that address.

You have also installed/erected Signs with no permit. This is a violation of the Town's Zoning Bylaw.

I am enclosing a copy of the BOH letter addressing there regulations.

You must Cease and Desist operations immediately.

My office hours are Monday through Friday from 8 a.m. to 11 a.m.

If you have any questions, please feel free to call.

Charles R. Shultz, Jr.
Building Commissioner/Zoning Enforcement

Copy: Town Manager's Office
File

Board of Health

From: Bridgette Braley <bbraley@nashoba.org>
Sent: Wednesday, December 29, 2021 12:59 PM
To: Charlie Shultz
Cc: Heather Hampson
Subject: Honey Hut 27 Harvard Rd

Hi Charlie,

I received a Title 5 inspection for the Honey Hut, located at 27 Harvard Rd, Ayer, Ma. The system is a conditional pass (it needs a new D-box). Because this property has a septic system the use of the building cannot exceed the design capacity of the existing system. If there is any proposed new uses for the building it should be approved by the Board of Health to ensure that they stay within the designed septic capacity.

If the property connects to town sewer this will no longer be an issue.

Bridgette Braley R.S.
Nashoba Associated Boards of Health
Health Agent
Senior Food Inspector

978-772-3335 ex 303

Board of Health

Planning Board

March 16, 2022

Theodore Maxant
[REDACTED]
[REDACTED]

Theodore Maxant
c/o 29 Harvard Road LLC, #001327899
Theodore Maxant Manager
[REDACTED]

29 Harvard Rd., LLC #001327899
c/o Jake E Heinemann
Manager
[REDACTED]
[REDACTED]

Theodore Maxant
[REDACTED]

Transmitted Electronically Via Email

Dear Mr. Maxant,

I understand that you are out of the country at the present time, so I am sending copies to all parties and addresses of record for the properties at 27 & 29 Harvard Rd., Ayer MA. 01432 and transmitting a courtesy copy of this letter to you via email.

Regarding your upcoming citizens petition for a change in zoning for the properties at 27 & 29 Harvard Rd, I am requesting that that you address some of the current outstanding issues with those properties.

To Wit:

**Title V Inspection and remediation of deficiencies found –
310 CMR 15.301: System Inspection (1) Inspection at Time of Transfer**

The Commonwealth requires that a change in ownership of a property requires a Title V inspection be initiated by the parties to the transaction. Upon completing the transfer of the property, it is our understanding that the Title V inspection only came about after the it was discovered by the Nashoba Associated Boards of Health the property wasn't in compliance. Subsequent notification, an inspection was undertaken and a deficiency in the system was uncovered, resulting in the issuance of a

“Conditional Pass.” As of the writing of this letter, there have been no documents submitted, or a request for re-inspection of the system to ensure that the system is in compliance.

It should go without saying that the quality of our drinking water source is imperative to all residents of the town and the intent of Title V is to maintain the highest possible water quality through the upkeep and proper performance of septic systems. The proximity of the property to the towns’ drinking water supply heightens this concern.

Zoning/Building Department – Cease and Desist Letter re: Businesses on the Properties

After receiving complaints re: business operating at the properties, the Building Department issued a Cease-and-Desist letter dated January 4, 2022. It is apparent that the businesses on that property have continued daily operations since the issuance of the letter.

Non-Compliance of Ayer Zoning By-Law – Business Certificate

The businesses operating out of the property have not obtained the required certificates from the Town Clerk to operate.

As a courtesy, attached are copies of the letters from the Nashoba Associated Boards of Health and the Ayer Building Department.

Mr. Maxant, I’m sure that you recall the overwhelmingly positive and supportive response that you received from the Ayer Planning Board when you last came forward regarding these properties. The Planning Board reported this support during Town Meeting to help pass the citizens petition re: the rezoning of the property at that point.

Regarding your current request, I think it imperative that you address the outstanding compliance and enforcement efforts issues from the Town, or at the least, honor them with the dignity of a response.

As a reminder, the Planning Board next meets on March 22, 2022 at 6:15 PM EST via Zoom.

I hope that the weather holds out for you for the remainder of your time in St. Marteen, it’s my understanding that it is truly a paradise where life moves forward at a slower, less taxing pace than here in our little corner of the US. I look forward to receiving your response to this letter.

Regards,

Geof Tillotson
Chair – Ayer Planning Board

Cc: Global
c/o Global Montello Group,
800 South Street, Waltham MA 02453

29 Harvard Rd., LLC #001327899
c/o Jake E Heinemann - Manager



Sanitarian - Nashoba Associated Boards of Health
Environmental Health Service
30 Central Avenue
Ayer, MA 01432

Commissioner Charles R. Schultz, Jr.
Ayer Zoning/Building Department
Town Hall
1 Main Street
Ayer, MA 01432

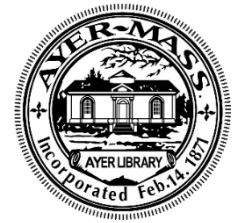
Ayer Planning Board – c/o Mark Archambault
Planner
Ayer Planning Board
Town Hall
1 Main Street
Ayer, MA 01432

Ms. Susan Copeland
Ayer Town Clerk
Town Hall
1 Main Street
Ayer, MA 01432

Ayer Select Board c/o Mr. Robert Pontbriand
Town Hall
1 Main Street
Ayer, MA 01432

Enclosures

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



**Wednesday, November 16, 2022
Remote Participation Open Session Meeting Minutes**

Present: Michael Gibbons, Vice-Chair; Ron Defilippo, Clerk; Jess Gugino; John Ellis

Also Present: Carly Antonellis, Assistant Town Manager; Samantha Benoit, Administrative Coordinator

Absent: Samuel Goodwin, Chair

Call to Order: M. Gibbons called the meeting to order at 6:00pm. He stated that 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.

Approval of the Agenda: Motion was made by J. Ellis to approve the agenda as written.

Seconded by J. Gugino

Roll Call Vote: R. Defilippo, aye; John Ellis, aye; J. Gugino, aye; M. Gibbons, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance – Nasoya Foods USA, LLC. – 1 New England Way (Filed October 28, 2022).

M. Gibbons opened the public hearing at 6:05pm by reading the public hearing notice as advertised in *The Lowell Sun* on November 2, 2022, and November 9, 2022. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 6.2 to allow for the construction of a portion of a building to a height of 75ft where 40ft is allowed. The ZBA was joined by Attorney Thomas Gibbons representing the client.

T. Gibbons asked that the hearing be continued until all members of the ZBA could attend.

Motion: A motion was made by J. Ellis to continue the Public Hearing – Application for a Variance – Nasoya Foods USA, LLC. – 1 New England Way (Filed October 28, 2022) until November 30, 2022 at 6:00pm.

Seconded by J. Gugino.

Roll Call Vote: R. Defilippo, aye; John Ellis, aye; J. Gugino, aye; M. Gibbons, aye.

Motion Passed (4-0)

Approval of Minutes: J. Gugino made a motion to accept the meeting minutes of October 19, 2022 as written. Seconded by J. Ellis.

Roll Call Vote: R. Defilippo, aye; John Ellis, aye; J. Gugino, aye; M. Gibbons, aye.

Motion Passed (4-0)

Public Hearing – Application for a Variance – Jeffrey E. Greco and Andrea L. Greco 37 Sandy Pond Road (Filed October 28, 2022).

M. Gibbons opened the public hearing at 6:10pm by reading the public hearing notice as advertised in *The Lowell Sun* on November 2, 2022, and November 9, 2022. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 5.2.1.1, Section 6.2, and 6.3(B) to allow for an existing single family home to remain on the property located at 37 Sandy Pond Rd. until a new single family home to be constructed on the property is complete with the condition that the existing single family home shall be removed prior to the issuance of an occupancy permit by the Town of Ayer Building Inspector for the to be constructed single family home.

T. Gibbons gave a brief overview of the property, noting that on February 16, 2022, the ZBA had granted a variance for this property in regard to frontage. The owners are planning on building a new home on the property and would like to keep the existing home until the new one is complete. They were informed that the existing home would need to be demolished before work on the new home could commence unless they got ZBA approval to keep the existing home. If allowed to keep the existing home on the property, it would be demolished prior to the issuance of an Occupancy Permit for the new home.

The Greco's are asking for this variance based on several hardships. The most pressing is the water and sewer lines connecting the existing home to the three-family on the adjacent lot. If the existing home is to be removed prior to construction then the lines will need to be relocated now, and new lines run later, which will increase the cost of the project for the owners. The existing home is also currently occupied by the Greco's son and family, in removing the home would cause the family to move earlier than anticipated.

In granting the variance, the current occupants of the home will have time to move. The existing home will also shield the construction of the new home from view. This will not be in violation of the existing bylaw since there new home will not be issued an Occupancy Permit until the existing home has been demolished.

T. Gibbons reviewed the comments from the Town Department Heads, most had no comments, or issues with the proposed plan. The Building Commissioner did raise some concerns about the home being partially constructed, or not completed, leaving the town with two homes on a single lot. T. Gibbons explained that if the home is never built the variance will lapse, and of the older home is not demolished then the Zoning Enforcement Officer could take action.

This situation was likened to if there is a house fire, the owners are allowed to have a temporary mobile home on the property until the home is rebuilt.

M. Gibbons asked about the letter from Roger Kanniard.

T. Gibbons explained the R. Kanniard is allowing the Greco's access to backside of their property through his in order to build their new home. Though they do have right of way access from McDowell St.

M. Gibbons was concerned that the existing home would become a storage unit. He would like construction to start within six months.

Andrea Greco responded that they would like to break ground in March or April of 2023 and be moved in by November of 2023.

J. Gugino suggested making it a condition of the variance to not use the current building as storage.

M. Gibbons suggested that a time condition be added the variance.

C. Antonellis clarified that the variance will lapse after a year if not work has been started.

J. Ellis asked what guarantee the ZBA has that the older house will be taken down, except for the withholding of the Occupancy Permit, what kind of enforcement does the Board have.

T. Gibbons responded that a reasonable date could be added as a condition in addition the condition of the Occupancy Permit.

J. Ellis asked if a reasonable date could be added to the conditions for the demo of the older home.

M. Gibbons concern is that the existing home will not be demolished for several years.

J. Ellis asked if the white house near the street was that was being demolished.

A. Greco explained it is the grey house. The white house is the three-family home, and that will be staying.

T. Gibbons further explained that the three-family home is on a different lot and has been subdivided.

R. DeFilippo asked how it the property had been subdivided.

T. Gibbons explained that it is allowed if the buildings were built prior to the current zoning.

J. Ellis asked that once the new house is built will it be in compliance with the current zoning.

T. Gibbons stated that all setbacks will be met, and a variance was granted in February 2022 by the ZBA for the frontage.

J. Ellis asked if the new home is being built behind the current home.

Jefferey and Andrea Greco explained that the new home is being built behind the current home, that they would like their home set back from the road. They would like to demolish the existing home as it will obstruct their view.

J. Gugino has no issues with this application.

M. Gibbons opened the meeting up to public comment.

There was no public comment.

Motion: M. Gibbons made a motion to approve the Variance pursuant to Ayer Zoning Bylaw Section 5.2.1.1, Section 6.2, and 6.3(B) to allow for an existing single family home to remain on the property located at 37 Sandy Pond Rd. until a new single family home to be constructed on the property is complete with the condition that the existing single family home shall be removed prior to the issuance of an occupancy permit by the Town of Ayer Building Inspector for the to be constructed single family home.

Seconded by J. Ellis

Roll Call Vote: R. Defilippo, aye; John Ellis, aye; J. Gugino, aye; M. Gibbons, aye.

Motion Passed (4-0)

Motion: J. Gugino made a motion to close the public hearing of 37 Sandy Pond Road at 6:38pm.

Seconded by J. Ellis

Roll Call Vote: R. Defilippo, aye; John Ellis, aye; J. Gugino, aye; M. Gibbons, aye.

Motion Passed (4-0)

Continued Public Hearing-Application for a Comprehensive Permit (MGL 408, Sections 20-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road (Filed June 24, 2022)

Jim Thorpe and Sergio Musto of Green International presented responses to the open comments from the peer review. The comments have been color coded, yellow; the applicant can resolve, red; requires a waiver or is dealt with later, blue; will need board approval and can be a condition of approval.

J. Ellis noted that only two peer review meetings were budgeted and asked if the last meeting counted since not much was discussed.

C. Antonellis said that the last meeting did count.

C. Antonellis stated that the peer review is looking for input from the Board on red and blue comments.

J. Thorpe recognizes that the applicant is seeking many waivers, and the list of waivers will be sent to the Board for approval.

C. Antonellis recently sent an updated list of waivers.

Stephanie Kiefer of NOAH stated the waiver list is nearly complete, some waivers for parking and stormwater were added. The list of waivers is consistent with J. Thorpe's recommendations.

J. Gugino asked if the Board was voting on waivers tonight, and if waivers require a simple or super majority.

Paul Haverty of BCS Group explained that there was no vote tonight and it requires a simple majority.

J. Thorpe noted that neighboring properties parking lot encroached on the property and the applicant will have to coordinate with the current landowner to fix this issue, and this will be put in place before the start of the project.

Taylor Dowdy of BSC Group noted that a discussion had taken place with the owner and the pavement will be removed, and the work will be shown on the plans. This can be a condition of approval.

J. Gugino asked if this could be a condition of purchase.

T. Dowdy said it could not be since they do not currently own the property.

J. Thorpe stated that the project will have to meet all ADA requirements and include a full grading plan. This is recommended as a condition of approval.

P. Haverty noted that this will be a very detailed decision and will have a lot of conditions.

J. Thorpe spoke about the Zoning waivers needed including the number of parking spots required in zone A-2.

S. Kiefer noted these waivers have been added to the list.

J. Thorpe discussed the lack of a flood study, and that this is an issue to be taken up by the Conservation Commission.

T. Dowdy noted that the FEMA data is the best data available and that is what was used.

J. Thorpe recommended the continued coordination with the DPW regarding sewer peak flows and recommends this to be a condition of approval.

T. Dowdy stated that the number of bedrooms was sent to Dan Van Schalkwyk, the head of the DPW.

D. Van Schalkwyk did receive the email but had not done the necessary calculations yet.

J. Thorpe also noted that the water main connection will have to be coordinated with the Water Department.

T. Dowdy said a utility plan was sent to D. Van Schalkwyk.

D. Van Schalkwyk confirmed this and will continue to coordinate with T. Dowdy.

J. Thorpe noted that for comments 50-64 a revised landscape plan will be needed. This is usually included in the final construction plans. The question to the Board is if they would like this on the plans now so that Green International can review or make it a condition of approval.

G. Gibbons would like Green International to look at the plans.

J. Gugino agrees and would like to know if the removal of trees in the buffer zone has to do with the proposed retaining wall.

T. Dowdy asked if this was referring to comment 57. In which it was recommended more diverse species of trees be planted in the buffer zone.

S. Kiefer also added that in response to this block of comments that all updates will be coordinated between plans, and the final plans will be consistent. The landscape architect also recommends a diverse variety of plants.

J. Thorpe noted a waiver will be needed for building height, and this waiver was included in the original list of waivers.

J. Thorpe noted snow storage needs to be shown on the plans, and that the storage of snow would not impact parking, or the wetlands. A revised location is recommended but defers to the Conservation Commission.

T. Dowdy says other areas can and will be identified.

J. Gugino asked when the final plans will be submitted.

P. Haverty stated that they will be submitted after the application has been approved and the permit is issued.

J. Gugino asked if meeting with the Conservation Commission would affect the plans submitted to the ZBA.

P. Haverty said that it could affect the plans and the applicant would have to come before the Board to ask for modification to the plan.

S. Kiefer also said that a condition could be put in place based on the Commission's recommendations.

J. Thorpe discussed the next set of comments which dealt with Stormwater regulations. Per the Town's Stormwater Regulations, a percolation test is to be performed before the building permit is issued.

J. Thorpe also recommends that two gate valves be added to the water main in order to limit shut-downs to the complex, but this would need to be coordinated with the DPW.

J. Thorpe noted that no exterior building lighting was present on the plans, and in order to assess it need to be included.

S. Kiefer noted that the biggest worry is parking lot lighting. The lights around the building will allow for safe entrance and exit to buildings.

T. Dowdy said the lighting will be directed to specific locations.

J. Thorpe will talk with the lighting expert and follow-up.

M. Gibbons asked if the Board had any questions, and what is needed from the Board tonight.

P. Haverty said the Board can discuss the comments further and not vote is needed tonight.

S. Keifer added that all blue comments can be made into conditions of approval, and many of the red comments could be converted to blue.

J. Gugino asked about adding a traffic light, and how that would be coordinated with MassDOT.

Samuel Offei-Addo of NOAH said that this would be an issue for after occupancy, which might trigger a traffic study.

M. Gibbons asked if MOAH would conduct the study.

S. Offei-Addo said that would be a MassDOT project.

J. Ellis asked about the status of the crosswalks.

T. Dowdy said none have been proposed because the road is owned by MassDOT.

J. Ellis asked how a crosswalk could be added if the Board wanted one.

S. Offei-Addo believes this would require coordination between MassDOT and the DPW.

D. Van Schalkwyk said it would have to be between the applicant and MassDOT, if it was a requirement of the Board.

S. Kiefer stated that the Board cannot condition a State Permit.

P. Haverty did say coordination between the two could be conditioned.

M. Gibbons opened the meeting to public comment.
There was no public comment.

M. Gibbons asked what the next steps are for the Board.

P. Haverty that some coordination needs to be done but a decision can be drafted. He will start writing the draft decision with the waivers and suggested determinations.

Motion: A motion was made by J. Gugino to continue the Public Hearing-Application for a Comprehensive Permit (MGL 408, Sections 20-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road (Filed June 24, 2022) until December 21, 2022, at 6:15pm via Zoom.

Seconded by J. Ellis

Roll Call Vote: R. Defilippo, aye; John Ellis, aye; J. Gugino, aye; M. Gibbons, aye.

Motion Passed (4-0)

Motion to Adjourn by J. Gugino. Seconded by J. Ellis.

Roll Call Vote: R. Defilippo, aye; John Ellis, aye; J. Gugino, aye; M. Gibbons, aye.

Motion Passed (4-0)

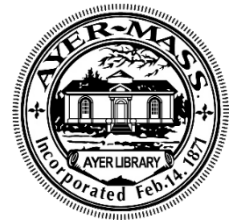
Meeting Adjourned at 7:55pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: _____

Signature of ZBA Clerk, Indicating Approval: _____

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



**Wednesday, November 30, 2022
Remote Participation Open Session Meeting Minutes**

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

Also Present: Samantha Benoit, Administrative Coordinator

Call to Order: S. Goodwin called the meeting to order at 6:03pm. He stated that 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.

Approval of the Agenda: Motion was made by M. Gibbons to approve the agenda as written.
Seconded by J. Ellis.

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

Motion Passed (5-0)

Continued Public Hearing – Application for a Variance – Nasoya Foods USA, LLC. – 1 New England Way (Filed October 28, 2022).

Attorney Thomas Gibbons representing Nasoya Foods USA, LLC, presented along with representatives of Nasoya Foods the proposed expansion of the facility. T. Gibbons explained that the applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 6.2 to allow for the construction of a portion of a building to a height of 75ft where 40ft is allowed.

S. Goodwin asked if this expansion was related to a variance granted by the ZBA two years ago.

T. Gibbons stated that expansion was never built.

T. Gibbons went on to give an overview of all variances granted to this property by the ZBA. Starting 1986, when the facility was operated by the New England Shrimp Company and has had a freezer/cooling room, in which the ZBA granted a variance for the construction of the freezer room. In 1987 a variance was granted so a water pre-treatment facility could be constructed. Nasoya purchased the facility in 1996 and was granted a variance to increase the height of the freezer facility to 60 feet. In 1997 a variance was granted for the height of the storage silos, and in 2001 a variance was granted for the construction of storage tanks. In 2017 the ZBA granted a variance for the construction of an 80 foot high stack, and in 2020 a variance was granted for 59 foot tall addition. This addition was not built because that addition would not have satisfied Nasoya's growth needs.

Nasoya is the second largest producer of tofu in the United States, with this expansion they are expected to become the largest producer. This expansion will also necessitate the addition of 35 to 50 more employees.

David Mackwell of the Kelly Engineering Group, present the proposed addition to the Nasoya facility. The facility is located on about twelve acres, and bound by Westford Road, New England Way, and Catania Oils. The current building is 115,000 square feet in size, the proposal will expand the manufacturing and freezer space. The new freezer space will be adjacent to the existing freezer space, and by making the space taller as opposed to wider will keep the existing buffer on Westford Road. The site is also being rearranged to decrease the amount of pavement, creating more efficient parking, and adding more green areas. Nasoya will be applying for a parking waiver from the Planning Board. The addition will also include a new entrance and office spaces. This new addition will meet all zoning setbacks. Nasoya is looking for a height variance for the freezer addition. The increased height of the addition will not be seen from Westford Road.

M. Gibbons asked how tall Catania Oils facility is.

D. Mackwell believes it is around 40 feet.

Jeff Prince estimates the building to be about 45 feet due to the tall foundations

M. Gibbons asked what the elevation of the new roof would be.

J. Prince estimates it to be about 300.

S. Goodwin noted that there was some concern about the Fire Department's access to the new roof.

Dexter Preston explained that the new roof can be accessed from the old roof, and there are ladders from each roof.

J. Prince noted that there would be improved access to the roof with the changes being made.

S. Goodwin asked about the DPW's concern about the encroachment on the sewer easement and asked if the applicant had found the sewer force main location.

J. Prince stated that the force main's location is generally known in most location, however some excavation will have to be done to verify. They are willing to relocate the force main if needed.

S. Goodwin also asked about the additional sewer flows loading above Nasoya's approved limits.

J. Prince explained that Nasoya has a permit with town to allow for 208,000 gals per day of discharge, they currently discharge about 170,000 gals per day. With this expansion they do expect to reach 208,000 gal per day capacity, at which time they make improvements to the pre-treatment system. There is a memorandum of understanding between Nasoya and the Town of Ayer to increase the capacity.

S. Goodwin asked how this discharge is monitored.

Justin from Nasoya explained that they are averaging 120,000 to 130,000 gals per day.

J. Prince further explained that Nasoya will maintain the permit capacity until the capacity is increased.

M. Gibbons asked if Nasoya had paid their taxes.

T. Gibbons said that there was a small amount of unpaid taxes but that has been cleared up.

Justin explained that Nasoya had short paid about \$1,700.

M. Gibbons asked if Alan Manoian, Director of Community and Economic Development, had reached out in regard to his comment about building elevations.

T. Gibbons noted that Alan had not reached out to him about the building elevation.

S. Benoit did clarify that the elevation drawings were passed along to Alan.

M. Gibbons asked if any members of the public had comments about the discussed application.

Sara Withee of Groton Shirley Road, asked if the drawings on the screen were the ones sent to Alan Manoian.

M. Gibbons answered that they were the drawings sent to Alan.

T. Gibbons explained that the topography is unique to this property. The cooling rooms require height, and the topography allows for the building to be taller without creating a visual impact. This will also allow for a smaller footprint.

Motion: M. Gibbons made a motion to grant a Variance pursuant to Ayer Zoning Bylaw Section 6.2 to allow for the construction of a portion of a building to a height of 75ft where 40ft is allowed.

Seconded by J. Ellis.

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

Motion Passed (5-0)

Motion: S. Goodwin made a motion to close the hearing of Nasoya Foods USA, LLC at 6:46pm.

Seconded by M. Gibbons

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

Motion Passed (5-0)

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

Seconded by J. Gugino.

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

Motion Passed (5-0)

Meet Adjourned at 6:48pm.

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: _____

Signature of ZBA Clerk, Indicating Approval: _____