

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



Wednesday January 18, 2023

6:00 PM

Remote Participation Meeting Agenda

AMENDED

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 Variance – Tannery Crossing, LLC
11 Tannery Street (Filed December 30, 2022)

Approval of Meeting Minutes
December 21, 2022

Adjournment

The next regularly scheduled ZBA Meeting is Wednesday February 15, 2023 at 6:00 PM
via remote participation.

RECEIVED

JAN 13 2023

TOWN OF AYER
TOWN CLERK

10:20am



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



Wednesday January 18, 2023

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 Variance – Tannery Crossing, LLC
10 Tannery Street (Filed December 30, 2022)

Approval of Meeting Minutes
December 21, 2022

Adjournment

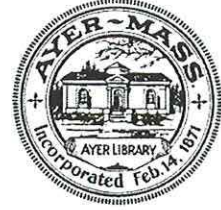
The next regularly scheduled ZBA Meeting is Wednesday February 15, 2023 at 6:00 PM
via remote participation.

12:52pm

RECEIVED
JAN 03 2023

① 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 January 18, 2023 regarding an application by Tannery Crossing, LLC., for property located at 11 Tannery Street Ayer, MA. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 5.2 Table of Use Regs. Section 5.14 to allow an automotive repair establishment in the Light Industrial District pursuant to Article 3.2 (B)(2). For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised January 4, 2023 and January 11, 2023, *The Lowell Sun*

Law Office of Thomas A. Gibbons, PC.

Thomas A. Gibbons, Esq.
tgibbons@tgibbonslaw.com
Licensed to practice in MA & NH

www.tgibbonslaw.com
21 Park Street
Ayer, MA 01432
Telephone: (978)772-2284
Facsimile: (978)772-0802

Kyle J. Croteau, Esq.
kcroteau@tgibbonslaw.com
Licensed to practice in MA

Emily R. Langlais, Esq.
elanglais@tgibbonslaw.com
Licensed to practice in MA

December 30, 2022

RECEIVED
DEC 30 2022

TOWN OF AYER
TOWN CLERK



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

RE: 11 Tannery Street, Ayer, MA 01432
OUR FILE NO.: 22-8011

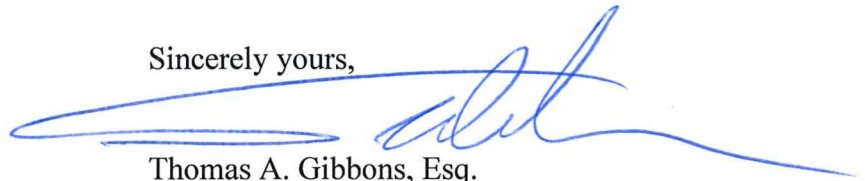
Dear Ms. Copeland,

Pursuant to MGL Ch 40A § 15, please accept for filing on behalf of the Ayer Zoning Board of Appeals, the application for Tannery Crossing, LLC for a variance to allow an automotive repair establishment in the Lighting Industrial District at 11 Tannery Street, Ayer, Massachusetts. Please find attached the following documentation:

- An original and a copy of a completed application and a certified list of abutters for a hearing for the Town of Ayer Zoning Board of Appeals, thirteen (13) copies of two plans of the property,
- A check in the amount of One Hundred Sixty Five Dollars (\$165.00) for filing,

We respectfully request a public hearing before the Zoning Board of Appeals at the January 18, 2022 meeting. If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Sincerely yours,



Thomas A. Gibbons, Esq.

TAG/df

\\GLSVR\Office Share\LOTAG 2020\ZONING\Nasoya Foods USA, LLC (1 New England Way, Ayer) #22-8009\ZBA app to city letter.doc



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

Name of Applicant: Tannery Crossing, LLC - John Gervais
(Full Name)

c/o Law Office of Thomas A. Gibbons, P.C. - 21 Park Street, Ayer, MA 01432
(Address)

c/o Law Office of Thomas A. Gibbons, P.C. - 978-772-2284
(Phone Number)

c/o Law Office of Thomas A. Gibbons, P.C. - tgibbons@tgibbonslaw.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):

Tannery Crossing, LLC - 2 Littleton Road, Ayer, MA 01432

Location of Property:

11 Tannery Crossing, Ayer, MA 01432

Assessor's Map 26 **Parcel** 287 **Land Size** 21,780 +/- sq. ft.

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

Registry of Deeds Book 68490 **Page** 441

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:

- X 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? N/A

If yes, were you denied a permit by the Town of Ayer Building Inspector? N/A
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, March 19, 2018 Version:

Seeking a use variance from the Town of Ayer Zoning By-Law Article 5.2 Table of
Use Regulations Section 5.14 to allow an automotive repair establishment in the
Lighting Industrial District located at 11 Tannery Street, Ayer, MA, pursuant to Article 3.2 (B)(2).

Date: 12/30/22

Signed by  Mgr.
(Petitioner)

John F. Gervais, Manager
c/o Law Office of Thomas A. Gibbons, P.C.
(978) 772-2284
tgibbons@tgibbonslaw.com

MORTGAGE INSPECTION PLAN

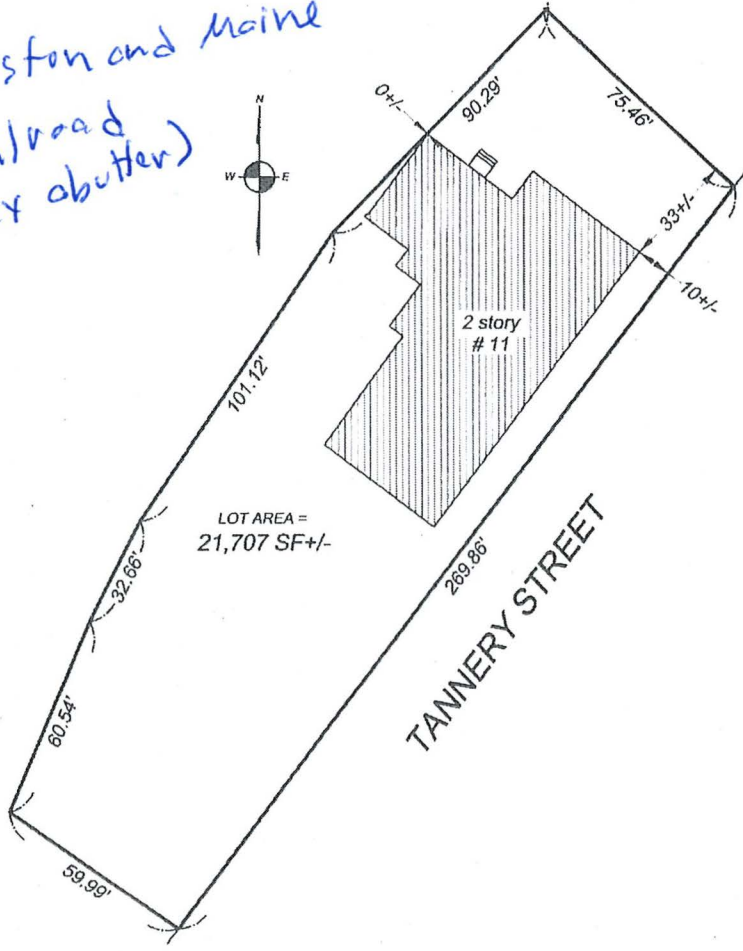
16-08590

LOCATION : 11 TANNERY STREET
 CITY, STATE: AYER, MA
 APPLICANT : CARLTON CIRCLE REALTY, LLC.
 CERTIFIED TO: NORTH MIDDLESEX SAVINGS BANK
 SCALE: 1" = 40'
 DATE: AUG. 22, 2016



BOSTON
SURVEY, INC.
 P.O. BOX 290220
 CHARLESTOWN, MA 02128
 T (617) 242-1313; F (617) 242-1616
 WWW.BOSTONSURVEYINC.COM

*Boston and Maine
 Railroad
 (only abutter)*



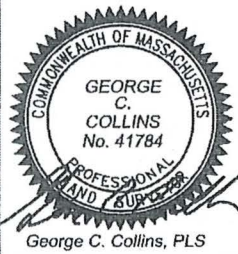
LOT AREA =
 21,707 SF +/-

TANNERY STREET

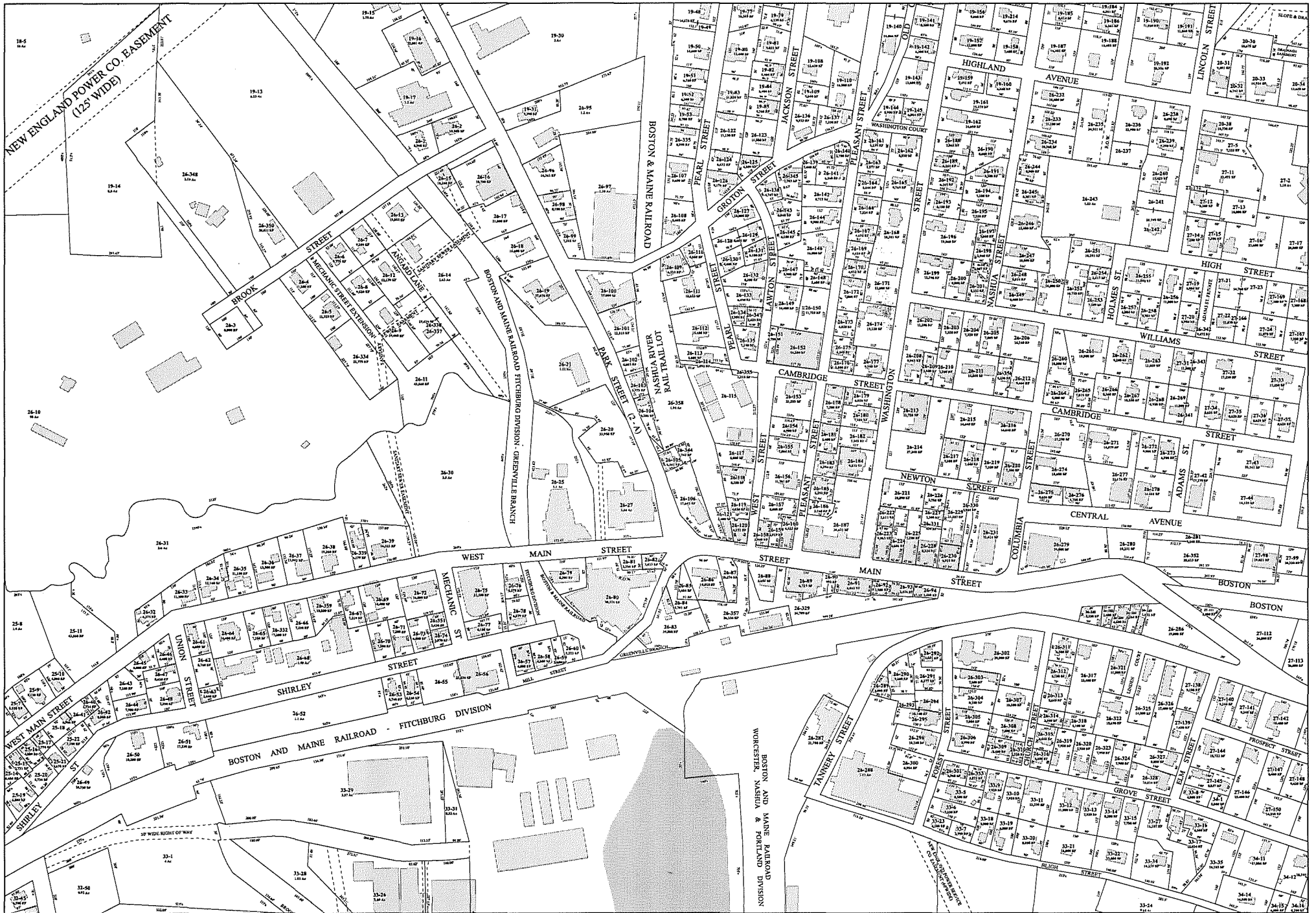
FLOOD DETERMINATION
 According to Federal Emergency Management Agency maps, the major improvements on this property fall in an area designated as ZONE: X
 COMMUNITY PANEL No. 25027C0325E
 EFFECTIVE DATE: 07-04-2011

REFERENCES
 DEED REF : 28001 - 326
 PLAN REF : 9721 - 68
 NOTE: To show an accurate scale this plan must be printed on legal sized paper (8.5" x 14")

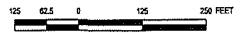
The permanent structures are approximately located on the ground as shown. They either conformed to the setback requirements of the local zoning ordinances in effect at the time of construction, or are exempt from violation enforcement action under M.G.L. Title VII, Chapter 40A, Section 7, and that are no encroachments of major improvements across property lines except as shown and noted herein.
 This is not a boundary or title insurance survey. This plan should not be used for construction, recording purposes or verification of property lines.



George C. Collins, PLS



PREPARED BY:
 Montachusett Regional Planning Commission
 GIS Department, July 2021
 484 Abbott Avenue
 Leominster, MA 01453
 Phone: 978-340-7374
 Email: mrpc@mrpc.org



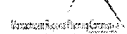
REVISED TO: JANUARY 1, 2021

AYER, MA
 01432 - COMMUNITY ID 019
ASSESSOR MAPS

| | | |
|----|----|----|
| 18 | 19 | 20 |
| 25 | 26 | 27 |
| 32 | 33 | 34 |

- Legend**
- Parcel Boundaries
 - Contourlines
 - Traffic Island
 - Water
 - Buildings

The map images and map data were developed for tax valuation purposes only and are not derived from legal surveys or legal descriptions.
 The Town of Ayer & the MRPC disclaims any warranties and liabilities to the accuracy, timeliness, or completeness of the map images and map data. The map images and map data were derived from public files, County, State and Federal Aerials, and other sources and are not guaranteed. The map images and map data should not be used for any purpose requiring accurate measurement of distance or direction.
 In no event will the Town of Ayer, the MRPC, or their officers or employees be liable for any losses or damages that result from the use of these map images and map data. The Town of Ayer & the MRPC disclaims any liability for any decisions made or actions taken by the user of the data.



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Kyle J. Croteau, Esq.
kcroteau@tgibbonslaw.com
Licensed to practice in MA

Emily R. Langlais, Esq.
elanglais@tgibbonslaw.com
Licensed to practice in MA

January 4, 2023

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

RE: 11 Tannery Street, Ayer, MA 01432
OUR FILE NO.: 22-8011

Dear Ms. Benoit,

Pursuant to a request for more detail on the proposed use of the Tannery Street property which is the subject matter of a request for a use variance, my client has provided the following statement:

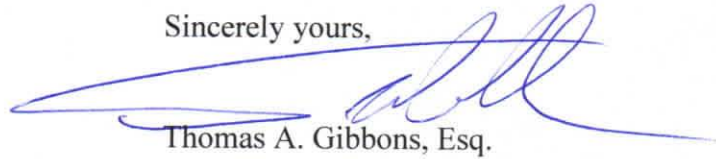
“Like many businesses, Gervais Ford had several years of sales growth coming out of the Great Recession. This trend was briefly interrupted in 2020 by the pandemic, yet even with various supply chain issues, we have continued to grow, particularly with commercial and fleet sales and service. Additionally, Ford Motor Company is positioning itself to be a leader in the electric vehicle industry, which will make the Ford brand appeal to an even greater audience. This will require us to make significant investments in our existing infrastructure at the Dealership to support these new and exciting models. With the continued sales growth, and the expectation of future product expansion, comes the need to support and enhance the ownership experience through service. In 2016, we purchased the Tannery Street location with the hope and expectation that we may grow enough to need that space. Fortunately, that time has arrived. Until recently, we had leased the space to a recycling company. With considerable effort, and much more time than anticipated, the previous tenant finally moved to a new location in September. We now wish to use this site as a satellite location for vehicle service only.

Customers will still be directed to the Service Department at the main facility at 5 Littleton Rd. Our business and commercial customers, many of whom are local, have larger work vehicles which require more space to be worked on. The Tannery location can be configured for 4 service “bays”, and with two garage doors at either end, this site is well suited for our needs.

As a long time "Business Resident" of Ayer, dating back to 1961, we respectfully request this Use Variance so that we may continue to grow our business, provide additional employment opportunities, and continue to be an integral part of the fabric of the Town of Ayer."

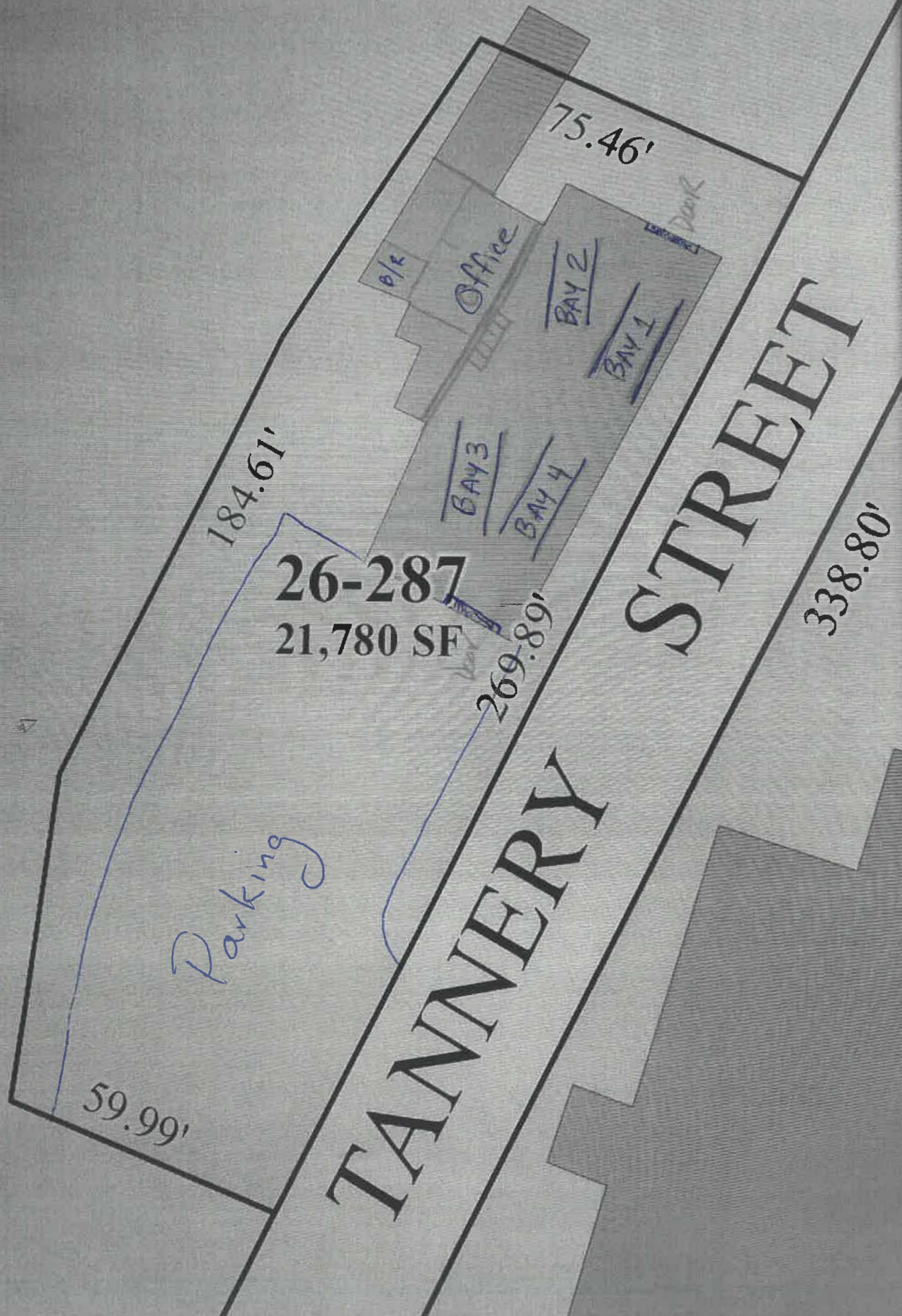
If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'TAG', is written over a horizontal line. The signature is fluid and cursive.

Thomas A. Gibbons, Esq.

TAG



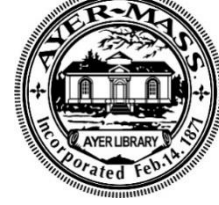
26-287
21,780 SF

Parking

TANNERY STREET

STREET



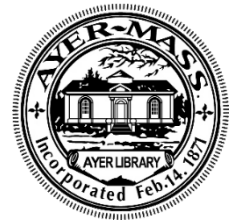


Town of Ayer
Zoning Board of Appeals
Department Head Review Summary

Application for Special Permit – 11 Tannery Street

| Department | Comments |
|--|---|
| Town Manager | Defer to ZBA |
| Board of Health | No issues as long as the property is served by town sewer and town water. |
| Department of Public Works | <ol style="list-style-type: none"> 1. Tannery St. and E. Main St (portion) are classified as local roads that lead to the property, traffic impacts to the local road should be mitigated as much as possible. 2. What are the hours of operation? Should not adversely impact nearby residents. Recommends condition of no sales or customer service at this location. |
| Police Department | No Comment at this time. |
| Fire Department | No Fire Department issues. |
| Building Commissioner/Zoning Enforcement Officer | None |
| Conservation Commission | Project and parcel are outside 100ft buffer zone. Therefore is non-jurisdictional to the Conservation Commission. |
| Treasurer/Tax Collector | No Comment. |
| Town Clerk | No issues with the Town Clerk Office. |
| Assessor's Office | No Comment. |
| Economic & Community Development | The AOCED believes even though automotive repair facilities are not permitted in Light Industrial Zones. This particular owner & operation may prove to be worthy of permitting at this unique location at the Ayer Junction Railyard. Will require owner commitments of improvement to building façade and site design improvement. |
| Town Planner | Given that the site is not within the aquifer overlay district, and given that the proposed auto repair business will improve the appearance and function of the site. I somewhat reluctantly approve of the granting of this use variance. Of course site plan review from the Planning Board is required. |

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



**Wednesday, December 21, 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: Carly Antonellis, Assistant Town Manager; Samantha Benoit, Administrative Coordinator

Call to Order: S. Goodwin 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 Samantha Benoit, Administrative Coordinator at sbenoit@ayer.ma.us or 978-772-8220 ext. 114 prior to the meeting.

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

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

Motion Passed (5-0)

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

S. Goodwin opened the public hearing at 6:04pm by reading the public hearing notice as published in the *Nashoba Valley Voice* on December 2, 2022, and December 9, 2022. 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.

Evelio Herreros and Dilma Batres of 8 Rosewood Ave. represented themselves for this hearing.

E. Herreros explained that he has been running a landscaping business out of his home and would like to continue to do so. Currently, he owns one truck, one trailer, a back-up trailer, a personal truck, two mowers, and two plows. He would like to grow his business and move into a commercial space but does not have the funds to do so. He is looking for a Special Permit to keep running his business out of his home, until he has the funds to move to a commercial space.

S. Goodwin asked how long the business has been run out of his home.

E. Herreros answered since 2018.

J. Ellis asked if had a business certificate from the town.

E. Herreros received a business certificate from the town hall in 2018.

D. Batres said that they recently had work done on their home, and all the equipment had to be moved, and that is when they received a letter from the Zoning Officer.

C. Antonellis explained that the process for receiving a business certificate has been updated, and prior to this update, the Zoning for each business was not being checked.

M. Gibbons noted that issues like this have come before the Board in the past.

M. Gibbons asked if the personal truck had commercial plates.

D. Batres said that they were advised to have commercial plates because it is occasionally used for business.

M. Gibbons asked how many employees the business has.

E. Herreros answered they have none other than himself.

M. Gibbons has no issues with the business as it is but is concerned for when the business outgrows the space. He wondered if the Special Permit could be conditioned with a time frame. The letter from Mr. Warren helped to influence his decision.

C. Antonellis recommended conditioning the number of vehicles on the property.

E. Herreros reiterated that he is looking to expand his business and move it to a commercial space. He has worked hard to maintain the property and does not park his vehicles on the street. He is looking for time to earn the funds needed to move the business. He also explained he does not run his machines as it is a residential neighborhood, and he tries to be respectful of the neighbors. He also does not want his yard to be filled with equipment.

J. Gugino asked about what kind of time limit could be imposed.

J. Ellis is not comfortable with the time limit, he is concerned it is not binding. He would still have to maintain the zoning with the number of vehicles on the property.

R. Defilippo asked if a time limit could be imposed.

C. Antonellis is unsure.

J. Gugino believes the Board can place a time condition.

J. Gugino asked if the Board can put a limit on the number of vehicles.

C. Antonellis believes it can be put in the conditions.

Ken Diskin of the Planning Board did confirm that Special Permits can be given limitations.

D. Batres asked that the time limit be at least two years given recent hardships.

S. Goodwin asked there were any abutters present.

There were none.

Motion: J. Ellis made a motion to grant 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, with a 24-month expiration. 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)

Motion: S. Goodwin made a motion to close the hearing of 8 Rosewood Ave. at 6:28pm

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)

Public Hearing – Application for a Variance – Teddy’s Honey Hut – 27 Harvard Rd. (Filed November 7, 2022).

S. Goodwin opened the public hearing at 6:30pm by reading the public hearing notice as published in the *Nashoba Valley Voice* on December 2, 2022, and December 9, 2022. 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.

Theodore Maxant proprietor of Teddy's Honey Hut represented himself for this hearing.

T. Maxant explained that when he inherited the old gas station located at 27 Harvard Rd., he had originally planned to remove the canopy but discovered he could not due to structural issues. An artist was hired to create decals for the canopy to tone down the harshness and give drivers ample notice of the business. T. Maxant noted that the previous zoning issue with the property was taken care of at Town Meeting.

J. Ellis asked if a building permit would be needed for the signs.

J. Gugino has no issue with the signs but noted the property does need a site plan review.

M. Gibbons also had no issue with the signs as long as a building permit is submitted.

C. Antonellis explained once the variance was granted then a building permit could be applied for.

M. Gibbons asked for public comment.

There was none.

Motion: M. Gibbons made a motion to grant a Variance pursuant to Ayer Zoning Bylaw Section 9.5.5 part 1 to allow for 3 signs on the existing canopy.

Seconded J. Gugino.

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

Motion Passed (4-1)

Motion: S. Goodwin made a motion to close the hearing of 8 Rosewood Ave. at 6:44pm

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)

Public Hearing – Administrative Appeal – Theodore Maxant – 27 Harvard Rd. (Filed November 15, 2022)

S. Goodwin opened the public hearing at 6:45pm by reading reading the public hearing notice as published in the *Nashoba Valley Voice* on December 2, 2022, and December 9, 2022. 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.

T. Maxant represented himself for this hearing.

S. Goodwin asked if there is a welder and a fabricator located within the Honey Hut building.

T. Maxant said that Flagg Welding does not do fabrication, only welding. He argued that Flagg Welding was previously located on Fitchburg Rd., which is in the General Business Zone, and since the Honey Hut is also classified as General Business this should be allowed.

S. Goodwin pointed out that Flagg Welding being previously located in a General Business Zone predated the Zoning Bylaw, and therefore it was allowed at that location, but once the business moved that no longer applied.

S. Goodwin also asked if Flagg Welding strikes an arch in the building.

T. Maxant affirmed that he did, but most similar services do. He explained he did some research on the internet and does not believe Flagg Welding should be considered fabrication.

S. Goodwin believes given the zoning and type of business there should be no welder doing business with the Honey Hut.

M. Gibbons agreed with the Town Hall staffs opinion of the issue, and believes the property needs a site plan review from the Planning Board.

The other members of the Board agree with M. Gibbons' assessment of the situation.

M. Gibbons suggested that the T. Maxant be allowed to withdraw his application.

K. Diskin of the Ayer Planning Board noted that if the application is withdrawn Flagg Welding would have to cease and desist.

T. Maxant asked for a continuance so that he could ask his lawyer to continue the argument. He also asked if the Board would be the ones to make Flagg Welding leave the premises.

S. Goodwin said that would be the responsibility of the landowner not the Board.

A continuance was not granted.

M. Gibbons would like to affirm the decision of the Building Commissioner in this matter.

T. Maxant asked to withdraw his Administrative Appeal.

Motion: S. Goodwin made a motion to accept the withdrawal of the 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 without prejudice.

Seconded 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: S. Goodwin made a motion to close the hearing of 27 Harvard Rd. at 7:05pm.

Seconded M. Gibbons.

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

(Note: Various sections of the notice of decision will be referenced in the following minutes. To view the sections noted please refer to

https://www.ayer.ma.us/sites/g/files/vyhlif2756/f/uploads/comprehensive_permit_decision_draft_-_revised_12-21-22_002.pdf).

Paul Haverty of BSC Group presented the draft notice of decision for the proposed project. He recommended going over the draft page-by-page with the Board.

Most of the early part of the notice did not warrant discussion since it mostly dealt with the current position of the Town, and a general description of the project.

P. Haverty noted that the notice of decision presumes that the hearing will close on December 21, 2022 (I.2). He also asked if the Purchase and Sales agreement had been submitted.

Stephanie Kiefer of NOAH confirmed that it had.

J. Ellis asked how a Housing Production Plan relates to this project. (II.10.d)

Alicia Hersey of the Economic and Community Development office clarified that the Town has had an approved Housing Production Plan since 2019 and has part of the plan was to find a 40B developer.

M. Gibbons noted that section should be amended.

P. Haverty noted a change to the number of parking space from 157 to 155. (III.14)

J. Ellis has concerns about the number of parking spaces proposed as it does not meet current zoning requirements.

P. Haverty explained this will be addressed in the waivers list.

J. Ellis asked about signage details as there are no plans available at this time. (IV.A.2)

S. Kiefer stated that there are no plans for signage at this time, and that should be removed from the decision. There is no signage waiver being presented either.

J. Gugino asked if 60 days given the current economic climate is enough time to review submitted plans. (IV.A.7)

P. Haverty believes so since the Town still has the peer review consultant available.

J. Ellis asked who would oversee Fire Hydrant maintenance as it is not listed. (IV.A.10)

Dan Van Schalkwyk, Director of the DPW, stated that the hydrants on the property would be considered private and therefore the responsibility of the property manager, and a report would be sent to the DPW.

M. Gibbons noted that the language used makes the project sound as if it is not 100% affordable. (IV.B.1)

P. Haverty explained that the language used it the minimum requirement, and the Board cannot enforce a higher percentage.

M. Gibbons asked what makes the property 100% affordable.

P. Haverty explained it would be a deed restriction.

P. Haverty explained that creating a lottery with local preferences by the Subsidizing Agency is a common practice with other Boards. (IV.B.4)

A. Hersey believes this local preference should be kept given the recent loss of traditionally affordable housing in town. She suggested that anyone who has lived in the town in the last five years be considered local.

C. Antonellis asked these requirements should be submitted to the Subsidizing Agency.

P. Haverty explained it would be after the notice of decision was issued.

J. Gugino asked if the Conservation Commission could be included in the permitting agency. (IV.C.1.c)

P. Haverty said that the Conservation Agent could be included in the permitting agency but not the Conservation Commission.

C. Antonellis asked that all references to the Town Planner be changed to the Building Commissioner.

J. Gugino asked that the Conservation Agent be included in the preconstruction conference. (IV.E.1)

P. Haverty noted that the section dealing with natural gas had been removed. (IV.E.8)

S. Kiefer confirmed that the project would not use natural gas.

Taylor Dowdy of BSC believes the project will have electric heat.

J. Gugino noted that she believes solar panels were proposed.

No one is certain if the project is 100% electric, but they are trying to meet the States sustainability standards.

J. Gugino asked D. Van Schalkwyk to weigh in on the infiltration system. (IV.E.12)

D. Van Schalkwyk felt this was typical, and information that they would need for the stormwater system.

J. Ellis asked is he would be the designee to witness the soil test.

D. Van Schalkwyk agreed that the DPW could be the designee.

P. Haverty noted that the hours of construction would follow the Town's Hours of Construction Bylaw. (IV.E.13)

C. Antonellis was going to check the Bylaw and get the information to P. Haverty.

J. Gugino asked that the location of snow storage should be reviewed by the Conservation Agent. (IV.E.18)
She also asked that the contractor used for snow removal be informed of the snow storage site.

P. Haverty noted the applicant had some suggested amendments to the proposed sidewalk and crosswalk. (IV.F.2)

M. Gibbons noted that the applicant was to add a sidewalk in front of their property but not connect it to the Shop 'n Save located nearby.

J. Gugino stated that a crosswalk would be needed for pedestrians going to Shop 'n Save.

S. Kiefer noted that a crosswalk would not be helpful since there is no sidewalk on the other side of the street.

C. Antonellis showed the two locations on a map, and it was determined that they were farther apart than previously believed.

D. Van Schalkwyk explained that once the permit is complete then MassDOT can be approached about sidewalks, crosswalks, and other traffic calming measures.

S. Kiefer reaffirmed that the applicant is willing to work with the Town and MassDOT on the need for an extended sidewalk and crosswalk, however they are only adding the sidewalk in front of the property.

P. Haverty removed the need for a traffic signal study at the request of the applicant. (IV.F.3)

P. Haverty confirmed with NOAH that the buildings would not be accessed using a key card system. This section was removed. (IV.G.9)

P. Haverty asked if any portion of this property is under the jurisdiction of the Division of Fisheries and Wildlife. (IV.I.6)

J. Gugino confirmed that it is, and the language used should be Natural Heritage.

S. Kiefer asked that the 50' signage requirement for the area be changed to 100'.

The Board would like the 50' requirement to stay.

P. Haverty then moved on to present the list of waivers. The applicant did request a blanket waiver for all Town Bylaws. P. Haverty does not recommend this, and the Board should decide upon each waiver.

S. Goodwin suggested continuing the meeting until January 11, 2023.

P. Haverty suggested that if the meeting were to be continued the Board waive the 40-day deliberation time and vote at the next meeting.

Annika Lambert from NOAH explained that there is a hard deadline for funding, and if this hearing continues, they may lose it. The latest the client can wait is January 18th.

S. Kiefer suggested a two-step approach, extend the hearing until January 11th, and possibly continue until January 18th if needed.

All parties agreed to the extension.

Motion: A motion was made by M. Gibbons 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 January 11, 2023, at 6:00pm via Zoom.

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: M. Gibbons made a motion to accept the November 16, 2022, meeting minutes as written.
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)

Motion: M. Gibbons made a motion to accept the November 30, 2022, meeting minutes as written.
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)

Motion: J. Gugino made a motion to adjourn the meeting.

Seconded by S. Goodwin.

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

Motion Passed (5-0)

Meeting Adjourned at 8:41pm.

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: _____

Signature of ZBA Clerk, Indicating Approval: _____