

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

1:05pm

**RECEIVED**  
JUN 15 2023

TOWN OF AYER  
TOWN CLERK

**Wednesday June 21, 2023**

**6:00 PM**

**Remote Participation Meeting Agenda**

*In accordance with Chapter 2 of the Acts of 2023, 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 – Littleton Road Realty, Inc.**  
38 Littleton Road (Filed May 15, 2023)

**Approval of Meeting Minutes**  
April 19, 2023

**Board Discussion**

**Adjournment**

*The next regularly scheduled ZBA Meeting is Wednesday July 19, 2023 at 6:00 PM.*



Town of Ayer

# Zoning Board of Appeals

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

12:30pm

RECEIVED

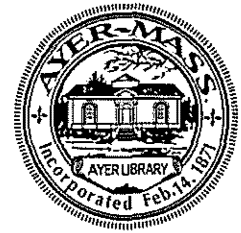
MAY 23 2023

TOWN OF AYER  
TOWN CLERK

## Public Hearing Notice

The Ayer ZBA will be conducting a remote public hearing at 6:00pm on Wednesday June 21, 2023 regarding an application submitted by Littleton Road Realty, Inc. for the property located at 38 Littleton Road Ayer, MA (Gage Cannabis). The applicant is seeking a Variance pursuant to the Ayer Zoning Bylaw Section 9.5.5 (Size of Signs) in which the maximum height allowed is 15 feet. For Zoom/Call-In information please contact [zba@ayer.ma.us](mailto:zba@ayer.ma.us) or 978-772-8220 x 114.

Advertised: June 2, 2023 and June 9, 2023 – *The Nashoba Valley Voice*



Town of Ayer  
ZONING BOARD OF APPEALS  
APPLICATION FOR A HEARING

Name of Applicant: Sunshine Sign Co Inc For Littleton Road Realty Inc  
(Full Name)

38 Littleton Rd Ayer MA 01432  
(Address)

Bill Keiser 868 5401 / John Hillen 978 433 1520  
(Phone Number)

bill@sunshinesign.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):

Littleton Road Realty Inc 38 Littleton Rd Ayer MA 01432

Location of Property:

38 Littleton Rd

Assessor's Map 35 Parcel 14 Land Size .9420 acres

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

Registry of Deeds Book 20746 Page 328

Aquifer Protection Overlay District (circle one) Zone I Zone II N/A



## Reason for variance

To follow up on our conversations, we are pursuing the variance for this sign with the following reasoning:

- The space above the awning is the most obvious place for this sign logistically and aesthetically.
- Sign placement above the main entry doors is necessary so that customers don't use the side entrance which is for employees only; the sign makes clear which entrance is the primary entrance.
- The awning is a permanent fixture on the property and prevents installation at the recommended height; our intention is to install the sign as close to the guidelines as possible.
- There are no feasible alternative locations on the building for effective ID signage; not enough space or misleading to put a sign anywhere else.



To Whom It May Concern,

As the Owner and President of Gage Cannabis Co, this letter gives permission and allows for Sunshine Sign to represent Late Spring dba Gage Cannabis Co. as the agent on our behalf for the Gage Building Sign in discussion.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Hillier', is written over the printed name.

Gage Cannabis Co. Owner and President

John Hillier  
978-423-1520

## Bill Kuck

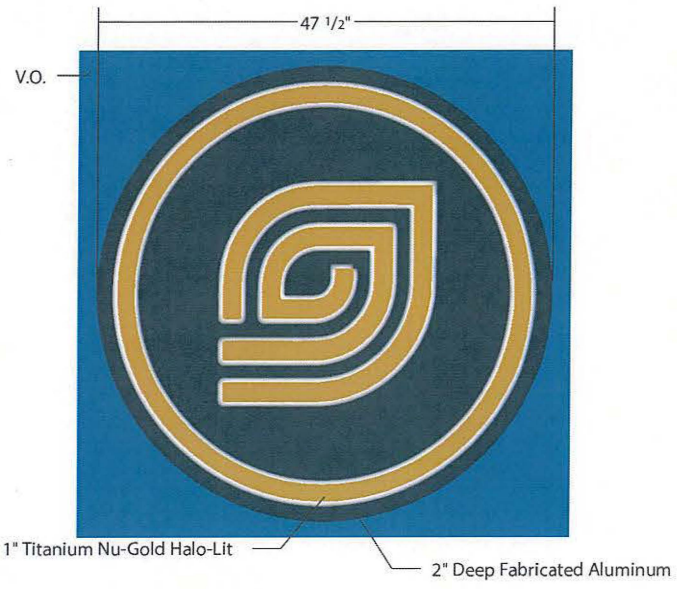
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**From:** Mike Wallace <mwallace@ayer.ma.us>  
**Sent:** Monday, February 27, 2023 9:53 AM  
**To:** Bill Kuck  
**Cc:** sbenoit@ayer.ma.us; Charlie Shultz  
**Subject:** 38 Littleton rd sign  
**Attachments:** ayer\_zbl\_appendix\_c\_third\_reading\_clean\_version\_rev\_12-2015.pdf

Hi Bill. Unfortunately, under Bylaw Section 9.5.5 the top of the sign cannot be above 15' high. But, you can request approval through the Zoning Board for an Appeal for a variance. You can do this through Sam Benoit. Her e-mail is [sbenoit@ayer.ma.us](mailto:sbenoit@ayer.ma.us) and her work phone is 978-772-8220 ext 114. Thanks for the cooperation. Also, I included a PDF of the Sizes Of Signs. Thank you.

Michael J Wallace  
Asst. Building Insp.  
Zoning Enforcement  
Building Dept.  
Ayer Town Hall

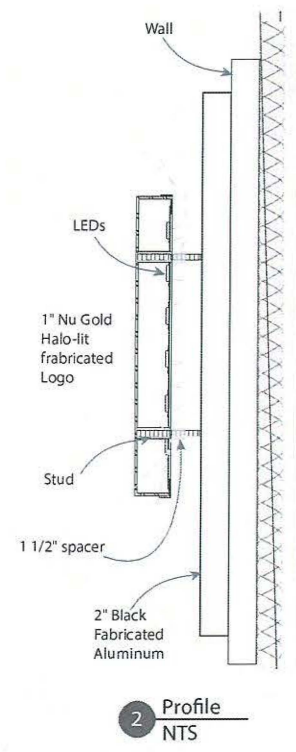
*Proposal*



1 Front  
1" = 1'



1 NTS



**SIGN TYPE A** Halo Lit Logo Sign

**Quantity (1)**

Halo-lit logo sign for building entrance above doors. Sign will be 47.5" diameter x 2" deep fabricated aluminum, painted black and non-illuminated. Sign will include 1" deep fabricated Titanium Nu-Gold Halo-Lit logo.

**PALETTE**

**GRAPHICS:** Digital Print

**PAINT:** Black

**MATERIAL:** Nu Gold Aluminum

CLIENT: KELMEN HILL PROPERTIES PROJECT / SIGN TYPE: HALO LIT LOGO DRAWN BY: ADW JOB #:020451-00000 DATE: FEB. 2, 2023

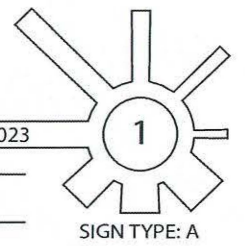
**SUNSHINE sign**

121 Westboro Road  
North Grafton, MA 01536  
P 508.839.5588  
F 508.839.9929  
www.sunshinesign.com

This drawing is given in confidence and may not be used or disseminated in any way without prior written consent from Sunshine Sign Company, Inc. All common law and copyright laws are hereby specifically reserved.

- Approved for Fabrication
- Approved as Noted
- Revise and Resubmit
- Rejected

Name \_\_\_\_\_  
Signature \_\_\_\_\_







PLEASE REMEMBER TO NOT LEAVE ANYTHING IN THE ACCESSIBLE AREA

GAGE



**GAGE**  
CANNABIS CO

**FOR MOTHERS  
DAY GET HER  
THE FLOWERS  
SHE REALLY  
WANTS**





**RESTRICTED  
AREA**  
**DO NOT ENTER  
AUTHORIZED  
PERSONNEL ONLY**

**NO ONE  
UNDER 21  
YEARS OF AGE  
ADMITTED**



**DO NOT**

**ENTER**

**DO NOT  
ENTER  
WRONG WAY**











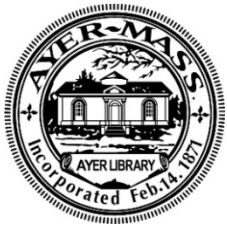


RESERVED  
PARKING









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

**Department Head Review Summary**

*Applicant: Littleton Road Realty, Inc.  
Address: 38 Littleton Rd. (Gage Cannabis)  
Application for: Variance*

<b>Department</b>	<b>Comments</b>
Town Manager	Defer to ZBA
Board of Health	No issues with proposed variance request
Department of Public Works	The DPW does not have any comments
Fire Department	No Fire Department issues
Police Department	No comment
Building Commissioner/Zoning Enforcement Officer	Approve – as this building has a steep pitched gable. It would look more natural to be at the requested height.
Conservation Commission/Agent	This area is outside conservation jurisdiction
Treasurer/Tax Collector	No comment
Town Clerk	No Comment
Assessor	No comment
Economic & Community Development	Recommend Approval
Town Planner	No comment/Planner



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

**Wednesday, April 19, 2023**

**Remote Participation Open Session Meeting Minutes**

**Present:** Samuel Goodwin, Chair; Michael Gibbons, Vice-Chair; Ronald Defilippo, Clerk; Jess Gugino; John Ellis; Marylin Schmalenberger, Alternate Member

**Also Present:** Samantha Benoit, Administrative Coordinator

**Call to Order:** S. Goodwin called the meeting to order at 6:02pm. He stated that in accordance with Chapter 2 of the Acts of 2023, 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 J. Ellis.

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

**Motion Passed (5-0)**

**Continued Public Hearing – Application for a Variance (Building Height) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).**

Attorney Thomas Gibbons representing DMG Investments, LLC., Cian Hamill, Darryl Filippi, Drew Garvin, and Isacc Smith of DMG Investments, LLC presented the proposed plan and the need for all three Variances as one presentation.

C. Hamill discussed the process in which this project came to be developed. The company has spent the last 18 months looking for feedback in this project from various town departments.

T. Gibbons explained that this is a single use lot consisting of both 201 and 205 W. Main St., the current owner purchased this property in 2013 and uses this space as a single lot, though each is taxed separately.

S. Goodwin asked if there was a deed with both properties.

T. Gibbons explained both properties have one owner, and the Assessor Maps have not been updated. This property is 2.46 acres and DMG has the property under agreement contingent on

the approval of the Height Variance. The applicant is asking for three Variances, height of the building, width of the building, and a reduction in parking. The Variances are being asked for due to the property being impacted by flood plains and wetlands. The width variance is being requested because a portion of the property is in different Zone with different zoning requirements. A hardship was created by the creation of the bylaw and causes a substantial financial detriment to the applicant. The purpose of the Form Based Code is to increase housing variety and fill housing needs.

D. Garvin explained that this building would have three stories of residential housing, with commercial space and parking located on the first floor. The Fire Department was consulted, and the fire truck's turning radius was accommodated. There will be some drainage from the building into the flood plain.

C. Hamill noted all parking is at grade, and a portion of the parking is located underneath the second story.

D. Filippi explained the building was pushed back 15 feet in respect to the Master Plan to promote retail. The first floor will have a lobby for residents and a private courtyard. Emergency parking spaces will be located in the rear of the building, and there are six on street parking spaces available. The use of four stories was designed using Main St. as context. The building will be made with steel and brick in respect to Ayer's history.

C. Hamill further explained that the façade would be broken with different materials to look like multiple buildings rather than just one large structure.

S. Goodwin asked the Board's thoughts on allowing four stories.

M. Gibbons explained he looked at all the comments from the Department Heads, a believes that the building really seems like three stories given that the majority of the first floor is parking. He is not concerned about the height of the building. He understands Charles Shultz's (Building Commissioner) opinion but is more in agreement with Mark Archambault's (Town Planner) stance. He does believe the Board should be cautious since this is the first project in the area, but since this area is a gateway into town and this is the first viable project to be presented some concessions will need to be made.

J. Gugino is in agreement with M. Gibbons.

J. Ellis believes that this project will not match the area and is outside of the Form Based Code.

R. DeFilippo is opposed to the four stories and believes the bylaws should be upheld.

S. Goodwin opened discussion to the public.

Todd Johnson, owner of 193 and 199 W. Main St., believes the project will overshadow other buildings in the area, and is not in favor of this project. He also noted that the two properties

are not really used as one currently with one portion being used as a parking area. He feels the height is too much.

Beth Suedmeyer feels the information presented is insufficient to qualify for a hardship and has concerns about emergency access.

Jose Squeglia, owner of 201 & 205 W. Main St., explained it is one property and he condensed into one property.

Ken Diskin, Vice-Chair of the Ayer Planning Board, noted that the height requested is similar to the buildings located in downtown Ayer, however rooftop equipment would make the building larger, and it cannot exceed 49 feet.

D. Filippi did explain that the elevator would overrun the height but it is not visible from the ground.

Sara Withee, 11 Groton Shirley Rd. asked about the sewer tie-in.

S. Goodwin noted that is an issue for the Planning Board.

C. Hamill addressed the concern about emergency access, and the plans have been reviewed by both the Police and Fire Department.

Dennis Curran, 51 Pleasant St., commented that the proposed building is being compared to buildings that are located in a different zone, the zones are similar but not the same.

T. Gibbons continued the presentation, explaining that majority of the apartments would be at market rate but 25 would be affordable housing. He understands the concern about upholding the Form Based Code as adopted at Town Meeting, but noted there are issues with lot shape and soil conditions. There is also the thought that this project is what will spark the revitalization of that area of town.

S. Goodwin asked how can the bylaw, as voted unanimously at town meeting for three stories, be ignored.

T. Gibbons noted that since the bylaw went into effect there has not been much development on W. Main St.

C. Hamill also noted that there has not been a flood of application for the area, and the bylaw makes it difficult to develop.

T. Gibbons asked the M. Archambault speak to his position.

M. Archambault explained he does support all three variances, and that developing zoning bylaws is more of an art than a science. Form Based Code is new, and it may be in the best interest of the Town to amend the Zoning Bylaw.

B. Suedmeyer noted that she supports the Form Based Code and believes the project would enhance the gateway to the town, but she feels the financial implications have not been shown and believes the hearing should be continued.

D. Curran asked if the owner had owned the property prior to 2019.

T. Gibbons responded with the affirmative.

D. Curran noted that the area had not been developed due to the Form Based Code and therefore perhaps it should be updated.

M. Schmalenberger asked if any thought had been given the look of the rear of the building. Form Based Code is supposed to encourage gathering place, and the bricked over plaza may not.

S. Goodwin explained that is an issue for the Planning Board.

J. Squeglia explained that the proposed four stories were presented to town officials and was led to believe it would not be a problem.

Geoff Tillotson, Planning Board Clerk, explained he was on the Board when the Form Based Code was put into effect. The Planning Board thought of many possibilities as to what should and should not be allowed, however their future cannot be predicted, and the Code now feels restrictive.

Pauline Conley, 40 Cambridge St., noted that you never know something will work until it is put into action.

S. Goodwin saw no value in continuing the meeting, this would just delay the process another month.

M. Gibbons felt that the Board had heard from all interested parties. He did agree with M. Archambault, and G. Tillotson in that the Bylaw may need to be amended.

**Motion:** M. Gibbons made a motion to grant the Variance pursuant to Ayer Zoning Bylaw 10.5.16.C (Building Height) to increase the maximum building height to 4 stories in the T.5.1 Village Street zone where 3 stories is allowed.

Seconded: J. Gugino

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

**Motion Passed (4-1)**

**Motion:** S. Goodwin made a motion to close the hearing of DMG Investments, LLC for a Variance of Building Height at 7:44pm.

Seconded by M. Gibbons

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



**Motion Passed (5-0)**

**Continued Public Hearing – Application for a Variance (Width) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).**

The presentation and the majority of discussion were taken up during the preceding hearing.

S. Goodwin asked why there was a width restriction put into place.

M. Gibbons believes it was to prevent one developer buying multiple lots to create one large development.

**Motion:** M. Gibbons made a motion to grant a Variance pursuant to Ayer Zoning Bylaw Section 10.5.16.B (Lot Width) to increase the maximum lot width to 254.1 feet in the T.5.1 Village Street zone where the maximum lot width is 192 feet.

Seconded: J. Gugino

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

**Motion Passed (4-1)**

**Motion:** S. Goodwin made a motion to close the hearing of DMG Investments, LLC for a Variance of Building Width at 7:48pm.

Seconded by M. Gibbons

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

**Motion Passed (5-0)**

**Continued Public Hearing – Application for a Variance (Parking) – DMG Investments, LLC. – 201 W. Main St. (Filed January 30, 2023).**

S. Goodwin opened the discussion by stating his concerns about the decreased parking, and the unassigned parking.

T. Gibbons explained most of the units will be studios or one bedroom. There will be a large area for bike storage, and the building is on the MART bus route. The building is located close to Devens and the Commuter Rail, meaning not as many people will be driving.

D. Garvin noted many of the residents will be working on Devens.

S. Goodwin's is concerned that with 170 units and 172 parking space the number of spaces available will be limited.

C. Hamill noted that extensive parking studies were conducted, and many of the residents will not have a car. There will also be vacant spaces during the day when people are at work.

J. Ellis asked if the six on street parking spaces counted towards the total number of spaces.  
C. Hamill explained that they did not.

K. Diskin in reference to Ayer Zoning Bylaw Section 9.1.2 believes this issue could be under the Planning Board's purview.

T. Johnson spoke to current parking issues in that area of town and there is not enough parking as it is. The MART bus has limited hours, the grocery store is too far to walk, and the train is infrequent with limited hours of operation. There is also a concern about the employees of the new business needing parking.

T. Gibbons the MART bus is on demand seven days a week, and calls must be made before 4:20pm.

S. Goodwin noted he does not see the MART bus often.

C. Hamill noted most households have one car and there will be ample parking.

S. Goodwin questioned the crossover between residents and customers.

C. Hamill explained there are no confirmed commercial spaces, but they should mostly be cafes with a one-to-two-hour turnover parking.

P. Conley noted she see the MART buses frequently.

M. Schmalenberger asked if handicap parking was included in the total number of spaces.

D. Garvin confirmed that the handicap parking is included.

M. Schmalenberger inquired about the shared parking by customers and residents on the weekend.

C. Hamill expects that all space will not be always in use, and there will be a full-time parking staff, with a parking management plan. The bike room is to encourage bike usage to help alleviate the need for parking.

M. Schmalenberger questioned the usage of bikes in the winter, and what of those living in the two-bedroom units.

C. Hamill explained that often the second bedroom is used as a home office.

M. Schmalenberger noted that they are still short 22 parking spaces, and Ayer is much smaller than the places used in their parking study.

J. Gugino is also dubious about the parking.

K. Diskin believes the ZBA may not be the correct permitting authority.

T. Gibbons believes it may be co-current jurisdiction with the Planning Board.

M. Gibbons believes this issue should be taken up by the Planning Board.

T. Gibbons asked that the applicant be allowed to withdraw their application and allow the issue to be discussed during Site Plan Review.

**Motion:** M. Gibbons made a motion to accept the withdrawal of the requested Variance pursuant to Ayer Zoning Bylaw Section 9.1.3 (Off Street Parking Requirements) and Section 9.1.5.A.2 (Compact Car Parking Spaces) to reduce the required off street parking from 288 spaces to 172 spaces and to increase the maximum percentage of compact car parking spaces from 10% to 20%. without prejudice.

Seconded: J. Gugino

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

**Motion Passed (4-1)**

**Motion:** S. Goodwin made a motion to close the hearing of DMG Investments, LLC for a Variance for Parking at 8:31pm.

Seconded by M. Gibbons

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

**Motion Passed (5-0)**

**Motion:** S. Goodwin made a motion to accept the meeting minutes of March 15, 2023.

Seconded: M. Gibbons.

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

**Motion Passed (5-0)**

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

Seconded by M. Gibbons

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

**Motion Passed (5-0)**

**Meeting Adjourned at 8:35pm**

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: \_\_\_\_\_

Signature of ZBA Clerk, Indicating Approval: \_\_\_\_\_