

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



Wednesday March 15, 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 (Building Height)– DMG Investments, LLC

201 W. Main Street (Filed January 30, 2023)

6:10 PM **Public Hearing – Application for Variance (Width)– DMG Investments, LLC**
201 W. Main Street (Filed January 30, 2023)

6:15 PM **Public Hearing – Application for Variance (Parking Requirements)– DMG Investments, LLC**
201 W. Main Street (Filed January 30, 2023)

6:20 PM **Public Hearing – Application for Variance – AIR 22, LLC.**
22-7 Fitchburg Rd. (Filed February 27, 2023)

Approval of Meeting Minutes

January 11, 2023

January 18, 2023

Adjournment

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

RECEIVED
FEB 09 2023

TOWN OF AYER
TOWN CLERK

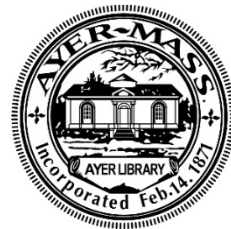
12:30pm (80)

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 March 15, 2023 regarding an application by DMG Investments, LLC for property located at 201 W. Main St. Ayer, MA. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 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. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised February 24, 2023 and March 3, 2023, *The Nashoba Valley Voice*



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

Name of Applicant: Cian Hamill on behalf of DMG Investments LLC
(Full Name)
100 Wall Street, Suite 1601, New York, NY 10005
(Address)
(347) 574-3454
(Phone Number)
cianhamill@dmginvestments.com
(Email Address)

Applicant is: Owner Tenant Licensee X 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):

S&J West Main Realty Trust

Location of Property:

201 West Main Street AYER, MA 01432

Assessor's Map 32 **Parcel** 14 & 15 **Land Size** 203,262 sf/4.67 acres

Zoning District: A-1 A-2 GR GB DB LI I MUT HCS
Circle One ***WEST AYER VILLAGE - VILLAGE CORE (Lot 15) & VILLAGE STREET (Lot 14) ZONES

Registry of Deeds Book 62369 **Page** 524 & 526

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? no

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:

Town of Ayer Zoning Bylaw §10.5.16.C. - Building Height. The Applicant respectfully requests relief
to increase the maximum building height to four (4) stories. Please refer to the attached narrative for
additional information.

Date: 01/20/2023

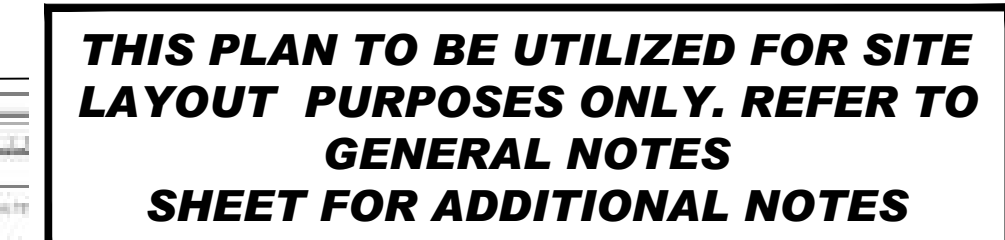
Signed by Cian Hamill
(Petitioner) on behalf of DMG Investments LLC

(347) 574-3454

(Daytime Phone Number)

cianhamill@dmginvestments.com

(Email)



(1) 10% OF REQUIRED PARKING SPACES MAY BE COMPACT SPACES (8 FT X 16 FT) IN PARKING AREAS EXCEEDING 50 SPACES.

REQUESTED RELIEF:

- 1. §10.5.16.B - LOT WIDTH: THE APPLICANT IS REQUESTING RELIEF TO INCREASE THE MAXIMUM LOT WIDTH TO 254.1 FT.
- 2. §10.5.16.C - BUILDING HEIGHT: THE APPLICANT IS REQUESTING RELIEF TO INCREASE THE MAXIMUM BUILDING HEIGHT TO FOUR (4) STOREYS.
- 3. §9.1.2 - STREET PARKING REQUIREMENTS: THE APPLICANT IS REQUESTING RELIEF TO REDUCE THE REQUIRED OFF-STREET PARKING TO 17% SPACES.
- 4. §9.1.5 - OFF-STREET PARKING DESIGN STANDARDS: THE APPLICANT REQUESTING RELIEF TO INCREASE THE MAXIMUM PERCENTAGE OF SMALL-CAR PARKING SPACES TO 20%.



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THIS DRAWING IS INTENDED FOR MUNICIPAL AND/OR AGENCY
REVIEW AND APPROVAL. IT IS NOT INTENDED AS A CONSTRUCTION
DOCUMENT UNLESS INDICATED OTHERWISE.

PROJECT:

**DMG
INVESTMENTS**

BOHLER //

352 TURNPIKE ROAD
SOUTHBOROUGH, MA 01772
Phone: (508) 480-9900

www.BohlerEngineering.com

SHEET TITLE:
**SITE LAYOUT
PLAN - ZBA
VARIANCE
APPLICATION**

SHEET NUMBER:

C-301

ORG. DATE - 01/30/2023



FRONT ELEVATION (WEST MAIN STREET)



PERSPECTIVE

Bergmeyer

BOS 51 Sleeper St.
6th Floor
Boston, MA 02210
617.542.1025

LA 800 South Figueroa St.
Suite 1080
Los Angeles, CA 90017
213.357.1080

COL 875 N High St.
Suite 300
Columbus, OH 43215
380.900.8867

www.bergmeyer.com

NO.	BY	DATE	DESCRIPTION
DMG Ayer West Village			
201-205 W MAIN ST. AYER, MA 01432			
RENDERED IMAGES			
DRAWN BY:		Author	
REVIEWED BY:		Checker	
JOB NO:		20220047.00	
A901			

Variance Request Narrative
DMG Investments LLC
201-205 West Main Street, Ayer, MA

Sec. 10.5.16.C – Building Height

3 stories allowed – 4 stories proposed

The proposed building consists of retail space fronting West Main Street, with residential units on the 2nd – 4th floors above, and ground level parking behind the retail space (and below the residential floors). The site limits the footprint that can be proposed due to a wetlands area and flood zone located at the rear of the property. In lieu of expanding the footprint towards the rear, the alternative was to go up one additional floor. The intent of the proposed layout is to provide as much off-street parking as possible for the associated uses in an efficient and aesthetically pleasing way (not visible), while providing enough retail space and residential units to make the project economically feasible. If the project was limited to 3 stories, it would not provide enough area to allow the project to move forward. It should be noted that the proposed retail/residential uses will provide a significant tax increase as a benefit to the Town of Ayer over what its current use (or a proposed 3 story use) provides.

Should you have any questions or require additional information, please do not hesitate to contact me at 508-480-9900.

Sincerely,

BOHLER



Drew Garvin
Project Manager



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

Application for Variance – 201 W. Main St. – Building Height

Department	Comments
Town Manager	Defer to ZBA
Board of Health	This property is in Zone II. What percentage of this property is impervious? Any use that will render impervious more than 15% or 2,500 sq ft of any lot whichever is greater requires special permit – Aquifer Protection Regs. Storage area for snow removal? Will there be an area for dumpsters?
Department of Public Works	The DPW does not have concerns with this request.
Police Department	No Comment at this time.
Fire Department	Must comply with 527 CMR Chapter #18, fire department access.
Building Commissioner/Zoning Enforcement Officer	Please see attached letter.
Conservation Commission	The Conservation Commission has no concern with the variance requested, but the property does have wetlands on it and any work within the 100ft Buffer will need to be permitted by the commission.
Treasurer/Tax Collector	No comment
Town Clerk	No Issues
Assessor's Office	No comment
Economic & Community Development	Please see attached letter.
Town Planner	Please see attached letter.



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

March 3, 2023.

Re: Comments for 201 West Main St.

Dear Board Members,

Before I comment on the applicants' narratives and site plan, I as a resident participated at Town meeting on October 28th, 2019, along with 133 other voters that unanimously approved the parameters for the WAVFBC. Which were 192' Max lot width and 3 stories in height for WAVFBC. The Town already approved an area which allows 4 stories (DAPSFBC) which is consistent with the prescriptive method of FBC.

The applicant states in part, that the proposed retail/residential will provide a significant tax increase as a benefit to the Town.

What the applicant failed to provide is the cost to the town to determine if the Tax increase is a benefit.

Per the DOE website the average cost to educate one child in Ayer is \$18,092.

Per the State Sanitary Code, you may have two occupants per 100sq' and another 1 for every 50sq' there after per bedroom. Not knowing the exact dimensions of the bedrooms I am estimating that out of the 170 units there is the possibility that there could be at least 110 school aged kids living there.(we must use the state formula for the max amount allowed, we cant go on the premises that it will be all adults or very few kids because in reality it can be what the max design standard allows)

110 kids@ 18,092.00 per = \$1,990,120.00

Per the Town assessment of the Zodiac apartment complex each unit is assessed @ 50,000 per unit.

If we value, the new apartment units @ 125,000 per unit @ 12.42 per unit =1,552.00 @ 170 units =263,840.00 then add in another 36,160.00 for the commercial area it = 300,000.00 in tax revenue.

Cost to Town to Educate additional children \$1,990,120.00.

Additional Tax revenue - \$300,000.00.

According to these calculations they are suggesting that a 1.69 million cost to the Town is a benefit.

I have never heard of a cost to the Town being a benefit, but they say it is, I disagree.

I also disagree with there statement that it meets the General Guiding Principles for the WAVFBC.

The General Guiding Principles were voted on 10/28/2019 by 134 residents, that the Max height would be 3 Stories high not 4 and the Max lot width 192' not 254'.4.

If you take the footprint as designed @ the requested 254', 1 story would be 64,530 sq'. At 4 stories the Building would be 258,120 sq'.

Scaling back there designed Building to the 192' lot width and 3 stories the Building would be 163,710 sq'.

That would make the variance Building 36.8% larger.

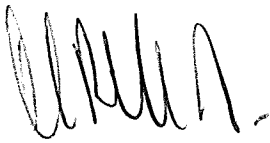
If you compare it to the abutting lot on the right side the largest footprint they can have is roughly 21,000 sq'

@ 3 stories is 63,000 sq' that Building would be 75.6% smaller than the variance Building beside it. This is totally inconsistent with the General Guiding Principles that the Town approved.

Their argument that a Hardship exist here due to the wetlands and flood plain, should hold no water as the wetlands and floodplain did not magically appear after they started there due diligence process, furthermore the Town already zoned a area for 4 story buildings.

It is my opinion that this project does not meet any of the criteria that the Town approved and should not be granted any of the variance's requested.

Please contact me if you need any other information or questions on my numbers. I have scaled down models of the buildings and a site plan showing the size constraints of the abutting lot.

A handwritten signature in black ink, appearing to read 'C. Shultz Jr.', with a stylized, cursive script.

Charles R. Shultz Jr.
Building Commissioner/Zoning Enforcement

Copy: Town Manager's Office
File

Town of Ayer

Office of Community & Economic Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8206 ♦ Fax: 978-772-8208



Subject Property: 201 West Main Street, Ayer MA

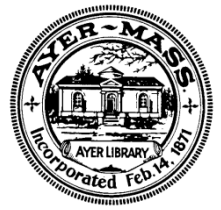
Item: Height Variance

The Ayer Office of Community & Economic Development (AOCED) recommends not granting approval (denial) of the requested Height Variance from 3-stories to 4-stories for the proposed mixed-use development at 201 West Main Street -the future West Ayer Village.

The AOCED is encouraged by the mixed-use development proposed by the DMG Investment Group, however we believe it is important for the first new development proposed under the recently adopted "West Ayer Village Form-Based Code" – and within the future West Ayer Village District be in accordance with the prescriptive Form-Based Code development standards as adopted at Ayer Town Meeting.

Town of Ayer

Office of the Town Planner



Town of Ayer | Ayer Town Hall | 1 Main Street, 3rd Floor | Ayer, MA 01432 | 978-772-8218 | www.ayer.ma.us

Memorandum

To: Ayer Zoning Board of Appeals

From: Mark Archambault, Town Planner

Re: Three (3) Variance Requests for DMG Investments, LLC at 201 West Main St.

Date: February 23, 2023

Dear members of the ZBA,

I offer the following comments on the three (3) Variance requests by DMG Investments, LLC for the property at 201 West Main Street. I will preface my comments on each specific Variance request with overall comments on the project itself, and why I believe it is important for Ayer's future that these Variances be granted. First, I offer the big picture overview as reflected in Ayer's most recent **Master Plan**. The Implementation chapter of Ayer's Master Plan contains two goals of relevance to this proposal:

- Increase housing opportunities for Ayer's residents.
- Improve and enhance Ayer's Gateways.

Ayer, as well as Devens, is the employment center for this part of Middlesex County. Workers need housing, and Ayer, with its diversity of zoning districts and water and sewer infrastructure, is in a unique situation compared to its neighbors in that it has the capacity to provide this housing at a density that can make a difference. Ayer can do this in a manner that is both physically and fiscally viable.

Of Ayer's gateways, I don't think it would be inappropriate to say that the Devens gateway is particularly unattractive, underutilized and in need of improvement. The recent MassWorks grant which is helping to fund much needed improvements to West Main Street, is 'setting the table' for the private sector to provide the capital and buildings that have the potential to dramatically improve this gateway into one Ayer can be proud of.

To not approve these Variance requests because they are perceived as going too far, or in the hope that another development firm will come along that does not require such Variances, is very unrealistic in my opinion, especially as interest rates rise and given that another recession will eventually come along, as they typically do. An opportunity like this does not come along often, and I urge the ZBA to seize the moment and grant these Variance requests that are needed to make this project viable. In so doing, the transformation towards a more beautiful and vibrant town of Ayer will have truly begun.

Approving these Variances will also likely encourage other landowners and developers to undertake similar projects in West Ayer Village, which will further help transform this corridor and gateway into a vibrant mixed-use center, as well as generating substantial tax revenues for the Town.

1. Ayer Zoning Bylaw (AZB) Section 10.5.16.C – **Building Height** to allow for 4-stories in T.5.1 West Ayer Village Form-Based Code district:

I strongly recommend that the ZBA **grant** relief to allow for a 4-story building at 201 West Main Street. I believe the applicant has made a good faith effort to try to design a building within the full scope of the requirements of the WAVFBC District, but that due to land, material and construction costs, etc., that such would not be economically viable. I believe that granting a Variance to allow for a 4-story building at this location is not only justified, but is imperative to begin the transformation of this vital Ayer gateway into a mixed-use Village that will not only provide much needed rental housing, but will provide enormous fiscal benefit to the town.

2. AZB Section 10.5.16.B. Lot Width to allow for **max. lot width** of 254.1 feet where the maximum lot width is 192 feet.

For similar reasons, I believe that relief from the lot width requirement is necessary in order for this project to be economically viable. The building and parking design works with a lot width of 254.1 feet, and it's not reasonable to expect that the lot width be arbitrarily reduced for any reason.

3. AZB Section 9.1.5 A.2 to **reduce the required off-street parking** from 288 spaces to 172 spaces and increase the number of compact car spaces to 20% from 10%.

Over the last few decades, the planning profession has come to realize that the parking requirements of most Zoning Bylaws and Codes, often developed in the 1970's and 1980's, resulted in excessive space being devoted to parking, not only for large retail surface parking lots, but also for residential uses as well. This resulted in an overabundance of impervious surfaces that transport contaminated stormwater to our streams and rivers, and which also contributes to the urban heat island effect.

The transit and multi-modal orientation of this proposed 170-unit project will help to reduce the typical parking demand called for in similar projects if they were developed in towns without a commuter rail station or not in close proximity to employment centers such as Devens or the industrial district off of Westford Road. 146 of the proposed 170 units will be either one bedroom or studio apartments, with only 24 two-bedroom apartments. This mix of unit types, with an emphasis on one-bedroom units, is compatible with a parking demand of one space per unit.

This type of residential living will also attract more single people and young professionals who are likely to not be as enamored of large SUVs and pick-up trucks in comparison to residents of new single-family homes, which lends itself to increasing the share of compact car spaces as is being requested.

It is my understanding that provisions for van shuttle service to Devens and the train station has been discussed, as it may lessen demand for the use of private automobiles. The newly improved West Main Street will also be safer for bicycling and walking. As part of its Site Plan review process, the Planning Board can require a parking management plan to ensure that these transportation options are available for residents of 201 West Main Street.

I again urge the ZBA to grant all three of the requested Variances so that this project may go forward and jump start the transformation of this important gateway for the town of Ayer.

Sincerely,

Mark Archambault

Mark Archambault, AICP
Ayer Town Planner

RECEIVED
FEB 09 2023

TOWN OF AYER
TOWN CLERK

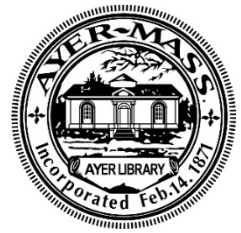
12:30pm @

**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 March 15, 2023 regarding an application by DMG Investments, LLC for property located at 201 W. Main St. Ayer, MA. The applicant is seeking 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. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised February 24, 2023 and March 3, 2023, *The Nashoba Valley Voice*



**Town of Ayer
ZONING BOARD OF APPEALS
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Name of Applicant: Cian Hamill on behalf of DMG Investments LLC
(Full Name)
100 Wall Street, Suite 1601, New York, NY 10005
(Address)
(347) 574-3454
(Phone Number)
cianhamill@dmginvestments.com
(Email Address)

Applicant is: _____ Owner _____ Tenant _____ Licensee X 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):

S&J West Main Realty Trust

Location of Property:

201 West Main Street AYER, MA 01432

Assessor's Map 32 **Parcel** 14 & 15 **Land Size** 203,262 sf/4.67 acres

Zoning District: A-1 A-2 GR GB DB LI I MUT HCS
Circle One ***WEST AYER VILLAGE - VILLAGE CORE (Lot 15) & VILLAGE STREET (Lot 14) ZONES

Registry of Deeds Book 62369 **Page** 524 & 526

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? no

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:

Town of Ayer Zoning Bylaw §10.5.16.B. - Lot Width. The Applicant respectfully requests relief

to increase the maximum lot width to 254.1 feet. Please refer to the attached narrative for

additional information.

Date: 01/20/2023

Signed by Cian Hamill
(Petitioner) on behalf of DMG Investments LLC

(347) 574-3454
(Daytime Phone Number)

cianhamill@dmginvestments.com
(Email)

Variance Request Narrative
DMG Investments LLC
201-205 West Main Street, Ayer, MA

Sec. 10.5.16.B – Building Development Standards – Lot Width

60 ft. min., 192 ft. max. allowed (T.5.1 Village Street) – 254.14 ft.+ proposed.

The proposed project consists of parcels 32-14 & 32-15 which provide a total frontage/lot width of 254.14 ft. at northerly right of way line along West Main Street. While both of these parcels are within the West Ayer Village Form Based Code District (WAVFBC), parcel 32-14 is within the T.5.1 Village Street section and parcel 32-15 is within the T.5 Village Core section. We are requesting relief from the more restrictive T.5.1 Village Street Lot Width requirement, however, the T.5 Village Core Lot Width requirement is 260 ft., which the project meets. It appears the intent of the Lot Width requirement is to limit buildings being constructed on narrow lots, as opposed to meeting the maximum. The size and width of the total property are necessary for the proposed retail/residential improvements and consistent with Ayer's Master Plan for West Main Street and the General Guiding Principles for the WAVFBC. The site as designed would meet the Lot Width requirement by the Village Core criteria.

Should you have any questions or require additional information, please do not hesitate to contact me at 508-480-9900.

Sincerely,

BOHLER



Drew Garvin
Project Manager



Town of Ayer
Zoning Board of Appeals
Department Head Review Summary

Application for Variance – 201 W. Main St. – Building Width

Department	Comments
Town Manager	Defer to ZBA
Board of Health	Variances not recommended for new construction. Sets precedent for future projects in town.
Department of Public Works	No comments
Police Department	No Comment at this time.
Fire Department	Must comply with 527 CMR Chapter #18, fire department access.
Building Commissioner/Zoning Enforcement Officer	Please see letter attached to Height Variance.
Conservation Commission	The Conservation Commission has no concern with the variance as requested. Allowing for the building width will help keep the project out of the 100ft buffer. The applicant should be notified that any work in the Buffer needs a permit from the commission and note there is a 50ft no disturb zone.
Treasurer/Tax Collector	No comment
Town Clerk	No Issues
Assessor's Office	No comment
Economic & Community Development	Please See attached letter.
Town Planner	Please see letter attached to Height Variance.

Town of Ayer

Office of Community & Economic Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8206 ♦ Fax: 978-772-8208



Subject Property: 201 West Main Street, Ayer MA

Item: Maximum Lot Width Variance

The Ayer Office of Community & Economic Development (AOCED) recommends not granting approval (denial) of the requested Maximum Lot Width Variance for the proposed mixed-use development at 201 West Main Street -the future West Ayer Village.

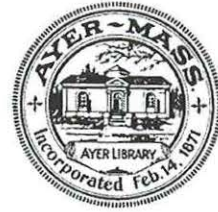
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RECEIVED
FEB 09 2023

TOWN OF AYER
TOWN CLERK

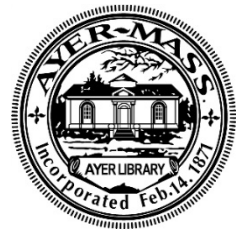
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Registry of Deeds Book 62369 **Page** 524 & 526

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- 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? 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:

Town of Ayer Zoning Bylaw §9.1.2. - Off street parking requirements. The Applicant respectfully
requests relief to reduce the required off-street parking to 172 spaces; and Town of Ayer Zoning
Bylaw §9.1.2. - Off street parking design standards. The Applicant respectfully requests relief
to increase the maximum percentage of small-car parking spaces to 20%. Please refer to the
attached narrative for additional information.

Date: 01/20/2023

Signed by Cian Hamill
(Petitioner) on behalf of DMG
Investments LLC
(347) 574-3454
(Daytime Phone Number)
cianhamill@dmginvestments.com
(Email)

Variance Request Narrative
DMG Investments LLC
201-205 West Main Street, Ayer, MA

Sec. 9.1.3 Off-Street Parking Requirements

288 parking spaces required – 172 spaces proposed (see parking calculation provided within the Zoning Analysis Table on the Site Layout Plan)

The intent of the project layout is to provide as much street parking as possible on the site, and at a minimum, one space for each dwelling unit. Again, this site is limited in area to maximize the parking count due to the wetlands and flood zone in the rear of the property. It is anticipated that a good portion of the prospective tenants will be working locally within Fort Devens and be able to commute/shuttle to/from work without the need (or ownership) of a vehicle. The retail/residential uses are also intended to share a portion of the provided parking during prime working hours. It should also be noted that there will be additional parking available as part of the West Main Street improvements (not included in the project parking count), approximately 13 proposed in front of this project (both sides of West Main St).

Sec. 9.1.5.A.2 – Small-Car (Compact) Parking Spaces

10% allowed – 20% proposed

Spaces designated for small-car parking shall be grouped in contiguous areas – spaces proposed intermittently withing parking area.

Due to the layout and intended uses for this project, more small-car (compact) spaces were an efficient use of the space to maximize the parking count in relation to anticipated column placement for the proposed building and appropriate egress throughout the parking area. Due to the proposed studio and one-bedroom units, it is anticipated that more compact cars (and/or motorcycles) is a realistic expectation for parking use.

Should you have any questions or require additional information, please do not hesitate to contact me at 508-480-9900.

Sincerely,

BOHLER



Drew Garvin
Project Manager



Town of Ayer
Zoning Board of Appeals
Department Head Review Summary

Application for Variance – 201 W. Main St. – Parking

Department	Comments
Town Manager	Defer to ZBA
Board of Health	Variances for new construction not recommended. Sets precedent for future projects in town.
Department of Public Works	No Comments
Police Department	<ol style="list-style-type: none">1. Will parking spaces be assigned to unit?2. How much parking, if any, is being made available to comm. Property.3. Strategies to prevent “creative parking”
Fire Department	Must comply with 527 CMR Chapter #18, fire department access.
Building Commissioner/Zoning Enforcement Officer	Please see letter attached to Height Variance.
Conservation Commission	While a reduction in parking and parking surface would benefit the nearby wetlands and keep disturbance out of the 100ft buffer what will the reduction have to those that live/visit the area. May cause those to park in areas not designated causing more harm to the sensitive area.
Treasurer/Tax Collector	No comment
Town Clerk	No Issues
Assessor's Office	No comment
Economic & Community Development	Recommend parking management plan.
Town Planner	Please see letter attached to Height Variance.

RECEIVED
FEB 28 2023

8:50am
(Signature)

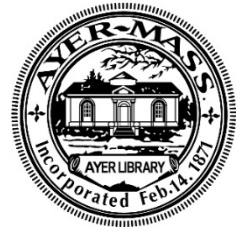
TOWN OF AYER
TOWN CLERK

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



The Ayer ZBA will conduct a remote public hearing at 6:20 PM on Wednesday March 15, 2023 regarding an application by AIR 22 LLC. (Advance Auto Parts), for property located at 22-7 Fitchburg Road Ayer, MA. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 9.5.5 Appendix C to permit 3 signs where 2 are permitted and to allow the installation of wall signs at 17'11.5" where 15" is allowed. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised March 1, 2023 and March 8, 2023, *The Lowell Sun*



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

Name of Applicant: _____ Professional Permits % Garry Potts
(Full Name)

58171 Dragonfly Court Osceola IN 46561
(Address)

574-229-0635
(Phone Number)

gpotts@professionalpermits.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):

AIR 22 LLC 975 Merriam Ave Suite 213 Leominster, MA 01453

Location of Property:

22-7 Fitchburg Road Ayer, MA 01432

Assessor's Map 18-2 **Parcel** 18-2 **Land Size** 3 AC

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

Registry of Deeds Book 38438 **Page** 002

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? _____

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:

tenant wishes to install (2) sets of internally illuminated wall signs above the 15' height
specified by Ayer Zoning bylaw Appendix C section 9.5.5 to a height of 17' - 11-1/2" a
a variance of 2' - 11-1/2". To install a 3rd sign on the property where 2 is allowed by code. A variance of 1 sign.

- Approval of additional square footage – allowed – 124.5, asking for 139 total – and additional 15 square feet.

Date: 02/24/2023 _____

Signed by  _____
(Petitioner)

574-229-0635
(Daytime Phone Number)

gpotts@professionalpermits.com
(Email)



GERONIMO

COMMERCIAL PROPERTIES

February 24, 2023

AIR 22 LLC
975 Merriam Ave
Suite 213
Leominster, MA 01453
Phone 978-840-0008

Email *Laura@geronimoproperties.com*

RE: Advance Auto Parts 22-7 Fitchburg Road Ayer, MA 01432

I, *Laura O'Keefe*, acknowledge Atlas Sign Industries and their agent Professional Permits to act on our behalf and execute all necessary municipal documents specific to the signage for the above referenced properties. This authorization is limited to ZBA hearing applications, meeting representation, and building and sign permit applications and related documents.

If you have any questions, please feel free to contact me with any questions.

Sincerely,

Signed: *Laura O'Keefe*

Date: *2/24/2023*

Letter of Intent

February 27, 2023

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

RE: Advance Auto Parts – 22-7 Fitchburg Rd

Owner: AIR 22, LLC

We are seeking variance relief from the Ayer Zoning Ordinance to install (2) wall signs above the code allowed height of 15' to a height of 17' – 11 ½". A variance of 2' – 11 ½". The ordinance limits the number of signs to 2 and we are requesting a variance to install a third sign on the property. A variance of 1 sign. We are also seeking approval for additional square footage. Code allowed is 124.5 sq ft and we are requesting 139 sq ft. A variance of 15 square feet.

The reasons for the requests is that the façade design does not allow for a sign to be installed at the 15' height limit for the S01 sign. The S02 sign will allow for improved motorist wayfinding thus improving public safety. For wall signs to be safe and effective they must be easily identifiable at the necessary distance from the sign to allow for quick visibility and motorists' decision-making.

According to the National Safety Council, shopping center, "Tens of thousands of crashes occur in parking lots and garage structures annually, resulting in hundreds of deaths and thousands of injuries."¹ Even though the driver is in the parking lot of the shopping center, it is important the sign be of sufficient size to provide for quick visibility.

We believe that it is important for the variance to be approved to allow for the sign to provide safe and effective motorist wayfinding.

Sincerely,



Garry P Potts II

¹<https://www.nsc.org/road/safety-topics/distracted-driving/parking-lot-safety>

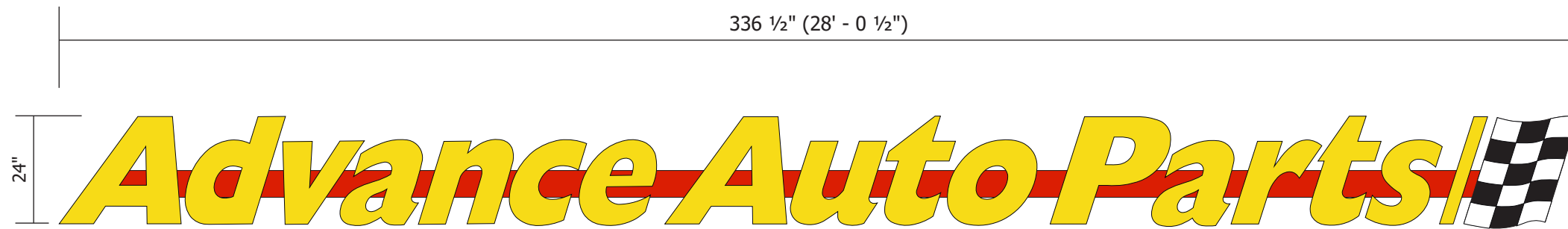
Advance Auto Parts

Store Number: 9970
22-7 Fitchburg Road
Ayer, MA 01432

S.O. Number: 153929
Created: 11/02/2022
Revised: 02/13/2023

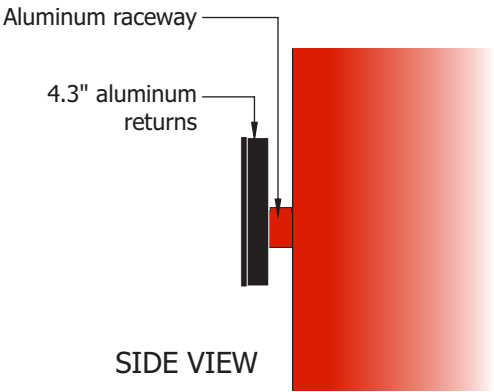


National Headquarters: 1077 West Blue Heron Blvd.
West Palm Beach, Florida 33404
800.772.7932
www.atlasbtw.com



S01 Scale: 3/8" = 1'-0"

SQUARE FOOTAGE: 56.00 sq ft



Action:
Manufacture new letterset as shown and described.
On site Install new letterset in designated location.

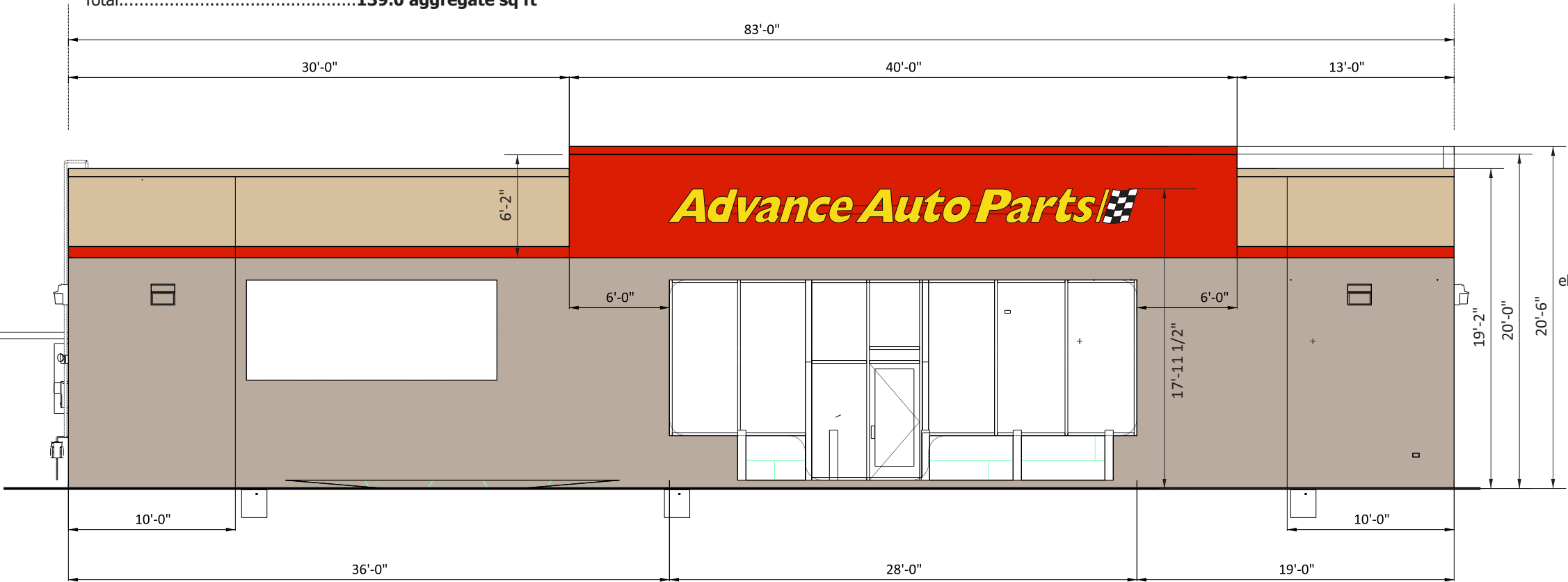
Description:
Individually formed channel of aluminum returns over aluminum backs with internal illumination and translucent faces. Mount to extruded aluminum raceway.
AAP Red painted background (by others).

- Color Schedule: Letters & Flag Pole**
- Returns: Pre-Finished Aluminum Black / White
 - Faces: 2037 Yellow Acrylic
 - Trim Cap: Standard Black
 - Illumination: LED Warm White
 - Raceway: Paint to Match Pantone 485-C

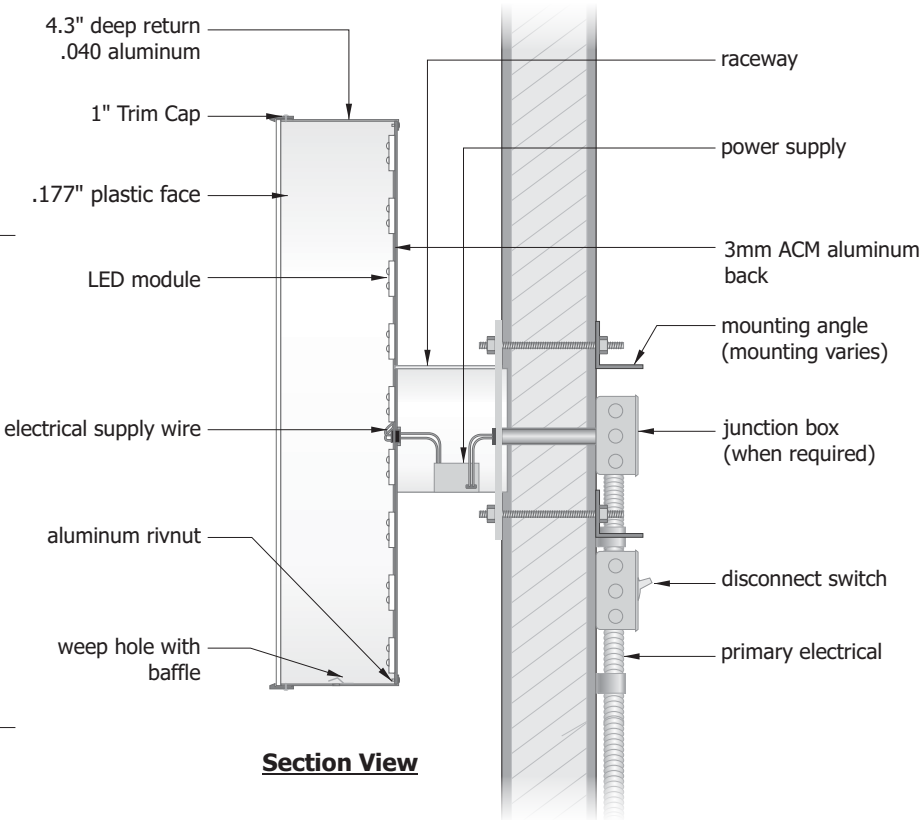
- Color Schedule: Flag**
- Returns: Pre-Finished Aluminum Black / White
 - Face: 7328 White Acrylic
 - Checker Board: 3M 3630-22 Translucent Black Vinyl
 - Trim Cap: Standard Black
 - Illumination: LED White

- ELECTRICAL NOTES**
1. All materials and fasteners meet 3004.4
 2. All electrical components are UL listed, labeled and approved.
 3. Sign grounded according to NEC 6007.7
 4. Signs manufactured and listed NEC 600.3 and marked per NEC 600.4.
 5. All branch circuits per NEC 600 .5(B).1 or (B).2.
 6. All Signs controlled by photocell or time clock per FBC 13-415. (ABC).1.4.
 7. One visible 20 amp disconnect per sign per circuit per NEC 600.6(A).1

SIGN CODE:
Allowed: Total for all signs on site cannot exceed 124.5 sq ft.
Proposed:
Channel Letters.....112.0 sq ft
Pylon Sign.....27.0 sq ft
Total.....**139.0 aggregate sq ft**



FRONT ELEVATION - Scale: 1/8" = 1'-0"



Section View



National Headquarters: 1077 West Blue Heron Blvd.
West Palm Beach, Florida 33404
800.772.7932
www.atlasbtw.com

Revisions:	
12/19/22js - rev CL and Pylon Sign	...
02/08/23NR - updated elevation	...
02/09/23NR - added banner	...
02/10/23NR - added side elevation / removed banner & pylon	...
02/13/23NR - updated elevations	...

Site #9970

S01

PM: Carrie K.

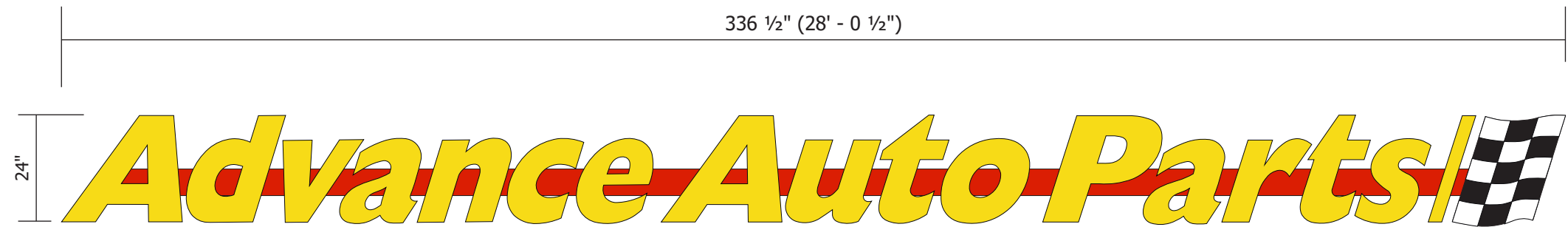
Drawn By: JS

Date: 11/02/2022

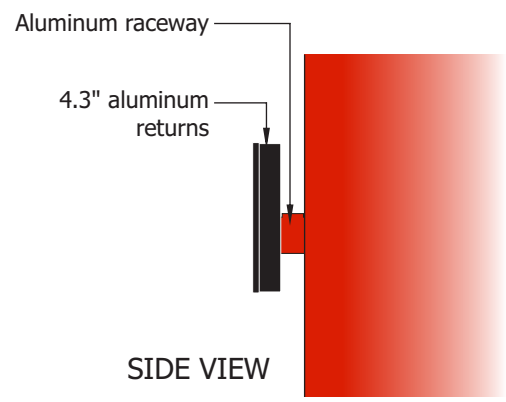
Address: 22-7 Fitchburg Road

City State: Ayer, MA 01432

Drawing Number: 153929-S01



S02 Scale: 3/8" = 1'-0" **SQUARE FOOTAGE:** 56.00 sq ft



Action:
Manufacture new letterset as shown and described.
On site Install new letterset in designated location.

Description:
Individually formed channel of aluminum returns over aluminum backs with internal illumination and translucent faces. Mount to extruded aluminum raceway.
AAP Red painted background (by others).

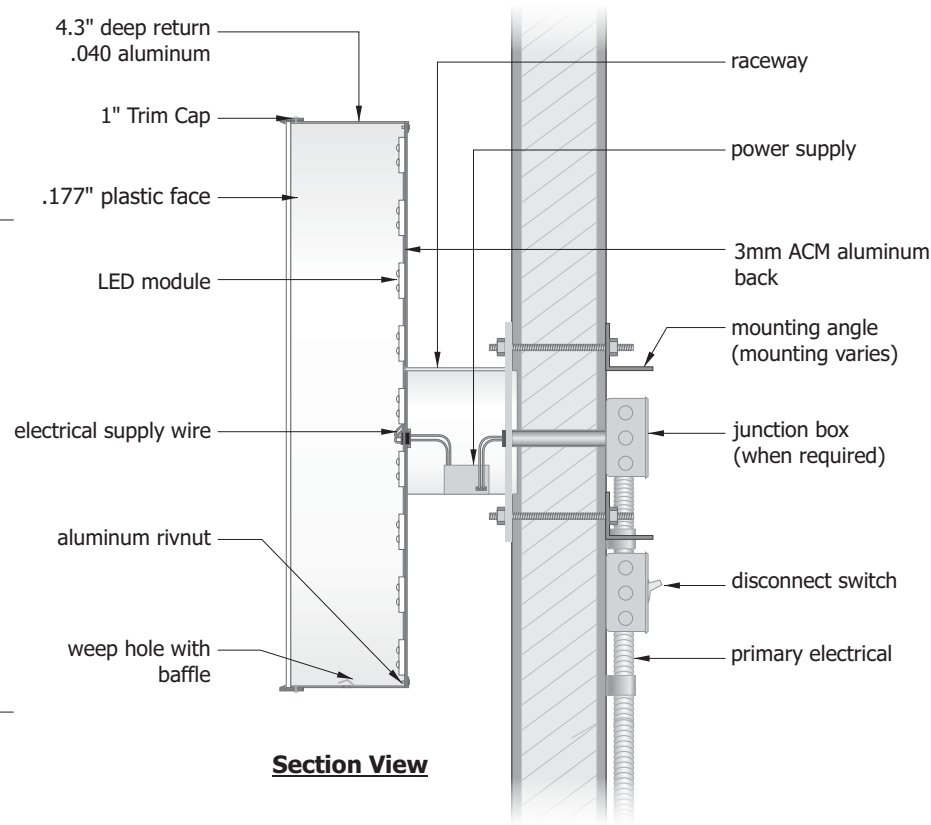
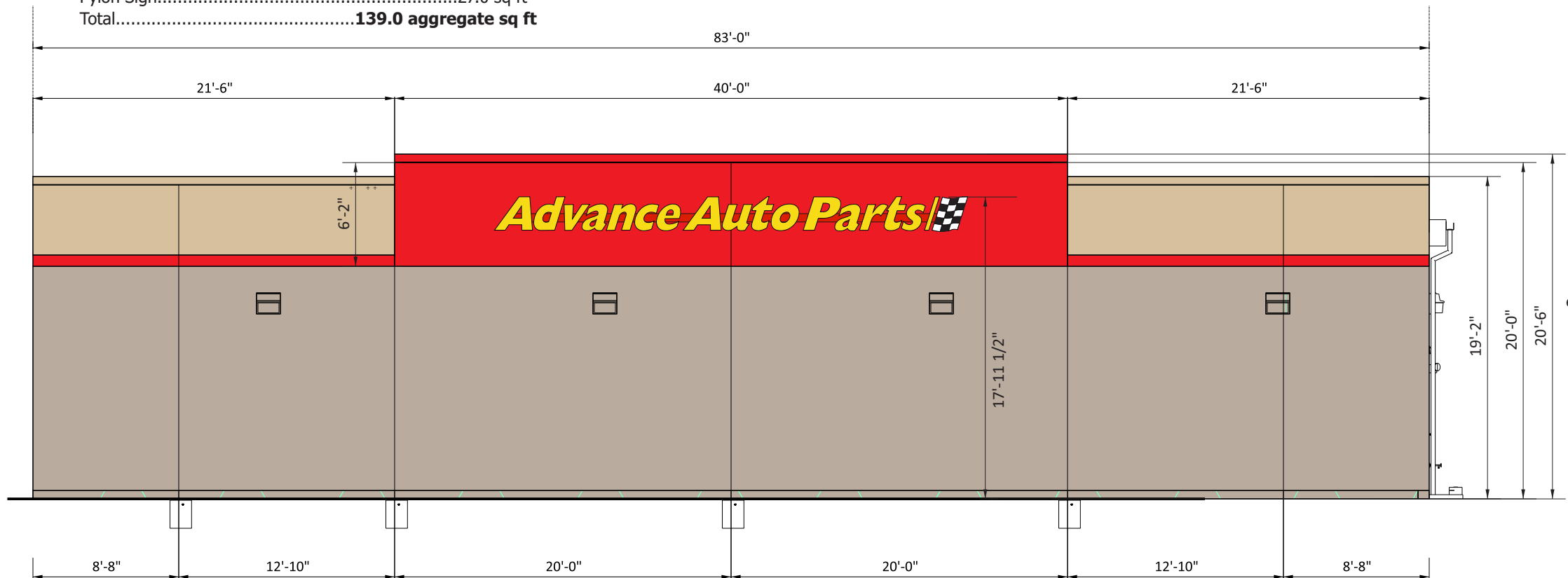
- Color Schedule: Letters & Flag Pole**

 - Returns: Pre-Finished Aluminum Black / White
 - Faces: 2037 Yellow Acrylic
 - Trim Cap: Standard Black
 - Illumination: LED Warm White
 - Raceway: Paint to Match Pantone 485-C
- Color Schedule: Flag**

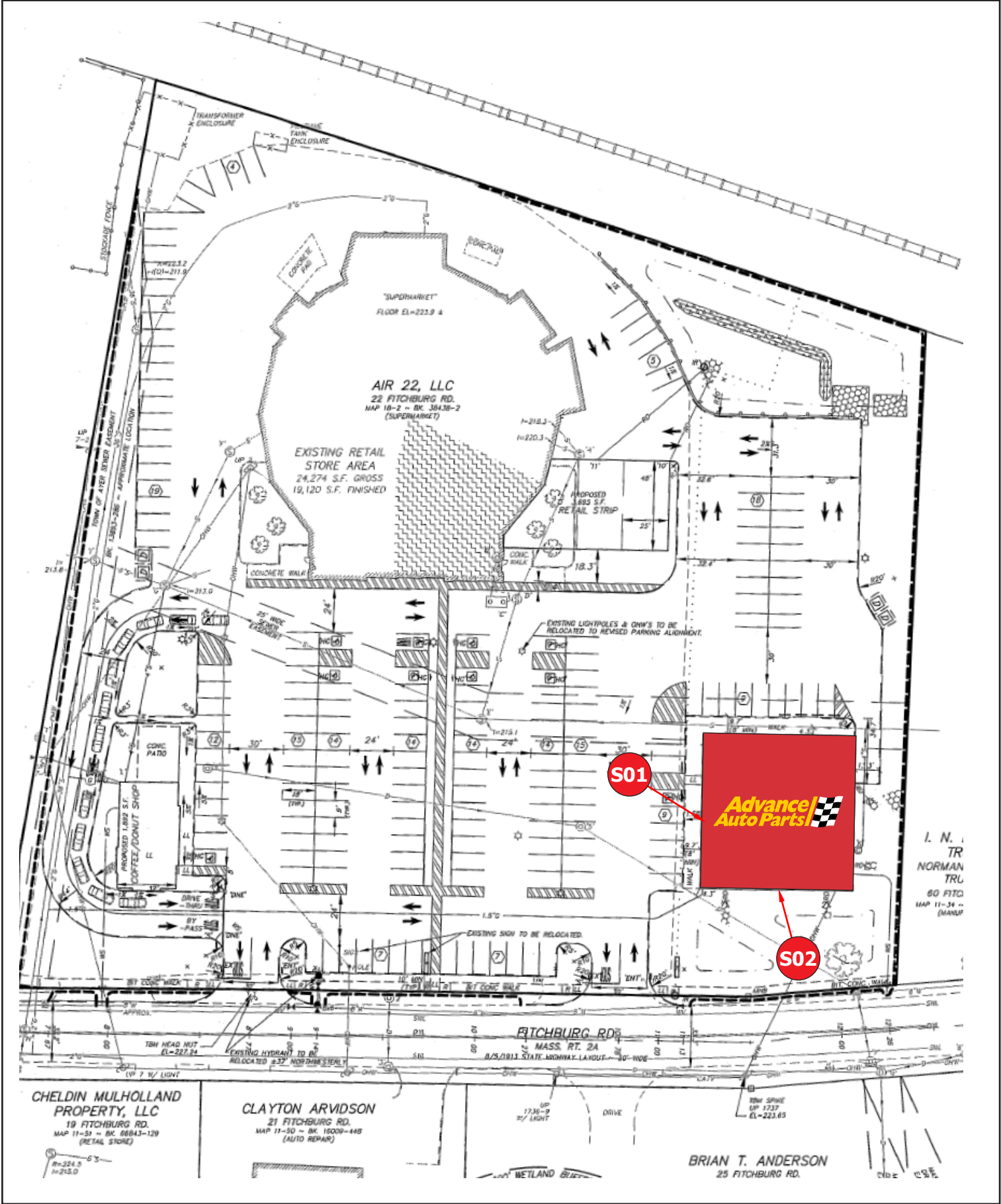
 - Returns: Pre-Finished Aluminum Black / White
 - Face: 7328 White Acrylic
 - Checker Board: 3M 3630-22 Translucent Black Vinyl
 - Trim Cap: Standard Black
 - Illumination: LED White

- ELECTRICAL NOTES**
1. All materials and fasteners meet 3004.4
 2. All electrical components are UL listed, labeled and approved.
 3. Sign grounded according to NEC 6007.7
 4. Signs manufactured and listed NEC 600.3 and marked per NEC 600.4.
 5. All branch circuits per NEC 600 .5(B).1 or (B).2.
 6. All Signs controlled by photocell or time clock per FBC 13-415. (ABC).1.4.
 7. One visible 20 amp disconnect per sign per circuit per NEC 600.6(A).1

SIGN CODE:
Allowed: Total for all signs on site cannot exceed 124.5 sq ft.
Proposed:
Channel Letters.....112.0 sq ft
Pylon Sign.....27.0 sq ft
Total.....**139.0 aggregate sq ft**



SIDE ELEVATION - Scale: 1/8" = 1'-0"



Advance Auto Parts

S01 24" Channel Letters - 56.00 sq ft

Advance Auto Parts

S02 24" Channel Letters - 56.00 sq ft



National Headquarters: 1077 West Blue Heron Blvd.
West Palm Beach, Florida 33404
800.772.7932
www.atlasbtw.com

Revisions:	
12/19/22js - rev CL and Pylon Sign	...
02/08/23NR - updated elevation	...
02/09/23NR - added banner	...
02/10/23NR - added side elevation / removed banner & pylon	...
02/13/23NR - updated elevations	...

Site #9970		PM: Carrie K.	Address: 22-7 Fitchburg Road
SP		Drawn By: JS	City State: Ayer, MA 01432
		Date: 11/02/2022	Drawing Number: 153929-SP

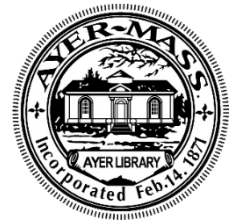


**Town of Ayer
Zoning Board of Appeals
Department Head Review Summary**

Application for Variance – 22-7 Fitchburg Rd. (Advance Auto Parts)

Department	Comments
Town Manager	
Board of Health	No Comments
Department of Public Works	No issues for DPW.
Police Department	No comments at this time.
Fire Department	No Fire Dept. issues.
Building Commissioner/Zoning Enforcement Officer	No issue this will blend right in with what is existing.
Conservation Commission	The request has no conservation jurisdiction. No comment.
Treasurer/Tax Collector	No comment.
Town Clerk	No issue with Town Clerk's office.
Assessor's Office	No comment.
Economic & Community Development	Recommend Approval
Town Planner	I approve this "sign variance" request.

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



Wednesday, January 11, 2023
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 J. Gugino.

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 and waiver list 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_-_revised_1-7-23.pdf)

Paul Haverty of BSC Group continued his presentation of the draft notice of decision for the proposed project.

J. Gugino pointed out a few grammatical errors that would need to be corrected.

J. Ellis expressed concern that the decision states that only 25% of the housing is affordable and not 100%, meaning the applicant could change the project from 100% affordable housing in the future. (IV.B.1)

P. Haverty explained that the language used is the state minimum requirement and cannot be changed by the Board. The Board can put provisions in the list of waivers to guarantee the project remain 100% affordable.

S. Goodwin asked for clarification as to cares for the sidewalks and walkways. (IV.E.20)

P. Haverty explained that it is the responsibility of the applicant, and the language can be updated to reflect that.

J. Ellis noted that the issue of signage had not been addressed. (IV.E.6)

Stephanie Kiefer of NOAH stated that they were not seeking a signage waiver nor was signage going to be included in this project. If that changed the applicant would have to come before the Board again.

P. Haverty explained the updates made to IV.E.27 to include the involvement of the Conservation Commission. Sections IV.F.4, and IV.F.5 were added based on the peer review suggested conditions.

J. Ellis thought that the turning radius of the fire truck had been addressed. (IV.F.4)

Taylor Dowdy of BSC Group noted that it had been but the Green International did not agree with the assessment and submitted drawings.

P. Haverty noted updates to section IV.H.2, in which the Applicant and the DPW shall determine if gate valves shall be needed, and section IV.H.7, in which it is made clear that the applicant is responsible for all trash and recycling removal.

P. Haverty explained that a percolation test shall be required as recommended by the peer review. (IV.I.15)

T. Dowdy explained that soil tests are more common now but both tests will be performed in this case.

P. Haverty explained that the addition of section IV.J.9 in which trees planted along Fitchburg Rd. will be a minimum distance of 10' behind the overhead wires.

This concluded the discussion of the notice of decision. The list of requested waivers was then discussed.

P. Haverty noted that the applicant has asked for a blanket waiver from all Town Bylaws, but it is recommended that the Board look at each waiver individually.

P. Haverty explained the first few waivers are to allow the project to move forward, allowing for changes in setbacks, minimum floor area, and height of the building. (Waivers 1-12).

S. Goodwin asked if the applicant would be returning for Phase II.

P. Haverty noted that this notice of decision and waiver list covers both Phase I and Phase II of the project.

P. Haverty noted the waiver in which the applicant asked for a reduction in required parking spaces. (Waiver 13)

P. Haverty explained that the applicant is seeking a waiver to reduce the number of trees planted per park space.

J. Gugino asked how many trees would be planted.

S. Kiefer explained that there would be no vegetative islands in the parking lot, but they would still plant about 45 trees around the perimeter of the parking lot.

Frank Valdes, NOAH's engineer, noted that other types of plants would surround the parking area.

P. Haverty noted that a performance bond can be required by the Board and does not have to just pertain to the work being done to the entrance to the complex. (Waiver 26)

S. Goodwin asked if the performance bond, noted earlier in the document, was all encompassing.

S. Kiefer explained that the performance bond noted in Waiver 4 was waived.

P. Haverty said he could add a performance bond condition in which the Board can impose a bond consistent with Mass. General Law. (IV.F.6)

C. Antonellis asked what steps the town would have to take in regards to the bond.

P. Haverty explained that Mass. General Law does explain the various ways in which a bond can be posted.

P. Haverty moved the discussion onto the requested waiver of Building Permit Fees. (Waiver 27)

C. Antonellis presented the estimated fees for the project, included was the Water, Sewer, and Building Permit fees. The applicant requested a 100% waiver of all fees. The town does not feel that is possible and suggested a 50% waiver of Building Permit Fees and a 40% waiver of Water and Sewer fees, and have the applicant take up the cost of adding a sidewalk and crosswalk. The Town is also willing to forgo their 30% of all Electrical and Plumbing permit fees. The Electrical and Plumbing inspectors are paid by the permit and therefore the fees cannot be completely waived.

Dan Van Schalkwyk, DPW Director, explained that the connection fees for Water and Sewer help to pay for the use of Devens as well as fund other DPW projects. These fees would help the with maintenance of the Water and Sewer infrastructure. The estimated connection fees were based on the number of bedrooms, the 40% reduction was based on if there were only one bedroom in each unit.

C. Antonellis explained the Building Permit fees were based on the plans that were available at the time.

S. Kiefer asked how the Building Permit fees were calculated.

C. Antonellis invited Charles Shultz, Building Commissioner, to the meeting to explain.

Alicia Hersey, of the Economic and Community Development Office, not that the Board can make the waiver of permit fees dependent on keeping the project 100% affordable.

M. Gibbons asked D. Van Schalkwyk asked if the 40% waiver indicates that 60% of the total cost is what it would take to complete this work.

D. Van Schalkwyk explained that some of the cost is for inspection but he majority is for the connection fees with the capacity at the plant. If the fee is waived then the current payers would have to pay more.

C. Shultz called into the meeting at 7:11pm

C. Shultz explained that the estimated permit fee was based off the estimated total cost of the project, which is about \$31,000,000, Phase I & II. The project was calculated using the town's permit fee schedule for commercial projects which is \$14.00/\$1,000.

S. Kiefer asked why the commercial rate was used, when this is a multi-family project in which the permit fee should be calculates using \$0.75/sf.

C. Shultz explained that according to the International Building Code anything over two-family is considered a commercial building, and no longer considered residential.

S. Kiefer noted that the fee schedule on the Town's website does list a multi-family option under residential.

S. Goodwin asked if S. Kiefer had the square footage totals for both Phases of the project.

S. Kiefer stated that she did not know the exact square footage of Phase I and does not have the square footage of Phase II.

C. Shultz estimated Phase I to be 69,400 square feet based on the plans, however since these are mix-use buildings, this would still be a commercial project.

M. Gibbons believes that if C. Shultz has determined the project to be commercial then that is the calculation that should be used.

F. Valdes agrees that this is a commercial project.

M. Gibbons asked if the the 50% reduction would cover the cost of the staff needed for this project.

C. Shultz explained that this was an estimate that took into account the administrative work, plan reviews, and inspections. He is comfortable that the permit fee would cover the cost of the staff.

S. Kiefer asked that the Board consider using the residential multi-family published rate, and the Board impose the \$0.75/sf calculation.

S. Goodwin reiterated that the Building Commissioner, and the project's architect both believe this to be a commercial project. If the construction demands the use of commercial codes then that is how the fee will be determined.

J. Gugino asked if P. Haverty has encountered this issue in other project.

P. Haverty finds that the Town Bylaw's is vague, but usually large developments are considered commercial.

C. Shultz noted that when a project's position is unclear the most stringent rules apply.

S. Goodwin asked that the discussion move onto the actual fee waiver, as the Board believes this project to be commercial.

S. Kiefer noted that the fee may be too high and therefore not viable.

J. Ellis feels the town is being generous in regards to various fees, and the Board needs to support the Building Commissioner.

M. Gibbons noted that the proposed estimated permit fee of \$217,000 would cover the costs of the inspections, and asked that the building permit fee be capped at that amount.

C. Shultz agreed to the capped cost.

J. Gugino agreed with the cap as well.

R. Defilippo believes that the project is commercial in nature, and the fee should reflect that.

P. Haverty updated Waiver 27 to include the permit fee cap at \$217,000, this includes both the inspection fee and the occupancy fee based on the project being 100% affordable.

S. Goodwin moved the discussion to the Water and Sewer fees. (Waiver 31)

S. Kiefer asked that the fee reduction be greater than the Town's proposed 40%.

S. Goodwin asked that if applicant is able to take up the cost of installation of the sidewalk and crosswalk with the reduction of Water and Sewer fees.

S. Kiefer explained NOAH is willing to fund the engineering and survey work of the project, since it is her understanding that the town is looking into a grant to fund the sidewalk.

D. Van Schalkwyk weighed in on the possible plan. Stating that with the gap between the project and Shop 'n Save needs to be filled for pedestrian safety. The cost of the survey and engineering is relatively cheap and could possibly be done in house.

S. Kiefer offered for the applicant to pay for the construction as to avoid paying prevailing wage.

A. Hersey noted that the grant would cover both the construction and engineering, and therefore if granted neither party would have to pay.

S. Kiefer requested a recess to discuss this plan with the applicant.

Recess: S. Goodwin called a recess at 8:01pm

Meeting resumed at 8:06pm.

S. Goodwin recognized Pauline Conley, a resident of Ayer.

P. Conley encouraged the Board to allow the waivers, as to keep this project 100% affordable.

S. Kiefer relayed that the applicant is concerned that they will not be able to get funding for an off-site improvement. If the Board wished to impose a condition in which the Sewer and Water connection cost is reduced in exchange for an off-site improvement, then they would need a 75% reduction in cost.

S. Goodwin summarized the issue. The applicant is concerned that the town might not get the grant to install the sidewalk, and therefore the client would have to pay for the sidewalk, and they are not sure they can get the funding. The increased reduction request is not reasonable based on the D. Van Schalkwyk's earlier presentation.

J. Gugino clarified that if the cost of the sidewalk is removed from the equation, the 40% reduction would still stand.

Ken Diskin, of the Ayer Planning Board, asked for clarification on the location of the sidewalk.

S. Goodwin explained that the sidewalk would connect from the end of their property to in front of Anderson's Funeral, and from there have a crosswalk connecting it to the Shop 'n Save.

K. Diskin asked if there was another way to figure the cost of the sewer connection. Instead of using the standard calculation of number of bedrooms, maybe using a fixed cost per unit.

D. Van Schalkwyk noted that fees are based on the number of bedrooms for the capacity. Changing to number of units will only calculate a different number but the capacity is still known.

A. Hersey asked if the Board was willing to consider P. Haverty's proposal of the Town and the applicant splitting the cost of the sidewalk project and if the Town can get a grant then neither party pays.

Annika Lambert, of NOAH, reiterated that this off-site might not be something that NOAH can get funding to support.

J. Gugino suggested removing the sidewalk but keeping the 40% reduction for the Water and Sewer connection.

S. Goodwin asked to see what a 75% reduction would look like.

C. Antonellis did the calculations.

D. Van Schalkwyk felt the Water and Sewer fees were more important, and would rather look for other funding for the sidewalk that reduction the connection fee by 75%.

P. Conley commented that the Willows Project did obtain funds for an off-site project.

A. Lambert noted that each project is different and cannot guarantee that a project such as a sidewalk would be supported.

Jonathan Kranz, Chair of the Ayer Planning Board, reminded the Board that this project is a huge win for the Town. This project is the best opportunity the Town has of achieving its goal of affordable housing as laid out in the Master Plan.

P. Haverty read the proposed condition, in which the applicant would be responsible for the engineering and survey work for the construction of a sidewalk and crosswalk connecting the property to the Shop 'n Save.

J. Gugino suggested removing the sidewalk discussion from the equation and only focus on the Water and Sewer connection.

S. Kiefer asked that the Water and Sewer fees be reduced to 50%.

The Board was not willing to reduce the Water and Sewer fees by more than 40%.

P. Haverty reviewed Waivers 28-30. These waivers dealt with the Town's Stormwater Bylaws and allowed for the project to move forward.

This concluded the discussion on Waivers.

J. Ellis wished to discuss the language in the notice of decision that stated that the applicant is only required to have 25% of units available as affordable. (IV.B.1)

P. Haverty reiterated that the Board cannot require more than 25%.

S. Goodwin noted that the Waiver concerning the reduction in Building Permit Fees only applies if the units remain 100% affordable.

J. Ellis also questioned the number of parking spaces in regard to the community building. He is concerned that with the community building and pool open to the public there will not be enough parking for residents.

J. Gugino noted that the pool is not open to the public.

C. Antonellis explained that the pool is only open to residents.

A. Lambert explained that the wider community could hold a public meeting if needed, but the pool is only for residents.

J. Gugino asked if there recourse for protecting the Open Space.

P. Haverly explained that protecting the Open Space is outside the scope of this decision.

Motion: S. Goodwin made a motion to close the public hearing of the Application for a Comprehensive Permit (MGL 408, Sections 20-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road.

Seconded: 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 approve the Comprehensive Permit (MGL 408, Sections 20-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road as drafted and with provisions discussed.

Second: 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 adjourn the meeting.

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)

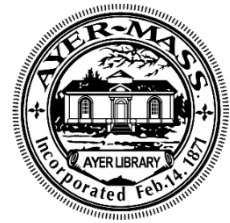
Meeting Adjourned at 9:04pm.

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, January 18, 2023
Remote Participation Open Session Meeting Minutes**

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

Absent: Ron Defilippo, Clerk

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 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. Gugino.

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

Motion Passed (4-0)

Public Hearing – Application for a Variance – Tannery Crossing, LLC. – 11 Tannery Street (Filed December 30, 2022).

S. Goodwin opened the public hearing at 6:05pm by reading the public hearing notice as published in *The Lowell Sun* on January 4, 2023, and January 11, 2023. 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).

Attorney Thomas Gibbons representing Tannery Crossing, LLC, presented along with the John and Mike Gervais, the owners of Tannery Crossing, LLC and Gervais Ford. Also present is Mike Gould, the Master Service Technician for Gervais Ford, and who will be in charge of the garage at 11 Tannery St.

T. Gibbons gave a brief overview of the history of the property and the proposed use. The property is in the Light Industrial District, where automobile repair is not allowed. Gervais Ford has been in business for nearly 62 years and employee many town residents. The company has seen increased use of their Service Center since the end of the pandemic. In 2016 Tannery Crossing, LLC purchased the property with the intention of using the space to expand their business. He noted that in the 1990s Gervais Ford leased the property from the previous owner to be used as car repair service center. Tannery Crossing leased the property to a recycling company, who left the property in a less than ideal state. The recycling company has since left, and the property has been cleaned.

T. Gibbons explained that the lot is long and narrow, and the only direct abutter is the railroad. The shape of the property and the location of the garage allow for a good flow of vehicles through the building.

J. Ellis asked why the house that is seen on the property is not depicted in the presented drawings.

T. Gibbons explained that the house is labeled “office” and has not been used as a house since the 1990s.

S. Goodwin noted that the structure does look like a residential house.

T. Gibbons further explained that the area is used as and will continue to be used as office space.

T. Gibbons concluded his presentation by explaining that by enforcing the current bylaw would result in a hardship, such as preventing the property from used for which it was purchased. It would also prevent the growth of the business. Also given the shape of the property there are limited uses of this property, and many of which would necessitate the use of tractor trailers. By granting this variance a local company is able to grow and it prevents any possible other uses causing detriment to the neighborhood.

A letter by Nick Gibbons of 22 Forest Street, was submitted in support of this project.

S. Goodwin asked what the hours of operation would be.

M. Gervais explained the hours would be 7:00am to 5:00pm in weekdays.

S. Goodwin asked what kind of signage would be on the property.

T. Gibbons noted all signage would satisfy the Town’s sign bylaw.

J. Ellis asked if there would be a limit as to how many vehicles will be on the property at one time.

T. Gibbons explained that the vehicles would be contained to the property and none would be parked on the street.

J. Ellis asked if there would be any customers on the site.

T. Gibbons noted that there would be no customers, and that the staff would drive the vehicles to the site.

J. Gugino asked if a Site Plan Review was needed.

T. Gibbons offered to discuss that with the Town Planner.

S. Goodwin did not believe it was required.

M. Gibbons was pleased that the staff would be bringing the vehicles to the site. He also asked if there would be any sales done at this location.

T. Gibbons noted that there would be no sales at this location.

Pauline Conley, an Ayer resident, voiced her support of this variance and believes that the site will be improved.

Motion: M. Gibbons made a motion to grant 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).

Seconded J. Ellis

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

Motion Passed (4-0)

Motion: S. Goodwin made a motion to close the hearing of Tannery Crossing, LLC at 6:22pm.

Seconded by M. Gibbons

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

Motion Passed (4-0)

Motion: M. Gibbons made a motion to accept the meeting minutes of December 21, 2022.

Seconded by J. Gugino

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

Motion Passed (4-0)

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

Seconded by M. Gibbons.

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

Motion Passed (4-0)

Meeting Adjourned at 6:26pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: _____

Signature of ZBA Clerk, Indicating Approval: _____