

RECEIVED
NOV 10 2022

TOWN OF AYER
TOWN CLERK

2:30pm (signature)

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



Wednesday November 16, 2022

6:00 PM

Remote Participation Meeting Agenda

Due to the ongoing COVID-19 Pandemic, in accordance with Chapter 22 of the Acts of 2022, suspending certain provisions of the Open Meeting Law (OML), public bodies otherwise governed by the OML are temporarily relieved from the requirement that meetings be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations "through adequate, alternative means." This meeting will be live on Zoom. The public may participate remotely by joining Zoom (Meeting ID# 857 9728 7177) or by calling (312-626-6799). For additional information about remote participation, please contact Carly Antonellis, Assistant Town Manager at atm@ayer.ma.us or 978-772-8220 ext. 100 prior to the meeting.

6:00 PM **Call to Order**

Approval of Agenda

Public Hearing – Application for a Variance – Nasoya Foods USA, LLC.

1 New England Way (Filed October 28, 2022)

Public Hearing – Application for a Variance – Jeffrey E. Greco and Andrea L. Greco

37 Sandy Pond Road (Filed October 28, 2022)

Continued Public Hearing – Application for a Comprehensive Permit (MGL 40B, Sections 20-23) Neighborhood of Affordable Housing, Inc.

65 Fitchburg Road (Filed June 24, 2022)

Application Materials can be found at: ayer.ma.us/zoning-board-appeals/pages/ayer-commons-proposed-comprehensive-permit40b

Approval of Meeting Minutes

October 19, 2022

Adjournment

The next regularly scheduled ZBA Meeting is Wednesday December 21, 2022 at 6:00 PM
via remote participation.

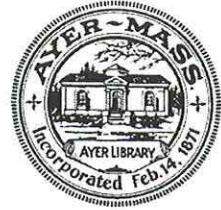
RECEIVED

NOV 01 2022

TOWN OF AYER
TOWN CLERK

10:00am (signature)

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 November 16, 2022 regarding an application by Nasoya Foods USA, LLC., for property located at 1 New England Way Ayer, MA. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 6.2 to allow for the construction of a portion of a building to a height of 75ft where 40ft is allowed. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised November 2, 2022 and November 9, 2022, *Lowell Sun*.

Law Office of Thomas A. Gibbons, PC.

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

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

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

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

October 28, 2022

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

RECEIVED
OCT 28 2022

TOWN OF AYER
TOWN CLERK

12:40pm


RE: 1 New England Way, Ayer, MA 01432
OUR FILE NO.: 22-8009

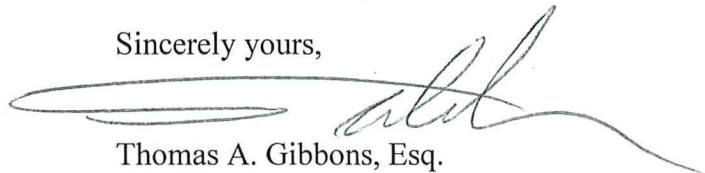
Dear Ms. Copeland,

Pursuant to MGL Ch 40A § 15, please accept for filing on behalf of the Ayer Zoning Board of Appeals, the application for Nasoya Foods USA, LLC for a variance to allow for the construction of a portion of a building to a height of 75 feet when 40 feet is allowed at 1 New England Way, Ayer, Massachusetts. Please find attached the following documentation:

- An original and a copy of a completed application and a certified list of abutters for a hearing for the Town of Ayer Zoning Board of Appeals, thirteen (13) copies of a three (3) page plan set, and a 24' x 36' copy of the three (3) page plan set,
- A check in the amount of One Hundred Sixty Five Dollars (\$165.00) for filing,
- A check in the amount of Seventy-Four Dollars (\$74.00) for publishing.

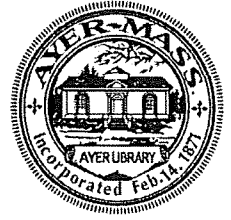
We respectfully request a public hearing before the Zoning Board of Appeals at the November 16, 2022 meeting. If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Sincerely yours,


Thomas A. Gibbons, Esq.

TAG/df

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



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

Name of Applicant: Nasoya Foods USA, LLC
(Full Name)

1 New England Way, Ayer, MA 01432
(Address)

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

c/o Law Office of Thomas A. Gibbons, P.C. - tgibbons@tgibbonslaw.com
(Email Address)

Applicant is: Owner Tenant Licensee Prospective Buyer*
**If you are a tenant, licensee or prospective buyer please include a letter from the property owner acknowledging the application with the Zoning Board of Appeals.*

The name and address of each holder or legal title to the land which is the subject of this petition (list as it appears on the Deed):

Nasoya Foods USA, LLC

Location of Property:

1 New England Way, Ayer, MA 01432

Assessor's Map 17 **Parcel** 18 **Land Size** 12.12 acres

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

Registry of Deeds Book 67233 **Page** 207

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:

Seeking a variance from the Ayer Zoning Bylaw Section 6.2 to allow for the construction of a portion
of a building to a height of 75 feet when 40 feet is allowed.

Date: 10/28/22

Signed by 
(Petitioner)

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

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

WESTFORD ROAD

LOT 2E
AREA = 2.142 ACRES

EXISTING BUILDING

EXISTING BUILDING

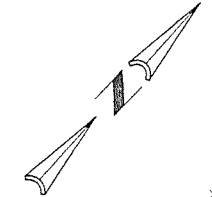
LEGEND	
1	CATCH BASIN / DOUBLE OF
2	CHAMP MANHOLE
3	SEWER MANHOLE
4	MANHOLE
5	CONCRETE
6	TREE LINE
7	POST INDICATED VALVE
8	HYDRANT
9	WATER VALVE
10	GAS VALVE
11	GAS VALVE
12	TRANSFORMER
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NOTES

1. DEVELOPMENT FEASIBILITY HAS BEEN CONSIDERED IN GREAT DEPTH UNDER VARIOUS SCENARIOS BY ENGINEERS WHOSE RECOMMENDATION IS TO BE CONSIDERED APPROPRIATE AND KELLY ENGINEERING GROUP, INC. DOES NOT TAKE RESPONSIBILITY FOR THE DESIGN OR CONSTRUCTION OF ANY STRUCTURES WHICH MAY BE INCORPORATED INTO THIS PLAN AS A RESULT. ADDITIONALLY, ENGINEERING FEASIBILITY ANALYSIS HAS BEEN DONE. THE EXTENT OF WHICH ARE UNKNOWN TO KELLY ENGINEERING GROUP, INC. THE USE, LOCATION AND EXTENT OF ALL SUCH UTILITIES MUST BE VERIFIED BY THE APPROPRIATE AUTHORITY AND BY THE CONSTRUCTION TEAM.
2. THE LOCATION OF ALL UTILITIES SHOWN HEREON HAVE BEEN ESTABLISHED USING AS-BUILT STANDARDS OBTAINED FROM THE COLLECTION AND INSPECTION OF EXISTING SANITARIAN UTILITY DATA, QUALITY 1 (M.F. 2).
3. THE SITE DATA AND COMPLETE IMPROVEMENTS SPECIFIED HEREON WERE OBTAINED FROM AN ON-SITE SURVEY CONDUCTED BY KELLY ENGINEERING GROUP, INC. IN AUGUST AND SEPTEMBER OF 2022.
4. ALL DATA SHOWN ARE BASED ON THE NORTH AMERICAN DATUM OF 1983. HORIZONTAL CONTROL WAS PROVIDED BY GPS WORK SURVEY PERFORMED BY KELLY ENGINEERING GROUP, INC.

CURRENT OWNER:
 Nasoya Foods USA, LLC
 1 New England Way
 Ayer, MA 01432
 Plan Recorded in Dept. Order 15849 Pg. 207
 Plan Approved by Plan No. 128 pg. 208

SCALE	1" = 40'
DATE	10/29/2022
SHEET	2 OF 8
TITLE	EXISTING CONDITIONS PLAN
JOB #	17-001-008
DRAWN BY	J.M.
CHECKED BY	J.M.
DATE	10/29/2022
PROJECT	NASOYA FOODS USA
LOCATION	1 NEW ENGLAND WAY AYER, MA
CLIENT	NASOYA FOODS USA
DESIGNED BY	KELLY ENGINEERING GROUP
DATE	10/29/2022
PROJECT	NASOYA FOODS USA
LOCATION	1 NEW ENGLAND WAY AYER, MA
CLIENT	NASOYA FOODS USA



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 All Rights Reserved.

DATE: 10/29/2022



SHEET NO. 2

ZONE: INDUSTRIAL/AQUIFER PROTECTION, FLOOD PLAIN

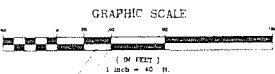
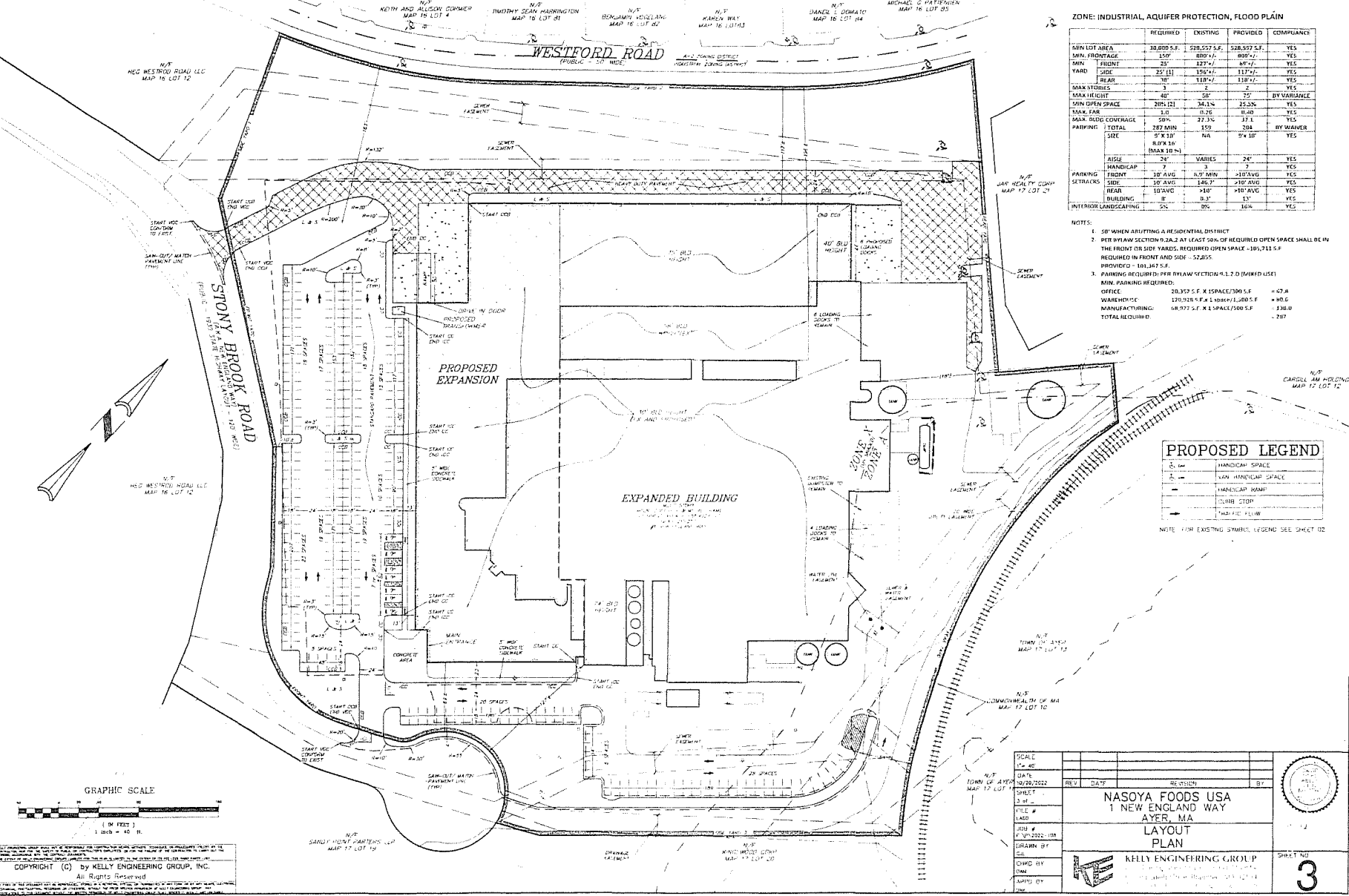
	REQUIRED	EXISTING	PROVIDED	COMPLIANCE
MIN LOT AREA	10,000 S.F.	228,257 S.F.	528,557 S.F.	YES
MIN FRONTAGE	150'	809'-1"	809'-1"	YES
MIN YARD	25'	127'-1"	85'-0"	YES
YARD SIDE	25' (1)	150'-1"	117'-1"	YES
YARD REAR	75'	118'-1"	118'-1"	YES
MAX STORIES	3	2	2	YES
MAX HEIGHT	40'	50'	25'	BY VARIANCE
MIN OPEN SPACE	20% (2)	34.1%	25.2%	YES
TRAFFIC SIGN	1:0	1:25	0:40	YES
MAX. GROUND COVERAGE	50%	27.3%	37.1	YES
PARKING TOTAL	287 MIN	159	204	BY WAIVER
PARKING SIDE	5' X 10'	NA	5' X 10'	YES
RISE	2'	VARIABLE	2'	YES
FRONT HANDICAP	10' AVG	8.7' MIN	>10' AVG	YES
REAR HANDICAP	10' AVG	14.3'	>10' AVG	YES
REAR HANDICAP	10' AVG	14.3'	>10' AVG	YES
BUILDING	8'	0.3'	13'	YES
INTERIOR LANDSCAPING	2%	2%	10%	YES

- NOTES:
- 50' WHEN BRITTING A RESIDENTIAL DISTRICT
 - PER BYLAW SECTION 9.2A.2 AT LEAST 50% OF REQUIRED OPEN SPACE SHALL BE IN THE FRONT OR SIDE YARDS. REQUIRED OPEN SPACE - 101,711 S.F. REQUIRED IN FRONT AND SIDE - 57,835. PROVIDED - 161,812 S.F.
 - PARKING REQUIRED PER BYLAW SECTION 9.1.2.D (SHARED USE)
 MIN. PARKING REQUIRED:
 OFFICE: 28,305 S.F. X 1 SPACE/100 S.F. = 283
 WAREHOUSE: 120,928 S.F. X 1.5 SPACES/1,000 S.F. = 181
 MANUFACTURING: 68,977 S.F. X 1.5 SPACES/100 S.F. = 103
 TOTAL REQUIRED: 674

PROPOSED LEGEND

	HANDICAP SPACE
	VAN HANDICAP SPACE
	HANDICAP RAMP
	DRIVE STOP
	HANDICAP FLOW

NOTE: FOR EXISTING SYMBOL LEGEND SEE SHEET 02



Copyright (C) by Kelly Engineering Group, Inc. All Rights Reserved.

SCALE	DATE	REV	DATE	REVISION	BY
1/4" = 40'	12/20/2022				

SHEET 3 OF 3
 FILE # 150
 JOB # 12/20/2022-100
 DRAWN BY [Name]
 CHECKED BY [Name]
 APPROVED BY [Name]

NASOYA FOODS USA
 1 NEW ENGLAND WAY
 AYER, MA
LAYOUT PLAN

KELLY ENGINEERING GROUP

SHEET NO. **3**



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

Application for Variance – 1 New England Way - Nasoya

Department	Comments
Town Manager	Defer to ZBA
Board of Health	No Issues
Department of Public Works	DPW does not have issues with the height at the proposed location. DPW is concerned about the encroachment of the sewer easement, the actual sewer force main location needs to be determined by applicant. Also concerned about expansion requiring addition sewer flows/loading above Nasoya's approval limits. Also concerned expansion must address wastewater pretreatment upgrades.
Police Department	No Comment at this time.
Fire Department	I would recommend we have access to the roof of the 75' building. There should be a roof access ladder either from the 30' of 58' roof tops, or a combination of roof tops. No other fire department issues or recommendations
Building Commissioner/Zoning Enforcement Officer	No Issues
Conservation Commission	Outside of Conservation Jurisdiction
Treasurer/Tax Collector	Aug. taxes were paid short. Have not seen Nov. payment yet but still are processing. Statement effective 11/2/22 is attached.
Town Clerk	No issues with this office
Assessor's Office	No Comment
Economic & Community Development	Require building elevations to assess visual impact of 75' height. Balloon test to understand height impact. Insufficient information to make recommendation.
Town Planner	I approve this variance request. Nasoya will be before the Planning Board for site plan review soon.

11/02/2022 14:22
248btier

TOWN OF AYER
Real Estate Tax Statement

P 1
txtaxstm

PARCEL: 0017000018

LOCATION: 1 NEW ENGLAND WAY

OWNER:

NASOYA FOODS USA LLC
C/O PULMUONE FOODS USA INC
2315 MOORE AVENUE
FULLERTON CA 92833

STATUS:

TOTAL ACRES	12.120
DEFERRED ACRES	.000
LAND VALUATION	937,200
BUILDING VALUATION	6,044,200
EXEMPTIONS	0
TAXABLE VALUATION	6,981,400
INTEREST PER DIEM	19.35

LEGAL DESCRIPTION:

DEED DATE: 05/11/2016 BOOK/PAGE: 67233/207

INTEREST DATE: 11/02/2022

YEAR	TYPE	BILL	BILLED	PRIN DUE	INT DUE	TOTAL DUE
INST	CHARGE					
2023	RE-R	2178				
1	COMMERCIAL		47,348.82	266.78	9.52	276.30
	CPA SURCHA		1,420.46	1,420.46	50.67	1,471.13
			48,769.28	1,687.24	60.19	1,747.43
2	COMMERCIAL		47,348.81	47,348.81	18.16	47,366.97
	CPA SURCHA		1,420.47	1,420.47	.54	1,421.01
			48,769.28	48,769.28	18.70	48,787.98
			97,538.56	50,456.52	78.89	50,535.41
GRAND TOTALS			97,538.56	50,456.52	78.89	50,535.41

RECEIVED

NOV 01 2022

TOWN OF AYER
TOWN CLERK

10:00am

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 November 16, 2022 regarding an application by Jeffery E. Greco and Andrea L. Greco, for property located at 37 Sandy Pond Rd. Ayer, MA. The applicant is seeking a Variance pursuant to Ayer Zoning Bylaw Section 5.2.1.1, Section 6.2, and 6.3(B) to allow for an existing single family home to remain on the property located at 37 Sandy Pond Rd. until a new single family home to be constructed on the property is complete with the condition that the existing single family home shall be removed prior to the issuance of an occupancy permit by the Town of Ayer Building Inspector for the to be constructed single family home. For Zoom/Call-In information please contact sbenoit@ayer.ma.us or 978-772-8220 x114.

Advertised November 2, 2022 and November 9, 2022, *Lowell Sun*.

Law Office of Thomas A. Gibbons, PC.

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Telephone: (978)772-2284
Facsimile: (978)772-0802

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

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

October 28, 2022

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

RE: 37 Sandy Pond Road, Ayer, MA 01432
OUR FILE NO.: 22-8001

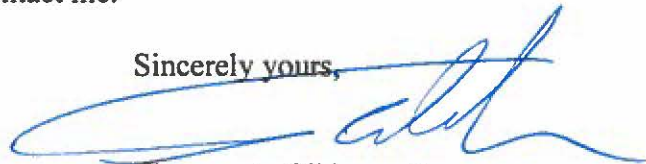
Dear Ms. Copeland,

Pursuant to MGL Ch 40A § 15, please accept for filing on behalf of the Ayer Zoning Board of Appeals, the application for Jeffrey E. Greco and Andrea L. Greco for a variance to allow for an existing single family home to remain on the property until a new single family home to be constructed on the property is complete with the condition that the existing single family home shall be removed prior to the issuance of an occupancy permit by the Town of Ayer Building Inspector for the to be constructed single family home at 37 Sandy Pond Road, Ayer, Massachusetts. Please find attached the following documentation:

- An original and a copy of the completed three (3) page application and certified list of abutters for a hearing for the Town of Ayer Zoning Board of Appeals and thirteen (13) copies of a one (1) page Site Plan.
- A check in the amount of One Hundred Sixty Five Dollars (\$165.00) for filing,
- A check in the amount of Seventy-Four Dollars (\$74.00) for publishing,

We respectfully request a public hearing before the Zoning Board of Appeals at the November 16, 2022 meeting. If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Sincerely yours,



Thomas A. Gibbons, Esq.

TAG/df

\\GLSVR\Office Share\LOTAG 2020\ZONING\Greco, Andrea (37 Sandy Pond Road, Ayer) #22-8001 CLOSED\ZBA app to city letter.doc



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

Name of Applicant: Jeffrey E. Greco and Andrea L. Greco
(Full Name)

37 Sandy Pond Road, Ayer, MA 01432
(Address)

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

c/o Law Office of Thomas A. Gibbons, P.C. - tgibbons@tgibbonslaw.com
(Email Address)

Applicant is: Owner Tenant Licensee Prospective Buyer*
**If you are a tenant, licensee or prospective buyer please include a letter from the property owner acknowledging the application with the Zoning Board of Appeals.*

The name and address of each holder or legal title to the land which is the subject of this petition (list as it appears on the Deed):

Jeffrey E. Greco and Andrea L. Greco 37 Sandy Pond Rd, Ayer, MA 01432

Location of Property:

37 Sandy Pond Road, Ayer, MA 01432

Assessor's Map 28 **Parcel** 93 **Land Size** 36,061 sq. ft.

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

Registry of Deeds Book 77328 **Page** 128

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

The undersigned hereby petitions the Town of Ayer Zoning Board of Appeals to vary the terms of the Zoning Bylaws for the following purpose:

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

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

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

**See attached for response and signature.*

Date: _____

Signed by _____

(Petitioner)

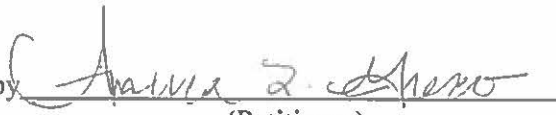
(Daytime Phone Number)

(Email)

State briefly the reasons for application:

Seeking a variance from Sections 5.2 1.1, Section 6.2, and 6.3(B) to allow for an existing single family home to remain on the property located at 37 Sandy Pond Road until a new single family home to be constructed on the property is complete with the condition that the existing single family home shall be removed prior to the issuance of an occupancy permit by the Town of Ayer Building Inspector for the to be constructed single family home.

Date: 10/27/22

Signed by 
(Petitioner)

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

(Street Address)

Check List:

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

(Daytime Telephone Number)

- Completed application
- Two checks made payable to "Town of Ayer" in the amount of \$165.00 & \$ 74.00.
- Six (6) copies of the certified plot plan (8 ½ x 11 or 11 x 17)
- List of abutters Certified by the Assessors office
- Completed certified mail documents (certified mailing to be done by applicant and copied to ZBA's Office Manager along with receipts before the scheduled Public Hearing)

THIS PLAN IS NOT TO BE USED FOR THE ESTABLISHMENT OF PROPERTY LINES, ERECTION OF FENCES, LANDSCAPING

Certified Plot Plan

37 Sandy Pond Road Ayer, Mass.

STREET TOWN

David E. Ross Associates, Inc.

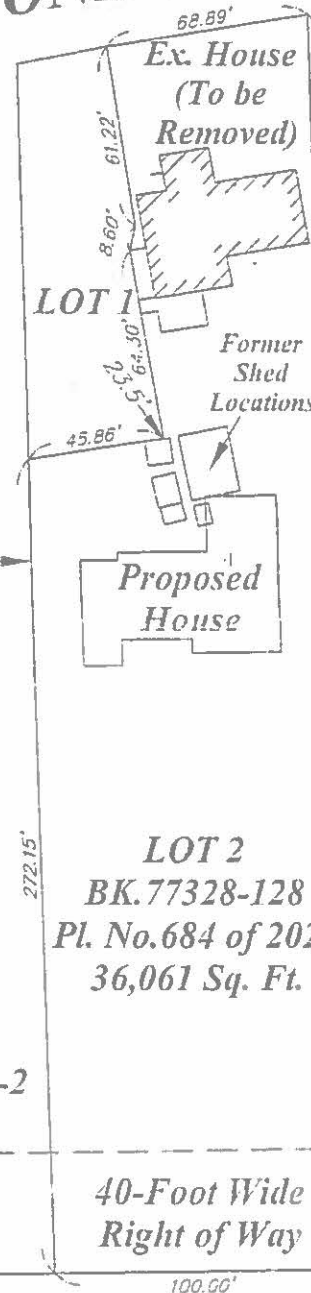
6 LANCASTER COUNTY ROAD - P.O. BOX 795 - HARVARD, MASS 01451
(978) 772-6232 FAX 772-6258



Robert T. Conway
SURVEYOR
10/5/2021



SANDY POND ROAD



Daniel Picard & Luanne Picard
(BK. 72138-104)

R.D. Kanniard Homes, Inc.
(BK. 48915-507)

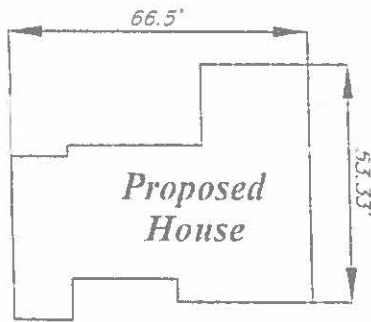
Donaid Belter
(BK. 14855-489)

Spencer King
(BK. 72525-129)

John C. Conway, Jr.
(BK. 61059-212)

~Detail~

Proposed House per plan by Damon McQuaid Architect dated 9/01/2021



Proposed Lot Coverage = 7.3 ± %

Zoning Classification: Residence A-2

Scale: 1"=40'

MASSACHUSETTS BAY TRANSPORT AUTHORITY

I certify that the proposed house is located on the lot as shown. I further certify that the proposed house, if constructed in the location shown would conform with the front, side and rear yard setback requirements of the Zoning Bylaws in effect at this time. I further certify that the proposed house is located within Flood Zone "X" (unshaded) per Flood Insurance Rate Map (FIRM) for the Town of Ayer, Community Panel No. 250180 0212 E dated June 4, 2010.

REFERENCES: **Job #33393, L-14158, L-14064**

PLAN NO. **S-15108**

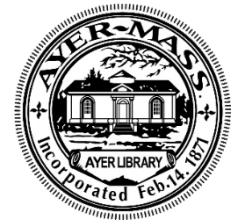


**Town of Ayer
Zoning Board of Appeals
Department Head Review Summary**

Application for Variance – 37 Sandy Pond Road

Department	Comments
Town Manager	Defer to ZBA
Board of Health	No issues as long as the house has town sewer and town water
Department of Public Works	No issue from DPW.
Police Department	No Comment at this time.
Fire Department	No Fire Dept. issues
Building Commissioner/Zoning Enforcement Officer	It is my opinion that it is not in the best interest for the Town to approve this variance, as the possibility exists that the construction of the new home does not get completed. The town will be stuck with 2 homes on 1 lot.
Conservation Commission	Out of Commissions Jurisdiction
Treasurer/Tax Collector	Taxes are current
Town Clerk	No issue with this office.
Assessor's Office	No Comment
Economic & Community Development	No Comment
Town Planner	Acceptable given the circumstances.

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



**Wednesday, October 19, 2022
Remote Participation Open Session Meeting Minutes**

Present: Samuel A. Goodwin, Chair; Michael Gibbins, 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 Carly Antonellis, Assistant Town Manager at atm@ayer.ma.us or 978-772-8220 ext. 100 prior to the meeting.

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

Roll Call Vote: M. Gibbins, 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)

Jim Thorne of Green International, presented the comments from the peer review. All peer reviews were completed at the time of the meeting except the for the Lighting. The information for Lighting was received the week prior and there was not enough time to review. This is just a summary of the comments, the next meetings can go more in depth.

Sergio Musto of Green International presented the comments on the Traffic Study. The Traffic Study used industry standards for the assessment, however Green International noted that the site distance needs to be included on the plans. The parking is below what is laid out in Ayer's Zoning Bylaws, and a waiver would be needed. The also commented that the intersection of Fitchburg Road and Groton School Road would have an increase in traffic by 33%, and the addition of a signal should be considered. The Applicant should also confirm if a sidewalk and a crosswalk will be added. The number of ADA parking spots also needs to be indicated.

J. Thorne recommends that the Applicant coordinate with MassDOT and see if a special permit will be needed. The Applicant should also coordinate with the DPW for sewer flows and determine if the system can handle the increased usage.

Green International also noted that the western portion of the property encroaches on the neighboring property, and the Applicant should coordinate with the owner. Talks should continue with Fire and Safety regarding hydrant placement, and the possible addition of valves.

Snow storage will also need to be addressed to prevent parking loss. The drainage plans will have to be updated to include stormwater now that more sidewalks have been added. The drainage pipes found in the plan do not comply with the Town's regulations. Pipes should be designed for 25 years of use, the plan submitted accounts for 10 years of use.

The issue of the flood line will most likely be addressed by the Conservation Commission, but it is noted that there could be an issue.

The Applicant has submitted many waivers, Green International cannot comment on the waivers and leaves the final decision up to the Board, but they are willing to discuss the waivers.

The rest of the comments are concerned with some inconsistencies found in the plans. The Applicant has been informed of the comments.

S. Goodwin asked when the applicant was given the comments.

C. Antonellis sent the comments on the Friday before the meeting.

S. Goodwin asked if the Applicant was able to review the comments.

Stephanie Kiefer of NOAH said they have given the comments a preliminary review. She would like to set-up a workshop with Green International, BSC, and C. Antonellis in order to address some of the minor issues on the plans. She found nothing to be insurmountable.

S. Goodwin asked if NOAH had any rebuttals to the comments.

S. Kiefer believes Green International has made a working document with the comments, and there will be significant back and forth with written responses and updated plans.

S. Goodwin noted that all comments are then open until answered.

S. Kiefer wished to confirm for the record that plans have been updated after the August 16th hearing and include the Fire Truck turning radius. The civil and landscaping plans have also been updated on October 12th.

S. Goodwin asked where Green International got the documents they reviewed.

J. Thorne says they received documents from C. Antonellis and the from the Town of Ayer's website. The revised plans were received last week and therefore there was not enough time to review them. It is noted that revised plans are reviewed after comments have been addressed.

Taylor Dowdy of BSC stated that the revised plans that were submitted were created based on the Town's comments. He felt the Traffic Study comments will be easy to address. There are six ADA parking spots shown on the plans, and he believes that is the minimum requirement. The old MassDOT project, as mentioned previously has been inactive since 2014. An access permit from MassDOT will be needed but local approval must come first. Sewer flow is currently being calculated. The western encroachment is something that needs to be figured out by the current property owners prior to NOAH taking possession of the property. The snow storage should have been included in the stormwater plans; Taylor says he will confirm. The flood plain is shown using GIS because there is no elevation data available at this time. It does not make sense currently to find the elevation data since this is an intermittent stream.

J. Ellis asked for clarification on the updated plans. Green International's do not seem to be reflected in the updated plans.

T. Dowdy explained that the updated plans are based on the Town's comments and the site walk.

S. Goodwin asked when the final drawings of the plan will be complete.

S. Kiefer explained that these are preliminary drawings, a full set of plans can be a condition of completion. All plans can be updated at this time, they are not the full design plans. Full plans will be submitted with the building permit.

Paul Haverty further explained that preliminary plans are what is required in a 40B, and the Board would make their decision based on these preliminary plans, however full plans are required before a building permit can be issued.

S. Goodwin noted that with the revised plans some of Green International's comments are invalid.

P. Haverty said that some of Green International's comments have been answered with the revised plans. It is not unusual for there to be additional reviews of the plans.

T. Dowdy reiterated it is very common on 40B projects to have multiple reviews of the plans. As it stands responses are already being formulated for Green's comments.

S. Kiefer reiterated that having all parties work together will allow for the project to move forward and have all have concerns addressed.

S. Goodwin asked what the timeframe would be address the comments and revise the drawings.

T. Dowdy believes it would take about two weeks.

J. Thorne believes that Green would need an additional week to review and back check the comments.

S. Goodwin noted that the next meeting is November 16, 2022.

S. Kiefer felt it was reasonable that they would be ready by the next meeting.

J. Gugino asked when the conservation review needed to be addressed.

P. Haverty stated that a local waiver is needed then the review should be done now, otherwise it can be done later.

S. Goodwin asked when the Conservation Commission should be involved.

P. Haverty stated it would be after the applicant filed a notice of intent.

J. Ellis and S. Goodwin asked how the list of waivers relates the peer review, and if the waivers would be granted after the peer review was complete.

P. Haverty confirmed that the waivers would be addressed after the peer review was complete.

J. Ellis asked if the list of waivers would be need for the next meeting.

S. Goodwin and P. Haverty said that waivers are handled at the end of the process and will not be discussed at the next meeting.

J. Gugino asked for guidance on the dealing with the multiple zones found in the parcel.

S. Goodwin believes that the 40B project overrides the zoning.

P. Haverty explains that it does not override zoning but rather establishes that the need for affordable housing outweighs the local zoning requirements.

A motion was made by S. Goodwin to continue the Public Hearing-Application for a Comprehensive Permit (MGL 408, Sections 20-23) Neighborhood of Affordable Housing, Inc. 65 Fitchburg Road (Filed June 24, 2022) until November 16, 2022, at 6:00pm via Zoom.

Seconded by M. Gibbons.

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

Motion Passed (5-0)

R. Defilippo would like some clarification as to why \$400,000 is being requested from the Community Preservation at the Fall Town Meeting.

S. Goodwin clarified that the funds are to show the State that the Town supports this project. Without the Town's support it will be more difficult to get State funding.

Janet Providakes of the Community Preservation Committee further reiterated that these funds will show that the Town supports the need for affordable housing. Also, if for whatever reason the project does not go forward, the money will return to the CPA.

R. Defilippo says it sounds like we must pay for some of this project and does not recall having to do so with past 40B projects.

J. Providakes says that CPA fund have been used in the past for 40B projects as leverage.

S. Goodwin asked for the total cost of the proposed project.

S Kiefer believes that the cost of the project is 30 – 32 million dollars.

Annika Lambert from NOAH clarified that 32 million dollars is for Phase I of the project, both phases would be closer to 60 million dollars.

S. Goodwin further explained that the \$400,000 demonstrates to the State that Town is in support of this project.

R. Defilippo asked who ultimately owns this property and receives the rents.

C. Antonellis reminded the Board that NOAH is a non-profit entity.

R. Defilippo asked is that meant they do not have to pay any taxes on the property, and therefore the Town gets nothing from this project, beyond getting affordable housing.

M. Gibbons noted that while this helpful information and thanked J. Providakes for her explanation, this matter of \$400,000 is issue to be taken up at Town Meeting.

J. Gugino also explained that CPA funds are State matched, and therefore not all the funds come from the residents.

J. Providakes also explained during the CPA application process NOAH listed all the other grants they have applied for and received for this project.

R. Defilippo noted that if this project was refused and an Unfriendly 40B project came in then at least they would have to pay for the whole of the project and must pay taxes.

P. Haverty clarified that some Unfriendly 40B projects are non-profit. He also noted that the Community Preservation Act requires a portion of its funds to be spent on affordable housing.

S. Kiefer explained that all 40B projects, wither for-profit or non-profit must have a recognized subsidy.

Phil Giffie from NOAH also noted that not all 40B are equal, and this \$400,000 will help a lot in the eyes of the State.

Pauline Conley, a resident, also noted that the Willows project had CPA funds contributed.

J. Ellis made a motion to accept the August 31, 2022, meeting minutes as written. Seconded by M. Gibbins.

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

Motion Passed (5-0)

J. Ellis made a motion to accept the September 21, 2022, meeting minutes as written. Seconded by M. Gibbins.

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

Motion Passed (5-0)

Motion to Adjourn by S. Goodwin. Seconded by M. Gibbins.

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

Motion Passed (5-0)

Meeting Adjourned at 7:16pm

Minutes Submitted by Samantha Benoit, Administrative Coordinator

Date Minutes Approved by the ZBA: _____

Signature of ZBA Clerk, Indicating Approval: _____