

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



Wednesday October 20, 2021
Open Session Remote Participation Meeting Agenda

*Due to the ongoing COVID-19 Pandemic, in accordance with Chapter 20 of the Act of 2021, 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

**Continued from August 18, 2021 & September 15, 2021 - Public Hearing –
Application for Special Permit – Mark Fermanian
236 Snake Hill Road (Filed July 23, 2021)**

6:05 PM **Request for Extension of Variance – Richard Simpson – 38 Washington St.**

**Approval of Meeting Minutes
September 15, 2021**

Adjournment

The next regularly scheduled ZBA Meeting is November 17, 2021 at 6:00 PM
via remote participation.

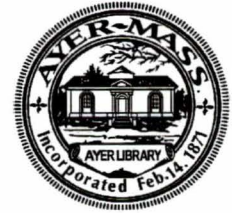
RECEIVED
JUL 26 2021
7:55 AM lf
TOWN OF AYER
TOWN CLERK

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



The Ayer ZBA will conduct a public hearing at 6:15PM on Wednesday August 18, 2021 at the Ayer Town Hall, 1 Main Street, Ayer, MA regarding an application by Mark Fermanian for property located at 236 Snake Hill Road, Ayer, MA. Applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 5.2.1.2 to allow for the construction of a two-family/duplex residence in the A-2 zone. Public Hearing will be held in person with a courtesy Zoom feed; the hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast. For Zoom/Call-In information please contact atm@ayer.ma.us or 978-772-8220 x100.

Advertised July 30, 2021 and August 6, 2021, *The Nashoba Valley Voice*



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

Name of Applicant: Mark Fermanian
(Full Name)

234 Snake Hill Road, PO Box 759, Ayer, MA 01432
(Address)

978-857-8607
(Phone Number)

markfermanian@verizon.net
(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):

Same as above.

Location of Property:

236 Snake Hill Road, Ayer, MA

Assessor's Map 21 **Parcel** 19 **Land Size** 24,113 sf +/-

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

Registry of Deeds Book 37429 **Page** 280

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:

To allow construction of a duplex residential building on the site, which requires a Special Permit from the Zoning Board of Appeals per Section 5.2 Table of Uses of the Ayer Zoning Bylaw.

Date: June 28, 2021

Signed by  _____
(Petitioner)

978-857-8607
(Daytime Phone Number)

markfermanian@verizon.net
(Email)

July 23, 2021

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

Re: Application for Special Permit from ZBA
234/236 Snake Hill Road
Ayer, MA

Dear Board Members:

The accompanying application for a Special Permit from the Zoning Board of Appeals as the Special Permit Granting Authority (SPGA) is to construct a two-family home in the Residential A-2 zoning district as allowed by special permit under Section 5.2, Table of Uses of the Zoning Bylaw.

The existing home at #236 Snake Hill Road has been demolished and is to be replaced with the proposed duplex home. An Approval Not Required (ANR) Plan was recently submitted to the Ayer Planning Board which altered the lot lines between #234 and #236 and which also added Parcel A consisting of 3,885 sf to the rear of #236, giving it a final area of 24, 113 sf (0.55 Acres). This plan is attached for your reference, as is a Site Plan showing the house location on the property in compliance with zoning setback requirements in Ayer. Plans for the home to be constructed are also attached for reference.

GPR believes that allowing construction of the proposed 2-family residence at #236 Snake Hill Road will be in keeping with the purpose and intent of the Ayer Zoning Bylaw and will have no adverse effects on the town or the neighborhood. The duplex units will provide more affordable housing to the Town at a time when there is great demand for quality affordable housing. The 2 families will have no discernable impact on traffic flow or safety, will have adequate parking on site, and will have adequate municipal utility services. Neither will the duplex have any negative impact on the neighborhood character, impact on the natural environment as it is a redevelopment of an already developed lot, or negative fiscal impact on the town.

Trees have been cut down at the site, including some large pine trees that could pose a hazard to the new construction. There was some discussion at the Planning Board that clearing of the lot in excess of 10,000 square feet of area would necessitate a filing with the Planning Board for site plan approval under Section 9.6 of the Ayer Zoning Bylaw. While it is not clear to us that over 10,000 sf of land was cleared of vegetation, it is our intent to file for site plan approval under Section 9.6 with the Planning Board due to anticipated future grading on the site. It should be noted that the area adjacent to where the house was formally located is still grassed, although somewhat sparsely, and not showing any evidence at all of erosion on this very sandy well drained site.

We respectfully request that the Board grant the special permit for the duplex home to be built at 236 Snake Hill Road.

Sincerely,
Kyle Burchard, P.E.

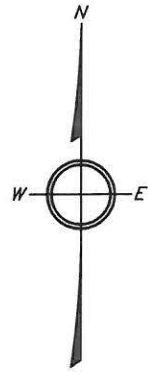


Goldsmith, Prest & Ringwall, Inc.

Enc. (4)

Goldsmith, Prest & Ringwall, Inc.

39 Main Street, Suite 301, Ayer, MA 01432 • (978) 772-1590 • Fax (978) 772-1591 • info@gpr-inc.com • www.gpr-inc.com



APPROX. 200' RIVERFRONT

PIERCE AVENUE
(PUBLIC - 22' WIDE)

SNAKE HILL ROAD
(PUBLIC - VARIABLE WIDTH)

N/F
ROBERT & DEBORAH
PARE
27801/148

N/F
MARK FERMANIAN
37429/280
ASSESSOR
PARCEL ID: 21-20

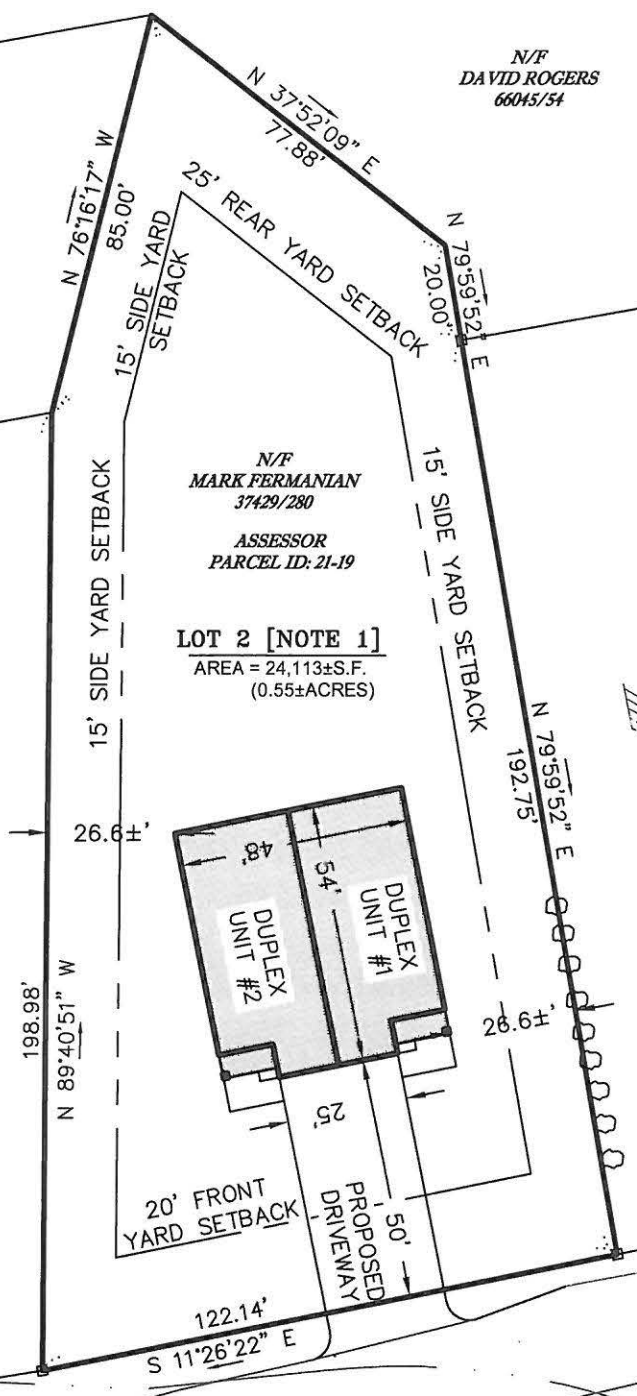
N/F
MARK & MELISSA
KAPECKAS
67243/561

N/F
DAVID ROGERS
66045/54

N/F
MARK FERMANIAN
37429/280
ASSESSOR
PARCEL ID: 21-19

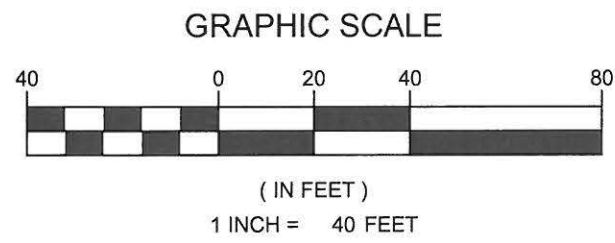
N/F
CRAIG FILLEBROWN
36884/583

LOT 2 [NOTE 1]
AREA = 24,113±S.F.
(0.55±ACRES)



PLAN REFERENCE:

LOT SHAPE LAST MODIFIED ACCORDING TO LAND SWAP
DEPICTED ON "PLAN OF LAND IN AYER MASS., PREPARED
FOR DAVID A. ROGERS & MARK FERMANIAN", BY THIS
OFFICE, REVISED THROUGH 6/23/21 AND ENDORSED BY
THE TOWN OF AYER PLANNING BOARD.



GPR
Engineering Solutions
for Land & Structures

GOLDSMITH, PREST & RINGWALL, INC.
39 MAIN ST., SUITE 301, AYER, MA 01432
CIVIL ENGINEERING • LAND SURVEYING • LAND PLANNING
VOICE: 978.772.1590 FAX: 978.772.1591
www.gpr-inc.com

PREPARED FOR:
MARK FERMANIAN
234 SNAKE HILL ROAD
AYER, MA 01432

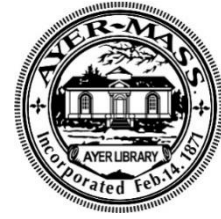
DES'D BY: KFB CHK'D BY: CRG

DATE: JULY 16, 2021

**DUPLEX EXHIBIT
FOR SPECIAL PERMIT**

AYER ASSESSOR ID: 21-19

PROJECT: 211015 1 of 1



Town of Ayer
Zoning Board of Appeals
Department Head Review Summary

Application for Special Permit – 236 Snake Hill Road

Department	Comments
Town Manager	Defer to ZBA
Board of Health	No BOH Issues unless they decide not to connect to water/sewer
Department of Public Works	No issue from Ayer DPW. Applicant will need to apply for water and sewer connections.
Police Department	No Issues
Fire Department	No Issues
Building Commissioner/Zoning Enforcement Officer	No Issues
Conservation Commission	See Attached Concerns and reply to concerns. Conservation Administrator is reviewing. I'll update the ZBA when I have one.
Treasurer/Tax Collector	Past Due Taxes (8/2/21). Per Treasurer/Tax Collector has been resolved (8/11/21).
Town Clerk	No Issues
Assessor's Office	No Issues
Economic & Community Development	Recommend Approval
Town Planner	I support granting this special permit.

[REDACTED]

RICHARD J SIMPSON JR

38 Washington Street, Ayer MA 01432 | 978-257-4665 | rjsimpson@verizon.net

10/06/2021

Ayer Zoning Board of Appeals
Attention: Carly Antonellis
Ayer MA 01432

RECEIVED
OCT 07 2021

TOWN OF AYER
TOWN CLERK

3:15pm


Dear Ayer Zoning Board of Appeals

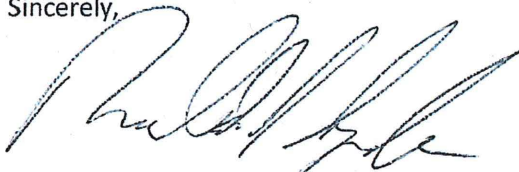
Attention: Carly Antonellis:

I, Richard Simpson, am requesting an extension for the variance where the decision was to grant variance pursuant to Ayer Zoning Bylaw Section 6.2, Dimensional for the following reason(s):

- Variance is set to expire on December 16th, 2021
- Process has taken longer than expected to have the legal land release documents drawn-up to be submitted to the lender which is still in progress
- Lender who requires the land release documents does not have an exact timeframe on when they will render their decision.
- Build or Sell Decision & Execution Depends on Land Release Decision

I would greatly appreciate it if you could hear my request on the next ZBA Meeting in October.

Sincerely,



Richard J Simpson Jr

RECEIVED
DEC 28 2020
11:58 Am
TOWN OF AYER
TOWN CLERK



**Town of Ayer
ZONING BOARD OF APPEALS
NOTICE OF DECISION**

Submission Date: November 18, 2020

Petitioner: Richard Simpson
38 Washington Street
Ayer, MA 01432

Location of Property: 38 Washington Street, Ayer
Map 26|Parcel 168

Book and Page Reference: Book 49235|Page 169

Public Hearing Date: Wednesday December 16, 2020| 6:00 PM – Via Remote Participation

Publication Location and Date: *The Nashoba Valley Voice*| November 27, 2020 & December 4, 2020

Petition: Applicant is seeking a variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.2, Dimensional Requirements to allow for 8,077 sq. ft. lot where 10,000 sq. ft. is required in the GR District.

Restrictions: None

Findings of Fact:

1. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A, Section 18 and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Ayer Zoning Board of Appeals was conducted via remote participation. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings as provided in the Order via ZOOM technology, phone, etc.
2. Locus is in General Residence (GR) District.
3. One abutter spoke against the request, citing lack of information. Several abutters spoke in favor of the request, citing the need for additional housing.
4. Applicant will go in front of Planning Board for ANR endorsement of lots.

Conditions: None

Decision: To grant variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.2, Dimensional

Requirements to allow for 8,077 sq. ft. lot where 10,000 sq. ft. is required in the GR District

Vote:

Motion by M. Gibbons/2nd J. Gugino
4-1 (4 in the affirmative/1 in the negative). Variance request granted.

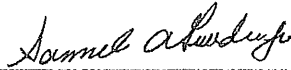
Board Members Present:


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

Board Members Absent:

None

By:

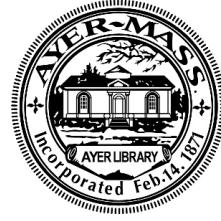


Samuel A. Goodwin, Jr., Chair
Zoning Board of Appeals


Date

Notice of Appeal: Any person aggrieved by this decision may appeal, pursuant to M.G.L. c. 40A, §17, (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section17>) within twenty (20) days after this decision is filed in the office of the Town Clerk of the Town of Ayer.

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



Recorded by APAC

Wednesday September 15, 2021
Open Session Meeting Minutes

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

Absent: Ron Defilippo, Clerk

Also Present: Carly Antonellis, Assistant Town Manager

Call to Order: S. Goodwin called the meeting to order at 6:00 PM. He stated that members of the public are welcome to attend this in-person meeting and that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast.

Approval of Agenda:

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to approve the agenda as printed.

Motion passed 4-0.

Continued from August 18, 2021 - Public Hearing – Application for Special Permit – Mark Fermanian - 236 Snake Hill Road (Filed July 23, 2021): S. Goodwin reopened the public hearing at 6:02 PM. Applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 5.2.1.2 to allow for the construction of a two-family/duplex residence in the A-2 zone. Attorney Tom Gibbons and Cal Goldsmith from GPR were in attendance on behalf of the applicant. C. Goldsmith stated that the objection from the ZBA at the last meeting was because there were no other duplexes in the neighborhood. J. Ellis and S. Goodwin stated that it was whether the duplex fit the character of the neighborhood. T. Gibbons asked when the next meeting was. C. Antonellis stated it was on October 20, 2021. T. Gibbons asked for a brief recess at 6:04 PM.

The ZBA briefly recessed.

T. Gibbons rejoined the meeting and asked for a continuance since there was not a full Board. S. Goodwin asked if he was aware of the petition with 46 signatures opposing the proposal. T. Gibbons stated that he was aware.

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to continue the Public Hearing until 6:00 PM on October 20, 2021. **Motion passed 4-0.**

Public Hearing – Application for Special Permit – Alexis & Nicholas Forest – 3 Third Street (Filed August 23, 2021): S. Goodwin opened the public hearing at 6:10 PM by reading the public hearing notice as advertised in the Nashoba Valley Voice on August 27, 2021 and September 3, 2021. Applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 7.3.B and Section 7.4 to allow for the extension

of an exterior wall on preexisting nonconforming structure for proposed house addition. Nick and Alexis Forest were in attendance. N. Forest stated that he and his wife recently purchased the home and are looking to square off the back of the house to add additional living space. He stated that he has spoke to his neighbors and there are no objections. There were no abutters in attendance.

M. Gibbons noted that the proposed addition would not be visible from the street. J. Ellis stated that it would not make the property more non-conforming. There were no issues from the ZBA.

Motion: A motion was made M. Gibbons and seconded by J. Ellis to approve the special permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 7.3.B and Section 7.4 to allow for the extension of an exterior wall on preexisting nonconforming structure for proposed house addition **Motion passed 4-0.**

Motion: A motion was made S. Goodwin and seconded by M. Gibbons to close the Public Hearing at 6:15 PM. **Motion passed 4-0.**

Discussion on Remote Participation or In-Person Meetings through April 1, 2022: C. Antonellis asked the ZBA if they had a preference in moving forward with either remote or in-person meetings, citing the increase in COVID-19 cases. The use of full remote participation has been authorized through March 31, 2022. S. Goodwin stated since the Snake Hill Road Public Hearing was continued to October 20, 2021 at 6:00 PM, the meeting should be in person; then, beginning in November – March, the ZBA could meet remotely.

Motion: A motion was made M. Gibbons and seconded by J. Ellis to meet in person in October and then go fully remote from November through March of 2022. **Motion passed 4-0.**

Approval of Meeting Minutes:

Motion: A motion was made by M. Gibbons and seconded by J. Gugino to approve the meeting minutes from August 18, 2021. **Motion passed 4-0.**

Adjournment:

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to adjourn at 6:20 PM. **Motion passed 4-0.**

Minutes Recorded and Submitted by Carly M. Antonellis, Assistant Town Manager

Date Minutes Approved by ZBA: _____

Signature of Clerk Indicating Approval: _____