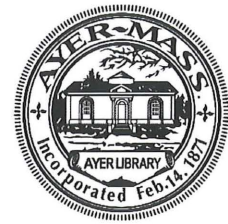


Town of Ayer
Zoning Board of Appeals
Ayer Town Hall
1 Main Street
Ayer, MA 01432



Broadcast on Zoom and by APAC

**Wednesday May 19, 2021
Remote Participation Open Session Meeting Minutes**

Remotely Present: Samuel A. Goodwin Jr., Chair; Michael Gibbons, Vice-Chair; Ron Defilippo, Clerk; John Ellis, Jess Gugino
All Via Remote Participation

Also Present: Carly Antonellis, Assistant Town Manager
Via Remote Participation

Call to Order: S. Goodwin called the meeting to order at 6:00 PM.

COVID-19 Order: S. Goodwin stated that 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 is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort has been made to ensure that the public can adequately access the proceedings as provided in the Order. All votes will be taken by Roll Call.

Members Present: S. Goodwin identified all members of the ZBA, stating that all 5 members were remotely present.

Approval of Meeting Agenda: C. Antonellis reported that the minutes for April 21, 2021 were not ready and is recommending that they be removed from the agenda. **Motion:** A motion was made by S. Goodwin and seconded by M. Gibbons to approve the agenda, as amended. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye. **Motion passed by Roll Call Vote 5-0.**

Public Hearing – Application for Special Permit – Shannon & James Walsh - 21 Wright Rd (Filed April 13, 2021): S. Goodwin opened the public hearing at 6:03 PM as advertised in *The Nashoba Valley Voice* on April 30, 2021 and May 7, 2021. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw (2019, as amended) Article 2 Definitions "Home Occupation" to allow for the outdoor storage of equipment, trailers, and motor vehicles for landscape maintenance and construction business.

S. Walsh stated that the business is not run out of the home, it is run out of Acton. She reported that is where the employees report for work. She further stated that if maintenance/repairs need to be done on the landscape equipment or vehicles, they bring it to their Wright Road residence to repair it. Their landscape yard in Acton does not have electricity, nor a paved surface and it is much easier for them to work on their equipment in the home driveway.

S. Slarsky, 1 Ledgeway told the ZBA that the increase in the traffic will not be good for the residential neighborhood. S. Walsh then said she and her husband do not run their business from the house. S. Goodwin stated that the road was narrow and he is concerned with the equipment operating on a small street.

S. Goodwin reported that late this afternoon two letters were submitted to the ZBA in opposition of this project. C. Antonellis read the letters into the record:

Letter 1 – Steve and Sharon Slarsky, 1 Ledgeway, Ayer

Please accept this letter in opposition to the requested special permit for 21 Wright Road as posted on your agenda for the May 19, 2021 ZBA meeting. We have lived in this neighborhood for almost 50 years. Wright Road is a residential neighborhood, without sidewalks, dead ended with a great deal of pedestrian and recreational traffic, such as walking, jogging, and hiking. The request is a business application in a residential neighborhood. There have been numerous other requests for other business interests that have been denied by the ZBA in the past. This letter is without prejudice to the petitioners, and we welcome them as neighbors to the neighborhood. The application to maintain commercial equipment is inconsistent with the residential use. The numerous trucks, trailers, equipment noise and additional traffic on the narrow road that was not designed or intended for other than residential use is not in keeping with the character of the neighborhood. We appreciate your consideration in this matter.

Letter 2 – Ryan Wilcox 16 Wright Road, Ayer

While Sara and I are still planning to attend the remote meeting tonight, I wanted to share my thoughts that rezoning on Wright Road sets a dangerous precedent when there are already previous issues like fireworks and excessive vehicle noise that Sara and I have reported in addition to ongoing construction and blasting for new builds and the noise from the gun club.

J. Gugino asked if they needed a paved surface because of oil and gas. J. Walsh reported that no, it is easier to fix the equipment on pavement than opposed to laying on gravel. He stated that the request is not for big items, but for items like a skid steer, a mini excavator, dump trucks and lawn mowers.

M. Gibbons stated that the Town Planner was not opposed but suggested that the ZBA could put conditions/restrictions on the Special Permit, if approved. There was additional discussion between the ZBA and the applicant.

S. Slarsky stated we don't want to see an increase in traffic and noise.

Carolyn McCreary, 6 Wachusett Ave. East asked the ZBA to deny the request and stated she supported the Slarsky's letter to the ZBA.

J. Ellis stated he has concerns about the work vehicles in the front of the property.

Chris Prehl, 28 Wright Road stated that working on your work equipment is doing business out of your house. He is also concerned that this will be a difficult issue to monitor/police.

R Defilippo stated he was concerned about enforcement.

Motion: A motion was made by S. Goodwin and seconded by J. Gugino to deny Special Permit Request for 21 Wright Road. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, no; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye.

Motion to deny passed by Roll Call Vote 4-1.

Motion: A motion was made by M. Gibbons and seconded by R. Defilippo to close the public hearing at 6:27 PM. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye. **Motion passed by Roll Call Vote 5-0.**

Continued from April 21, 2021 Public Hearing – Application for Variance – Sawyer May, LLC – Joseph A. Cataldo, Jr. 66 Westford Road (Filed March 29, 2021): Reopened the public hearing 6:28 PM. Sawyer Mae, LLC.: Attorney Tom Gibbons was present with Mr. Joe Cataldo from Sawyer May, LLC. Attorney Gibbons stated that the applicant is seeking a use variance for Welch Automotive Services Inc. to be allowed to operate in an Industrial District. The company recently moved to Ayer from Littleton and was granted a DBA certificate from the Town Clerk's Office; therefore, the applicant was under the impression they could operate in that location. Attorney Gibbons stated that if the variance is denied the applicant will sustain a substantial hardship by losing his investment and having to relocate. He stated that the owner had this type of use in mind when building the facility, as every bay has oil/water separators and MJ Cataldo, the other tenants run their landscape yard there and can fix equipment in their bays. Attorney Gibbons stated that four letters of support were submitted at the previous meeting.

James O'Connor, 12A Turtle Hill Road stated that he occasionally notices Cataldo vehicles because they maintain the condo where he lives. He noted that the Cataldo issue was separate from the petition being sought. Mr. O'Connor has no issues with the application.

M. Gibbons noted that the parcel is built out and that this use does not take anything away from the neighborhood.

R. Defilippo stated that at the previous meeting there were some abutters with concerns with the application. S. Goodwin stated that the neighbors had issues with the landscaping business, not this application.

J. Ellis stated he would be comfortable granting the variance with the condition that it is only for the duration of when Welch Automotive is a tenant. If he closes or relocates, the variance would be null and void.

Motion: A motion was made by J. Ellis and seconded by M. Gibbons to approve based on the expiration of the permit of Welch Automotive changing hands. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye. **Motion passed by Roll Call Vote 5-0.**

Motion: A motion was made by M. Gibbons and seconded by R. Defilippo to close the public hearing at 6:41 PM. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye. **Motion passed by Roll Call Vote 5-0.**

Public Hearing – Application for Special Permit – Kevin McPherson - 10 Page St (Filed April 26, 2021): S. Goodwin opened the public hearing at 6:42 PM as advertised in *The Nashoba Valley Voice* on April 30, 2021 and May 7, 2021. The applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 2 Definitions "Home Occupation" and Section 5.3.2.D "Home Occupation" to locate plumbing business with supplies and vehicles out of residence.

ZBA Board Member M. Gibbons recused himself because he is a direct abutter.

K. McPherson stated that he is looking to start a plumbing company and run it from his house. He said he will be storing some materials for plumbing use in his garage and home. He anticipates no more than 5 deliveries per week. He said he will be getting a small dumpster for trash. He will not be storing any material, hazardous or otherwise near Balch Pond which is at the rear of his property.

Mr. Joe and Angela Crothers, 5 Groton Harvard Road stated that they are ok with the application, they just want to caution about the traffic issues. When the train goes by the Groton Harvard rail crossing it has the tendency to back up traffic.

Michael Gibbons (recused Board member, also direct abutter), 89A East Main Street stated that he supported the application. R. Defilippo asked if M. Gibbons could speak as an abutter. S. Goodwin said yes because he recused himself as a ZBA Board member and was not voting on it.

J. Ellis and J. Gugino stated they were ok with the application. R. Defillippo stated he had concerns with the application. He does not want large trucks making deliveries in a residential neighborhood. He also has concerns with materials that may be stored there, such as propane.

K. McPherson stated that the deliveries will be made by a standard box truck and delivery vehicles would never exceed the size of a school bus.

C. Antonellis reminded the ZBA that the decision would have to be unanimous since M. Gibbons has recused himself.

Motion: A motion was made by S. Goodwin and seconded by J. Ellis to grant the Special Permit as requested. **Roll Call Vote:** S. Goodwin, aye; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye. **Motion passed by Roll Call Vote 4-0.**

Motion: A motion was made by J. Ellis and seconded by J. Gugino to close the public hearing at 6:56 PM. **Roll Call Vote:** S. Goodwin, aye; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye. **Motion passed by Roll Call Vote 4-0.**

M. Gibbons rejoined the ZBA.

Public Hearing – Application for Special Permit – Timothy & Betsy Dolan - 25 Wright Road (Filed May 3, 2021): S. Goodwin opened the Public Hearing at 6:57 PM by reading the public hearing notice as advertised in *The Lowell Sun* on May 4, 2021 and May 11, 2021. Applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 7.2.2.a.B (insufficient frontage) for proposed addition. Tim and Betsy Dolan joined the ZBA by Zoom. They stated they have owned the property for 4 or 5 years. They are planning on moving to the property full time after the addition is finished. The addition meets all other setback requirements, but the lot frontage is 63', where 100' is required making it a pre-existing non-conforming lot.

Jamie Prestillio on Ledge Way stated he fully supported the application. He stated that the house is way off off Wright Road.

Julie and Scott Murray, 1 Sandy Way stated that they were very supportive of the application.

Phyllis Prestillio on Ledge Way also stated she supported the application.

ZBA members felt comfortable with the application.

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to approve the Special Permit for

25 Wright Road due to insufficient frontage. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye. **Motion passed by Roll Call Vote 5-0.**

Motion: A motion was made by M. Gibbons and seconded by R. Defilippo to close the public hearing at 7:05 PM. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; J. Ellis, aye; R. Defilippo, aye. **Motion passed by Roll Call Vote 5-0.**

Adjournment:

Motion: A motion was made by S. Goodwin and seconded by J. Ellis to adjourn at 7:06 PM. **Roll Call Vote:** S. Goodwin, aye; M. Gibbons, aye; J. Gugino, aye; R. Defilippo, aye; J. Ellis, aye. **Motion passed by Roll Call Vote 5-0.**

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

Date Minutes Approved by ZBA: _____

Signature of Clerk Indicating Approval: _____

Electronic Signature of Chairman inserted by Direction due to COVID-19 _____