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

Recorded by APAC

Wednesday May 18, 2022
Open Session Meeting Minutes

Present: Samuel A. Goodwin Jr., Chair; Michael Gibbons, Vice-Chair; Ron Defilippo, Clerk; Jess Gugino; John Ellis (Entered at 6:08 PM)

Call to Order: S. Goodwin called the meeting to order at 6:01 PM. 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. S. Goodwin stated that all votes will be taken by Roll Call.

Approval of Meeting Agenda:

The presentation by Alan Manoian, Director, Office of Community and Economic Development, was postponed to a later meeting at the request of Mr. Manoian.

Motion: To approve the agenda as amended. **By Roll Call Vote:** J Gugino, aye; M. Gibbons, aye; R. Defilippo, aye; S. Goodwin, aye. **Motion passed 4-0.**

Public Hearing: Application for Special Permit – R. D. Kanniard Homes, Inc. – 33 & 33B Sandy Pond Road: S. Goodwin opened by public hearing at 6:04 PM by reading the public hearing notice as advertised in *The Lowell Sun* on May 3 and May 10, 2022. The applicant is seeking a special permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 5.2.1.2 (Table of Use Regulations) to allow for a two-family dwelling in the A-2 Residence Zoning District. The ZBA was joined by Kevin Conover from David E. Ross Associates, representing the applicant.

S. Goodwin began by stating that the application was in error. The public hearing notice is based on the wording of the "ZBA Application for a Hearing." In this case, the application stated that "The applicant is seeking a Special Permit pursuant to Section 5.2.1.2 (Table of Use Regulations) to permit a Two-Family dwelling in a Residence A-2 Zoning District." However, the plans accompanying the application clearly show that the applicant is seeking permitting to construct a two-family dwelling on each of two separate lots, 33 and 33B Sandy Pond Road – in other words, 2 two-family dwellings.

S. Goodwin noted that an email had been received earlier in the day from an abutter who had received notification using the same misleading language as the application, "to allow for *a* two-family dwelling..." The abutter was then surprised to see that the site plan online showed the builder was

actually seeking permitting to build 2 two-family dwellings. In addition to the misleading wording, this raised concerns about increased density in this neighborhood.

Given this confusion, S. Goodwin stated that in his view, the application should be withdrawn, corrected, and then re-submitted with the correct wording. Mr. Conover said that the April 27 cover letter accompanying the application made it clear that the applicant sought permitting for 2 separate two-family dwellings. ZBA members agreed with S. Goodwin the application itself had to be correct before the ZBA could even talk about it.

Mr. Conover accordingly agreed to withdraw the application and resubmit a corrected version at a later date.

Motion: A motion was made by M. Gibbons and seconded by S. Goodwin to allow the applicant, R. D. Kanniard Homes, Inc., to withdraw the application without prejudice. **By Roll Call Vote:** J Gugino, aye; M. Gibbons, aye; R. Defilippo, aye; J. Ellis, aye; S. Goodwin, aye. **Motion passed 5-0.**

Approval of Meeting Minutes:

A motion was made by J. Ellis and seconded by M. Gibbons to approve the meeting minutes from February 16, 2022 as written. **By Roll Call Vote:** J Gugino, aye; M. Gibbons, aye; R. Defilippo, aye; J. Ellis, aye; S. Goodwin, aye. **Motion passed 5-0.**

Adjournment:

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to adjourn at 6:13 PM. **By Roll Call Vote:** J Gugino, aye; M. Gibbons, aye; R. Defilippo, aye; J. Ellis, aye; S. Goodwin, aye. **Motion passed 5-0.**

Minutes Recorded and Submitted by Jess Gugino

Date Minutes Approved by ZBA: 6/15/2022

Signature of Clerk Indicating Approval: Samuel A. Goodwin Jr.