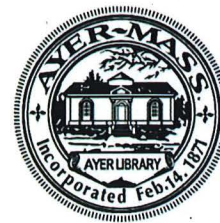


**Town of Ayer  
Zoning Board of Appeals  
Ayer Town Hall  
1 Main Street  
Ayer, MA 01432**



**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. Gibbons 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 to 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 with Green International, BSC, and C. Antonellis in order 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 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 16<sup>th</sup> hearing and include the Fire Truck turning radius. The civil and landscaping plans have also been updated on October 12<sup>th</sup>.

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 need 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: Nov. 16, 2022

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