

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



Wednesday February 21, 2018
Open Session Meeting Minutes

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

Call to Order: S. Goodwin called the meeting to order at 6:01 PM.

Approval of Agenda: A motion was made by M. Gibbons and seconded by J. Gugino to approve the agenda.
Motion passed 5-0.

Public Hearing – Application for Variance – Daniel Duprez & Ernie Merrill, 100 Park Street (Filed 1/26/2018):
S. Goodwin opened the Public Hearing at 6:05 PM by reading the notice as advertised in the Nashoba Valley Voice on February 2 and 9, 2018. The applicant is seeking a variance from Zoning Bylaw (2009) Article 4.4 Table of Use Regulations section 5.4 to allow for exterior storage of vehicles and equipment.

Mr. Duprez and Mr. Merrill were both present. The applicants, who own an excavating company, described the hydraulic equipment to be stored as including bobcats, backhoes, dump trucks, trailers, and small/medium excavators. They are not changing or expanding the existing parking lot but are proposing to install a security fence around the equipment.

The land/parking lot behind the building is owned by the 100 Park Street Condominium Association, not the applicants themselves. Because of this, the Condo Association held a special meeting on January 3, 2018 to grant permission for the area behind units 11 thru 13 to be used for this storage purpose, as well as for the installation of a new security fence. The applicants provided ZBA with a copy of the minutes from that meeting and were also able to provide documentation for ZBA to review of the property deed.

S. Goodwin noted the proximity of the parking lot roughly 25 feet from wetlands as well as the unavoidable likelihood that hydraulic construction equipment will experience leakages. J. Gugino noted that the Department Head Review comments included the Conservation Commission Administrator stating that ConCom review would be necessary, and the DPW Superintendent recommending installation of a stormwater management system to protect the abutting wetlands from untreated run-off and erosion. M. Gibbons spoke of the need for a spill kit to be kept on site at all times.

The Board agreed to put the following stipulations on the Variance, if granted: #1 a spill kit must be kept on site, in the back, at all times; #2 no materials, including gas tanks or hazardous liquids, are to be stored; and #3 the applicants must meet with the Conservation Commission for review in order to protect the wetlands from stormwater run-off and potential spills.

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to approve the variance as sought by the applicant, with the three stipulations as described above. **Motion passed 5-0.**

Motion: A motion was made by M. Gibbons and seconded by R. Defilippo to close the public hearing at
Motion passed 5-0.

Public Hearing – Application for Special Permit – Town of Ayer – Property off Woodland Way & Hemlock Drive, Assessor's Map 36/Parcel 210, Pingry Hill Water Tank (Filed 1/30/2018): S. Goodwin opened the Public Hearing by reading the notice as advertised in the Nashoba Valley Voice on February 2 and 9, 2018. The applicant is seeking a Special Permit from Zoning Bylaw (2009) Article 3.3.5.1 Wireless Communications Services District to erect a 70 ft. utility pole to support antennas for Town of Ayer public safety operations.

Police Chief William Murray represented the Town's application before the Board.

Town Project 17PD01, funding for which was previously approved at Town Meeting (October 24, 2016), proposes erecting a 70 ft. utility pole on Town property to support antennas for Police, Fire and DPW. Additionally, a solar panel and outdoor housings on the ground or on the pole will contain communications equipment and batteries to support the communications system.

The antennas to be mounted on this pole are: #1 APD VHF voting receiver antenna; 32 a 23 GHz Microwave Dish for link to the Town's Hilltop site; and #3 AFD 72 MHz future fire alarm repeater antenna. The pole will not be used for commercial cellular operations.

A 200 ft. commercial cell tower, owned by American Tower, on the next hill over, is not considered a viable alternative due to recurring and costly lease fees as well as the possibility of interference between cellular radio frequencies and public safety radio communications.

Chief Murray explained that the purpose of this project is to improve problematic police communications, including reception issues for portable police radios, to the east of the Town. VHF signal transmission requires direct line of sight. Given the Town's topography and curvature, this requires the use of 3 antenna towers, with the tower at Page-Hilltop being the most important, and to which this tower would provide linkage.

Abutter Chris McCubbin, of 37 Hemlock Drive, asked if the tower would be visible from his house. Chief Murray said this installation is more like a telephone pole than a tower, and would be situated right next to the Town's Pingry Hill water tank.

Resident Bill Daniels, of 3 Brilaina Court, has visited this site several times as Chair of the Conservation Commission. He said the proposed tower location is on the Willow Road site of the tank, and will not be as tall as the commercial cell tower on the next hill over.

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to grant a Special Permit pursuant to Zoning Bylaw (2009) 3.3.5.1. **Motion passed 5-0.**

Motion: A motion was made by M. Gibbons and seconded by R. Defilippo to close the public hearing at
Motion passed 5-0.

Public Hearing – Application for Variance and Special Permit – Town of Ayer – Property off o Rear Highland Avenue/115 Washington Street, Assessor's Map 20/Parcels 20-22, Page-Hilltop water tank site (Filed 1/30/2018): S. Goodwin opened the Public Hearing by reading the notice as advertised in the Nashoba Valley Voice on February 2 and 9, 2018. The applicant is seeking a Variance and Special Permit from Zoning Bylaw

(2009) Article 3.3.5.1 Wireless Communications Services District to erect a 120 ft. guyed telecommunications tower to support antennas for Town of Ayer public safety operations.

Police Chief William Murray represented the Town's application before the Board.

The Variance is sought to allow for erection of a guyed tower in a location not covered in the Wireless Communications Services District. The Special Permit is sought pursuant to Ayer Zoning Bylaw (2009) 3.3.5.1 Wireless Communications Services District for approved Town Project 17PD01. The 120 ft. guyed tower would be used to support antennas for public safety – Police, Fire, DPW. Additionally, a 1,000 gallon propane tank, 25 KW standby generator, and concrete pre-fabricated communications shelter are proposed for installation on site to support the communications system.

The application states that there are no alternative sites because the new tower and additional radio equipment will be adding on to existing radio equipment at the Hilltop Site. The antennas currently mounted on the water tank are not high enough. The new 120 ft. tower would hold most of the current antennas as well as additional ones. There will be no commercial use of this tower. Again, because of the Town's topography, Chief Murray said this is the highest point in Town on land already owned by the Town, and that there is no alternative location.

Antennas to be mounted on this tower would include: Ayer PD Alpha Channel, Ayer FD repeater, Ayer PD C Channel repeater, Ayer PD B Channel simplex base, DPW repeater, 1 microwave dish shot to APD HQ, and spare antenna. Mounting these antennas on the water tank alone does not provide sufficient height to eliminate communication interference issues.

Numerous abutters, including Bill Daniels, of 3 Brilaina Court; Chuck LeBlanc, of 44 Norwood Avenue; Janet Providakes, of 1 Brilaina Court; Keith Shaw, of 42 Highland Avenue; Elizabeth Nonis, of 4 Brilaina Court; and resident Laurie Nehring, of 35 Highland Avenue, expressed significant concerns about how the visual height of the tower would affect their neighborhood, as well as concerns about the security and safety of the installation, especially given its very close proximity to the Page-Hilltop School.

Chief Murray was unsure if there would be fencing not just around the water tank itself but around the entire installation, given the wide diameter that would need to be covered to include where the guy wires attach to the ground. Mr. Daniels said many similar installations use small fenced areas around each guy wire attachment point to prevent tampering.

With strong abutter support, Mr. Daniels said it would important for folks to see a photo simulation of what a new 120 ft. guyed tower would look like in this neighborhood – both the visual impact of the height of the tower as well as the location of the guy wire ground attachments.

Ms. Nehring said she had a number of safety concerns, having heard strange noises and voices coming from the existing shed at the water tank while walking her dog. The risk to children using the nearby playground and tripping on the guy wires was another consideration. In addition, she asked about the potential impact on teachers and students from enhanced electromagnetic waves.

Ms. Providakes asked if the tower should have lights because of the nearby hospital to which a medevac helicopter periodically travels. Tower lights are not required on towers less than 200 ft. in height that are not near an airport. M. Gibbons said that if residents were already bothered by the idea of a 120 tower, adding blinking lights would doubtless create more upset.

Mr. Shaw said he was not happy with the process as he had only just heard of the project and it seems it is already well underway. S. Goodwin clarified that Town Meeting, in 2016, only voted to approve funding for the project. At that point, it then went into the design stage. The Town Meeting vote was only on the economics of the project and from there, nothing other than design has been worked on. This Board hearing is therefore the first review point.

Residents asked if the application and plans could be posted on the Town website. Chief Murray asked residents to email him with questions and he would see to having material posted on the website.

S. Goodwin concluded that the Zoning Board needs a lot more information on this project, including a photo simulation, before it can make a conscientious decision.

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to continue this Public Hearing to the ZBA's March 21 meeting at 6:00 PM. **Motion passed 5-0.**

Public Hearing – Application for Variance and Special Permit – Town of Ayer – 54 Park Street, Assessor's Map 26/Parcel 19-17, Page-Hilltop water tank site (Filed 1/30/2018): For installation of a 70 ft. utility pole to support antennas for Town of Ayer public safety operations, in a location on Town property adjacent to Police Headquarters and not covered in the Wireless Communications Services District.

Rather than open the Public Hearing, Chief Murray asked that this hearing be continued as well since it is dependent on approval of the 120 ft. Page-Hilltop tower discussed in the previous public hearing.

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to continue this Public Hearing to the ZBA's March 21 meeting at 6:00 PM. **Motion passed 5-0.**

Public Hearing – Application for Special Permit – Calco, LLC. – 217 West Main Street, Assessor's Map 32, Parcel 51 (Filed 2/2/2018): S. Goodwin opened the Public Hearing by reading the notice as advertised in The Lowell Sun on February 6 and 13, 2018. The applicant is seeking a special permit from Zoning Bylaw (2009) Article 3.3.5.2.d, Flood Plain District, to allow alterations within the Flood Plain District for proposed commercial development of storage units.

Kyle Burchard, an engineer from Goldsmith, Prest & Ringwall, Inc., and Calvin Moore, of Calco, LLC., were present for the hearing.

Mr. Burchard described the project which proposes the construction of five storage unit buildings on a parcel of land begins as a flat plateau before dropping down into wetlands and flood zone. In order to meet MassDEP Stormwater Standards, pursuant to the Wetlands Protection Act (M.G.L. c. 131, § 40) and the Massachusetts Clean Waters Act (M.G.L. c. 21, §§ 26-53), the project must encroach into, and alter, the 100-year floodplain. Details are described in a Feb. 2, 2018 letter from GPR that accompanied the special permit application. Mr. Burchard emphasized that this area of the floodplain only affects flood storage capacity, and does not impact or obstruct any part of the floodway itself.

To create one of two required stormwater basins, this one on the eastern side of the project, will require altering 634 sq. ft. of floodplain. A 1:1 compensatory cut, moved to the back of the project at the edge of the plateau, will replicate the flood storage capacity with a net increase in flood storage of 1 sq. ft. Overall 2468 sq. ft. of work will be down within the floodplain, including retaining wall and slope adjustments.

After certain adjustments, the project has passed through the Notice of Intent process with the Conservation Commission and will shortly be receiving an Order of Conditions.

Motion: A motion was made by M. Gibbons and seconded by J. Ellis to grant a Special Permit pursuant to Zoning Bylaw (2009) Article 3.3.5.2.d to allow the alterations as proposed. **Motion passed 5-0.**

Motion: A motion was made by M. Gibbons and seconded by R. Defilippo to close the public hearing at **Motion passed 5-0.**

Approval of Meeting Minutes:

Motion: A motion was made by J. Ellis and seconded by M. Gibbons to approve the meeting minutes from January 17, 2018. **Motion passed 5-0.**

Adjournment:

Motion: A motion was made by J. Ellis and seconded by M. Gibbons to adjourn at 7:33 PM. **Motion approved 5-0.**

Minutes Recorded and Submitted by Jess Gugino

Date Minutes Approved by ZBA:

03/21/2018

Signature of Clerk Indicating Approval:

A handwritten signature in black ink, appearing to read "R. Defilippo", written over a horizontal line.