

MINUTES OF A JOINT MEETING OF THE VILLAGE OF AVON
PLANNING BOARD & ZONING BOARD OF APPEALS
TUESDAY, MAY 15, 2018
6:00 PM: WHITNEY ROOM, VILLAGE ROOM

I. ATTENDANCE

PLANNING BOARD

- Paul M. Drozdziel, Chairman
- Marilyn Borkhuis
- Patrick McCormick (6:20 PM)
- Kevin O'Donoghue (6:58 PM)
- William Wall

QUORUM: 5 Present, 0 Absent

ZONING BOARD OF APPEALS

- Daniel Freeman, Chairman
- Christopher Conine
- James Gerace
- Ernest Wiard

ABSENT

- Richard Hite

QUORUM: 4 Present, 1 Absent

STAFF

- Lance Brabant, Sr. Planning Associate, MRB Group
- Anthony Cappello, Code Enforcement Officer
- Brian Glise, Fire Marshal
- Reid Whiting, Village Attorney
- Gary Margiotta, Deputy Clerk

GUESTS

- Kurt Zobel, Warden of the Church
- John Wallin, Realtor & Church Member

III. OLD BUSINESS

A. Public Hearing

- Zion Episcopal Church
- Area Variance for 33 North Avenue

- Zoning Board of Appeals
- Appeal No. 18-01

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE that a public hearing will be held before the Zoning Board of Appeals of the Village of Avon on Tuesday, May 15, 2018, at 6:00 PM in the Whitney Room at Village Hall, 74 Genesee Street, Avon, New York on the following matter:

Application by the Zion Episcopal Church for an area variance for 33 North Avenue, a property in an R-1, One Family Residential zoning district. The application is available for review at Village Hall, located at 74 Genesee Street, Avon, NY from 8:00 AM to 4:00 PM Monday through Friday.

The Zoning Board of Appeals will, at the aforesaid time and place, hear all persons in support of this application or objections thereto. Persons may appear in person or by agent or attorney.

Dated: April 24, 2018

By Order of the Zoning Board of Appeals
Of the Village of Avon, NY

Freeman read the public hearing notice, explaining the Zion Episcopal Church was looking to subdivide its parcel 34.06-2-57. The Church was on the southern end at 10 Park Place while the Church's former parsonage was on the northern end at 33 North Avenue.

The Church wanted to sell the former parsonage to the ARC of Livingston-Wyoming, the ARC wishing to use the house as a group home. The Church's last two priests had had their own houses, Zobel explained, adding the Church really didn't have the means to rent the property.

The subdivision the Church had proposed would give the parsonage 80 feet of frontage, short of the 100 feet called for in the Municipal Code, Freeman pointed out.

The setbacks were less than the minimums, too, Whiting said. The Code called for a 40-foot front yard setback while the parsonage had just 20.4 feet; and 15-foot side yard setbacks while the parsonage had just 13.8 feet on the north side, the attorney noted.

As for the frontage, Wallin pointed out there was a large hedgerow south of the parsonage. Church officials thought that had been the original property line – the Church had bought the parsonage property back in 1923. Setting the new property line at the hedgerow seemed natural while going 20 feet beyond would give the ARC an isolated 20 feet and would set the new property line into what had, historically, been the Church's lawn.

The hedgerow was a natural barrier for the St. Agnes school children and Circle K nursery children who used the lawn as a play area, Zobel explained.

Summing Up, Identifying the Problems

Freeman pointed out, according to the Code, the parsonage's new lot should be 20,000-square-feet, but, at the 80 feet X 141 feet that had been proposed, it'd be just 11,280-square-feet. And, the front yard setback would be just 20.4 feet vs. the 40 feet required and the north side side yard setback would be 13.8 feet vs. the 15 feet required.

Going through the tests for granting area variances, Freeman went on to ask, would an undesirable change be produced in the character of the neighborhood or would a detriment to nearby properties be created by granting the variance?

Many lots in the Village didn't meet the 100 foot X 200 foot (20,000-square-feet) standard, Drozdziel pointed out. The Planning Board had created a new zoning district with smaller lots, he added. From a Planning Board perspective, Drozdziel felt, the 100 foot X 200 foot standard was unrealistic.

Could the benefit sought by the applicant be achieved by some other means than an area variance? Freeman asked. It seemed there was nowhere else the Church could go, Freeman declared.

Was the area variance sought substantial and would it have an adverse effect of the neighborhood? Freeman asked.

If you had canvassed the neighborhood, residents would have thought the hedge was the line, Conine observed.

And, as for the front and side yard setbacks, they were what they were, Freeman remarked. There was no further discussion on the Church’s area variance application.

LEGISLATIVE ACTION

Brabant introduced a resolution, classifying the Church’s area variance application as a Type II action under the State Environmental Quality Review Act (SEQRA). Such actions weren’t subject to further review under SEQRA regulations and didn’t require formal action by the Board.

SEQR RESOLUTION – TYPE II ACTION

Conine offered the following resolution and moved its adoption:

WHEREAS, the Village of Avon Zoning Board of Appeals (hereinafter referred to as the Zoning Board) is considering an area variance approval for a parcel with 80 feet of frontage where 100 feet of frontage is required (20-foot area variance), side setback of 13.8 feet where 15 feet is required (1.2 foot variance) and a front setback of 20.4 feet where 40 feet is required (19.6 foot variance) as shown on the Final Subdivision Plan, entitled, “The Episcopal Church – North Avenue Subdivision,” and prepared by Welch & O’Donoghue Land Surveyors, PC, dated March 29, 2018, revised March 31, 2018, and all other relevant information submitted as of May 15, 2018 (the current application); and,

NOW, THEREFORE BE IT RESOLVED THAT the Zoning Board does hereby classify the above referenced Action to be a Type II Action under Section 617.5© of the State Environmental Quality Review (SEQR) Regulations; and,

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and,

BE IT FINALLY RESOLVED THAT, the Zoning Board, in making this classification, has satisfied the procedural requirements under SEQR and directs this resolution to be placed on file on this Action.

Seconded by Wiard. Voting in favor were: Freeman, Conine, Gerace and Wiard. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

MOTION FOR AREA VARIANCE APPROVAL

MOTION: Wiard moved to approve area variance application 18-01, filed by the Zion Episcopal Church of 10 Park Place, Avon, and pertaining to the Church and its former parsonage at 33 North Avenue, Avon, seconded by Gerace. Voting in favor were: Freeman, Conine, Gerace and Wiard. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

MOTION FOR ADJOURNMENT

MOTION: Gerace moved for adjournment at 6:25 PM, seconded by Wiard. Voting in favor were: Freeman, Conine, Gerace and Wiard. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

B. Public Hearing

Zion Episcopal Church
10 Park Place

Planning Board
Subdivision Application: Parcel 34.06-2-57

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE that a public hearing will be held before the Planning Board of the Village of Avon on Tuesday, May 15, 2018, at 6:15 PM in the Whitney Room at Village Hall, 74 Genesee Street, Avon, New York on the following matter:

Application by the Zion Episcopal Church for a subdivision of parcel 34.06-2-57. The application is available for review at the Village Hall located at 74 Genesee Street, Avon, NY, from 8:00 AM to 4:00 PM Monday through Friday.

The Planning Board will, at the aforesaid time and place, hear all persons in support of this application or objections thereto. Persons may appear in person or by agent or attorney.

Dated April 24, 2018

By Order of the Planning Board
Of the Village of Avon, NY

Drozdziel opened the hearing and read the notice, explaining the Zion Episcopal Church wanted to subdivide their property for the purposes of selling the former parsonage to the ARC of Livingston-Wyoming for use as a group home.

Why wasn't the property used as a parsonage anymore? McCormick asked.

Because their last two priests had their own houses and the Church really didn't have the means to rent the property out, Zobel explained. The parsonage had been great as "Zion House," the first transitional housing in New York State for female veterans, serving in that capacity from November, 2010, until May of 2017 – but that time had passed.

LEGISLATIVE ACTION

**SEQR DETERMINATION
OF SIGNIFICANCE RESOLUTION**

McCormick offered the following resolution and moved its adoption:

WHEREAS, the Village of Avon Planning Board has determined the above referenced subdivision plan (hereinafter referred to as Action) to be an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and,

WHEREAS, the Planning Board has determined tat the proposed development is subject to a single agency review pursuant to Part 617.6(b)(4) of the SEQR Regulations; and,

WHEREAS, the Planning Board determines that it is the most appropriate agency for making the determination of significance thereon under the SEQR Regulations; and,

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7©(1) of the SEQR Regulations and the information contained in the Short Environmental Assessment Form Part 1; and,

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby designated itself as lead agency for the proposed development above herein; and,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board has reasonably concluded the following impacts are expected to result from the proposed Action when compared against the criteria in Section 617.7©:

- (i) There will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels, a substantial increase in solid waste production, a substantial increase in potential for erosion, flooding, leaching or drainage problems; and,
- (ii) There will not be large quantities of vegetation or fauna removed from the site or destroyed as a result of the proposed action, there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as a result of the proposed action, there will not be a significant impact upon habitat areas on the site, there are no known threatened or endangered species of animal or plant or the habitat of such species or are there any other significant adverse impacts to natural resources on the site; and,
- (iii) There are no known Critical Environmental Area(s) on the site which will be impaired as a result of the proposed action; and,
- (iv) The overall density of the site is consistent with the Village's Comprehensive Plan land use recommendations; and,
- (v) There are no known important or historical, archeological, architectural or aesthetic resources on the site or will the proposed action impair the existing community or neighborhood character; and,
- (vi) There will not be a major change in the use of either the quantity or type of energy resulting from the proposed action; and,
- (vii) There will not be any hazard created to human health; and,
- (viii) There will not be a substantial change in the use or intensity of use of land including open space or recreation resources or in its capacity to support existing uses; and,
- (ix) There will not be a large number of persons attracted to the site for more than a few days when compared to the number of persons who would come to such a place absent of the action; and,
- (x) There will not be created a material demand for other actions that would result in one of the above consequences; and,
- (xi) There will not be changes in two or more of the elements of the environment that, when considered together, result in a substantial adverse impact; and,

(xii) There are not two or more related actions which would have a significant impact upon the environment.

BE IT FURTHER RESOLVED that based upon the information and analysis above and the supporting documentation, the Board determines that the proposed action **WILL NOT** result any significant adverse environmental impacts; and,

BE IT FURTHER RESOLVED that the Planning Board directs the Planning Board Chairman to sign and date Part 2 of the Short Environmental Assessment Form and to identify on the form that the proposed Action will not resolute in any significant adverse impacts; and,

BE IT FINALLY RESOLVED that the Board directs copies of this determination be filed as provided under the SEQR Regulations.

Seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, McCormick and Wall. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

**SUBDIVISION PLAN
APPROVAL RESOLUTION**

McCormick offered the following resolution and moved its adoption:

WHEREAS, the Village of Avon Planning Board is considering Final Subdivision Plan approval for the subdivision of the parent parcel containing 1.179 plus or minus acres to create Lot 1 at 0.263 acres containing an existing 2-story residential structure and Lot 2 at 0.916 acres containing the existing Zion Episcopal Church as shown on the Final Subdivision Plan entitled, "The Episcopal Church – North Avenue Subdivision," prepared by Welch & O'Donoghue Land Surveyors, PC, dated March 29, 2018, revised March 31, 2018, and all other relevant information submitted as of May 15, 2018 (the current application); and,

WHEREAS, the Planning Board opened a public hearing and completed a formal review of the proposed subdivision in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and,

WHEREAS, the Planning Board determined the proposed development to be an Unlisted action and is subject to a single agency review pursuant to Part 617.6(b)(4) of the SEQR Regulations; and,

NOW, THEREFORE, BE IT RESOLVED, the Planning Board hereby approves with the following conditions:

1. Subdivision Plan Approval with conditions specified above herein is valid for a period of 180 days from today. Once all conditions of Subdivision Plan Approval have been met and shown on revised drawings, including the revision dates, the Planning Board Chairperson will then sign the plans.

Seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, McCormick and Wall. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

**MOTION TO CLOSE
THE PUBLIC HEARING**

MOTION: Wall moved to closed the public hearing, seconded by McCormick. Voting in favor were: Drozdziel, Borkhuis, McCormick and Wall. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

II. APPROVAL OF THE MINUTES

MOTION: Wall moved for approval of the minutes of the April 17 Planning Board meeting, seconded by McCormick. Voting in favor were: Drozdziel, Borkhuis, McCormick and Wall. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

* O'Donoghue arrived at 6:58 PM

IV. NEW BUSINESS

Nothing pending.

V. ADJOURNMENT

MOTION: McCormick moved for adjournment at 7:01 PM, seconded by Wall. Voting in favor were: Drozdziel, Borkhuis, McCormick, O'Donoghue and Wall. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

Gary Margiotta
Deputy Clerk