

**MINUTES FOR A MEETING OF THE
VILLAGE OF AVON PLANNING BOARD
TUESDAY, OCTOBER 20, 2020
7:00 PM; VILLAGE HALL**

I. ATTENDANCE

Paul M. Drozdziel, Chairman
Marilyn Borkhuis
John Gibson
Robert Hayes
William Wall

STAFF

Anthony Cappello, Code Enforcement Officer
Kenneth Farrell, DPW Superintendent
Sherman Gittens, MRB Group
Gary Margiotta, Deputy Clerk
Patrick McCormick, Village Board Liaison
Heather R. Randall, Clerk
Jake Whiting, Village Attorney

GUESTS

James Biondolillo, 340 North Avenue
Mark Bovard, 151 D'Angelo Parkway
Dolores Gunther, 133 D'Angelo Parkway
Douglas Hayes, James H. Missell & Associates
Jan Hayes, 109 D'Angelo Parkway
Robert E. Hayes, 109 D'Angelo Parkway
John McCaffrey, 154 D'Angelo Parkway
Kurt Meyer, 290 North Avenue
Kate Rizzolo, 139 D'Angelo Parkway
Michael Rizzolo, 139 D'Angelo Parkway
Atty. Anthony Scalia, Penfield

TEAM MEETING GUESTS

David Botts, 175 D'Angelo Parkway
Sarah Freeman Botts, 175 D'Angelo Parkway
Janet Denton, 181 D'Angelo Parkway
Mark Emminghausen, 148 D'Angelo Parkway
Edward Forsythe, 164 Sackett Road
Patrick Kostraba, 126 D'Angelo Parkway
Robert Mellen, 175 D'Angelo Parkway
Bruce Wolfanger, 145 D'Angelo Parkway
Connie Wolfanger, 145 D'Angelo Parkway

IV. NEW BUSINESS

**A. North Avenue Heights Subdivision
Sidewalk Relocation**

Public Hearing

Drozdziel welcomed guests and introduced himself. A number of people would be participating in the public hearing and Drozdziel asked them to use their *"outdoor voice,"* speak clearly and state their names.

The Chairman congratulated McCormick on becoming a Trustee and Hayes on becoming a Planning Board member. Gittens was a newcomer and Drozdziel had him introduce himself then had Board members and staff introduce themselves as well.

Drozdziel read the public hearing notice, officially opened the hearing then invited speakers to step to the podium.

Fine without them

Why do it?

Why are we doing this? asked Bovard. D'Angelo Parkway had been fine without sidewalks and many streets needed them more than D'Angelo Parkway.

What's the cost? Bovard continued. He asked if the Village would tear into their yards, saying that wouldn't look clean. People would be happier if the Village just dropped it, he said. The sidewalks had been planned for the other side of the street (*the inside loop*); why had that changed?

The sidewalks would go "*daisy*" around telephone poles, Bovard continued, reiterating the sidewalks wouldn't look as clean as the MRB sketch had made them look.

**Procedural points,
Where's the application?**

Scalia, who had come at the behest of the Rizzolo's, told members he had some procedural points. He was confused as to how the public hearing could continue. The legal advertisement had said there was an "*application*" for Planning Board review and that the application would be available at Village Hall.

But, his office had made calls to Village Hall and he'd come by a couple of days ago, but there'd been no application to review. Pursuant to the Open Meetings Law, it was impossible to comment on the sidewalks without that application, the attorney asserted.

Applications were several pages long and addressed many questions, Scalia continued. Would the sidewalks go over utilities? Or, if utilities had to be moved, who'd bear that cost?

People had bought their properties based on the original North Avenue Heights site plan, Scalia said. But, the developer, Sam D'Angelo, had passed away and the Village had been talking to his widow, Mary J. D'Angelo, and she'd been unwilling to bear the cost of the sidewalks.

Scalia formally requested the hearing be adjourned - or held open - until an application was made available.

The Board would hold the hearing open, Drozdziel responded.

**Gardens will be destroyed;
We don't need sidewalks!**

Kate Rizzolo said she hadn't been able to get the information she'd wanted from the Village. She and her husband had bought their property in 2003 and they'd seen the sidewalk plan back then. They had cornfields beyond their backyard, she added.

But Rizzolo had been concerned, there'd been a meeting with the Planning Board in 2017; it had been advertised as a "*safety meeting*," she believed, but said they hadn't been able to find any notation of it.

McCaffrey had suggested the Village paint a pedestrian lane along the street instead of laying sidewalks. The public hearing had originally been advertised for August 18, but had been postponed, then Superintendent of Public Works John Barrett came through the neighborhood and painted where sidewalks would be.

When that happened, they'd felt the sidewalks were a "*done deal*," Rizzolo continued, they'd felt they wouldn't have their say. Other developments, she noted, had a green strip and "*regular*" sidewalks. She'd like to know what specifications the Village had in mind for D'Angelo Parkway's sidewalks. The MRB map didn't show anything, she contended, adding she believed gardens would be destroyed.

Going back to the 2003 plan, Rizzolo wondered whether the sidewalks would cut through their driveways or simply go up to them. And, as for other streets needing sidewalks, Rizzolo cited: North Avenue from D'Angelo Parkway to East River Road, Rochester Street from Barilla Drive to East River Road and Pole Bridge Road from the Village View Subdivision to Routes 5&20.

Finally, Rizzolo agreed with Bovard saying, "*We don't need sidewalks,*" there wasn't a good place to put them. She submitted a letter of opposition she hoped to have included in the record.

The Letter:

Dismay and dissatisfaction

Residents had had no issues without sidewalks, the letter began. The 2001 sidewalk plan showed the sidewalks on the inside loop and residents had been "*dismayed*" by the sudden shift to the outside loop. More materials would be needed to go around the outside loop and that would cost more money. There'd be more obstacles to work around as well.

The outside loop had been "*thrust*" upon residents without notice or input. Many attempts had been made to obtain the Village Board application as mentioned in the public hearing notice, but they'd been told no such application existed.

The letter expressed the residents' dissatisfaction with the process, citing a lack of communication from the Village and the Planning Board, they had not been provided with all the information and had had to fight for what they had gotten.

The letter, which had been signed by a dozen people, concluded with a request the Village not move forward with the placement of sidewalks in the D'Angelo Parkway Subdivision.

Don't know how it

Can be done

Robert E. Hayes said he realized none of the Board members had been on the Board when this had first come up. Where was the original plan? he wondered.

Twenty years ago, the Village Board had allowed Sam D'Angelo to "*postpone*" the installation of sidewalks. Other subdivisions had their green strips and regular sidewalks, but, no, this was the contract they'd entered into, Hayes continued.

They'd taken a huge leap forward, Hayes contended, and without input from the neighborhood. Hayes said he would have built his house farther back, if he'd known the sidewalks were going to jump across the street into his front yard.

The bond the developer had put up stood at \$43,100. Hayes didn't know how the Village was going to be able to put in sidewalks for that amount. And, who would be responsible for snow and ice in the winter, he wondered. The High Street sidewalks had been laid right along the street and they looked "*bad,*" Hayes contended.

Hayes had stopped at Village Hall and requested the engineering reports – they should be on file at Village Hall, - but he'd been told to consult with Mayor Thomas W. Freeman. The Mayor had told him the yellow line on the MRB sketch of D'Angelo Parkway was it. No elevations had been taken, Hayes noted.

Residents hadn't signed a contract with the Village, Hayes pointed out, they'd signed a contract with the D'Angelo Corporation, but they couldn't hold the D'Angelo Corporation to that contract because the Village had absolved the corporation of that.

Sidewalks will make

Things unsafe

How did we get here? Patrick Clancy asked. Why was there a change?

We're all still neighbors at the end of this, Drozdziel remarked. The North Avenue Heights Subdivision was approved, but the sidewalks were delayed and here we were today trying to move it forward, the Chairman said, adding he didn't know when the change from the inner loop to the outer loop had occurred.

Clancy said he'd bought the first lot in the subdivision. Gunther's house had been the first one built and his had been second.

But, 95 percent of the residents don't want the sidewalks, Clancy contended. People had put in landscaping, driveways and the sidewalks would only make things unsafe, they'd go over and around existing trees – how is that going to look?

When snow is plowed, it will be dumped on the street, Clancy said. Why not put a walk path around the inside of the circle? he asked. Clancy urged the Village to spend the money intelligently, adding let's make a better decision. Half the year the sidewalk would be under snow and ice. If he had his driveway plowed, who would be responsible for plowing the sidewalk? Clancy asked. The Village was jamming one bad idea onto another.

Walking lane

Would be the solution

McCaffrey had purchased two lots on D'Angelo Parkway - because he and his wife liked woods. He was retired now and spent a lot of time on his lawn. He'd been with the State Police for 24 years and assured members, if he saw a need for sidewalks, he'd be defending them.

McCaffrey said he thought a walking lane would be the solution. D'Angelo Parkway would have to be repaved in the next few years anyways, why not add a walking lane then? he asked, adding he highly suggested the Village try a walking lane . . . and use the \$43,100 to repave the street.

This project is a \$200,000 project and why are we asking the whole village to pay for sidewalks when we don't need them? McCaffrey asked.

Check with the Police Department, you won't find any accidents on D'Angelo Parkway, no one hit by a car, we drive 15 MPH up there, McCaffrey contended. You have a solution, step-up and take it, consider a walking lane, McCaffrey urged.

Sidewalks will look horrible.**A walking lane would look great!**

Gunther told members she had been living on D'Angelo Parkway for two years; it was a nice looking neighborhood with the berms. She said she was against a sidewalk, against cutting into her yard 15 feet, adding it would look "*horrible.*" Gunther told members a pathway would look great and she was in favor of that.

Another "Nay" heard from

Meyer lived at 290 North Avenue, but he had 250 feet along D'Angelo Parkway. As for sidewalks, he said he was a "*nay.*" Meyer noted four residents on North Avenue hadn't been made aware of the public hearing.

Walking path is**An excellent solution**

Bruce Wolfanger called in. He said his neighbors had said everything "*perfectly*" and a walking lane would be perfect. Wolfanger had built many of the houses on D'Angelo Parkway. He said the sidewalks had always been planned for the inner loop.

Wolfanger knew a sidewalk contractor who used a machine to install sidewalks and he'd thought the banks on the outer loop would make installation difficult. There was a 20 percent grade on that side of the road, he asserted, adding a walking path was an excellent solution.

Safety cannot wait**A sidewalk advocate**

They all wanted safety, Botts said by phone, and no-one wanted destruction of property, but, with safety, waiting wasn't an option. Botts and his wife, Sarah, believed in the Village and supported sidewalks on D'Angelo Parkway.

No issues noted by a**15-Year Parkway resident**

He had lived on D'Angelo Parkway for 15 years and there had been "*no issues,*" Emminghausen told members by phone. A walking lane was the best solution.

Spring Street, from River Street west to the curve, had a walking lane instead of a sidewalk. Many kids used the sidewalks to go down to the Driving Park, but there was the stretch he'd mentioned with a walking lane rather than a sidewalk and there hadn't been any problems there, Emminghausen asserted.

Map is "*really bad,*"**Walking path is the "*wise choice*"**

Kostraba had lived on D'Angelo Parkway since 2003; sidewalks on the inside of the loop or the outside – they weren't needed. Why now? he asked members by phone. He called MRB's map "*really bad*" and asserted a walking path would be the "*wise choice.*"

Keep the hearing open

Make recommendation Nov. 17

Whiting recommended the Board leave the hearing open, allowing members time to reflect on the comments made then make a recommendation to the Village Board at their meeting of Tuesday, November 17

MOTION: Gibson moved to keep the hearing open through the November 17 Board meeting, seconded by Wall. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Wall. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

B. Wall River Street Subdivision

117 River Street Avon, NY
 Tax Map #34.5-1-4.11
 7.91 acres with a 24x40 barn
 Zoned Agricultural with Special Flood Hazard Overlay

William J. & Jill C. Wall
 111 River Street, Avon, NY

Douglas Hayes
 Missell & Associates, Rochester, NY

Wall’s home was on a 106-foot X 202.25-foot parcel, zoned Agricultural with Special Flood Hazard Overlay, at 111 River Street. He owned a 7.91-acre parcel, adjoining to the west, also zoned Agricultural with Special Flood Overlay at 117 River Street.

Wall had proposed subdividing the 117 River Street parcel into two lots, one 4.98 acres and the other 2.89 acres, accessible to River Street by a driveway.

**Plans to be revised to
 Show a 3-lot subdivision**

Wall planned on dividing 117 River Street in half, Hayes began. They’d add a 20-foot utility easement for the south lot and there was a driveway that’d serve the south lot - they’d build a driveway for the north lot, he added.

Additionally, Wall wanted to cut 20 feet off of the north lot and add that to his 111 River Street parcel, but, Hayes told members, that would be a simple *“lot line adjustment.”*

But, Drozdziel contradicted him, telling Hayes the Village didn’t have administrative lot line adjustments, the 20 feet Wall wanted to add to his lot would make his subdivision a 3-lot – rather than a 2-lot - subdivision. Wall would have to revise his paperwork (*maps and application*) and re-submit.

Gittens agreed, the Board would need accurate information.

Wall agreed to bring in corrected maps.

Was the lot just being mowed now? Gibson asked.

Yes, Wall answered

MOTION: Gibson moved to schedule a public hearing on the Wall River Street Subdivision for 7:00 PM Tuesday, November 17, 2020 at Village Hall, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, Gibson and Hayes with Wall abstaining. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays, 1 Abstention

C. Area Variance Application

David & Patricia Warner

121 Temple Street, Avon, NY
 Zoned Village Residential (VR)
 10-foot side yard setback required
 5-foot, 4-inch setback requested
 Planning Board recommendation sought

121 Temple Street, Avon, NY

The Warner’s house was 5-feet, 4-inches from the north side property line. They wished to build a 25-foot X 17-foot, 6-inch addition on the rear of their house, also 5-feet, 4-inches from the north side property line. Chapter 30, Section 23, of the Municipal Code required a 10-foot side yard setback. The property to the north was 59 Clinton Street, owned by Dennis and Patricia Davin.

The addition would go straight back, Cappello told members, adding everyone seemed OK with it.

It seemed like a reasonable accommodation, Gibson observed.

The Zoning Board of Appeals was scheduled to conduct a public hearing on the application Tuesday, October 27, 2020 at Village Hall. A Planning Board recommendation had been sought.

MOTION: Wall moved to forward a positive recommendation to the Zoning Board of Appeals, seconded by Hayes. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Wall. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

D. Area Variance Application

Justin Gutzmer & Kaitlin Freeman

117 South Avenue, Avon, NY
 Zoned Village Residential (VR)
 10-foot side yard setback required
 9-foot setback requested
 Planning Board recommendation sought

117 South Avenue, Avon, NY

Justin Gutzmer & Kaitlin Freeman’s house was 7-feet from the north side property line. They wish to build a 30-foot X 20-foot addition on the rear of their house, 9-feet from the side property line. Chapter 30, Section 23 required a 10-foot side yard setback. The property to the north was 111 South Avenue, owned by Deborah Yamonaco.

The Board had set precedence on the previous application, Hayes commented.

It was noted the addition would be two feet further away from the side yard property line than the existing house.

MOTION: Hayes moved to forward a positive recommendation to the Zoning Board appeals, seconded by Gibson. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Wall. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

**Solar Development in the Village;
Should the Planning Board Discuss It Further?**

Drozdziel raised the prospect of solar development in the Village, asking members their opinion – should the Planning Board discuss it further? The sentiment at the Village and Town level seemed to favor farmland.

Wasn't solar development covered by State law? McCormick asked, pointing out there was nothing in the Municipal Code to reject it out of hand.

Hayes mentioned Article 10, a State statute which provided for the siting review of new and repowered or modified major electric generating facilities in New York State by the Board on Electric Generation Siting and the Environment.

Article 10 defined a "*major electric generating facility*" as facilities of 25 megawatts or more; they required environmental and public health impact analyses, studies regarding environmental justice and public safety and consideration of local laws.

Gittens said the law was based on solar projects of a certain size with certain power distribution. Projects north of 10 megawatts would go to the State Commission while anything lower would remain with local government.

There were agricultural parcels in the Village that could accommodate solar projects, Drozdziel pointed out, again asking for members' opinions.

Hayes thought the Village was well-positioned with the Comprehensive Plan, adding he, personally, didn't favor commercial development of solar in the Village.

The next phase would battery storage, Drozdziel remarked.

That was another "*hot topic*," Gittens said, adding safety and screening were considerations. He told members there was no right or wrong answer.

Let's go ahead and think about that, Drozdziel encouraged.

It was well worth exploring, McCormick said.

**Horseshoe Solar in
Caledonia & Rush**

Horseshoe Solar, the largest solar-grazing operation in the northeast, was a 180 megawatt facility that had been proposed for Caledonia and Rush. Horseshoe Solar would reportedly take in 3,850 acres overall with 600,000 solar panels on 1,260 acres and would power 40,000 to 50,000 New York homes.

3,000 sheep would be used to graze and maintain the grass on the site. The project had been proposed by Invenergy of Chicago, America's leading, privately held developer and operator of sustainable energy solutions. The Horseshoe Solar project was headquartered in Ithaca. The Seneca Indian Nation had opposed the project.

Avon Central School District**7-acre solar field**

Avon Central School District had 5,000 panels on seven acres east of the high school. The 1.7 megawatt installation had been the largest solar energy installation on any public school campus in New York State when it went into operation in 2016. WGL Energy Systems of Hampton, VA, owned the array. Hayes described that field as “*very unsightly*,” suggesting such projects might be fine for the Mojave Desert, but, when you were talking about Avon, you were talking about “*prime agricultural property*.”

NextEra Resources Avon Solar**33.8 acres, 5-megawatt site**

The Town of Avon’s Planning Board has been dealing with a 5-megawatt project on 33.8 acres east of Pole Bridge Road. NextEra Resources of Florida was the developer. Their Board has determined the project wouldn’t have a significant, adverse impact.

Solar Liberty; 8-acres**1418 Caledonia-Avon Road**

Another recent solar project had been developed by Solar Liberty of Buffalo on 8-acres at 1418 Caledonia-Avon Road in the Town of Caledonia.

Morris Ridge Solar Energy Center**1,000 acres in Mt. Morris**

EDF Renewables of San Diego, CA, was attempting to lease and develop 1,000 acres of land in Mt. Morris, between Letchworth State Park and Sonyea State Forest. Hundreds of thousands of solar panels have been proposed there, they’d reportedly produce enough renewable energy for 25,000 to 38,000 homes.

D’Angelo Parkway Sidewalks - Redux

Cappello told members a sidewalk plan had been approved for the North Avenue Heights Subdivision in 2003 and that plan had some walks on each side of the street.

But, then, residents planted in the right-of-way, Hayes observed.

Shame on us for not putting the sidewalks in right away, Drozdziel remarked.

The Municipal Code said all subdivisions would have sidewalks, Whiting pointed out.

If someone were injured on D’Angelo Parkway, the Village could be facing a lawsuit, Wall said.

Miscellaneous

The Village planned on putting *No Parking* signs on Reed Street and Borkhuis, a Reed Street resident, said she was in favor of it.

Hayes said he looked forward to working with the Board.

V. ADJOURNMENT

Motion: Wall moved for adjournment at 8:43 PM, seconded by Borkhuis. Voting in favor were: Drozdzial, Borkhuis, Gibson, Hayes and Wall. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

Gary Margiotta
Deputy Clerk