

MINUTES OF A MEETING OF THE
VILLAGE OF AVON PLANNING BOARD
TUESDAY, OCTOBER 19, 2021
7:00 PM; VILLAGE HALL

I. ATTENDANCE

Paul M. Drozdziel, Chairman
Marilyn Borkhuis
John Gibson
William Wall, 7:10 PM

STAFF

Andy Anderson, Acting Code Enforcement Officer
Patrick McCormick, Village Board Liaison
Gary Margiotta, Secretary

ABSENT

Robert C. Hayes

QUORUM, 4 Present, 1 Absent

II. APPROVAL OF THE MINUTES

MOTION: Gibson moved for approval of the minutes of the September 21 meeting, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis and Gibson. Voting against were: none.

CARRIED, 3 Ayes, 0 Nays

III. OLD BUSINESS

A. Crooked Barn Craft Brewery & Coffee House

310 East Main Street, Parcel 34.7-1-40.11
Avon, NY 14414 – Agricultural District

J. Douglas & Elaine McCarthy

PO Box 204
Avon, NY 14414

At their October 4 meeting, the Village Board adopted a local law, adding "Microbrewery/Farm Brewery/Craft Brewery" as a permitted use within Agricultural Districts, subject to a special use permit.

VILLAGE OF AVON

LOCAL LAW NO. ____ OF 2021

A LOCAL LAW AMENDING SECTION 30.31(C) OF THE VILLAGE CODE

Section 2. Legislative Intent: The Village Board of Trustees is cognizant of the recent increase in microbreweries, farm breweries, and craft breweries. The Village Board of Trustees desires to encourage unique uses of land located within its Agricultural District. Further, the Village Board of Trustees desires to encourage commerce, tourism, and on-site consumption of agricultural products. It is the intent of this local law to add "microbrewery, farm brewery, and craft brewery" as a fourth use that is permitted within the Agricultural District, subject to issuance of a special use permit. It is the further intent of this local law to define the requirements for such special use permit in Article VI of the Village Code ("Special Use Permits").

Had there been any comments at the public hearing? Drozdziel asked McCormick.

No, no one had been there, McCormick responded.

So, microbreweries, farm breweries and craft breweries have been added to the Municipal Code as permitted uses in Agricultural Districts, Drozdziel followed-up, but they must have a special use permit and, the Chairman noted, special use permits fall within the Planning Board's purview.

Board members had the latest version of the special use permit application before them. A space for the applicant's E-mail address had been added, Drozdziel noted.

Would you want to add a space for "supporting documents," such as letters from neighbors? Gibson asked. The Planning Board would have to hold a public hearing prior to approving or denying a special use permit application and the Municipal Code requires the applicant to notify property owners within 200 feet of the hearing and file an affidavit of service with the Board.

(Wall arrived)

Drozdziel suggested:

- Dating the form March, 2021
- Adding the phrase, "As per scheduled fee"
- Adding the phrase, "Please refer to Chapter 30, Article VI, Special Use Regulations for Additional Information."

B. Solar Projects

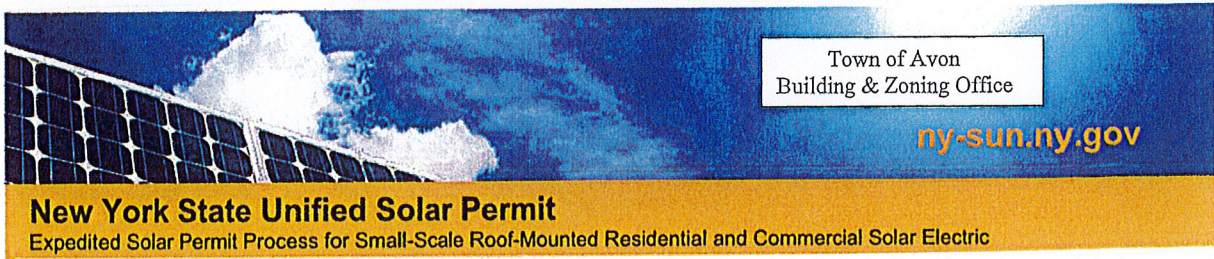
Gibson to Head Committee

Other Municipal Codes to be Reviewed

At their October 4 meeting, the Village Board had adopted a 1-year moratorium on "ground-mounted" solar projects & battery storage. The Planning Board didn't have any such applications before them.

Drozdziel asked Gibson if he would be willing to head a committee to flesh out legislation governing solar projects & battery storage.

The Town had code covering large scale as well as small scale solar projects, Drozdziel pointed out, adding the Village wouldn't have to re-invent the wheel.



Planning Board members could serve on the committee, Drozdziel said, adding there was "good stuff" out there already, Caledonia, Mt. Morris and the Town of Avon, most of them had solar legislation on their websites. The Board could make solar projects & battery storage a regular agenda item, the Chairman suggested.

Gibson said he'd gather some information.

It wouldn't have to be complicated, McCormick said, and Drozdziel encouraged Gibson to E-mail Board members, if he found worthwhile material on Caledonia, Mt. Morris, Lima or any other municipality's website.

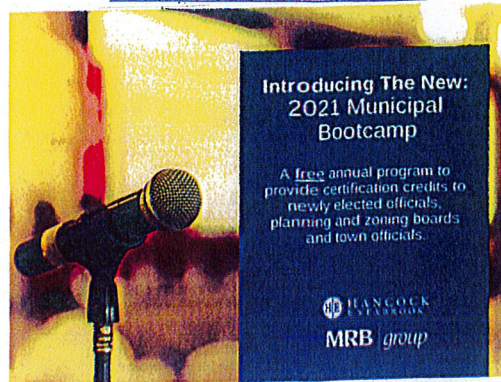
Gibson said he could do that.

*** Training Opportunities
On-line Sessions**

**2021 Municipal Bootcamp
Two Left in 2021**

They were coming to the end of the year, Drozdziel encourage members who needed training credits to take advantage of available opportunities.

2021 Municipal Bootcamp Program



New for 2021 Hancock Estabrook and the MRB Group are rolling out a new FREE annual training program to assist local governments, town officials, and planning and zoning boards.

The program will include 10 hours of remote training designed to provide a comprehensive education that encompasses all aspects of municipal governance. Each program in the series will be provided remotely on the fourth Thursday of each month with subject matter experts from the MRB Group and knowledgeable attorneys from Hancock Estabrook, LLP. Topics will be lively, useful and - potentially as important - qualify for the education requirements for members of Planning Boards and Zoning Boards of Appeals.

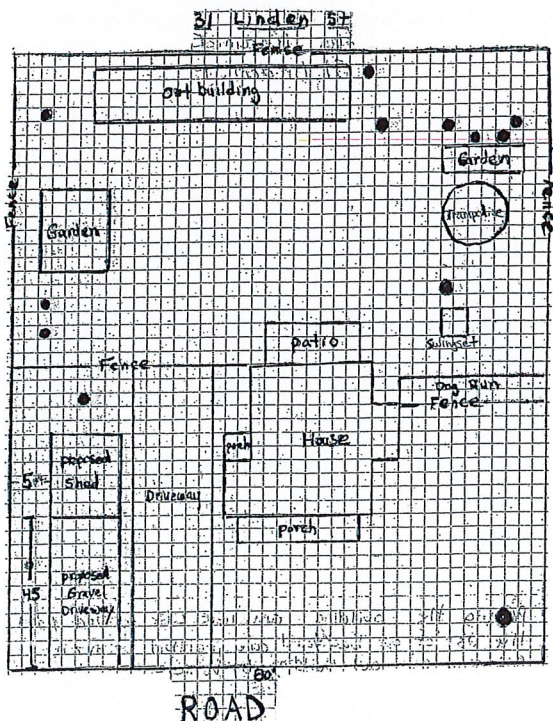
Special Use Permits: the Syracuse law firm of Hancock-Estabrook and the Rochester engineering firm, the MRB Group, offered free, on-line training programs. Gibson said they had one from 6:00 PM to 7:00 PM Thursday, October 28, reviewing special use permits, variances and other exceptions to the rule.

Decision-making Checklists: the last one of the year, from 6:00 PM to 7:00 PM Thursday, December 23, would cover forms, motions and publications with the intent of helping Board members develop checklists to ensure they were on solid ground when they made decisions. Pre-registration was required for all Hancock Estabrook/MRB training sessions.

C. Variance Application

Side yard setback relief sought
5 feet from the line, VR District

Ryan Marciniak
31 Linden Street
Avon, NY 14414



Marciniak wanted to erect a 12-foot X 21-foot, manufactured, hobby shed on the north side of his property, 45 feet from the front of the property and 5 feet from the north/side property line. His property was in a Village Residential (VR) District and the VR District Table, Chapter 30, Section 23, called for a 10-foot side yard setback.

Borkhuis, Gibson and Wall indicated they had driven by to take a look at the property. Anderson said the shed would be even with the front of the house (*not the porch*).

Marciniak had a pop-up camper and other things on the property, Drozdziel said, wondering where they would go.

Borkhuis said she had been trying to think about Marciniak's application and weighing against the statutory criteria (*five factors*) set forth in Village Law. What, she asked, should they be focusing on?

Factor #1

Character of the Neighborhood

Drozdziel began with the first factor: would an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

It was all so “compact” down there, Borkhuis conceded.

Marciniak didn't want to erect the shed in his back yard because he didn't want to take away from the space for his four kids, Anderson told Board members.

So, how do we answer factor #1? Drozdziel asked.

It might simply be a matter of pushing things towards the road, Gibson said.

Factor #2

Other Option Available?

Drozdziel moved on to the second factor: could the benefit sought be achieved by some method other than the area variance?

Marciniak did have land behind his house, but he wanted to use it for other purposes, Gibson recounted. Marciniak's drawing showed a fence at the end of his driveway. Was there an opening in that fence? Gibson asked.

Anderson thought there was a single swing gate affording a 4-to-5 foot opening.

Marciniak had proposed adding a driveway in front of the shed. Borkhuis wasn't sure if were planning to drive into the shed.

Marciniak has a big enough back yard, why not put the shed in the back yard? Drozdziel asked. Putting the shed alongside the house would put ore vehicles out front, he added.

Borkhuis didn't think it would look good, but said she wasn't sure that should be a consideration.

Who would be impacted most by this? Gibson asked.

(The across-the-street neighbors were: Mary Ann Close at 42 Linden Street, Lisa Allen at 32 Linden Street and Helen Cherew at 22 Linden Street. Joseph and Kristin Webb {daughter of Zoning Board of Appeals Chairman Daniel Freeman} were Marciniak's neighbors to the north at 27 Linden Street and Scott A. Sutherland, his neighbor to the south, 37 Linden Street)

Webb had agreed to shed, but he might not always be there, Drozdziel remarked.

Drozdziel skipped over Factors #3 and #4:

Factor #3

Size of the Variance

Was the requested area variance substantial?

Factor #4

Physical or Environmental Impact

Would the proposed variance have and adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Factor #5

Was the Difficulty Self-created?

Moving on to the fifth factor, Drozdziel asked if the alleged difficulty had been self-created? This consideration should be relevant to the Board’s decision, but should not preclude a favorable recommendation.

Decision: Favorable Recommendation

Anderson said he had spoken with Webb about the shed and its proximity to the property line and Webb was “completely fine” with it.

Well? Drozdziel asked, adding that, ultimately, the decision rested with the Zoning Board of Appeals (ZBA).

Gibson said he was inclined to “let it go.” If Marciniak took the shrubs out, the trees would still hide the shed and the neighbor was OK with it.

Was anyone willing to make a motion? Drozdziel asked.

Marciniak’s shed would be a 12-foot X 21-foot, vinyl-sided, Fisher’s storage shed such as those sold at Fisher’s Storage Sheds at 5636 Routes 5&20 in East Avon.

Could the ZBA over-rule the Planning Board’s recommendation? Drozdziel asked. The ZBA was not bound by the Planning Board’s recommendation.

The Planning Board had tabled the application August 17 to give members a chance to drive-by the property for a first-hand look. The Board had a 2-1 no-action vote at its September 21 meeting.

With four members present that night, Drozdziel wondered what would happen if they dead-locked at 2-to-2?

- A 2-to-2 vote (*three votes are needed for action*) would be another no-action vote.

Would they have to table the application again then? Drozdziel asked.

- The Board could forward the application to the ZBA without a recommendation.

MOTION: Borkhuis moved to forward the Marciniak area variance application to the ZBA with a positive recommendation, seconded by Gibson. Voting in favor were: Borkhuis, Gibson and Wall. Voting against was Drozdziel.

CARRIED, 3 Ayes, 1 Nay

IV. NEW BUSINESS

**A. Comprehensive Plan Review
Non-agenda item**

**Adopted 10 years ago
Updated three years ago**

The comprehensive plan had been drafted in 2011 then updated in 2018. The plan had been intended to provide a framework for public and private investment in the community and to provide Village government with the information necessary to make decisions.

But, it was time to look at the plan again, Drozdziel told Board members, with an eye towards another update. As an example, he mentioned solar projects and battery storage as area that could be addressed this time around.

Last time, they’d had a committee with members from outside the Planning Board, Borkhuis recalled.

But, they wouldn't be re-writing the plan, Drozdziel responded. They could make their review and update a regular agenda item; "homework" could be assigned for each meeting, he suggested.

B. Pocket Park

97 Genesee Street
Non-agenda item

Was there anything new on the development of Avon's "pocket park?" Gibson asked.

Developments?

Vacant Land
Mural, Access Road & Pavilion

(Honeoye Falls has "Vest Pocket Park" on West Main Street across from Norton Street. Located along Honeoye Creek, the park is home to the Honeoye Falls Totem Pole, has picnic tables and benches and has become a popular lunch spot. Mendon Town Hall is next door with benches overlooking Honeoye Creek's Upper Falls.)

Avon's Pocket Park is the likely home of the next Shawn Dunwoody mural. Dunwoody, a Rochester artist, completed a mural on the west wall of the Fire Department this year. A pavilion and an access road to the municipal parking lot behind downtown stores have also been discussed as potential Pocket Park features. The pavilion has been mentioned as a possible, future home of an Avon Farmers Market.

C. Rotary On-Line Auction

Avon Rotary
Non-agenda item

October 31 – November 11, 2021

54th Annual Auction

<http://www.charityauction.bid/avonrotary2021>

The Avon Rotary Club would conduct their 54th Annual Auction October 31 through November 11. Bidding would open at 8:00 AM Sunday, October 31 and close at 7:00 PM Thursday, November 11. Auction items could be picked-up from 10:00 AM until noon Saturday, November 13, at Avon Elementary School, 161 Clinton Street. Past auction items have included weekend getaways, theater tickets, flat screen televisions and signed memorabilia.

V. ADJOURNMENT

MOTION: Borkhuis moved for adjournment at 8:00 PM, seconded by Wall. Voting in favor were: Drozdziel, Borkhuis, Gibson and Wall. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

Gary Margiotta
Secretary