

**MINUTES OF A MEETING OF THE
VILLAGE OF AVON PLANNING BOARD
TUESDAY, APRIL 18, 2023
7.00 PM; VILLAGE HALL**

I. ATTENDANCE

Paul M. Drozdziel, Chairman
Marilyn Borkhuis
John Gibson
Robert C. Hayes
Kelley Tonra

QUORUM, 5 Present, 0 Absent

GUESTS

J. Douglas & Elaine McCarthy
Stephen Fantuzzo, Nixon Peabody

STAFF

Andy Anderson, Code Enforcement Officer
Patrick McCormick, Village Board Liaison
Jake Whiting, Village Attorney
Sherman Gittens
Gary Margiotta, Secretary

II. APPROVAL OF THE MINUTES

MOTION: Gibson moved for approval of the minutes of the meeting of March 21, 2023, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Tonra. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

III. OLD BUSINESS

A. Special Use Permit Application

Crooked Barn Craft Brewery
310 East Main Street; Avon, NY 14414
Zoned Agricultural (AG)

J. Douglas & Elaine McCarthy

PO Box 204; Avon, NY 14414

The Chairman read the public hearing notice and opened the hearing, inviting comments and, when none were received, said the Board would leave the hearing open should someone wish to make a comment later.

The applicants had submitted a letter from State Parks, Recreation and Historic Preservation saying no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places would be impacted by the McCarthy’s project, Drozdziel noted.

The entrance and exit driveways from the McCarthy’s 310 East Man Street property came out onto State Routes 5&20. Drozdziel asked if the applicants had contacted the State Department of Transportation (DOT) for feedback.

Elaine McCarthy said her conversations with DOT had been “quite a run-around.” DOT wouldn’t sign off on the project but said they had never heard of a property owner being denied use of their own driveway.

Drozdziel asked if the McCarthy’s had made the requested corrections to their Short Environmental Assessment Form.

J. Douglas McCarthy said they hadn’t re-done the form, had they, it would have been the fourth time they’d done so.

Under "BRIEF DESCRIPTION OF PROPOSED ACTION," the McCarthy's had said, "The construction of a craft brewery and associated seating areas." The Board had been hoping for a longer description, something more descriptive of what the McCarthy's plans were, Drozdziel said.

The form asked the total acreage to be physically disturbed by the project, Drozdziel continued, noting the McCarthy's had indicated zero.

They were using an existing barn on an existing grade – they weren't disturbing anything, J. Douglas McCarthy reasoned.

The form also asked if the project would result in a substantial increase in traffic above present levels. The McCarthy's had said no, but Tonra suspected the response should have been yes.

As far as additional power demands, J. Douglas McCarthy said they already had power at the barn and there wouldn't be an additional demand on the grid.

Gittens conceded some of the SEQRA form questions might be misunderstood.

Question 17 asked if the project would create storm water discharge and Gittens asked about trenches. Elaine McCarthy said they wouldn't be digging any trenches. Gittens said they'd likely be putting things back the way they were when they began, but their maps showed water and sewer line installation and, at least, during installation, trenches would probably be dug.

And, gravel might be laid for the parking area then compacted. Gittens said the Board was only looking to identify those sorts of areas.

There wouldn't be any run-off from the water and sewer lines and any gravel they'd install would be over clay, so Elaine McCarthy wasn't sure where Gittens was seeing any "major" run-off.

Gittens hadn't said "major" run-off, he'd simply hoped the areas of excavation could be identified, explaining that that would help the Village make their SEQR determination, they were only seeking clarification.

Elaine McCarthy agreed to fill out the form as Gittens wanted, but said she still disagreed. J. Douglas McCarthy concurred, saying they'd do what Gittens was asking, but still disagreed.

The McCarthy's were putting in improvements, Drozdziel noted, saying they would likely put things back the way they had been, but they would still be disturbing the site during the process.

The McCarthy's seemed to have moved their parking area, Drozdziel added.

The parking area was where it had always been, on the east side of the barn, Elaine McCarthy said.

The McCarthy's had two driveways, would they be using both of them or just one? Drozdziel asked.

They didn't know, yet, Elaine McCarthy responded.

The County had tabled their application at his request due to certain things on their SEQR form being incomplete, Drozdziel remarked.

Gittens got back to parking.

They would be parking on the grass, Elaine McCarthy explained, adding they wouldn't be putting in a paved parking lot.

They had a special use permit for their bed and breakfast (the Charlton), J. Douglas McCarthy said, and that allowed them to park 200 cars on the grounds for special events such as weddings.

Parking would be more of a site plan review discussion, Anderson remarked.

The question of using both driveways came up again and Elaine McCarthy told the Board they'd post signs, asking patrons not to exit via the driveway opposite Pole Bridge Road, but they couldn't guarantee that wouldn't happen.

Section II of their application indicated alpacas and sheep would be housed at one end of the barn while the other end would be converted into brewery and coffee house use. The animals would stay? McCormick asked.

Yes, as long as Food and Beverage allowed it, Elaine McCarthy said, asking McCormick if he didn't like for animals.

McCormick said he did, but wondered how patrons might feel about animals being present where food and beverages were being served.

The McCarthy's weren't planning a commercial kitchen at this point, Gittens noted.

No, but they would be preparing food eventually, Elaine McCarthy said, noting things would happen in stages.

Drozdziel advised the McCarthy's to get them a revised SEQR form then they'd get them back on the agenda for county review. They were all in favor of McCarthy's project the Board just needed to tie-up a few loose ends.

How long will this take, Elaine McCarthy asked, another month, two?

They should be able to button this up next month, Drozdziel responded.

The McCarthy's left at 7:47 PM.

IV. NEW BUSINESS

A. Minor Subdivision Application

164 acres on West Main Street
Livingston Industrial Complex, LLC
264 West Main Street, Avon, NY
Light Industrial (LI with Special Flood Hazard Overlay (FO)
2-lot subdivision, 78.5 acres & 85-acre lots

Jaguar Tubulars, Inc.

2915 Ogletown Road #3331; Newark, DE
Stephen Fantuzzo, Associate
Nixon Peabody, Rochester, NY

Jaguar would like to subdivide a portion of the Livingston Industrial Complex LLC, at 264 West Main Street into two lots: a 78.5-acre parcel north of Barilla Pasta, Inc., 100 Horseshoe Boulevard and an 85-acre parcel south of Barilla.

Jaguar would take possession of the 78.5-acre parcel north of Barilla along with an adjacent 24.5-acre parcel in the Town of Avon. The Livingston Industrial Complex would retain possession of the 85-acre southern parcel which extended south to West Main Street (Routes 5&20).

Jaguar was a welding company that processed steel coils into tubular products such as manifolds and plumbing parts. The company didn't plan on developing the parcel it was purchasing now, but would in the future, Fantuzzo told Board members.

Jaguar would hook into existing utilities. Fantuzzo added, but he told Board members he had no idea how large a building or parking area they planned. Board members wondered about Jaguar applying to subdivide land they didn't own, but Whiting assured them, for the purposes of this application, it was acceptable for the buyer to step into the shoes of the seller.

MOTION: Hayes moved to schedule a public hearing for 7:00 PM Tuesday, May 16, at Village Hall, seconded by Gibson. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Tonra. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

Fantuzzo left at 8:06 PM.

III. OLD BUSINESS

B. Solar Committee

Gibson & Tonra, Co-Chairs

- Members: Gibson, Planning Board
- Tonra, Planning Board
- McCormick, Village Board
- Christopher Conine, Zoning Board of Appeals
- John Marks, Community Volunteer
- Tommy Freeman, Community Volunteer

The committee was hoping to wrap-up its work Thursday, April 27, Tonra said.

Gibson had conferred with Mary Underhill of the Livingston County Planning Department on the phone. The committee would only be making recommendations, he emphasized, not writing the law.

You're looking to put a basic framework before the Village Board, Drozdziel confirmed.

The committee broke solar energy systems into Tiers 1, 2, 3 & 4 classifications, Tonra began. Tier 3 involved systems with a capacity up to 5 MW AC and located on land primarily used to convert solar energy into electricity for off-site energy consumption.

Tier 4 involved systems not included in Tiers 1, 2, or 3. Tier 3 and 4 systems wouldn't be allowed in the Village, Tonra told Board members. The committee had focused on on-site usages, roof, building or ground-mounted systems.

They had looked at setbacks and settled on 15 feet all the way around with a maximum height of 12 feet.

Tier 2 systems would be larger scaled systems. They'd be permitted in Light Industrial (LI), Agricultural (AG), Village Business (VB) or General Business (GB) districts with a special use permit, Tonra said.

The committee anticipated taking its proposal before the Village Board Monday, June 5.

MISCELLANEOUS:

Downtown Trees: More than six spots were empty downtown, Hayes noted. McCormick said he would defer to DPW Superintendent Ken Farrell.

Pavers & Cleanliness: Pavers downtown needed to be brought up to grade, Drozdziel said. He also cited the overall cleanliness of downtown as a concern.

McCormick said he would bring these matters up to the Village Board.

V. **ADJOURNMENT**

MOTION: Tonra moved for adjournment at 8:47 PM, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Tonra. Voting against were: none.

CARRIED: 5 Ayes, 0 Nays

Gary Margiotta
Secretary

- **ADDENDUM:** The minor subdivision application of Jaguar Tubulars, Inc., was not referred to the Livingston County Planning Board because of a 2016 agreement between the Village and the County Planning Board to except referral of certain local zoning and subdivision applications.

Section III of that agreement states, "All matters listed in Sections 239-m and 239-n of Article 12-B of the General Municipal Law of the State of New York shall be submitted for review and recommendation by the County Planning Board in accordance with the criteria and guidelines set forth in Sections 239-1, 239-m and 239-n, except that the following actions shall, with the execution of this agreement, be excepted from referral to the County Planning Board.

Furthermore, Paragraph 7, under Section III, specifically states, "Minor subdivisions, as defined by local code, where no new roadways are created, no extension of municipal water or sewer facilities is required, and no new access points are proposed to a county or state highway."