

**MINUTES OF A MEETING OF THE
VILAGE OF AVON PLANNING BOARD
TUESDAY, MAY 16, 2023
7:00 PM; VILLAGE HALL**

I. ATTENDANCE

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

GUESTS

Stephen W. Fantuzzo, Nixon Peabody
J. Douglas & Elaine McCarthy
Unidentified woman
Edward Forsythe

STAFF

Patrick McCormick, Village Board Liaison
Gary Margiotta, Secretary

II. APPROVAL OF THE MINUTES

MOTION: Gibson moved for approval of the minutes of April 18, 2023, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, Gibson and Tonra, Hayes hadn't arrived. Voting against were: none.

CARRIED: 4 Ayes, 0 Nays

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)
2-lot subdivision, 78.5 acres & 85-acre lots

Jaguar Tubulars, Inc.

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

Drozdziel read the public hearing notice, officially opened the hearing then left it open.

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 Village Planning Board had conducted a public hearing on the application April 18, 2023, and left the hearing open. In their application, the McCarthy's had proposed converting the east end of a cow barn, used for storage and to house alpacas and sheep, into a brewery and coffee house.

Furthermore, the McCarthy's had proposed seating for 75 patrons with off-street parking for 50 initially, the seating capacity would ultimately rise to 200 and off-street parking to 100. Four employees would work on the premises with business hours anticipated Wednesdays through Sundays.

MOTION: Hayes moved to close the Crooked Barn hearing at 7:06 PM, seconded by Tonra. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Tonra. Voting against were: none.

CARRIED: 5 Ayes, 0 Nays

MOTION: Hayes followed-up, moving for approval of McCarthy's special use permit application, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Tonra. Voting against were: none.

CARRIED: 5 Ayes, 0 Nays

Short Environmental Assessment Form

Part 2 – Impact Assessment

Using the information contained in Part 1 of the McCarthy's Short Environmental Assessment form, Board members were asked to answer the following 11 questions guided by the concept, "Had your responses been reasonable considering the scale and context of the proposed action?"

1. Would the proposed action create a material conflict with an adopted land use plan or zoning regulations?
Board members responded, no, or that a small impact might occur.
2. Would the proposed action result in a change in the use or intensity of use of land?
Board members agreed a small impact might occur.
3. Would the proposed action impair the character or quality of the existing community?
Board members responded, no, they did not believe the character or quality of the existing community would be impaired.
4. Would the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?
Question 7 in Part 1 had indicated the proposed action was not located in or adjoining a state-listed CEA.
5. Would the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?
Gibson felt any impact would be minimal, Board members concurred.
6. Would the proposed action cause an increase in the use of energy and had it failed to incorporate reasonably available energy conservation or renewable energy opportunities?
Board members believed the craft brewery would be built in accordance with the energy code and, as such, responded, no, or that only a small impact might occur.
7. Would the proposed action impact existing:
a. public/private water supplies
b. public/private wastewater treatment utilities
Tonra felt a small impact might occur, board members agreed.
8. Would the proposed action impair the character or quality of important historic, archeological, architectural or aesthetic resources?
No, Bord members said.
9. Would the proposed action result in an adverse change to natural esources (e.g. wetlands, waterbodies, groundwater, air quality, flora and fauna)?
Gibson thought not while Tonra suggested minimal impact.

10. Would the proposed action result in an increase in the potential for erosion, flooding or drainage problems?
No, Board members concurred.

11. Would the proposed action create a hazard to environmental resources or human health?
No, Board members concurred.

MOTION: Gibson moved to authorize Drozdziel to sign the *Short Environmental Assessment Form Part 3 Determination of Significance*, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Tonra. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

IV. NEW BUSINESS

A. Minor Subdivision Application

Property off West Main Street
Livingston Industrial Complex, LLC

Jaguar Tubulars, Inc.

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

Drozdziel returned to the Jaguar Tubulars public hearing.

Wasn't the area to be subdivided considered "prime farm soil?" Forsythe asked.

Ninety percent of the soil there would be considered "prime farm soil," Drozdziel responded.

Anshu Bhatia is the chief executive officer for Jaguar Tubulars. Fantuzzo said Bhatia had been unable to make that night's Planning Board meeting, but hopefully would meet with the Village soon. Jaguar had signed a contract with the Livingston Industrial Complex to purchase 103 acres off West Main and Rochester Streets along Horseshoe Boulevard and Barilla Drive.

Jaguar is a Delaware corporation that operates a welding business, whereby it processes steel coils into tubular products. Jaguar did not propose any development of the Livingston Industrial Complex property at this time, but would in the future, Fantuzzo told Board members.

Was the property considered wetlands? Forsythe wondered.

The Genesee River did lie west of the property in question and the property in question was in a Special Flood Hazard Overlay (FO) zone, Fantuzzo noted.

Would Jaguar affect Mulligan's water project? Forsythe followed-up (*details of the water project were not provided*).

No, Drozdziel responded.

Would raw material be coming in by rail? McCormick asked.

Fantuzzo didn't know.

MOTION: Hayes moved to close the public hearing, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Tonra. Voting against were: none.

CARRIED: 5 Ayes, 0 Nays

MOTION: Tonra moved to approve the minor subdivision application contingent on confirmation of the type SEQR required, seconded by Hayes. Voting in favor were: Drozdziel, Borkhuis, Gibson, Hayes and Tonra. Voting against were: none.

CARRIED: 5 Ayes, 0 Nays

A mylar map with additional copies would be provided by Nixon Peabody, signed by Board Chairman Drozdziel then filed with the Livingston County Planning Department, Fantuzzo stated. The Board should touch base with Deputy Director Heather Ferraro, he followed-up.

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
- Thomas A. Freeman, Community Volunteer

Drozdziel opened by thanking committee members for their efforts.

They had had good attendance, Gibson commented.

The committee had had meetings set for three months, Tonra followed-up. Committee members had been happy to be there and, if they couldn't make it, they let other members know, Tonra said, adding their meetings tended to run 90 minutes.

Conine had been "very knowledgeable," Freeman had known marketing and Marks handled follow-up, Gibson added.

PURPOSE

Drozdziel liked what he'd read in the **Purpose** portion of the committee's recommendation but felt it should state solar energy generation should be limited to 125 percent of what would be consumed on-site and the energy generated should be "for personal use" only.

The **Decommissioning** portion, Drozdziel continued, would need a lawyer's touch and the Village's consulting engineering firm, the MRB Group, should be involved as well. A bond requirement and draft document may be necessary and, if a solar array became non-serviceable, the **Decommissioning** portion should clearly state it **MUST BE REMOVED**.

Pg. 3, **Solar Energy Systems**, Tier 1 referred to a capacity of up to 25kW AC – how big was that? Drozdziel wondered, following-up by asking, what would it look like?

Probably more than eight solar panels, Gibson estimated, adding that was what the New York State Energy Research & Development Authority (NYSERDA) described.

The committee had tapped into NYSERDA's language, Tonra explained.

The committee proposed allowing ground-mounted and building-mounted solar systems in all zoning districts? Drozdziel asked.

Yes, Tonra confirmed.

Tier II Ground-Mounted and Building-Mounted Systems would be permitted within Light Industrial (LI), Agricultural (AG) of Business zoning districts with a special use permit. Setback and height restrictions would be in play and ground-mounted systems would have to be enclosed by fencing, Drozdziel observed.

Those parameters were specified on page 6, Gibson verified.

Were committee members comfortable enough with their draft recommendation to move it forward? Drozdziel asked.

Village Atty. Jake Whiting would likely have to re-write it, McCormick remarked.

When the recommendation was in its final form, the Village Board would have to conduct a public hearing on it, Drozdziel said.

The committee would try to get the recommendation to the Village Board by Monday, June 5, Tonra said, then the Village Board could shoot for a public hearing on the material at its July 10th or 24th meeting.

Drozdziel suggested the committee review their recommendation with Mary Underhill of the County Planning Department first then try to get it to the Village Board by June 19.

The committee did have contact with Underhill early on, Gibson responded, but they hadn't felt the need to "bring her in". The committee was simply attempting to draft a recommendation, not write the code, he added.

Should they send the recommendation to Underhill? Tonra asked.

Whiting and Village engineering firm, MRB, would have to fill in the blanks, Drozdziel said. As for Underhill, the chairman felt the committee shouldn't just "send it" to her, that they should have a conversation with her. Drozdziel closed, reiterating his sentiments the committee had done a good job.

V. **ADJOURNMENT**

MOTION: Gibson moved for adjournment at 8:27 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