

**MINUTES OF A MEETING OF THE  
VILLAGE OF AVON PLANNING BOARD  
TUESDAY, JUNE 19, 2018  
7:00 PM, VILLAGE HALL**

**I. ATTENDANCE**

Paul M. Drozdziel, Chairman  
Marilyn Borkhuis  
Patrick McCormick  
Kevin O'Donoghue

**GUESTS**

Patricia C. Brede, 70 Temple Street  
Thomas W. Freeman, 28 Hickory Hill  
Linda Freeman, 28 Hickory Hill

**ABSENT**

William Wall

**QUORUM, 4 Present, 1 Absent**

**STAFF**

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

**II. APPROVAL OF THE MINUTES**

**MOTION:** McCormick moved for approval of the minutes of the meeting of May 15, 2018, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, McCormick and O'Donoghue. Voting against were: none.

**CARRIED, 4 Ayes, 0 Nays**

**III. OLD BUSINESS**

Nothing pending

**IV. NEW BUSINESS**

- A. Temporary Use Variance Renewal**  
Variance 16-02

**Steven & Patricia Brede**  
70 Temple Street, Avon, NY 14414  
R-1, One Family Residential District

**Background:** The Zoning Board of Appeals had granted the Brede's a temporary use variance July 25, 2016. The variance allowed the Brede's to use their 2-family house as a 1-family – because their 1,400-square-foot basement apartment had been flooded July 28, 2014, and again May 15, 2015. The Brede's had paid double water and sewer rates as a 2-family prior to the flooding

When a 2-family house in an R-1, One Family Residential District, went down to a 1-family, water and sewer charges are rolled back to single charges, but the property owners typically are not allowed to return to 2-family use.

But, with the temporary use variance, the Zoning Board of Appeals had allowed the Brede's to pay single water and sewer charges, but to go back to 2-family use if they decided to go ahead and rehab their basement apartment or if they wished to sell their property.

If their basement apartment were rented within the 2-year term of the variance, the variance would be null and void and the Brede's property would simply return to its former, 2-family status. If not rented, and the Brede's wished to renew the terms of the variance, they would have to come back before the Board and go through the appeals process again.

Brede said their house had been flooded every year except 2016, that they simply couldn't use it as a 2-family under those conditions. They had ground down the floors in the basement apartment and epoxied them then they'd used waterproof materials – at three times the cost – to trim-out the apartment.

Still, Brede told Board members she didn't trust it. She didn't think she'd rent out their basement apartment, but might use it for family. The Village did have a drainage project planned for the Brede's neighborhood later that month.

McCormick asked if the Brede's had had any flooding this year. Brede said they had not.

#### **Village Drainage Projects**

What had the Village done to mitigate drainage problems? The Village had put in a detention pond at Avon Central School, a diversion on Oak Hill Drive and planned to install a drainage line right in the Brede's front yard, Mayor Freeman noted.

While not a hydrologist, McCormick said he'd grown-up not far from the Brede's Temple Street residence and he and his brothers had had bedrooms in their home's basement, but they'd never gotten flooded-out.

But, there had been a great deal of development to the east of Temple Street over the years, Brede contended, she mentioned the expansion of the Tom Wahl's Restaurant and construction of the CVS Pharmacy and TOPS Markets – all on East Main Street.

What would the advantage be of extending the variance? Drozdziel wondered.

Well, their house had been built in 1977 and had always been a 2-family, Brede answered. She thought they should have the option, if they sold it, to offer it as a 2-family house.

And, Mayor Freeman said, the Village did plan on installing a 6- or 8-inch pipe from the Brede's property west to the storm sewer system behind the Avon United Methodist Church at 130 Genesee Street.

They shouldn't, Brede reiterated, have to give up their 2-family status. Her mother-in-law had lived in their basement apartment and, since their flooding woes began, they'd invested in a camera to monitor the apartment while they were away.

**Definition of the Term**

**“Temporary” Sought**

The issue they were having, as a Board, was with the term “temporary,” Drozdziel stated. It was very unusual to have a 2-year “temporary” use variance. They had reached out to Village Atty. Reid Whiting for an opinion on the term temporary, but hadn’t heard back from him, the chairman said.

But, the Planning Board would simply be issuing a favorable or unfavorable recommendation wouldn’t they? Borkhuis sought to confirm.

Yes, and they could have input on whatever conditions were imposed on the variance, Brabant responded.

Asking the Village Attorney for a definition of the term “temporary” had been a reasonable request, Drozdziel ventured, adding he’d have felt more comfortable if Whiting had actually weighed in on that.

The Board could issue a positive recommendation pending an opinion from Whiting, Brabant suggested.

Would the Village’s drainage improvements be completed within the next two years? Drozdziel inquired.

Yes, Mayor Freeman assured him.

They could hold off on issuing a recommendation until they did get an opinion from Whiting, Drozdziel suggested.

But, Borkhuis didn’t see why the Board or the Brede’s should have to wait.

**MOTION:** Borkhuis moved for a positive recommendation to extend the Brede’s temporary use variance another two years, under the same conditions as originally stated, pending additional comments from Whiting. The Zoning Board of Appeals, she noted, would have to have a public hearing before deciding the issue. O’Donoghue seconded the motion. Voting in favor were: Drozdziel, Borkhuis, McCormick and O’Donoghue. Voting against were: none.

**CARRIED, 4 Ayes, 0 Nays**

**B. Subdivision Application**

**Thomas W. & Linda Freeman**  
28 Hickory Hill, Avon NY 14414

Freeman said he and his wife, Linda, had a single-family house on four acres of land on Hickory Hill – the road was not a dedicated road. Freeman said they had wanted to subdivide their four acres into two and two – they did have public water and sewer, he told Board members.

Freeman said he and his wife then hoped to build a new home on the subdivided lot while their existing house would go to a family member. Freeman acknowledged they would have to go before the Zoning Board of Appeals (ZBA) for an area variance.

The ZBA would have to conduct a public hearing on that application, Brabant noted then suggested the ZBA and Planning Board could meet jointly in August, the ZBA could conduct their public hearing then rule on the area variance application then the Planning Board could follow-up with consideration of the Freeman’s subdivision application.

According to the Village’s subdivision checklist, the pre-application requirements had included:

- Meeting with the Planning Board
- Discussing the availability of services & plat requirements, and
- Determining whether the subdivision was a “minor” or “major” subdivision

Services referred to: any land or street improvements deemed necessary, drainage, sewer, water and fire protection. A subdivision of four lots or fewer was considered “minor” while five or more lots would qualify as “major.”

Preliminary plat approval would follow:

- Three copies of the preliminary plat would have to be submitted
- The subdivision application and the \$50 fee + \$10 for each additional lot would have to be submitted two weeks prior to the Board’s next meeting
- The applicant would have to attend the next Board meeting, then
- The Board should act within 45 days either granting conditional approval or denying the application with the reasons stated

A “plat” referred to a drawing showing the proposed subdivision.

**V. ADJOURNMENT**

**MOTION:** O’Donoghue moved for adjournment at 8:17 PM, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, McCormick and O’Donoghue. Voting against were: none.

**CARRIED, 4 Ayes, 0 Nays**

Gary Margiotta  
Deputy Clerk



74 GENESEE STREET  
AVON, NEW YORK 14414

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JOSEPH GEER, CHIEF OF POLICE  
DANIEL SNYDER, FIRE CHIEF

## POSITIVE RECOMMENDATION RENEWAL OF APPEAL 16-02

The Village of Avon Planning Board approved a positive recommendation to the Zoning Board of Appeals for renewal of the temporary use variance, granted July 25, 2016, allowing Steven C. and Patricia C. Brede of 70 Temple Street, Avon, NY to use their house as a single-family residence for another two years or until such time as they are able to renovate and re-use a flood-damaged, lower-level apartment in the residence again. Brede's 70 Temple Street property is in an R-1, One Family Residential, district.

Said positive recommendation is issued contingent upon the rendering of a definition of the term "temporary" from Village Atty. Reid A. Whiting to the Village of Avon Zoning Board of Appeals.

**MOTION:** Marilyn Borkhuis moved for the positive recommendation, seconded by Kevin O'Donoghue. Voting in favor were: Paul M. Drozdziel, Borkhuis, Patrick McCormick and O'Donoghue. Voting against were: none with William Wall absent.

**CARRIED, 4 Ayes. 0 Nays**

Said action was taken at a regular meeting of the Village of Avon Planning Board Tuesday, June 19, 2018, with Chairman Paul M. Drozdziel presiding.

Gary Margiotta  
Deputy Clerk