PLANNING, ZBA & TOWN MEETING

MONDAY, JANUARY 23, 2023

MEMBERS PRESENT: PLANNING: KATHY COLE, BRIAN THORN, THOMAS

MCGOVERN, CHRISTOPHER STERNER, COLLIN HAYES,

CLARA MULLIGAN, KATHY MANNIX

ZBA: JEFF MULLIGAN, BOB WESTFALL, DIANE

ATTEA, CINDY KELLEN

ABSENT:

OTHERS: BRIAN GLISE (CEO, AVON), LANCE BRABANT (MRB

GROUP), MATTHEW SOUSA (MRB GROUP)

VISITORS: KAREN CRATER, RICK CRATER, JOE MONTESANO,

DEBRA SALMON, ERIC HUPPERT, LUKE CONLEY, BRENT MCCANN, MIKE & SHARON WOJSLAW, BARB & TJ DIOGUARDI, SHEILA ADAMS, LESA SOBOLEWSKI, CLAIRE MULLIGAN, KEVIN O'DONOGHUE, MEGAN

HOWELL (VIA PHONE)

CLERK: KIM MCDOWELL

MOTION TO OPEN THE MEETING WAS MADE BY BOB WESTFALL; SECONDED BY CLARA MULLIGAN.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
VACANT -

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
COLLIN HAYES - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 11-0.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM DECEMBER 19, 2022, MEETING SUBMITED WAS MADE BY JEFF MULLIGAN; SECONDED BY CHRISTOPHER STERNER.

JEFF MULLIGAN - AYE CINDY KELLEN- ABSTAIN BOB WESTFALL- AYE DIANE ATTEA - AYE

VACANT -

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSTAIN
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 9-0.

MIKE WOJSLAW/2086 NORTH LITTLEVILLE ROAD/TAX PARCEL#34.17-1-30 ZBA - HEIGHT VARIANCE FOR A POLE BARN

Mike Wojslaw was present to discuss this application. He would like to replace the 16x20 existing garage that is collapsing with a 40x60 pole barn on his property. He would like to put in an attic as well and the pole barn is going to be used for storage.

Jeff Mulligan asked exactly where this property is located, and Mr. Wojslaw explained that to the Board.

Brian Glise stated he would need at least a 6-foot height variance for this pole barn.

Jeff Mulligan asked if the attic would be just used for storage, and it would be since his house is small and the basement is always damp which is not ideal for storage.

Jeff Mulligan asked if there were any other questions.

Clara Mulligan asked if he would be putting up any lighting and he said just a motion light for security purposes.

Collin Hayes asked what the size of the house is, and it is 24x32. The pole barn would be bigger than the house.

Jeff Mulligan asked where the driveway is on the property and would it go to the pole barn, Mr. Wojslaw showed where the driveway is and he would like to be able to drive into the pole barn and circle out.

Jeff Mulligan asked for a motion to schedule the public hearing at next month's meeting.

MOTION TO SCHEDULE THE PUBLIC HEARING FOR FEBRUARY 27, 2023, WAS MADE BY CINDY KELLEN; SECONDED BY BOB WESTFALL.

JEFF MULLIGAN - AYE CINDY KELLEN- AYE BOB WESTFALL- AYE DIANE ATTEA - AYE VACANT -

CARRIED 4-0.

Kim will get in touch with Mr. Wojslaw regarding the public hearing.

MEAGAN HOWELL, ACTING AGENT FOR TOMPKINS COMMUNITY BANK/4686
LINDEN STREET/TAX PARCEL#34.17-1-21.212 - ZBA - USE VARIANCE PUBLIC HEARING

Meagan Howell was present via phone to discuss this application.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY DIANE ATTEA; SECONDED BY CINDY KELLEN.

JEFF MULLIGAN - AYE CINDY KELLEN- AYE BOB WESTFALL- AYE DIANE ATTEA - AYE VACANT -

CARRIED 4-0.

Jeff Mulligan asked if Ms. Howell had any additional information for this application and to give a brief overview.

Ms. Howell stated the structure has two separate dwellings and is essentially a two-family residency but is not zoned as such. The Bank is looking to get a variance to sell this property as a two family. When they acquired the property, it was represented as a two family and now that the original borrowers have passed away the property went into foreclosure. Since the property has been listed, all interested parties want it as a two-family dwelling not a one-family dwelling. In the area surrounding the property, there are several two-family residential units.

Jeff Mulligan asked in each unit what is the square footage and the number of bedrooms and bathrooms. Ms. Howell stated one unit is 2 bedrooms, 1 bath, and 1157 square feet and the other unit is 3 bedrooms, 1 bath and 1425 square feet and each unit has a separate entrance.

Jeff Mulligan asked if there were any public comments.

Sheila Adams, 4695 Meadow Circle, is interested in purchasing the home but wants it as a two-family not a single-family. She would to have her daughter and grandchildren in one unit and herself in the other, it would be ideal for them.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY BOB WESTFALL; SECONDED BY DIANE ATTEA.

JEFF MULLIGAN - AYE CINDY KELLEN- AYE BOB WESTFALL- AYE DIANE ATTEA - AYE VACANT -

CARRIED 4-0.

Jeff Mulligan asked Matthew Sousa to continue the approval process with the resolutions for this variance.

Matthew Sousa read the SEQR Resolution for a Type II Action to all.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION TOMPKINS COMMUNITY BANK 4686 LINDEN STREET - TM# 4.17-1-21.212 USE VARIANCE APPLICATION

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering Use Variance Application for the conversion from a single-family dwelling with an accessory unit to a two-family property in the One-Family Residential (R-1) zone at 4686 Linden Street. This use variance would better enable the applicant to sell the property and recoup barrowed funds as discussed at tonight's ZBA meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Appeals does hereby classify the above referenced Action to be a Type II

Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Board of Appeals in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by <u>Cindy Kellen</u> and seconded by <u>Diane Attea</u> at a meeting of the Zoning Board of Appeals held on Monday, January 23, 2023. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - Aye Cindy Kellen - Aye Bob Westfall - Aye Diane Attea - Aye Vacant -

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the January 23, 2023 meeting.

_Kim McDowell _____, L.S.
Kim McDowell, Clerk of the Board

Matthew Sousa stated this application is for a use variance which requires the Board to answer questions in order to grant an approval, also they must be answered positively.

USE VARIANCE FINDINGS & DECISION

(Dept. of State Example)

OFFICE USE ONLY
Application No. UV
Date of Application:
(Postmarked or Hand
Delivered) Date of Public
Hearing:
Date Notice Published:
Date of County Referral:
Date of Final Action:
Date of Filing of Decision
with the

Applicant: Tompkins Community Bank - Meagan Howell

Appeal Concerns Property at the following address:

4686 Linden Street

County Tax Map Section: 34.17 Block 1

Lot 21.212 Zoning District Classification: One Family

Residential (R-1)

Use for which Variance is Requested: <u>Use Variance Application</u> for the conversion from a single-family dwelling with an accessory unit to a two-family property in the One-Family Residential (R-1) zone at 4686 Linden Street. This use variance would better enable the applicant to sell the property and recoup barrowed funds

Applicable Section of Zoning Code:

Permitted Uses of Property: Single Family Dwelling

TEST: No use variance will be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The following tests must be met for each and every use allowed by zoning on the property, including uses allowed by special use permit ILLUSTRATIONS OF

1 The Applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial.: Yes X_No_

the property,
present value of
property,
expenses for
maintenance
• Leases,

FINANCIAL EVIDENCE
Bill of sale for

Proof: See attached letter and supporting documentation dated rental

agreements
•Tax bills

January 23, 2023, provided by the applicant and attached to this

Sheet.

2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood.): Yes X_No_

ILLUSTRATIONS OF
UNIQUENESS
•Topographic or
physical features
preventing
development for a
permitted use
•Why would it be
possible to
construct the
applicant's
proposal and not

Proofs: See attached letter and supporting documentation dated January 23, 2023, provided by the applicant and attached to this sheet. 3. The requested use variance, if granted, will not alter the essential character of the neighborhood.: Yes X No ILLUSTRATIVE NEIGHBORHOOD Proof: _See attached letter and supporting documentation dated CHARACTER FACTORS • Board January 23, 2023, provided by the applicant and attached to this sheet. <u>obs</u>ervations of neighborhood • Expected effect of proposal on 4. The alleged hardship has been self-SELF-CREATED What were the created .: Yes, permitted uses at the time No X the property was purchased Proof: See attached letter and supporting documentation by the applicant? dated Were substantial January 23, 2023, provided by the applicant and sums spent on remodeling for a attached to this sheet. use not permitted by zoning?

Was the

\Box That the applicant has failed to prove unnecessary hardship through the application of the four tests required by the state statutes.	
(USE) Two-family Dwelling Unit	
CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following: Condition No. 1:	
Adverse impact to be minimized:	
Condition No. 2:	
Adverse impact to be minimized:	

The ZBA, after reviewing the above four proofs, finds:

Page 3 of
Condition No .3:
Adverse impact to be minimized:
Condition No. 4:
Adverse impact to be minimized:
Jeff Mulligan, Chairman, Zoning Board of Appeals
January 23, 2023
RECORD OF VOTE
Motion made by: <u>Bob Westfall</u> Seconded by: <u>Diane Attea</u>

Board Members	Pres		Motion					
	ent	Ay	Ay Nye					

e	

Matthew Sousa proceeded to the ZBA Decision Sheet

TOWN OF AVON

OPERA BLOCK BUILDING 23 GENESEE STREET AVON, NEW YORK 14414

PHONE: (585) 226-2425 • FAX: (585) 226-9299 http://www.avon-ny.org/index_town.html

BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: Meagan Howell, Tompkins Community Bank

Hearing Date: January 23, 2023

Subject Property Address: 4686 Linden St Zoning District: One-Family Residential (R-1)

Variance Application: <u>Use Variance</u> Tax Account #: <u>34.17-1-21.212</u>

Agenda Item: Seeking a Use Variance to convert a single-family dwelling with an accessory unit to a two-family unit in the One-Family Residential (R-1) zone.

Motion made by: Bob Westfall Seconded by: Diane Attea

Board Members	Present	Мо	tion	Recusal	
Board Members	Fieseiii	Aye	Nye	Recusai	
1. Jeffery Mulligan, Chairman		×			
2. Cindy Kellen		⊠			
3. Bob Westfall		⊠			
4. Diane Attea		\boxtimes			
5. Vacant					
Alternate:					

Approved: ☑ Denied: □

Conditions:

- 1. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.
- 2. Any modification to the plans, variance, and/or project will require the application to be re-reviewed by the Zoning Board of Appeals and any prior approvals granted be deemed null and void.

KEVIN O'DONOGHUE, ACTING AGENCT FOR HARRY MAYER/1068 OAK

OPENINGS ROAD/TAX PARCEL#26.-1-3 - SUBDIVISION - PUBLIC HEARING

Kevin stated that Mr. Mayer wants to separate the house that he has been renting from the surrounding farm. The property isn't changing at all since the house has been there for many years.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY BRIAN THORN; SECONDED BY TOM MCGOVERN.

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
COLLIN HAYES - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 7-0.

Kathy Cole asked if there were any comments from those present.

Karen Crater, 1177 Oak Openings Road asked if the house was going to be rental property or sold if this subdivision is approved and Mr. O'Donoghue stated he believes it will be sold to the tenants that are currently living there.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY CHRISTOPHER STERNER; SECONDED BY TOM MCGOVERN.

KATHLEEN COLE -AYE THOMAS MCGOVERN - AYE COLLIN HAYES - AYE KATHLEEN MANNIX - AYE CLARA MULLIGAN - AYE BRIAN THORN - AYE CHRISTOPHER STERNER - AYE

CARRIED 7-0.

Matthew Sousa read the SEQR Type II Action Resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION

MAYER SUBDIVISION

1068 OAK OPENINGS ROAD

AGRICULTURAL (A) - ZONING DISTRICT

TM# 35-1-38.211

SUBDIVISION APPLICATION

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) has received a Subdivision Application to allow for the proposed single lot subdivision (lot 1=6.402 acres and lot 2=165.998 acres) with no new development proposed as shown on the Final Subdivision Plan titled "Mayer - 1068 Oak Openings Road Subdivision" prepared by Welch & O'Donoghue Land Surveyors, P.C., dated November 21, 2022 and all other relevant information submitted as of January 23, 2023 (the current application); and

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Planning Board in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by <u>Collin Hayes</u> and seconded by <u>Clara Mulligan</u> at a meeting of the Planning Board held on Monday, January 23, 2023. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - Aye Collin Hayes - Aye Kathy Mannix - Aye Christopher Sterner - Aye Clara Mulligan - Aye Brian Thorn - Aye Thomas McGovern - Aye

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the January 23, 2023, meeting.

Matthew Sousa read over the Subdivision Resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION

MAYER SUBDIVISION

1068 OAK OPENINGS ROAD

AGRICULTURAL (A) - ZONING DISTRICT

TM# 35-1-38.211

SUBDIVISION PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the proposed single lot subdivision (lot 1=6.402 acres and lot 2=165.998 acres) with no new development proposed as shown on the Final Subdivision Plan titled "Mayer - 1068 Oak Openings Road Subdivision" prepared by Welch & O'Donoghue Land Surveyors, P.C., dated November 21, 2022 and all other relevant information submitted as of January 23, 2023 (the current application); and

WHEREAS, the Planning Board opened a Public Hearing and completed a formal review of the proposed subdivision in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

WHEREAS, the Planning Board has determined the proposed development to be a type II action pursuant to Part 617.6(b)(4) of the SEQR Regulations; and

WHEREAS, on January 23, 2023, the Planning Board, serving as lead agency, made a determination of significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

NOW,	CHEREF(ORE,	BE	IT RE	ESOLV	ED,	the	Plann	ing	Boa	rd	hereby	\boxtimes
Approv	es wi	thout	Co	nditio	ns;		App	roves	wit:	h t	he	follow	ing
Condit	ions;	or		Denie	es t	he	appli	cation	fo	r t	he	follow	ing
reason	s:												

The above resolution was offered by <u>Brian Thorn</u> and seconded by <u>Christopher Sterner</u> at a meeting of the Planning Board held on Monday, January 23, 2023. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - Aye
Collin Hayes - Aye
Kathy Mannix - Aye
Christopher Sterner - Aye
Clara Mulligan - Aye
Brian Thorn - Aye
Thomas McGovern - Aye

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the January 23, 2023, meeting.

KEVIN O'DONOGHUE, ACTING AGENCT FOR JARED SMITH/5396 AVON-EAST AVON ROAD/TAX PARCEL#35.-1-38.211 - SUBDIVISION

Kathy Cole is recusing herself from this application since it is a family member, Brian Thorn will be lead person.

Kevin stated that Jared Smith purchased the parcel with the existing rental house, that has a common driveway with the neighboring property. Mr. Smith would like to subdivide the rental house off and keep it as a rental house and build a single-family home at the back of the property. Mr. Smith has built a driveway going back to where he would like to his house already.

Collin Hayes asked if there would need to be any variances for this subdivision and it wouldn't need any. Lance Brabant asked about the new driveway since it is over 500 feet it would have to have a pullover for emergency vehicles but that would be addressed during the site plan review.

Kathy Mannix stated it looks like the new driveway is running over the corner of the property line on the map and Mr. O'Donoghue stated it is about 15-20 feet from the property line.

MOTION TO SCHEDULE THE PUBLIC HEARING FOR FEBRUARY 27, 2023, WAS MADE BY CHRISTOPHER STERNER; SECONDED BY TOM MCGOVERN.

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
COLLIN HAYES - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 7-0.

Kim will get in touch with Kevin for the public hearing.

LESA SOBOLEWSKI/1177 WEST HENRIETTA ROAD/TAX PARCEL#25.-1-18.1 - ZBA - SPECIAL USE PERMIT FOR AN EVENT BARN

Jeff Mulligan is recusing himself from this application since it is family members, Cindy Kellen will be lead person.

Lesa Sobolewski was present to discuss this application. They purchased the Howlett property that included the event barn and are planning to continue the operations and possibly add some events. The special use permit needs to be transferred to them.

Tom McGovern stated that when he drives by, he doesn't see any issues with the property at all.

Cindy Kellen asked if they were planning on keeping everything the same and they are.

Lance Brabant stated he doesn't have the old resolution and he was wondering if the Board restricted the month/days/times and Bob Westfall doesn't believe there were any restrictions.

Kathy Cole thought it was May-October, but Ms. Sobolewski would like to not have that restriction, she would like to do a Winter event at some point.

Christopher Sterner asked if there was an occupancy restriction and it is 218 people.

Kathy Cole thought there was an open flame restriction and that is correct.

Ms. Sobolewski stated the entrance is off North Avon Road with parking there as well.

Brian Glise stated that all restrictions should be done during this process so there are no questions later.

Lance Brabant asked for an updated statement of operations with everything that she would like to do including any future events.

Brian Glise stated they talked about the house being an owner-occupied air b-n-b and that would require a separate special use permit and application process.

Lance Brabant stated if the Board has no other conditions they would like to see in the special use permit, the next step would be to schedule a public hearing for the meeting in February.

Jeff Mulligan asked why we had to do a public hearing since this is an owner transfer of an approved special use permit.

Lance Brabant stated the process for the special use permit requires a public hearing for the adoption. Lance stated we will research the conditions on the special use permit that was previously approved but the applicant can ask any things that they would like in the special use permit.

There was discussion on what conditions may or may not be needed on a special use permit to give Ms. Sobolewski an idea of what she needs to provide to the Board for events she would like to see happening at the Barn.

MOTION TO SCHEDULE THE PUBLIC HEARING FOR FEBRUARY 27, 2023, WAS MADE BY BOB WESTFALL; SECONDED BY DIANE ATTEA.

JEFF MULLIGAN - AYE CINDY KELLEN- AYE BOB WESTFALL- AYE DIANE ATTEA - AYE VACANT -

CARRIED 4-0.

Kim will get in touch regarding the public hearing.

Kathy Cole asked Brian Glise if there were any updates the Board members need to know.

Brian Glise stated at the next Town Board meeting on Thursday, January 26, 2023 there is a public hearing for a new solar moratorium. Brian will relay any information to the Town Board if anyone has any suggestions for the solar law. There was much discussion about what they would like to see added into the solar law (setbacks, prime soil, landscaping to name a few).

Brian Glise also stated he sent out an email regarding the trees that are available for the Starkey Drive solar farm. They would like to switch the kind of trees to plant for screening and some felt it was OK to do that.

Six Sprouts seems to be moving along and it will be exciting to see that building in use.

Kathy Mannix asked for an update on Gilbert Mills Road and Brian stated they are bringing her back to court on Tuesday, January 24th since the animals were not removed in the time given. Brian has driven by the property a few times and last week he noticed the animals were gone. Kathy Mannix drove by and there were still animals on the property.

Lance Brabant has provided the Board with new applications and meeting procedures for their review. All comments should be sent to Kim by Monday, February 6, 2023. Lance would like to adopt the applications at the meeting on February 27, 2023.

MOTION TO CLOSE THE MEETING WAS MADE BY CLARA MULLIGAN; SECONDED BY CHRISTOPHER STERNER.

JEFF MULLIGAN - AYE CINDY KELLEN- AYE BOB WESTFALL- AYE DIANE ATTEA - AYE VACANT - KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
COLLIN HAYES - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 11-0.

MEETING CLOSED.