

PLANNING & ZBA MEETING, MONDAY, FEBRUARY 22, 2021

ZBA MEMBERS PRESENT: JEFF MULLIGAN, CINDY KELLEN (ZOOM), BOB WESTFALL, DIANE ATTEA (ZOOM), JEFF PASSARELL

PLANNING MEMBERS PRESENT: KATHY COLE, KATHY MANNIX (ZOOM), CHRISTOPHER STERNER, BRIAN THORN (ZOOM), CLARA MULLIGAN (ZOOM)

ABSENT: RANDY KOZLOWSKI (PLANNING)

OTHERS: CEO BRIAN GLISE, MRB ENIGNEER LANCE BRANBANT

VISITORS: MARK FEDRAU, PETER KOLOKOURIS, SCOTT HARTER

CLERK: KIM MCDOWELL

MOTION TO OPEN THE MEETING WAS MADE BY BOB; SECONDED BY JEFF PASSARELL.

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

KATHLEEN COLE -AYE
VACANCY -
RANDY KOZLOWSKI - ABSENT
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 10-0.

ZBA MOTION TO APPROVE THE MINUTES FROM THE JANUARY 25, 2021 MEETING SUBMITTED WAS MADE BY DIANE; SECONDED BY BOB.

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

CARRIED 5-0.

FEDRAU, MARK & LINDA/2415 DUTCH HOLLOW ROAD/TAX PARCEL#45.-1-50.31 - VARIANCE SIDE SET BACK OF 8 FEET - PUBLIC HEARING

Jeff Mulligan asked if everyone has had a chance to look at the plans for his garage addition. There were no concerns, so the Board moved forward with the variance process.

ZBA MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY JEFF PASSARELL; SECONDED BY BOB

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

CARRIED 5-0.

Jeff asked Lance if we need to just do the SEQR, Lance stated if there are no questions for the applicant or concerns then we need to complete the SEQR.

Jeff asked if there were any concerns about the project. Bob had a question on the variance questions that Mr. Fedrau submitted regarding whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance. Mr. Fedrau answered OK. Jeff Mulligan explained that Mr. Fedrau has decided he is going to go forward with the variance since that is the only way to build the garage addition. Bob thought the answer should have been yes and Mr. Fedrau stated he did not understand the question too well.

Jeff proceeded to read the SEQR Resolution to all.

**TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
MARK & LINDA FEDRAU – AREA VARIANCE APPLICATION
GARAGE ADDITION - SIDE SETBACK
2415 DUTCH HOLLOW ROAD – AG - ZONING DISTRICT
TM# 45.00-1-50.31 - AREA VARIANCE**

SEQR RESOLUTION – TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering an Area Variance approval for side setback of 8 feet where 30 feet is required for a total area variance of 22 feet, located 2415 Dutch Hollow Road within the AG zoning district; 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 Bob Westfall and seconded by Diane Attea at a meeting of the Board of Appeals held on Monday, February 22, 2021. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - AYE
Jeff Passarell - AYE
Cindy Kellen - AYE
Bob Westfall - AYE
Diane Attea - 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 Board of Appeals for the February 22, 2021 meeting.

Kim McDowell_____, L.S.
Kim McDowell, Clerk of the Board

Lance wanted to make sure that the variance numbers are correct for this project and Mr. Fedrau stated they are.

ZBA MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY JEFF PASSARELL;
SECONDED BY BOB

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

CARRIED 5-0.

Brian asked Mr. Fedrau if there is proof of the property lines somewhere for him to measure when doing the inspections. Mr. Fedrau is going off what he knows and the line from the house. Jeff asked if there are any border markers, Mr. Fedrau said one is down by the road. Brian stated that if it slightly off Mr. Fedrau will need to either tear down the garage or come back and go through the variance process again, Mr. Fedrau stated it will be right on the money.

Brian requested that the Board members review the variance questions and answer them themselves.

TESTS FOR GRANTING AREA VARIANCES
BE VERY SPECIFIC WHEN ANSWERING THESE QUESTIONS

“Area variance” shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

In deciding whether to grant an area variance, the Zoning Board of Appeals takes into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. (Town Law Section 267-b. subsection 3(b)).

To enable the Zoning Board of Appeals to grant an area variance, the applicant must present substantial evidence concerning the following topics by providing supporting evidence for each. Attach additional sheets if necessary.

(1). Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. The ZBA Board answered NO.

(2). Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. The ZBA Board answered NO.

(3). Whether the requested area variance is substantial. The ZBA Board answered YES.

(4). Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The ZBA Board answered NO.

(5). Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance.

The ZBA Board answered YES.

Lance asked how close the neighbor is to the property line where the addition is going, and it is all farmlands. Lance asked if there were any objections that the Town has received from any neighbors and there is none. Jeff Mulligan asked if there were any support letters from neighbors and Mr. Fedrau did supply a form letter with signatures from three neighbors.

Lance read the ZBA Decision Sheet for this application to all.

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

Hearing Date: February 22, 2021

Project Name/Number: Mark & Linda Fedrau

- Garage Addition Side yard setback of 8' (22' area variance)

Subject Property Address: 2415 Dutch Hollow Road

Tax Account #: 45.00-1-50.31

Zoning District: AG District

Agenda Item: Area Variance application for side yard setback of 8 feet where 30 feet is required for a total area variance of 22 feet for the proposed garage addition.

Motion made by: Diane Attea

Seconded by: Bob Westfall

| Board Members | Present | Motion | | Recusal |
|-------------------------------|---------|--------|-----|---------|
| | | Aye | Nye | |
| 1. Jeffery Mulligan, Chairman | X | X | | |
| 2. Jeff Passarell | X | X | | |
| 3. Cindy Kellen | X | X | | |
| 4. Bob Westfall | X | X | | |
| 5. Diane Attea | X | X | | |
| 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.

Kim will send Mr. Fedrau a building permit application for him to proceed with his garage addition.

ZBA MOTION TO CLOSE THE MEETING WAS MADE BY JEFF PASSARELL;
SECONDED BY BOB.

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

CARRIED 5-0.

ZBA PORTION OF THE MEETING IS CLOSED.

PETER KOLOKOURIS, AVON LIMA ROAD, INC./ROYAL SPRINGS PHASE 2/TAX
PARCEL#35.10-1-29.3, 35.-1-31.11, 45.-1-23.141 - PHASE 2 HOUSING
DEVELOPMENT CONCEPTUAL PLANS

Mr. Kolokouris and Mr. Harter were present to discuss the proposed project for Royal Springs Phase 2.

Kathy Cole stated the Town Board has referred Mr. Kolokouris to the Planning Board to discuss his project. She invited Mr. Kolokouris to begin his presentation.

Mr. Kolokouris would like to expand Royal Springs with the same PUD as Phase 1 and will have the same restrictions from Phase 1, lot sizes, lighting, sidewalks, roads with 70 foot right of way, sewer etc. There will be between 200-250 lots on the 116-acre from several parcels. Phase 1 was 50 acres with 99 lots. Looking for some suggestions that anyone has for this plan.

Kathy Cole asked about the patio homes, what the difference is between a patio home and a two-story home and how will he blend them. Mr. Kolokouris stated the first section will be exactly like Phase 1 is now and then a different section will be patio homes, so half will be patio homes. The only difference will be less lawn to take care of. He feels they will be like snowbirds and live here 6 months out of the year.

Jeff Mulligan asked if they will be like a duplex and Mr. Kolokouris stated no, they would not. He feels there is a need for senior citizens for patio homes in Livingston County. You need to price them right so people can afford to have two homes. Kathy asked if he has surveyed people about patio homes or is this his opinion and he has talked to people.

Jeff Mulligan asked what the price range would be for the patio homes and he stated they would be between \$150,000 - \$200,000 for 1050-1100 square foot, two bedrooms, kitchen, dining room and family room home.

Kathy Cole asked about the commercial use located off Lakeville Road. Mr. Kolokouris said it will be mainly storage area, storage units and there will be a building rental place for any equipment like a Geneseo Hardware.

Kathy Cole stated that in your Phase 1 proposal for commercial use, nothing has been done. In Phase 1 he proposed to have a daycare center and a strip plaza on either side of the entrance off Route 5 & 20 and they have not been built.

Kathy Cole stated that Lance is taking notes on the Planning Board's concerns to give to the Town Board for review.

Lance asked if a formal application has been submitted to the Town Board and they have submitted a letter for the rezoning of the property. Lance stated that procedurally they will need to address the conditions that are required under Section 130-17 for a PUD district application. Mr. Harter stated they submitted a letter of intent to see if they are heading in the right direction and then will follow the process as required.

Kathy Cole feels she would like to see sidewalks and streetlights, she has concerns about storage of vehicles and boats on the commercial area as well. She would like to see bigger lots and a bigger variety of sizes of lots. Kathy feels that the road being a straight shot without either some cul-de-sacs or maybe 4 way stops often leads to car speeding through the area. She has heard that cars go through there very fast and she would like to see something to slow people down for the kids that live there.

Brian Glise stated that the Town Board has asked him to reach out to MRB Engineers and another Planning Engineer for the reasons she has stated. A professional planner could advise the Town on these issues that we are unfamiliar with.

Kathy Cole asked Christopher Sterner if he had any concerns. He feels like there this concept plan is a lot bigger than what he proposed originally and was wondering what has changed to add an additional 100-150 houses. Mr. Kolokouris stated that the difference when you do a project like this, is the cost is the same whether you do 100 or 200 lots so get the most out of his investment this is the plan.

Jeff Mulligan asked if the lots sizes were the same as in Phase 1 and he stated they are.

Bob Westfall asked how many acres and houses in Phase 1. Mr. Kolokouris stated there was 50 acres with 99 house and Phase 2 is on 116 acres with 200-250 houses depending on how many patio homes.

Kathy Cole stated there are issues with the size of lots and putting in pools, sheds, decks, etc. and having to go for variances. Brian Glise stated that the lot is so small that if you want to put up a pool and shed you are out of room and they must come to the ZBA for a variance.

Mr. Kolokouris stated that will not be a problem, the lots are deeper in Phase 2 than Phase 1.

Christopher Sterner had a question about the cutout where the Go-Kart track and the concept plan has houses backing right up to that. Kathy Cole asked if he would have a berm for the houses near the track. Mr. Kolokouris stated they would put more trees in that area. Brian stated buffering requirements of at least 20 feet in width between commercial and residential areas. He also stated there is a resident on Athena Drive questioning where the berms where suppose to be for Phase 1. Kathy Cole stated the only berm in Phase 1 was behind Rees property near Route 5 & 20.

Kathy Mannix thought this was just a residential area and she has concerns with the commercial aspect of the plan. Mr. Kolokouris stated he could remove the commercial part.

Clara Mulligan was wondering how 250 homes will impact the school system, water system, and sewer system. Kathy Cole stated the Town Board has discussed these issues and they will be following up on those at their meeting.

Lance stated a PUD has a very specific process that is required. The Town Board must follow the Town Code and will give a blueprint of what you can do on the site. As part of the review, it further defines items and ends up creating a zoning district very specific to the area (setbacks, buffering, commercial layout). This Phase 2 will have to follow those steps and commercial units are a requirement of a PUD and it must be architecturally and complementary to the residential units and will ultimately be rendered by the Town Board. For any use that you are proposing to have you must supply a list to the Town Board of what you hope to get in the commercial area. They will require a detailed plan that defines where your open space is and why, who is going to own that open space, buffering maybe considered (especially when there is a commercial use next to a residential use), density is predetermined by an engineer equation that will determine how many lots can be accommodated, sewer and that the Village can accommodate this capacity without some improvements. MRB Group will try to vet this all out before they submit a formal application to the Town Board.

Mr. Kolokouris stated that 20 years ago he paid extra money for sewer improvements to be able the expansion. He also said 20 years ago the school could handle an additional 1200 kids.

Lance stated this process will take a long period of time; he feels this will be phased out over a period. The triggers dictated by this process would be a traffic study, drainage, fire code will dictate your need for a second entrance. Lance also stated that currently on this parcel you are allowed 1 home for every three acres which equates to 40 homes. This will need to have a coordinated effort with the Village, NYS DOT, and Engineering to determine the density of homes allowed and 20% must be preserved as open space.

Lance stated that the Planning Board concerns will need to be brought to the Town Board and they will need to do the vetting out to the different entities. Lance stated that the first question to be answered is if 250 lots are feasible. He also asked Mr. Kolokouris is he set on that number of lots and there is some buffering requirement. He does not think this concept plans accommodates those requirements. He feels the roadway creativity needs to be improved for the public's safety. Mr. Kolokouris stated the concept plan has 210 lots currently and the small lots are for patio homes. If they do not sell than it would be different.

Kathy Cole asked Mr. Kolokouris if he has any plans for the area between Phase 1 and the expressway and he does not.

Kathy Mannix asked what the next step was. Lance stated that the comments and concerns raised by the Board members will be provided to the Town Board. Ultimately no action can happen until a full application has been submitted to begin the review process.

Kathy Cole asked if there were any other questions for Mr. Kolokouris and there were none.

Lance suggested to Mr. Kolokouris and Mr. Harter to look at the concept plan and see if this is what he really wants to do, add in the buffering, and see if that changes anything. He also suggested any uses they may want for commercial in Phase 1 or Phase 2 be identified for the Town Board to review.

Kathy Cole asked Brian if he had anything for the Board before the meeting is adjourned and he did not.

Kim asked the ZBA Board members who would like to volunteer for the Excavating & Mining Committee. Jeff Mulligan and Bob Westfall have agreed to be involved. Kim will send out the meeting information to them.

MOTION TO CLOSE THE MEETING WAS MADE BY KATHY COLE; SECONDED BY CHRISTOPHER STERNER.

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

KATHLEEN COLE -AYE
VACANCY -
RANDY KOZLOWSKI - ABSENT
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 10-0.
MEETING CLOSED.