

PLANNING, ZBA & TOWN MEETING MONDAY, MARCH 20, 2023

MEMBERS PRESENT: PLANNING: KATHY COLE, BRIAN THORN,
CHRISTOPHER STERNER, COLLIN HAYES, CLARA
MULLIGAN, THOMAS MCGOVERN

ZBA: JEFF MULLIGAN, BOB WESTFALL, CINDY
KELLEN, DIANE ATTEA

ABSENT: KATHY MANNIX (PLANNING)

OTHERS: BRIAN GLISE (CEO, AVON), MATTHEW SOUSA (MRB
GROUP)

VISITORS: LESA SOBOLEWSKI, DARLA FREDERICK, JORDAN
GUADALUPE, BETSY GEORGE, ED FORSYTHE

CLERK: KIM MCDOWELL

MOTION TO OPEN THE MEETING WAS MADE BY BOB WESTFALL; SECONDED BY
DIANE ATTEA.

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

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

CARRIED 10-0.

Jeff Mulligan introduced the ZBA Board members that were present, and Kathy Cole introduced the Planning Board members that were present.

Kathy Cole reviewed the emergency exits for all present.

Jeff Mulligan introduced Brian Glise, Kim McDowell, and Matthew Sousa.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM FEBRUARY 27,
2023, MEETING SUBMITTED WAS MADE BY BOB WESTFALL; SECONDED BY
JEFF MULLIGAN.

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

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

CARRIED 8-0.

LESA SOBOLEWSKI/1177 WEST HENRIETTA ROAD/TAX PARCEL#25.-1-18.1 -
ZBA - SPECIAL USE PERMIT FOR AN EVENT BARN AS WELL AS SPECIAL
USE PERMIT FOR AIR B-N-B FOR HOUSE

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

Cindy Kellen stated the public hearing for the event barn was not closed at last month's meeting so that is still open. However, the public hearing for the Special Use Permit for the Air B-N-B needs to be opened.

ZBA MOTION TO OPEN THE PUBLIC HEARING FOR THE SPECIAL USE PERMIT FOR AN AIR B-N-B WAS MADE BY DIANE ATTEA; SECONDED BY BOB WESTFALL.

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

CARRIED 3-0.

Bob Westfall asked if this is considered a bed and breakfast or an air b-n-b and per the code it is considered a bed and breakfast since the code doesn't address air b-n-bs.

Cindy Kellen asked Mrs. Sobolewski to give us an overview of her application for both special use permits.

Mrs. Sobolewski stated the house on the property will be listed under the VRBO site which is an international listing, and they list restrictions as well. The house is an historic house with five bedrooms, 2.5 bathrooms, kitchen, and multiple exits. It can accommodate 12-14 people.

Cindy Kellen asked if it is listed for 7 days a week and it is.

Cindy Kellen asked if there were any questions from the Board members and there were none.

Matthew Sousa asked if the septic system would be able to accommodate 12-14 people and Mrs. Sobolewski believes the septic system was upgraded about 8-10 years ago.

Cindy Kellen asked if there were any comments from the public and there were none.

ZBA MOTION TO CLOSE THE PUBLIC HEARING FOR THE AIR B-N-B SPECIAL USE PERMIT WAS MADE BY BOB WESTFALL; SECONDED BY DIANE ATTEA.

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

CARRIED 3-0.

Kathy Cole stated that as part of the special use permit process the Planning Board must support and recommend to the ZBA Board their approval.

PLANNING BOARD MOTION TO THE ZBA BOARD A POSITIVE RECOMMENDATION FOR THE SPECIAL USE PERMIT APPLICATIONS WAS MADE BY THOMAS MCGOVERN; SECONDED BY CHRISTOPHER STERNER.

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

CARRIED 5-0.

Matthew Sousa reiterated to the Board before moving on in the approval process that this is advertised as a five-bedroom, 2.5 bathroom for 12-14 people and he has put a condition in the special use permit that the septic system needs to be inspected and verified that it is sized correctly for that amount of people.

Mr. Sousa stated to the Board that they can either put the septic system inspection condition into the special use permit and approve it tonight or wait until the inspection for the septic system has been submitted to the Town and approve it at that time.

Mr. Sousa asked how many parking spaces are for the house and there are 10 spaces.

Mr. Sousa stated this is a SEQR Type 2 action and Cindy Kellen read the following:

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
CENTURY BARN LLC - 1177 WEST HENRIETTA ROAD
BED AND BREAKFAST
AGRICULTURAL DISTRICT
TM# 25.-1-18.1
SPECIAL USE PERMIT APPLICATION

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Special Use Permit Application to allow for a new owner to operate a bed and breakfast at 1177 West Henrietta Road as detailed on the sketch plans and all other relevant information submitted and discussed at the March 20, 2023, Joint Board Meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Zoning 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 Zoning 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 Diane Attea and seconded by Bob Westfall at a meeting of the Zoning Board of Appeals held on Monday, March 20, 2023. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - *Recused*
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 March 20, 2023, meeting.

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

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
CENTURY BARN LLC - 1177 WEST HENRIETTA ROAD
BED AND BREAKFAST
AGRICULTURAL DISTRICT
TM# 25.-1-18.1
SPECIAL USE PERMIT APPLICATION

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Special Use Permit Application to allow for a new owner to operate a bed and breakfast at 1177 West Henrietta Road as detailed on the sketch plans and all other relevant information submitted and discussed at the March 20, 2023, Joint Board Meeting; and

WHEREAS, the Town of Avon Zoning Board classified the above referenced Action to be an Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, on March 20, 2023, in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the

current application and completed a formal review of the applications; and

WHEREAS, per §130-45(B)(1) of the Town of Avon Town Code, the Planning Board completed a review of the application materials and provided recommendations to the Zoning Board of Appeals at the March 20, 2023, Joint Board Meeting; and

WHEREAS, the Zoning Board does hereby determine the proposed Special Use Permit is in compliance with the provisions of Chapter §130-35 of the Town Code; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approve the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §130-35.
2. In the event of any complaints about the Special Use Permit operations being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board of Appeals.
3. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the site is being operated in accordance with the conditions specified by the Zoning Board of Appeals.
4. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with NYS Building Code requirements and Town Code requirements and conditions of this approval.
5. A statement of operations is to be provided prior to issuance of a permit and/or beginning operations.
6. The Bed & Breakfast may operate between every day of the week, year-round.
7. The onsite wastewater treatment system is to be inspected and certified capable of handling the proposed use and number of bedrooms. This is to be provided to the CEO prior to issuance of permit and/or operations beginning.
8. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.

The above resolution was offered by Diane Attea and seconded by Bob Westfall at a meeting of the Zoning Board of Appeals held on Monday, March 20, 2023. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - *Recused*
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 Monday, March 20, 2023, meeting.

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

Cindy Kellen asked if there was any public comment on the event barn public hearing and there were none.

ZBA MOTION TO CLOSE THE PUBLIC HEARING FOR THE EVENT BARN SPECIAL USE PERMIT WAS MADE BY DIANE ATTEA; SECONDED BY BOB WESTFALL.

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

CARRIED 3-0.

Cindy Kellen read the following:

**TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
CENTURY BARN LLC - 1177 WEST HENRIETTA ROAD
WEDDING AND EVENTS VENUE
AGRICULTURAL DISTRICT
TM# 25.-1-18.1
SPECIAL USE PERMIT APPLICATION**

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Special Use Permit Application to allow a new owner to operate a wedding and special events venue at 1177 West Henrietta Road as detailed on the sketch plans and all other relevant information submitted and discussed at the March 20, 2023 Joint Board Meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Zoning 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 Zoning 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 Diane Attea and seconded by Bob Westfall at a meeting of the Zoning Board of Appeals held on Monday, March 20, 2023. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - *Recused*
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 March 20, 2023, meeting.

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

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
CENTURY BARN LLC - 1177 WEST HENRIETTA ROAD
WEDDING AND EVENTS VENUE
AGRICULTURAL DISTRICT
TM# 25.-1-18.1

SPECIAL USE PERMIT APPLICATION

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Special Use Permit Application to allow a new owner to operate a wedding and special events venue at 1177 West Henrietta Road as detailed on the sketch plans and all other relevant information submitted and discussed at the March 20, 2023 Joint Board Meeting; and

WHEREAS, the Town of Avon Zoning Board classified the above referenced Action to be an Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, on March 20, 2023, in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the current application and completed a formal review of the applications; and

WHEREAS, per §130-45(B)(1) of the Town of Avon Town Code, the Planning Board completed a review of the application materials and provided recommendations to the Zoning Board of Appeals at the March 20, 2023 Joint Board Meeting; and

WHEREAS, the Zoning Board does hereby determine the proposed Special Use Permit is in compliance with the provisions of Chapter §130-35 of the Town Code; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approve the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §130-35.
2. In the event of any complaints about the Special Use Permit operations being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board of Appeals.
3. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the site is being operated in accordance with the conditions specified by the Zoning Board of Appeals.

4. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with NYS Building Code requirements and Town Code requirements and conditions of this approval.
5. The Special Use shall be in accordance with the statement of operations as outlined in the applicants email to the Town dated February 13, 2023, and March 2nd 2023
6. The venue may operate between 6:00 AM and 11:00 PM any day of the week.
7. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.

The above resolution was offered by Bob Westfall and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, March 20, 2023. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - *Recused*
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 Monday, March 20, 2023, meeting.

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

PAUL DEAN/1520 WEST HENRIETTA ROAD/TAX PARCEL#35.-1-5.11 - ZBA SPECIAL USE PERMIT FOR A ONE DAY EVENT

Matthew Sousa stated that this is a new application, and no action can be taken tonight besides setting a public hearing.

Paul Dean was present to discuss his application of a one-day event on June 24, 2023, for a five-hour cars and crafts event.

It will be a classic car show and craft breweries running from 11AM - 4PM to end in time to begin the drive inn preparations.

Kathy Cole asked how many cars Mr. Dean expects to show and he hopes to have approximately 1,000 spectators. He will have employees and security during the event, the pavilion will hold the beer vendors and the band.

Mr. Dean has three confirmed crafters and is hoping to have 10-20 altogether.

Brian Glise asked Mr. Dean if he has a rain date because the one-day event is for June 24, 2023, if it is cancelled, he will have to come back to get approval for another date. Mr. Dean doesn't want to have a rain date.

Jeff Mulligan asked if the cars are judged, and Mr. Dean stated they are in the planning stages right now and haven't fully figured out what exactly they will do. He wanted to make sure he was able to get approval before planning too much.

Jeff Mulligan asked if there will be a fee for the cars to attend; Mr. Dean stated there would not be for the cars, but the spectators will have to pay to attend.

Bob Westfall questioned about liquor licenses and Mr. Dean stated all the vendors will have to have a one day off site insurance policy and he is getting a onetime event insurance policy as well.

Jeff Mulligan stated we need to schedule a public hearing for next month.

Mr. Dean asked if there are no objections tonight does that mean we will get the one-day event special use permit approved and Jeff Mulligan stated he doesn't have any objections.

Jeff Mulligan also stated to Mr. Dean that this permit will be only for June 24, 2023, and if you wanted to have it another day or on an annual basis, you will need to come back in and amend the special use permit.

Matthew Sousa also reiterated that if you don't have a rain date request tonight, there will be no rescheduling and Mr. Dean doesn't want to request a rain date.

ZBA MOTION TO SCHEDULE A PUBLIC HEARING FOR THE ONE-DAY EVENT SPECIAL USE PERMIT WAS MADE BY CINDY KELLEN; 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 with Mr. Dean regarding the public hearing.

DARLA FREDERICK/ACTIONG AGENT FOR AL GUTBERLET/2123 LAKEVILLE ROAD/TAX PARCEL#45.-1-13 - ZBA SPECIAL USE PERMIT FOR AN ANNUAL NIGHT RACE

Matthew Sousa stated that this is a new application, and no action can be taken tonight besides setting a public hearing.

Darla Frederick was present to discuss her application for a night race on August 28, 2023, until 11:00PM. Ms. Frederick also requested if this could be approved for it be held annually.

Matthew Sousa stated that the application before the Board is for a one time event, if she would like to have it annually Ms. Frederick will need to amend her application, which she did tonight.

Jeff Mulligan stated that if you are approved for it annually and you don't happen to have the event it is OK.

Jeff Mulligan asked how the event was last year and Ms. Frederick stated it exceeded everyone's expectations. All those who attended enjoyed it and they followed all the rules.

Jeff Mulligan asked if this would be set up as it was last year, and Ms. Frederick stated it would be.

The Board suggested that a condition for the special use permit state the Town must notify of the date in advance of the event and if there are any changes to submit those to the Town prior as well.

ZBA MOTION TO SCHEDULE A PUBLIC HEARING FOR AN ANNUAL ONE-DAY NIGHT RACING EVENT SPECIAL USE PERMIT WAS MADE BY BOB WESTFALL; SECONDED BY CINDY KELLEN.

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

CARRIED 4-0.

Kim will get in touch with Ms. Frederick regarding the public hearing.

SIX SPROUTS, ACTING AGENTS FOR SOUTHWEST CORNERS LLC/LAKEVILLE ROAD/TAX PARCEL# - SITE PLAN REVIEW

Betsy George and Jordan Guadalupe were present to update the Board on the site plan.

Ms. Guadalupe would like to have the farm market open by Memorial Day.

Kathy Cole asked about the handicap parking on the north side of the building and the rest of the parking on south side.

The south side of the building will also be for employee parking, at this time they are unsure of the number of employees or how many spaces it will have.

Brian Thorn asked about the proposed lighting on top of the building pointing towards Route 5&20; Ms. Guadalupe and Ms. George were unsure of why Mr. Peskor wanted the lighting on the roof. There was discussion on lighting and the Town of Avon code.

Matthew Sousa stated the Board should require a set of stamped drawings for this site detailing the parking, lighting, ingress/egress, emergency vehicle access, utilities, and fire hydrants.

It was determined that Mr. Sousa will supply a list to Kim to send over to Six Sprouts engineer to make the changes for the next meeting.

Kathy Cole asked if their engineer could get it back in time for next month's meeting to make an approval.

Brian Glise pulled up the survey map of all the parcels owned by Mr. Peskor and where the proposed parking will be and where each parcel is located on that corner.

There was discussion on parking for both Six Sprouts and Endza's Eats and where potential parking will be when both businesses are open at the same time.

Kathy Cole reiterated that Mr. Sousa will send Kim the list of items that need to be added on the site plan and Kim will send it out to both ladies and their engineer. The updated site plan will need to be submitted by April 6th in order for them to be on the agenda for next month.

Brian Glise suggested that the parking lot possibly be paved and it was determined that it may not need to be paved and gravel will be sufficient.

Kim McDowell suggested they fill out a water application to get some water into the building and turned on and sewer would be going through LCWSA.

Ms. Guadalupe and Ms. George will be back next month for further discussion and possible approval for this application.

Kathy Cole asked if there was anything that Brian Glise wanted to inform the Boards and he stated:

- Route 5 & 20 still has water issues that are being addressed,
- House on Linden Street has been sold and is renovations are beginning,
- CP Ward still waiting for responses from MRB Group comments,
- Code recodification has been started and if there are any suggestions, please let Brian know. Some items were the height of accessory buildings and pool setbacks.
- Should a committee be put together to discuss the code,
- Manufactured and modular homes

Clara Mulligan asked if the Town has been asked about tiny houses and Brian stated there is a national code on tiny houses, but we haven't had anything other than inquiries. There was discussion about what constitutes a tiny home in square footage.

MOTION TO CLOSE THE MEETING WAS MADE BY THOMAS MCGOVERN; 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 - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 10-0.

MEETING CLOSED.