

PLANNING, ZBA & TOWN MEETING MONDAY, APRIL 17, 2023

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

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

ABSENT:

OTHERS: BRIAN GLISE (CEO, AVON), MATTHEW SOUSA (MRB  
GROUP), JIM CAMPBELL (TOWN ATTORNEY)

VISITORS: PAUL DEAN, JANET WARD, KEVIN OVERTON

CLERK: KIM MCDOWELL

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MOTION TO OPEN THE MEETING WAS MADE BY BOB WESTFALL; SECONDED BY  
KATHY COLE.

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.

Planning and ZBA Board members, as well as Jim Campbell, Brian  
Glise, Matthew Sousa, and Kim McDowell introduced themselves to  
the those present.

Jeff Mulligan reviewed the emergency exits for all present.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM MARCH 20,  
2023, MEETING SUBMITTED WAS MADE BY TOM MCGOVERN; SECONDED BY  
BRIAN THORN.

JEFF MULLIGAN - AYE  
CINDY KELLEN- AYE  
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 10-0.

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

Mr. Dean was present for this public hearing.

ZBA MOTION TO OPEN THE PUBLIC HEARING FOR THE ONE DAY SPECIAL  
USE PERMIT FOR A CARS & CRAFTS EVENT 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.

This will take place on June 24, 2023 with no rain date  
requested, it will be a car show with craft beer vendors and  
music from 11AM - 4PM.

Jeff Mulligan asked if there were any comments from the public  
and there were none.

ZBA MOTION TO CLOSE THE PUBLIC HEARING FOR THE ONE DAY SPECIAL  
USE PERMIT FOR A CARS & CRAFTS EVENT 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.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION  
PAUL DEAN - CLASSIC CAR SHOW AND BEVERAGE TASTING  
1520 WEST HENRIETTA ROAD  
GENERAL BUSINESS/LIGHT INDUSTRIAL  
TM# 35-1-5.11  
TEMPORARY SUP APPLICATION

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Temporary Special Use Permit Application to allow for a one-time classic car show and beverage tasting event at 1520 West Henrietta Road as detailed on the Special Use Permit Application and all other relevant information submitted and discussed at the April 17, 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 Cindy Kellen and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, April 17, 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 April 17, 2023, meeting.

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

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION  
PAUL DEAN - CLASSIC CAR SHOW AND BEVERAGE TASTING  
1520 WEST HENRIETTA ROAD  
GENERAL BUSINESS/LIGHT INDUSTRIAL  
TM# 35-1-5.11  
TEMPORARY SUP APPLICATION

SPECIAL USE PERMIT APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Temporary Special Use Permit Application to allow for a one-time classic car show and beverage tasting event at 1520 West Henrietta Road as detailed on the Special Use Permit Application and all other relevant information submitted and discussed at the April 17, 2023, Joint Board Meeting; and

WHEREAS, the Zoning Board has classified the above referenced Action to be a Type II Action under the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

NOW, THEREFORE, BE IT RESOLVED, the Zoning Board hereby  Approves without Conditions;  Approves with the following Conditions; or  Denies the application for the following reasons:

1. The temporary special use permit shall remain in effect for the current owner of the premises for the date of June 24, 2023 (with no rain date requested) for the hours of 11:00 A.M. to 4:00 P.M. and from 4:00 P.M. to Midnight to shut down, clean up, and close the site. All patrons and vehicles are to leave the site by Midnight.
2. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with requirements and Town Code requirements and conditions of this approval.

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, April 17, 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 April 17, 2023 meeting.

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

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

Ms. Frederick was not present for the public hearing.

ZBA MOTION TO OPEN THE PUBLIC HEARING FOR AN ANNUAL ONE-DAY NIGHT RACING EVENT SPECIAL USE PERMIT 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.

Jeff Mulligan asked if there were any comments from the public.

Tom McGovern is concerned what the recourse is if there are any violations or complaints; the Town will be able to address those if/when they happen.

Jeff Mulligan stated one of the conditions upon approval is they are to notify the Town sixty days in advance of the event.

Clara Mulligan asked if they change ownership what happens and it is just like any special use permit in the Town, the new owners will have to come in for approval of a special use permit in their name.

ZBA MOTION TO CLOSE THE PUBLIC HEARING FOR AN ANNUAL ONE-DAY NIGHT RACING 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.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION  
DARLA FREDERICK - GENESEE VALLEY KART CLUB  
2123 LAKEVILLE ROAD - TM # 45.-1-13  
SUP APPLICATION

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, The Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering a Special Use Permit application to allow the Genesee Valley Kart Club to hold an annual Night Race Event at their existing site located at 2123 Lakeville Road, as detailed on the Concept Plans and Letter of Intent as discussed with the Zoning Board at their meeting on April 17, 2023 (the current application); 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 Bob Westfall and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, April 17, 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 April 17, 2023, meeting.

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

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION  
DARLA FREDERICK - GENESEE VALLEY KART CLUB  
2123 LAKEVILLE ROAD - TM # 45.-1-13  
SUP APPLICATION

SPECIAL USE PERMIT APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering a Special Use Permit application to allow the Genesee Valley Kart Club to hold an annual Night Race Event at their existing site located at 2123 Lakeville Road, as detailed on the Concept Plans and Letter of Intent as discussed with the Zoning Board at their meeting on April 17, 2023 (the current application); and

WHEREAS, the Zoning Board has classified the above referenced Action to be a Type II Action under the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

NOW, THEREFORE, BE IT RESOLVED, the Zoning Board hereby  Approves without Conditions;  Approves with the following Conditions; or  Denies the application for the following reasons:

1. Race times are limited to the hours of 1:00 P.M. to 11:00 P.M. The site may remain open from 11:00 P.M. to Midnight to shut down and close the site. All patrons and vehicles, with the exception of those staying overnight in the RVs, are to leave the site by Midnight.
2. Every year the applicant is to notify the Town in writing 60 days in advance of the event detailing the proposed date, time, and rain date if applicable.

3. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with requirements and Town Code requirements and conditions of this approval.

The above resolution was offered by Cindy Kellen and seconded by Bob Westfall at a meeting of the Zoning Board of Appeals held on Monday, April 17, 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 April 17, 2023 meeting.

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

DG LAKE ROAD LLC, ACTING AGENT FOR GARY & EILEEN WHEAT/5410 LAKE ROAD/TAX PARCEL#44.-1-26.1 - SOLAR FARM - EXTENSION ON DEADLINES FOR SUBMITTING BUILDING PERMIT REQUEST

Kathy Cole stated that she is still recused from this application and Brian Thorn will be heading this request.

Janet Ward stated that it has been a year since granting approvals and the project has been progressing, but she is requesting a one-year extension due to delays in working with the utility company and their understaffing, she is not quite ready to submit the building permit.

Janet discussed in length some of the delays they are facing from other entities in order to submit a building permit.

Tom McGovern asked if the design had changed, and Janet stated it hadn't.



Jim Campbell stated that both the Planning and ZBA Board members must approve the extension separately since it relates to the site plan and special use permit.

PLANNING BOARD MOTION TO APPROVE THE EXTENSION REQUEST FOR ONE YEAR CONTINGUENT ON THE ZBA BOARD APPROVAL WAS MADE BY TOM MCGOVERN; SECONDED BY KATHY MANNIX.

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

CARRIED 6-0.

ZBA MOTION TO APPROVE THE EXTENSION REQUEST FOR ONE YEAR CONTINGUENT ON THE PLANNING BOARD APPROVAL 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.

Kathy Cole met with Clara Mulligan and Brian Glise regarding the code update that is currently being worked on with Brian Glise, Collin Hayes, Jim Campbell, and Lance Brabant. It was suggested possibly update the Comprehensive Plan at the same time.

Kathy Cole is requesting all Board members review the comprehensive plan and if there is anything they feel should be changed or reviewed, bring it to the meeting next month for discussion.

Jim Campbell gave an overview of where in the process we are with the code update and how it was determined that the comprehensive plan be updated as well.

Jim Campbell gave a brief update on the solar committee meeting that took place last week and what the vision is for the committee.

Brian Glise stated that Bruckel came in for a pre-construction meeting for the Wellness Center behind the Exit 9 travel plaza.

Brian Glise stated that Twin Cedars came in for a pre-construction meeting for an expansion of 82 new lots/homes.

Brian Glise stated that a representative for Bruckel came in to discuss renovations of the gas station in East Avon.

MOTION TO CLOSE THE MEETING WAS MADE BY THOMAS MCGOVERN;  
SECONDED BY JEFF 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.

MEETING CLOSED.