

ZONING BOARD OF APPEALS MEETING

MONDAY, JUNE 24, 2019

MEMBERS PRESENT: JEFF MULLIGAN, CINDY KELLEN, BOB WESTFALL,
DIANE ATTEA, SAM PRICE

OTHERS: CEO BRIAN GLISE

VISITORS: PETER FARR, CAROLE FARR, DEBRA SALMON, KAREN
CRATER, ERIC HUPPERT, RICK GAGE, KARL
MITCHELL, TRISTA PLUMMER, DEBBIE NUPP, JANET
MANKO, JUDY FALZOI, LISA ARNOLD, RANDY
ARNOLD, KAREN SCHIEDEL, FRANK CSAPO, KAREN
SMITH, SULLIVAN

CLERK: KIM MCDOWELL

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

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - AYE

CARRIED 5-0.

MOTION TO APPROVE THE MINUTES FROM THE MAY 20, 2019 MEETING AS
SUBMITTED WAS MADE BY DIANE; SECONDED BY BOB.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - AYE

CARRIED 5-0.

FARR, PETER/1914 LAKEVILLE ROAD/TAX PARCEL#35.13-1-1 - SIDE
SET BACK VARIANCE OF 5' FOR GARAGE ADDITION - PUBLIC HEARING

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY CINDY; SECONDED BY
SAM.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - AYE

CARRIED 5-0.

Jeff stated that this is a public hearing for Mr. Farr who is requesting a 5 foot side setback instead of the required 10 foot per Town of Avon Code for a garage addition.

Jeff asked if anyone in attendance had any comments on this matter, which there were none.

Mrs. Farr stated they had the property surveyed by Kevin O'Donoghue and she showed pictures of the marking on the property to the Board members and CEO Brian Glise.

Jeff read the SEQR Resolution - Type II Action to all present.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
PETER FARR – GARAGE ADDITION
1914 LAKEVILLE ROAD – AGRICULTURAL ZONING DISTRICT
TM# 34.13-1-1 – SIDE SETBACK 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 yard setback of 5 feet where 10 feet is required for a total area variance of 5 feet, located at 1914 Lakeville Road within the B-1 zoning district and detailed on all relevant information discussed at the June 24, 2019 Zoning Board of Appeals 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 Diane and seconded by Sam at a meeting of the Board of Appeals held on Monday, June 24, 2019. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - AYE
Samuel Price - 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 June 24, 2019 meeting.

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

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

**JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - AYE**

CARRIED 5-0.

MOTION TO APPROVE VARIANCE WAS MADE BY DIANE; SECONDED BY SAM.

**JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - AYE**

CARRIED 5-0.

Variance has been approved. Since they have already applied and had the permit approved, there is nothing further to do until they need inspections when building the garage addition.

GAGE, JULIANNA & RICHARD/2894 GARDEN STREET/TAX PARCEL
#55.-1-26.3 - REAR SET BACK VARIANCE OF 6 FT. FOR POLE BARN -
CONCEPT DISCUSSION

Mr. Gage is looking for a rear set back variance of 6 feet in the AG district for a pole barn. Mr. Gage showed the board members pictures of where the barn would sit with the variance and without. He doesn't want to put the pole barn in the middle of the back yard, they want the front of the barn to mesh with the tree line in the back. Jeff stated this is a self-inflicted hardship since there is room on your property to adhere to the 30 feet rear set back required in the Town of Avon Code.

Jeff asked how big the barn would be compared to where the woods begin/end on the property. He wants to keep the yard looking aesthetically good which requires him to get request the variance. Mr. Gage stated he could turn the barn without asking for a variance but his wife doesn't want to have the barn in the middle of the yard. Jeff explained the purpose of a variance and read the 5 questions to the Board to answer.

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 - 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 - YES
3. Whether the requested area variance is substantial - NO
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district - 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 - YES

Brian had some questions on exactly where the barn is going to be since the map doesn't coincide with the drawing submitted. Mr. Gage explained on the map where it would be.

Jeff stated if something is self-created we need to decide if we want to grant this variance or deny it since you have room to adhere to the rear set-backs. Brian asked exactly what the setbacks on both the rear and side will be since the map doesn't give us that information. Rick said that the side is 35 feet and rear is 24 feet.

Jeff asked what other board members opinion are on this request. Bob stated that we can't hold a public hearing without having accurate information about the property lines and Diane agreed. Mr. Gage than stated that he is not going to come to the meeting next month due to the fact he will be out of state and neither will his wife, so we he will just turn the pole barn. Jeff agreed that would be the best way to go in this instance and all the Board members agreed.

CSAPO, FRANK/2050 OAK HILL DR/TAX PARCEL#34.18-1-24.12 - AREA VARIANCE TO ALLOW HORSES ON RESIDENTIAL PROPERTY LESS THAN 5 ACRES

Mr. Csapo was present to discuss his request for allowing horses on less than 5 acres. Jeff stated that you may need to get the surrounding parcels combined to get to the 5 acres allowable in the Town of Avon Code. Mr. Csapo doesn't want to combine the parcels per his attorney since all properties are touching a variance could be granted to keep it that way as long as all four parcels remain under the same name and I could come in each year to prove the properties are still under the same name. Years ago the properties were subdivided for his children to build next to him and they are legal building lots.

Bob feels that we need to contact our attorney for some legal advise since he doesn't want to combine the properties. Jeff agreed and Brian suggested they read the variance questions. Jeff read the questions to the board members to answer.

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 - UNSURE
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 - YES
3. Whether the requested area variance is substantial - YES
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district - UNSURE
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 - YES

Jeff stated there are other ways to approach this other than Getting a variance. Mr. Csapo asked what he needs to do to get the parcel combined. Jeff stated he needs to go speak with Tami and start the process to get the lots combined. Brian stated that this has been happening since January and how long are we going to let this keep going. Brian also stated that the fence and paddock do not have a permit either and they also went to the Village to get the horses stabled at the Downs. The Village has a signed lease since June 1, 2019. Jeff feels since they have permission to have the horses at the Downs than they should be at the Downs until this process is completed.

Mr. Csapo is going to speak with Tami to get the lots combined.

THEW, RONALD & FELICIA/6411 ACORN TRAIL/TAX PARCEL#45.-1-84 -VARIANCE FOR ROAD FRONTAGE

Neither, Mr. Thew nor Mr. O'Donoghue, were present to discuss this application. They will need to come to next meeting.

HANSON AGGREGATES NEW YORK LLC/2049 HONEOYE FALLS NO. 6 RD./ TAX PARCEL#26.-1-13-SPECIAL USE PERMIT APPLICATION

No one was present to discuss this application, this was strictly to give the Board members the packet of information from Hanson and future meeting dates. There will be joint meetings with the Planning Board on July 22, 2019 and August 19, 2019. Bob stated he will not be here on July 22, 2019.

The visitors that were present from Oak Openings Road started giving their opinions on the Special Use Permit for the Victor Gravel Pit and Hanson Aggregates. They were showing pictures to the board members and expressing their concerns to the Board. This meeting was not a public hearing, however Jeff allowed them to air their grievances.

MOTION TO CLOSE THE MEETING WAS MADE BY DIANE; SECONDED BY CINDY.

JEFF MULLIGAN - AYE
CINDY KELLEN - AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - AYE

CARRIED 5-0.

MEETING CLOSED.