

PLANNING, ZBA & TOWN MEETING

MONDAY, JULY 18, 2022

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

ZBA: JEFF MULLIGAN, JEFF PASSARELL, BOB WESTFALL, DIANE ATTEA

ABSENT: KATHY MANNIX (PLANNING), CINDY KELLEN (ZBA)

OTHERS: BRIAN GLISE (CEO, AVON),

VISITORS: BOB LYETH, MICHAEL ORMAN, TRERA BRYAN, NEIL HALL, DWAYNE SICKLER, KRISTEN SICKLER, DAWSON SICKLER, DONALD GANTZ

CLERK: KIM MCDOWELL

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

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

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

CARRIED 10-0.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM THE JUNE 20, 2022, MEETING SUBMITTED WAS MADE BY KATHY COLE; SECONDED BY COLLIN HAYES.

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

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

CARRIED 10-0.

ROBERT LYETH/BRONSON HILL ROAD/TAX PARCEL#55.-1-42.1/AREA VARIANCE FOR PRE-EXISTING NON-CONFORMING BUILDING LOT

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

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

CARRIED 4-0.

Mr. Lyeth was present to give a brief description and to answer any questions on this application. He owns a one-acre lot on Bronson Hill Road that was part of a 4-lot subdivision back in 1967-1968 and when the code changed, he was told by the Town of Avon this parcel is a pre-existing, non-conforming building lot. He would like to sell the parcel and wanted to get an area variance for it to sell as a buildable lot.

Jeff Mulligan asked for any public comments.

Mr. Donald Gantz, 2911 Bronson Hill Road, Avon, NY, his property is located along the side and behind this parcel and he is opposed of this variance. He bought the parcel for its privacy and peace & quiet atmosphere and doesn't want a home so close to his house.

Mr. Dwayne Sickler, 2895 Bronson Hill Road, Avon, NY stated his neighbor Chris couldn't make it, but asked for them to read this on his behalf, he is against this variance, he has a farm on one side and doesn't want another on the other side and if the current laws states three acres, then no variance should be granted. Mr. Sickler stated he tried to purchase the land but they were asking too much, so we were stuck hoping they would reduce the price, but they didn't. We moved to this property because it is quiet and peaceful, and the beautiful forest is next to it.

Jeff Mulligan asked where the present landowners live compared to this parcel, and they showed the Board members where they are located.

Bob Westfall asked if there were any structures on the property currently and there are not.

Collin Hayes asked if any structure would have to follow the current setbacks for that area and they would.

Mr. Sickler asked if the property will be for agricultural purposes or residential purposes and that would be up to the owners.

Jeff Passarell asked if we should discuss this with James Campbell before a decision is made and Jeff Mulligan agreed. Brian Glise stated that at our June meeting he discussed this and gave his opinion at that time.

Mr. Lyeth stated that the surrounding lots are mostly an acre or less and only a few of them are 3 acres or more.

Collin Hayes asked if Mr. Lyeth owns any of the properties connected to this parcel and he doesn't. Collin stated from what he has read in our Code, the only way we could deny this variance is if Mr. Lyeth owned a connecting property that he could combine with this parcel to make it a conforming lot.

Mr. Gantz, 2911 Bronson Hill Road, Avon, NY stated that he read the code and the only house that would fit on that lot would be a trailer; Brian Glise stated mobile homes are only allowed in a mobile home park in the Town of Avon.

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

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

CARRIED 4-0.

Jeff Mulligan stated that we really don't have a choice but to grant this variance with what Jim Campbell stated in June. Jeff also asked if there were any questions from the Board members and there were none.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION  
ROBERT LYETH - BRONSON HILL ROAD  
AGRICULTURAL ZONING DISTRICT - TM# 55.-1-42.1  
AREA VARIANCE APPLICATION - A LOT PRE-EXISTING NON-CONFORMING  
BUILDING LOT

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 Application for a single lot pre-existing non-conforming building lot located Bronson Hill Road and 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 Bob Westfall and seconded by Jeff Passarell at a meeting of the Zoning Board of Appeals held on Monday, July 18, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE  
Cindy Kellen - ABSENT  
Bob Westfall - AYE  
Diane Attea - AYE  
Jeff Passarell - 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 Zoning Board of Appeals for the July 18, 2022 meeting.

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

**TOWN OF AVON**  
**OPERA BLOCK BUILDING**  
**23 GENESEE STREET**  
**AVON, NEW YORK 14414**  
 PHONE: (585) 226-2425 • FAX: (585) 226-9299  
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**BUILDING AND ZONING DEPARTMENT**

## ZONING BOARD OF APPEALS DECISION SHEET

Hearing Date: July 18, 2022

Project Name/Number: Robert Lyeth

- Area Variance for a one (1) lot pre-existing non-conforming building lot

Subject Property Address: Bronson Hill Road

Tax Account #: 55.-1-42.1

Zoning District: AG District

Agenda Item: Area Variance for a one (1) lot pre-existing non-conforming building lot.

Motion made by: Jeff Mulligan

Seconded by: Jeff Passarell

Board Members	Present	Motion		Recusal
		Aye	Nye	
1. Jeffery Mulligan, Chairman	X	X		
2. Jeff Passarell	X	X		
3. Cindy Kellen				
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.

ESTATE OF JAMES ORMAN/POLE BRIDGE ROAD/TAX PARCEL#54-1-6.124 -  
SUBDIVISION APPLICATION

Mr. Michael Orman was present to answer any questions regarding this subdivision.

Mr. Orman stated that their mother would like to maintain the 10-acre lot because their father planted all the pines trees on that lot himself. They are planning on selling the larger lot to their neighbor, Jim Anderson.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY BRIAN THORN; SECONDED BY COLLIN HAYES.

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

CARRIED 6-0.

Kathy Cole asked if there were any comments, questions, or concerns regarding this application. She said it is very a straightforward application.

Clara asked where the northern line stops, does it go to the railroad or the creek, and Mr. Orman thinks it is the creek.

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

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

CARRIED 6-0.

Kathy Cole asked if the Board members wanted her to read the following resolutions and they didn't since they have read it prior to the meeting.

TOWN OF AVON PLANNING BOARD RESOLUTION  
JAMES C. ORMAN - 2 LOT SUBDIVISION  
POLE BRIDGE ROAD - TM # 35.-1-12

SEQR - DETERMINATION OF SIGNIFICANCE

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Subdivision Plan Approval for the proposed 2 lot subdivision creating lot 1 at 10.032 acres of vacant land and lot 2 at 59.0 acres of remaining lands (vacant) with no new development proposed as shown on the Subdivision Plan titled "Map of a Survey James C. Orman" prepared by Grover & Bates Associates, dated April 27, 2022 and all other relevant information submitted as of July 18, 2022 (the current application); and

WHEREAS, the Planning Board has determined the above referenced application (hereinafter referred to as Action) to be an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has determined that the proposed development is subject to a single agency review pursuant to Part 617.6(b) (4) of the SEQR Regulations; and

WHEREAS, the Planning Board determines that it is the most appropriate agency for making the determination of significance thereon under the SEQR Regulations; and

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7(c) (1) of the SEQR Regulations and the information contained in the Short Environmental Assessment Form Part 1; and

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby designate itself as lead agency for the proposed development above herein; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):

- (i) there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (ii) there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site;
- (iii) there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed action;
- (iv) the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations;
- (v) there are no known important historical, archeological, architectural, or aesthetic resources on the site, or will the proposed action impair the existing community or neighborhood character;
- (vi) there will not be a major change in the use of either the quantity or type of energy resulting from the proposed action;
- (vii) there will not be any hazard created to human health;
- (viii) there will not be a substantial change in the use, or intensity of use, of land including open space or recreational resources, or in its capacity to support existing uses;
- (ix) there will not be a large number of persons attracted to the site for more than a few days when compared to the number of persons who would come to such a place absent the action;

- (x) there will not be created a material demand for other actions that would result in one of the above consequences;
- (xi) there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and
- (xii) there are not two or more related actions which would have a significant impact upon the environment.

BE IT FURTHER RESOLVED that based upon the information and analysis above and the supporting documentation, the Planning Board determines that the proposed action WILL NOT result in any significant adverse environmental impacts.

BE IT FURTHER RESOLVED that the Planning Board directs the Chairperson to sign and date Part 2 of the Short Environmental Assessment Form and to identify on the Form that the proposed Action will not result in any significant adverse impacts.

BE IT FINALLY RESOLVED that the Planning Board directs those copies of this determination be filed as provided for under the SEQR Regulations.

The above Resolution was offered by Clara Mulligan and seconded by Brian Thorn at a regular scheduled Planning Board meeting held on Monday, July 18, 2022. Following discussion, a voice vote was recorded:

Kathleen Cole - AYE  
Collin Hayes - AYE  
Kathy Mannix - ABSENT  
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 July 18, 2022 meeting.

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

TOWN OF AVON PLANNING BOARD RESOLUTION  
JAMES C. ORMAN - 2 LOT SUBDIVISION  
POLE BRIDGE ROAD - TM # 35.-1-12

SUBDIVISION PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Subdivision Plan Approval for the proposed 2 lot subdivision creating lot 1 at 10.032 acres of vacant land and lot 2 at 59.0 acres of remaining lands (vacant) with no new development proposed as shown on the Subdivision Plan titled "Map of a Survey James C. Orman" prepared by Grover & Bates Associates, dated April 27, 2022 and all other relevant information submitted as of July 18, 2022 (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 an Unlisted action and is subject to a single agency review pursuant to Part 617.6(b)(4) of the SEQR Regulations; and

WHEREAS, on July 18, 2022 the Planning Board made a determination of significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested Subdivision Plan with the following conditions:

1. The plans are to be revised to label the lot identified as "to be conveyed by" with an acreage of 10.032 acres as "Lot 1" and the remaining lands identified with an acreage of 59.0 as "Lot 2".
2. The plans are to be updated to provide a revision date to reflect these changes.
3. Subdivision Plan Approval with conditions specified above herein is valid for a period of 180 days from today. Once all conditions of Subdivision Plan Approval have been met and shown on revised drawings including the revision dates, the Planning Board Chairperson will then sign the plans.

The above Resolution was offered by Christopher Sterner and seconded by Collin Hayes at a regular scheduled Planning Board meeting held on Monday, July 18, 2022. Following discussion, a voice vote was recorded:

Kathleen Cole - AYE  
Collin Hayes - AYE  
Kathy Mannix - ABSENT  
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 July 18, 2022 meeting.

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

Kathy Cole signed the subdivision maps and Mr. Orman will go and register it with Livingston County and send the receipt to Km.

NEIL HALL/1549 WEST HENRIETTA ROAD/TAX PARCEL#35.-1-12 - ZBA - SPECIAL USE PERMIT FOR FLEA MARKET ON PROPERTY

Mr. Hall was present to discuss this application and he was told he needs a special use permit to set up a tent to sell kettle popcorn and a soap on Sunday's.

Brian Glise stated this parcel is across the street from the other flea market, which is pre-existing, non-conforming as well, but has been required to get special use permits for other things outside the scope of his current operations.



Jeff Mulligan stated that Lance Brabant sent over information that is required for this application and Kim will email Mr. Hall the list.

There was discussion about the site plan and what should be labeled on it, such as parking, number of vendors, lighting, dumpsters, statement of operations, bathrooms, signage, hours of operations, etc.

Mr. Hall was wondering if Avon Power Equipment could rent part of the property to display his pre-made sheds that he sells since this is property is more visible.

Jeff Mulligan and Kathy Cole stated the biggest concern for them are people walking across the street, since it is very busy during that time.

Brian Glise asked if Mr. Hall would be able to get what is needed to us for the August meeting and if the Board would want to schedule the public hearing tonight for this application.

Brian Glise stated he is fine with them continuing their operations the way they are during the application process and the Boards agreed.

There was discussion regarding the suggestion from Lance Brabant Regarding a NYS DOT traffic study being done and they will need to discuss it further when Lance is here, and Jeff Mulligan stated most likely at the September meeting.

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

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

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

CARRIED 10-0.

MEETING CLOSED.