

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

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

ABSENT: THOMAS MCGOVERN (PLANNING)

OTHERS: BRIAN GLISE (CEO, AVON), JAMES CAMPBELL (TOWN ATTORNEY), SHAUN LOGUE (MRB GROUP)

VISITORS: JULIA ARMSTRONG, BRYAN BAYER, AMANDA MURPHY, JOSEPH MONTESANO, WHITNEY WRONSKI, ANDREW WRONSKI, JIM WELTON, CAROLYN WELTON

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
JEFF PASSARELL - AYE

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

CARRIED 11-0.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM THE JULY 18, 2022, MEETING SUBMITTED WAS MADE BY KATHY COLE; SECONDED BY COLLIN HAYES.

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

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

CARRIED 9-0.

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

Mr. Hall wasn't present to discuss this application, so it has been tabled until the next meeting.

Kim will contact applicant to remind him of the meeting for next month.

WRONSKI, ANDREW & WHITNEY/1333 WEST HENRIETTA ROAD/TAX PARCEL#25.-
1-20- ZBA - AREA VARIANCE - TWO PRIMARY STRUCTURES ON ONE PARCEL
AND IN FRONT OF EXISTING PRIMARY STRUCTURE

Mr. & Mrs. Wronski were present to discuss this application. Mrs. Wronski stated they want to build a garage with in-law quarters for her parents. They are thinking about doing a three-car garage - one for the parents and two for them - that is two stories. They are proposing to have the garage in front of the house on the South side because the septic and leach fields as well as electric and water is all on that side and it would be easier to connect them.

Bob Westfall asked if there was anything there now and if the driveway they are showing already exists; there is a big pine tree there now and the driveway would need to be installed.

Jeff Mulligan asked if there were any other pictures with different options for placement on the property. Mrs. Wronski did bring a couple different options to pass around, she stated that in the back of the house there are a lot more trees that would need to be removed.

Clara Mulligan would like to see the options and possibly doing something that doesn't require a variance.

Clara Mulligan also asked how big this would be because it looks bigger than the house and Mrs. Wronski said it is not bigger than the house.

Brian Glise asked if they plan on keeping the current driveway on the North side if they added the South side one and Mrs. Wronski wasn't sure. Brian stated that he just recently learned from NYSDOT that if you have more than one driveway, you will need a permit through them to do it.

Jeff Mulligan asked about a second septic tank, and they haven't gotten that far since they were told they needed to get a variance first.

Jeff Mulligan asked how big the parcel is and Mrs. Wronski stated it is 1.82 acres. Jeff also asked if they had public water, and they do.

Brian Glise stated once we get a plan on exactly where they want to build we can determine the variances needed because currently this is a pre-existing, non-conforming lot in the in Agricultural zoning, and you can't have two primaries on one parcel as well.

Clara Mulligan asked about the recent application on North Avon Road which is similar in nature and what variances were granted for that one. Jim Campbell stated it is similar and the variances granted were for an accessory building built before the primary structure: they were also required to have a deed restriction to prevent future subdivisions of the lot because each of the proposed separate residential dwelling units will share the septic system and driveway.

Jeff Mulligan asked the Boards thought on what has been presented tonight, and he would like to have as few variances as possible.

Clara Mulligan asked how big the garage/apartment would be and Mr. Wronski stated 40x50 with first 20 feet as garage and back 30x40 as apartment.

Jim Campbell stated that they would have to contact the NYSDOH to determine whether the existing septic system has capacity for the additional dwelling unit.

Jeff Mulligan liked the alternatives that were brought tonight compared to the one submitted.

There was discussion about having the garage attached to the current house to eliminate a variance and how that would be considered as far as septic, water, and electric.

Jim Campbell stated this is a pre-existing, non-conforming lot because of its size and will need an area variance, which they will want to document this was approved and accepted by the Town.

Mr. & Mrs. Wronski will go back to the drawing board and decide on exactly where they want it placed on the property and whether they want it to be attached or not.

Jeff Mulligan stated at the September meeting we will look over your site plan and determine what other variances are needed and then schedule a public hearing for the following month.

Mr. Wronski asked if there was a height variance which they don't plan on the building being higher than the original house; Brian stated that they should be good.

AVON CSG2 LLC ACTING AGENT FOR STOKOE FARMS/LAKE ROAD/TAX
PARCEL#44.-1-30.2 - SOLAR ARRAY

Kathy Cole is going to recuse herself from this project as well due to the proximity of her sister's house and Brian Thorn will take the lead for the Planning Board.

Ms. Julia Armstrong and Mr. Bryan Bayer were present to discuss this application tonight.

Ms. Armstrong stated they were here two months ago discussing this project and now are back with a completed site plan application to start the process.

Ms. Armstrong gave an overview of Dimension Company and the strong community engagement they have to solar systems in New York.

Ms. Armstrong stated this application is like our previously approved application for Avon CSG1 located on Starkey Drive which they have taken a lot of the components from that project and applied them to this project such as the decommission plan and operation and maintenance plan to ensure they have fulfilled all the requirements. However, this project doesn't require any variances since this is an allowed use with a special use permit on this parcel and it adheres to all the setbacks within the Code.

Jim Campbell asked how many megawatts and it is 5.223MWDC or 4MWAC and the capacity in NYS is 5 MWAC.

Bob Westfall asked what the total acreage is, the total parcel is 70 acres and 14 acres within the fence.

Brian Thorn asked if the applicant has seen the MRB Group comment letter that was just sent out and they have not.

Shaun Logue, MRB Group, stated he has reviewed the materials for tonight, and there are still some items missing for this to be considered a completed application. He will give the applicant a copy of the comment letter.

Mr. Bayer stated they haven't completed some aspect of the application to make sure there were not any changes requested by the Boards to the submitted site plan.

Jim Campbell stated the submitted application isn't considered complete. Once we have a completed application than we will start the SEQR process.

Jeff Mulligan asked how far away the array is from existing dwellings and they are 400-feet away from all properties as per the setbacks in the Town Code.

Mr. Bayer stated they would like some input from the Board regarding the vegetative screening, since this is a sloped parcel, screening along the fence may not be necessary but more along the road edge.

Mr. Bayer stated this will be a fixed tilt system due to the sloping of the property.

Mr. Bayer showed the Board members the viewshed photos submitted previously from all angles on the property.

There was discussion on the nature of the soil for this parcel and it is considered prime soil but because it is on a slope it is harder to farm it according to the landowner.

Mr. Bayer stated there will be approximately 5 poles added.

Jeff Mulligan asked if there were any other questions from the Board.

Bob Westfall asked if this will be owned and operated by Dimension, and yes it will.

Kathy Mannix asked if the other part of the parcel not being used for the array will be farmed by the owner and they believe some parts will be.

Mr. Bayer asked if he could initiate SHIPO and he was told he could.

Brian Thorn asked what makes Avon so special for Dimension and they are looking to own and operate the NY portfolio since it is the company's headquarters.

Jim Campbell asked if this parcel is a lease hold interest, and it is. The lease with the Stokoe's will conform with the decommissioning operations in the Town Code.

Mr. Bayer stated there is a small wetland on the parcel and it will be handled like the Starkey Road site.

They will review the MB Group comment letter and submit the remaining items that are needed for a completed application and will be back next month.

MURPHY, AMANDA/1169 GILBERT MILLS RD/TAX PARCEL#25.-1-13.12 - ZBA
VARIANCE - FARM ANIMALS ON LESS THAN 5 ACRES

Ms. Murphy was present to discuss her application for a variance for her property that is less than 5 acres with farm animals, the Town Code requires 5 acres or more for farm animals.

The current property is 4.9325 acres, and she has horses and cows. When she bought the property, she contacted Coyne Farms to see if they could do a lot line adjustment to get her to the required 5 acres, but they could not do that due to conservancy regulations.

Jeff Mulligan asked if she had any pictures or maps of the property, and she didn't provide any.

Kathy Mannix stated she drove by the property, and she is concerned about the conditions of the horses. Ms. Murphy stated a couple of the horses are older and they are having some issues, but she is working with her vet.

Ms. Murphy stated where the horses are currently pastured isn't ideal and they were looking into clearing the area behind the house for the horses. Due to the cost of everything and the variance that is needed, she put that on hold until she got approval. She currently has a boarding option if this takes longer than expected.

Bob Westfall asked what the total number of animals are on the premise, and she has 3 horses, 2 cows, 3 goats, 10 chickens and some dogs.

Ms. Murphy stated that they do have a plan in place to move the horses to the back of the property once it gets cleared, but this is all on hold until she is granted approval for the variance.

Jeff Mulligan feels the conditions of where the horses are now is not ideal and doesn't look good.

Diane Attea asked how long she has owned the house and had the animals, and Ms. Murphy stated she purchased the property at the end of 2020.

Cindy Kellen asked if Ms. Murphy has had any violation brought against her since owning the property and it has only been this violation of less than 5 acres.

Cindy Kellen also asked if there have been any complaints regarding the conditions of the animals, and Ms. Murphy stated that they did and when ASPCA came out they did not issue any tickets.

Jim Campbell stated that Ms. Murphy is here because of the court proceedings which has been adjourned pending the results of this Board's decision. Ms. Murphy did make an admission in court that she violated the Town Code for farm animals and one of the conditions of moving forward with sentencing is that she must apply for the variance. Jim Campbell also stated that if the ZBA is going to grant this variance, it can have conditions that must be met by Ms. Murphy and if they are not completed the variance becomes void.

Jeff Mulligan stated when you bought the property you must have known it was less than 5-acres and Ms. Murphy stated it was listed as 5 acres and horses were permitted.

Clara Mulligan asked how many animals you are allowed to have if you don't get the variance and Ms. Murphy stated it is just for farm animals.

Jeff Mulligan stated under 5 acres you are not allowed to have any farm animals.

Jim Campbell asked Ms. Murphy if she has the financial ability to make all the improvements discussed tonight and she does.

Jeff Mulligan asked the Board if they have any thoughts on how to proceed with this application. He feels the Board needs to decide if this is even conducive for a variance.

Jim Campbell stated application wise, not considering the animals, it is not inappropriate for Ms. Murphy to ask for an area variance. If the Board is willing to consider this, then you should schedule a public hearing. The Board may want to suggest conditions you are willing to give as part of the approval process if an approval was given.

Bob Westfall would like to see some documentation that she does have the financial means to make these improvements and they could be done on a timely basis.

Jeff Mulligan would like a drawing showing the improvements the applicant wants to make, which is basically a site plan. He feels the Board needs to understand how the applicant is going to clear the backyard for the animals and that includes what type of fence and run-in sheds. The Board would like some pictures of the property to see what has been done and what will be done.

Brian Thorn asked if the variance stay with the property and Jim Campbell stated it does.

Jeff Mulligan questioned the purchase of the property with the intention of having farm animals on it since it is not suitable for farm animals.

Jeff Mulligan also suggested that she lower the number of animals on the property to help with the situation.

Jeff Mulligan stated Ms. Murphy needs to make a site plan and plan of action for this parcel before they will move forward with the variance application.

Ms. Murphy will do all that was requested and be back in September.

Jeff Mulligan and Kathy Cole asked if Brian had any other business he would like to discuss with the Boards.

Brian stated that Six Sprouts is in a holding pattern right now due to the hurdles with the lack of a construction company and not combining the lots yet. Piranha should be starting construction on their new flex building soon.

Brian also stated the solar farm on Routes 5&20 and Pole Bridge will begin planting in September.

Jim Campbell stated we are making a modification to our solar code that addresses not being able to make the project operational until all the requirements of approval and code are met.

Jim Campbell empathized with concerns over the last applicant and that the condition of the animals and the applicant's judgement are not requirements for approval of an area variance. Jim stated that you can't base approval of the area variance on the condition of the animals, you can approve it based on the property not being conducive or suitable to having farm animals. The Board should make any decision based on the area variance criteria set out in the Avon Town Code.

Bob Westfall stated the property doesn't have a lot of open area for animals it is mostly wooded and that is a legitimate reasoning.

Jim Campbell stated that you can put conditions on the area variance such as this property has to be cleared by a certain date and that puts the ball in the applicant's court.

Bob Westfall asked Jim Campbell to discuss the comments that Mr. Dick Martin made to the Town Board meeting the other night.

Jim Campbell stated that Mr. Martin got approval for his mini-storage units and part of the approval was he had to provide a bond for the project. Mr. Martin found that objectionable and complained to the Town Board regarding that condition. Mr. Martin felt the whole process was lengthy and there should be a sheet that states exactly what is required for an application prior to coming to the Boards and Jim stated that all the information is stated in the Town Code. Mr. Martin also made comments about the discussion from the Boards and felt he was inappropriately given the run around and not given a fair review of the project. Jim feels the breakdown was more between him and his engineer than with our Boards.

Jim also stated that Mr. Martin was seeking to have the Town Board waive the required bond and the Town Board decided that if they waived the bond Mr. Martin would have to come back to the Planning Board to get approval again.

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

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

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

CARRIED 11-0.

MEETING CLOSED.