

PLANNING & ZBA MEETING, MONDAY, AUGUST 23, 2021

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

ZBA MEMBERS ABSENT:

PLANNING MEMBERS PRESENT: KATHY COLE, RANDY KOZLOWSKI, CHRISTOPHER STERNER, BRIAN THORN, CLARA MULLIGAN. KATHY MANNIX

PLANNING BOARD MEMBERS ABSENT: THOMAS MCGOVERN

OTHERS: CEO BRIAN GLISE, SHERMAN GITTENS, MRB GROUP

VISITORS: AMBER OYLER, JASON TAYLOR, JEFF LEFROIS, KEVIN O'DONOGHUE

CLERK: KIM MCDOWELL

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

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

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 11-0.

PLANNING MOTION TO APPROVE THE MINUTES FROM THE JULY 26, 2021, MEETING SUBMITTED WAS MADE BY KATHY MANNIX; SECONDED BY CLARA.

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 6-0.

ZBA MOTION TO APPROVE THE MINUTES FROM THE JUNE 28, 2021, MEETING SUBMITTED WAS MADE BY BOB; SECONDED BY DIANE.

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

CARRIED 5-0.

NITSCH, DAVID & SHARON/5973 NORTH AVON ROAD/TAX PARCEL #25.-1-26.6.11 - SUBDIVISION - PUBLIC HEARING

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

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

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 11-0.

Kevin O'Donoghue was present tonight and stated everything is the same as last month's meeting. They are splitting 18 acres with the house and selling off 60 acres of vacant land adjacent to it which is mostly wetlands.

Bob Westfall asked if this requires any type of input from the surrounding property owners and it does not.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY BRIAN; SECONDED BY RANDY.

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

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 11-0.

Sherman Gittens spoke to the board members regarding the Short EFA Part 2 and SEQR Determination of Significance.

Kathy Cole stated the determination of significance has no conditions listed and asked for motions for approval and be allowed to sign the EAF Part 2 form.

TOWN OF AVON PLANNING BOARD RESOLUTION
DAVID & SHARON NITSCH - 2 LOT SUBDIVISION
5973 NORTH AVON - AGRICULTURAL ZONING DISTRICT
TM # 25-1-6.11

SEQR - DETERMINATION OF SIGNIFICANCE

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the proposed 2 lot subdivision creating lot 1 at 18.408 acres containing the existing single family dwelling and barn, and lot 2 at 60.000 acres remaining lands (vacant) with no new development proposed as shown on the Final Subdivision Plan titled “The Nitsch-North Avon Road Subdivision” prepared by Welch & O’Donoghue Land Surveyors, P.C., dated July 16, 2021 and all other relevant information submitted as of August 23, 2021 (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 that copies of this determination be filed as provided for under the SEQR Regulations.

The above Resolution was offered by Brian Thorn and seconded by Christopher Sterner at a regular scheduled Planning Board meeting held on August 23, 2021. Following discussion, a voice vote was recorded:

Kathleen Cole - Aye
Thomas McGovern - Absent
Christopher Sterner - Aye
Brian Thorn - Aye
Kathy Mannix - Aye
Clara Mulligan – Aye
Randy Kozlowski - 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 August 23, 2021 meeting.

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

Sherman Gittens stated the there are no conditions for the subdivision approval.

TOWN OF AVON PLANNING BOARD RESOLUTION
DAVID & SHARON NITSCH - 2 LOT SUBDIVISION
5973 NORTH AVON – AGRICULTURAL ZONING DISTRICT
TM # 25-1-6.11

SUBDIVISION PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the proposed 2 lot subdivision creating lot 1 at 18.408 acres containing the existing single family dwelling and barn, and lot 2 at 60.000 acres remaining lands (vacant) with no new development proposed as shown on the Final Subdivision Plan titled “The Nitsch-North Avon Road Subdivision” prepared by Welch & O’Donoghue Land Surveyors, P.C., dated July 16, 2021 and all other relevant information submitted as of August 23, 2021 (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 August 23, 2021 the Planning Board, serving as lead agency, made a determination of significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

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

The above Resolution was offered by Brian Thorn and seconded by Christopher Sterner at a regular scheduled Planning Board meeting held on August 23, 2021. Following discussion, a voice vote was recorded:

Kathleen Cole - Aye
Thomas McGovern - Absent
Christopher Sterner - Aye
Brian Thorn - Aye
Kathy Mannix - Aye
Clara Mulligan - Aye
Randy Kozlowski - 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 August 23, 2021 meeting.

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

Kathy Cole signed the maps and Kevin will register them with the County and bring back the receipt and signed maps for our files.

SMITH, CHARLES & ROBIN/5717 MARSHALL ROAD/TAX PARCEL #45.-1-83 -
SUBDIVISION

Kevin O'Donoghue is the representative for this application. Mr. & Mrs. Smith are subdividing the property on Marshall Road. This entire property except 8 acres is in easement to stay Agriculture. They subdivided on the South side of the road and sold all but the 3 acres where the garage is. The Smiths are retaining 31 acres and selling the remaining 95.594 acres.

Jeff Mulligan asked if the lot includes the lane and Kevin stated that it is not included.

There were questions on how this land can be subdivided since most of the land is in the conservancy. Kevin stated that the Smiths did consult with the conservancy regarding this subdivision.

Clara Mulligan stated that she spoke with the conservancy, and they are following the rules for this subdivision.

Kathy Cole asked if there were any other questions regarding this application which there were none.

Kathy Cole stated we need to hold a public hearing at next month's meeting.

Kim will contact Kevin regarding the public hearing and getting the sign on the property in the next few weeks.

TAYLOR, JASON & AUDREY/2140 ANTONIO DRIVE/TAX PARCEL #34.-1-5.33
- HEIGHT VARIANCE

Jeff Mulligan asked Mr. Taylor to discuss his application with everyone present.

Mr. Taylor needs storage and would like to put a pole barn in the back of the property near his fence that matches the house.

He would like the pitch of the roof lines to match, to do that he needs a height variance of 7 feet.

Jeff Mulligan asked if there are any setback variances that are needed, and Mr. Taylor stated they do not need a setback variance. The zoning calls for 5 feet from side and rear and he is going in 12 feet each way.

Clara Mulligan stated she feels it looks close to your neighbors back lawn and are they OK with it being in that area. Mr. Taylor hasn't notified any neighbors of his plans.

Kathy Cole asked if there is a little shed already in the backyard and Mr. Taylor stated there is.

Jeff Passarell would like to see letters from his neighbors in support of the building. Jeff Mulligan feels it would be a good idea to let them know about the pole barn prior to the public hearing next month.

Mr. Taylor stated that if he must have it 7 feet lower that would be fine, but he would really like it to look like the house.

Jeff Mulligan asked if there were any other questions and there were none.

Kim will contact Mr. Taylor regarding the public hearing and getting the sign on the property in the next few weeks.

EASTERN GAS TRANSMISSION & STORAGE, INC./LAKEVILLE ROAD/TAX PARCEL #54.-1-2.2 - ACCESSORY BLDG WITHOUT PRIMARY STRUCTURE VARIANCE

Amber Oyler was present to discuss this application. They need to install a new heater and heater building at this location, they need a variance since there is no primary structure on the parcel as well as a side setback variance.

Currently the heaters are outside, and they are replacing them, and the new heaters must be housed in a building.

Kathy Cole stated the site sits low on the property and you can't really see it unless you are on expressway.

Brian Glise asked if there would be more traffic and Amber stated there would not.

Clara Mulligan asked how tall the building would be and Jeff Mulligan stated it would be about 12 feet high.

Kathy Cole asked if they were going outside the existing area and they are not, they will be staying within the fence.

Randy stated the old structure is even closer to the property line than the new proposed structure will be.

Jeff Mulligan asked if there were any further questions, which there were none and we will need to set the public hearing for next month's meeting.

Kim will contact Amber regarding the public hearing and getting the sign on the property in the next few weeks.

LEFROIS, JEFF/1686 LAKEVILLE ROAD/TAX PARCEL #35.9-1-30 - TRANSFER
NAME ON SPECIAL USE PERMIT

Brian Glise began the discussion by giving background information on the Special Use Permit (SUP). Mr. Sharman had a SUP for selling and working on cars when he owned the building and Brian thought it would be best for Mr. LeFrois to come in and get the SUP in his name and possibly amend it.

Mr. LeFrois would like to be able to sell up to 20 cars which would be an amendment to the current SUP.

Mr. LeFrois stated that the glass shop is leaving, and he is not going to get another tenant, he will be taking over that part for his business. He plans on taking the whole building over soon.

There was discussion about if this can just be a transfer or should we consider this a whole new SUP application.

Jeff Mulligan stated that we will need to see a more detailed site plan which includes where parking will be for customers and employees as well as cars for sale.

Sherman Gittens suggested Mr. LeFrois get a survey map or go to the County for a plot plan and show where everything will be on that.

Jeff Mulligan suggested closing one of the driveways to accommodate what Mr. LeFrois is proposing and Mr. LeFrois was open to that suggestion.

There were questions from Board members regarding having a buffer between the road and the cars for sale and whether that is something the Town regulates or NYSDOT. Brian Glise stated it is both.

Jeff Mulligan asked if there is enough distance between the cars for sale and the building and Mr. LeFrois stated there is enough room. Brian Glise stated there needs to be access for emergency vehicles as well.

Brian also stated that we need a statement of operations which should include business hours and days, parking, what type of business is conducted on a daily basis, number of employees, the more detailed the better.

Kim showed an example of a site plan for a SUP to Mr. LeFrois to get an idea of what we are looking for. Cindy Kellen stated you need to make sure everything is labeled.

Kathy Mannix asked in his statement of operations to detail what exactly is done in each building.

Sherman Gittens stated that anything he plans to do in the future can be written down as well, but he will have to come in and get an updated SUP at that time.

Jeff Passarell was looking in the Town Code and feels there needs to be a new SUP. Kathy Cole asked if we have the original SUP for them to read over and Mr. LeFrois supplied a copy to Kathy.

Kathy Cole read the conditions to everyone from the 2003 SUP. Since it stated only 5 cars could be sold and Mr. LeFrois wants to increase it to 20 vehicles, we need a new SUP.

Diane stated at our June meeting the condition for the SUP required new owners to come and get a new SUP. Brian Glise stated that was for a new use, this is the same use as the previous SUP.

Jeff Mulligan stated we need to hold a public hearing at next month's meeting for a new SUP. There was more discussion regarding a transfer, or a new SUP and they decided on a new SUP with everything Mr. LeFrois wants to do on the parcel.

Clara asked if he needs to add more lighting and he said he isn't planning on adding any more lighting, the lighting on the building is sufficient.

Kim suggested getting the site plan to her as soon as possible so she can send it around to see if he is missing anything and if he is he can change it before the meeting.

Mr. LeFrois asked the Board if he can keep doing what he is currently doing, and they said yes.

Kim will contact Mr. LeFrois regarding the public hearing and getting the sign on the property in the next few weeks.

Brian Glise and Kathy Cole asked if there were any concerns from the Board members with anything else in the Town of Avon.

Brian stated he has gone to LG Evans on Lakeville Road regarding the old Doug Lord building that they have purchased and cleaned up. He told them they need to come into a meeting and discuss what is going on with no avail. He explained to everyone they have a SUP permit for LG Evans, but this is a different parcel, and they need to come in.

Brian received a complaint about cars near the road at White Horse and he has spoken to them about it. Brian has told them to come to the Planning/ZBA meetings to discuss what their plans are for the business.

Kathy Cole asked about the car place on West Henrietta Road and the weeds all over and Brian stated he can't go to any business/resident without a formal complaint.

MOTION TO CLOSE THE MEETING WAS MADE BY KATHY COLE; SECONDED BY JEFF MULLIGAN.

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

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE
CARRIED 11-0. MEETING CLOSED.