

PLANNING & ZBA MEETING, MONDAY, SEPTEMBER 27, 2021

ZBA MEMBERS PRESENT: JEFF MULLIGAN, BOB WESTFALL, JEFF PASSARELL

ZBA MEMBERS ABSENT: DIANE ATTEA, CINDY KELLEN

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

PLANNING BOARD MEMBERS ABSENT: THOMAS MCGOVERN, KATHY MANNIX, RANDY KOZLOWSKI

OTHERS: CEO BRIAN GLISE, SHERMAN GITTENS, MRB GROUP

VISITORS: JASON TAYLOR, AUDREY TAYLOR, JEFF LEFROIS, KIM NEFF, DAVID WILLIAMS, KATHERYN DOUD, KEVIN O'DONOGHUE, DONALD & KATHLEEN GUNTHER, JAYESH CHAMPANERI, DOUGLAS HAYES, JAMES BEDRIN, BRYAN BAYER

CLERK: KIM MCDOWELL

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

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

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

CARRIED 7-0.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM THE AUGUST 23, 2021, MEETING SUBMITTED WAS MADE BY JEFF MULLIGAN; SECONDED BY JEFF PASSARELL.

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

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

CARRIED 7-0.

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

Kevin O'Donoghue is the representative for this application. Mr. & Mrs. Smith are subdividing the property on Marshall Road. Kevin made some changes to the survey map after Jeff Mulligan commented on accessing the property at last month's meeting. Kevin showed the Board members the changes he made for accessing the new parcel.

Kathy Cole asked if he changed the lot lines and he said no it is just an egress/ingress easement.

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

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

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

CARRIED 7-0.

Kathy Cole asked if any visitors had any comments which they did not.

Sherman stated that the short form EAF needs to be approved as well as the subdivision itself.

The Board members looked over the Short EAF form that was presented to them.

MOTION TO ACCEPT SHORT FORM EAF PART 2 MADE BY BOB; SECONDED BY JEFF PASSARELL.

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

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

CARRIED 7-0.

Kathy asked the Board members if they wanted her to read the Determination of Significance Resolution or are they OK with it. Clara, Brian, and Chris were all good with it.

TOWN OF AVON PLANNING BOARD RESOLUTION
ROBIN AND CHARLES SMITH - 3 LOT RESUBDIVISION
5717 MARSHALL ROAD – AGRICULTURAL ZONING DISTRICT
TM # 45-1-83

SEQR – DETERMINATION OF SIGNIFICANCE

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Resubdivision Plan Approval for the proposed 3 lot resubdivision creating lot R-1A at 31.279 +/- acres containing the existing 5 acre farmstead, which includes a single family dwelling and barn, as well as a pond and cabin, lot 1B at 3.00 +/- acres, and lot 3 at 95.594 +/- acres which are the remaining lands (vacant) with no new development proposed as shown on the Final Resubdivision Plan titled “5717 Marshall Road Resubdivision” prepared by Welch & O’Donoghue Land Surveyors, P.C., dated August 9, 2021 and all other relevant information submitted as of September 27, 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 Kathy Cole and seconded by Clara Mulligan at a regular scheduled Planning Board meeting held on September 27, 2021. Following discussion, a voice vote was recorded:

Kathleen Cole – Aye
Thomas McGovern – Absent
Christopher Sterner – Aye
Brian Thorn – Aye
Kathy Mannix – Absent
Clara Mulligan – Aye
Randy Kozlowski – Absent

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 September 27, 2021 meeting.

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

TOWN OF AVON PLANNING BOARD RESOLUTION
ROBIN AND CHARLES SMITH - 3 LOT RESUBDIVISION
5717 MARSHALL ROAD – AGRICULTURAL ZONING DISTRICT
TM # 45-1-83

SUBDIVISION PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Resubdivision Plan Approval for the proposed 3 lot resubdivision creating lot R-1A at 31.279 +/- acres containing the existing 5 acre farmstead, which includes a single family dwelling and barn, as well as a pond and cabin, lot 1B at 3.00 +/- acres, and lot 3 at 95.594 +/- acres which are the remaining lands (vacant) with no new development proposed as shown on the Final Resubdivision Plan titled “5717 Marshall Road Resubdivision” prepared by Welch & O’Donoghue Land Surveyors, P.C., dated August 9, 2021 and all other relevant information submitted as of September 27, 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 September 27, 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:

1. Subdivision Plan Approval with conditions as specified 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.
2. The signed Final Subdivision Plat is to be filed with the County Clerk’s Office and the Town Clerks Office.

The above Resolution was offered by Clara Mulligan and seconded by Chris Sterner at a regular scheduled Planning Board meeting held on September 27, 2021. Following discussion, a voice vote was recorded:

Kathleen Cole – Aye
Thomas McGovern – Absent
Christopher Sterner – Aye
Brian Thorn – Aye
Kathy Mannix – Absent
Clara Mulligan – Aye
Randy Kozlowski – Absent

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 September 27, 2021 meeting.

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

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

**JEFF MULLIGAN – AYE
CINDY KELLEN– ABSENT
BOB WESTFALL– AYE
DIANE ATTEA – ABSENT
JEFF PASSARELL – AYE**

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

CARRIED 7-0.

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

Jeff Mulligan asked Mr. Taylor if there were any changes to the application which there was none.

Mr. Taylor stated that he spoke with all the neighbors, and no one had a problem with it.

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

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

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

CARRIED 7-0.

Jeff Mulligan asked if there were any comments which there was none.

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

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

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

CARRIED 7-0.

Jeff Mulligan stated SEQR Type 2 action will have no consequences to the neighbor.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
JASON AND AUDREY TAYLOR – VARIANCE APPLICATION
2140 ANTONIO DRIVE – LR - ZONING DISTRICT
TM# 35.-1-5.33 - HEIGHT VARIANCE

SEQR RESOLUTION – TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering a Height Variance approval for the Accessory Structure building being proposed at 2140 Antonio Drive, within the LR zoning district; 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 Jeff Passarell and seconded by Bob Westfall at a meeting of the Board of Appeals held on Monday, September 27, 2021. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - Aye
Jeff Passarell - Aye
Cindy Kellen - Absent
Bob Westfall - Aye
Diane Attea - Absent

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 September 27, 2021 meeting.

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

TOWN OF AVON
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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Hearing Date: September 27, 2021

Project Name/Number: Jason and Audrey Taylor

- Height Variance Accessory Structure proposed to be 20-feet

Subject Property Address: 2140 Antonio Drive

Tax Account #: 34.-1-5.33

Zoning District: LR District

Agenda Item: Height Variance – Accessory Structure Height proposed to be 20-feet. Current zoning only allows for maximum height of 12-feet. Applicant is requesting a 8-foot height variance for the accessory structure to keep with the character of the primary structure.

Motion made by: Jeff Passarell

Seconded by: Bob Westfall

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				
Alternate: _____				

Approved: X

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.

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

Amber Oyler requested to be present via phone call since she had a 2.5-hour drive to get to Avon, which we agreed upon.

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

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

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

CARRIED 7-0.

Jeff asked if there were any comments which there was none.

**MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY JEFF MULLIGAN;
SECONDED BY JEFF PASSARELL.**

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

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

CARRIED 7-0.

Sherman explained the SEQR Type 2 Action sheet to the Board members.

**TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
EASTERN GAS TRANSMISSION AND STORAGE, INC. – VARIANCE APPLICATION
LAKEVILLE ROAD – AG - ZONING DISTRICT
TM# 54.1-2.2- AREA VARIANCE AND PRIMARY STRUCTURE VARIANCE**

SEQR RESOLUTION – TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering the Area Variance and Variance from the requirement of a Primary Structure approval for the Accessory Structure building being proposed at Lakeville Road, Tax Map # 54.1-2.2, within the AG zoning district; 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 Jeff Passarell and seconded by Bob Westfall at a meeting of the Board of Appeals held on Monday, September 27, 2021. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - Aye
Jeff Passarell - Aye
Cindy Kellen - Absent
Bob Westfall - Aye
Diane Attea – Absent

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 September 27, 2021 meeting.

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

Sherman stated that there are 2 decisions sheets for the Board's consideration for each variance.

Sherman read the setback decision sheet to all present.

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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Hearing Date: September 27, 2021

Project Name/Number: Eastern Gas Transmission and Storage Inc.

- Area Variance from setback requirements

Subject Property Address: Lakeville Road

Tax Account #: 54-1-2.2

Zoning District: AG District

Agenda Item: Area Variance from side setback requirement of 40' and rear setback of 50'. The applicant is proposing a side setback of 13.5', requiring a variance of 26.5' and a rear setback of 33.5', requiring a variance of 16.5'. The applicant states that due to the limited size of the lot that there is no way to meet the required setbacks. It is also stated that the pre-existing nature of the heating operation is at this location, the structure will provide protection to the new heaters from the elements.

Motion made by: Jeff Passarell

Seconded by: Bob Westfall

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				
Alternate: _____				

Approved:

Denied:

Conditions:

3. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.
4. 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.

Clara asked if they need to speak to the neighbors about the setback variance. Brian Glise stated it is not required but this is a public meeting that it is posted on the website, in the LCN, on our bulletin board and the sign is out for 2 weeks prior to hearing.

Sherman also stated that they are not moving anything, they are just putting a structure over the pipes plus this is a utility spot.

Sherman read the next variance for an accessory building on parcel without a primary structure to all.

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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Hearing Date: September 27, 2021

Project Name/Number: Eastern Gas Transmission and Storage Inc.

- Accessory structure on a parcel without a primary structure.

Subject Property Address: Lakeville Road

Tax Account #: 54-1-2.2

Zoning District: AG District

Agenda Item: Variance from the requirement to construct an accessory building to house heaters required for the distribution of natural gas. The area in which the heater building will be installed is an existing natural gas facility. The structure is required to protect the new heaters from the elements.

Motion made by: Jeff Passarell

Seconded by: Bob Westfall

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				
Alternate: _____				

Approved:

Denied:

Conditions:

5. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.

6. 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.

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

Jeff Mulligan asked if there were any changes made to the site plan from last meeting and it is pretty much the same.

Mr. LeFrois spoke again about the drawing he provided. He stated the glass shop is leaving and car toys will be leaving as well. He stated the building footage is 11,474 with the equation for parking he can have 33 cars. He has spoken to some neighbors, and they were good with the changes he is requesting.

Bob Westfall asked if the business is taking the whole building and Mr. LeFrois stated eventually it will be, Car Toys will be leaving soon.

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

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

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

CARRIED 7-0.

Jeff Mulligan asked if there were any comments and there were.

Mr. David Williams, 1685 Lakeville Road, has lived across the street for 9 years. He stated that Mr. LeFrois has cleaned up the building, but his concern is that there have been many more cars on the lot for sale and how many he is allowed to have.

Jeff Mulligan stated this was discussed at the last meeting and it was determined he could have 6-8 cars until the public hearing.

Mr. Williams asked how many cars he is requesting, and Brian Glise told him 20 cars. Mr. Williams is concerned that will devalue his home and his realtor stated it possibly could.

Mr. Williams doesn't want people to be coming at all hours to look at cars or have the lights shine in his windows.

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

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

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

CARRIED 7-0.

Jeff Mulligan stated to all if we grant a permit for 20 cars that is all that is allowed and if there is any lighting being proposed that would go before the Planning Board. The lighting needs to be dark sky compliant which doesn't even allow it to go across the road.

Clara would like to see where the cars are going to be parked on the site plan and Sherman stated they would be along the front of the road and building.

Bob Westfall has driven by the parcel today and he thought the cars he has out front are nice looking cars and his plan to improve the building will be nice.

Kathy Cole asked Mr. LeFrois if his proposed parking will be 10 cars in front and 10 cars on the side of the building and he it is. The customer parking will be in front of the building where the glass shop was.

Mr. LeFrios stated he does have more cars on the lot right now because he staged it to show how it will look. He said everything is clean and well kept and the building looks the best it has been in years. He feels this building is an asset to the corner. He is a legitimate business owner and the neighbor who is right next to them is fine with what I am proposing.

Kathy Cole asked about the property next to it that is owned by Pioneer if it opens to the gated area, and it does not.

Jeff Mulligan asked about the lighting and there is no proposed lighting, just using what it currently there.

Brian Glise stated that it is zoned General Business, in this zoning you can get a special use permit. If it was zoned for auto sales you could have up to 33 cars but since you are requesting a special use permit, the Board can restrict the number of cars on the premise.

Clara asked if the cars that he services for Pioneer are those included in the 20 cars and Mr. LeFrois stated they are not, they are owned by Pioneer, we just service them and give them back.

Sherman asked how many spots will be designated for customer parking and there will be 10 spots. There was discussion regarding emergency access and there is plenty of room.

Clara asked if the parking spots are supposed to be lined out on the site plan and it does.

There was some discussion on whether Pioneer is allowed to park cars on the lot next to LeFrois but it was determined this doesn't effect this application.

Jeff Mulligan moved on to the SEQR Resolution for Type II Action.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
LEFROIS BROTHERS AUTOMOTIVE – AUTOMOTIVE SALES AND SERVICE
1686 LAKEVILLE ROAD – GENERAL BUSINESS ZONING DISTRICT
TM # 35.9-1-30

SEQR RESOLUTION – TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering an application for Special Use Permit Approval to allow the sale and service of automobiles using the current infrastructure located at 1686 Lakeville Road, within the B-1 zoning district, and as detailed on the site plans, and all other relevant information submitted as of September 27, 2021 (the current application); 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 Jeff Passarel and seconded by Bob Westfall at a meeting of the Board of Appeals held on Monday, September 27, 2021. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan – Aye
Jeff Passarell – Aye
Cindy Kellen – Absent
Bob Westfall – Aye
Diane Attea – Absent

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 September 27, 2021 meeting.

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

Sherman started the discussion on the Special Use Permit approval conditions regarding the term of the permit. Does the Board wish to have an open ended term or do you want to have any future owners have it without coming before to these Boards and they decided any future owners need to come back to the Boards for review.

Jeff Mulligan read the rest of conditions to the Boards.

Jeff Mulligan asked if the site plan has been approved by the Planning Board and it has not been.

Kathy Cole stated they would like to see the parking spots designated on the plan along with any signs and lighting on the building.

Clara asked about the signs that was inside the building that you can see from the outside, how is that considered within our code. Brian said it is a sign and that could be considered with the square footage allowed.

Sherman asked if the ZBA Board is in the position to approve the special use permit without having an approved site plan from the Planning Board and they are not. Since they are not, Sherman feels they need to pause on the special use permit approval and determine what exactly we want the site plan to look like. He suggests having Mr. LeFrois come back next month for his approvals and the Boards agreed.

Jeff Mulligan asked the ZBA Board members if we should let him continue without removing any cars that are there now. Bob asked how many cars are currently on the lot and there is 12, Bob doesn't find the number of cars offensive currently on the premise. Jeff Mulligan stated no more than 12 cars on the lot until the special use permit is approved.

Brian Glise stated the state only allows 2 unregistered vehicles on a lot and should consider that when deciding how many cars. Mr. LeFrois stated that any vehicles in your book of registry you are allowed to sell on the lot and you can't drive with a dealer plate unless the vehicle is in the book.

Sherman asked if Mr. LeFrios would resubmit the statement of operations on one page and he will do that for next month's meeting.

GUNTER, DONALD & KATHLEEN/4550 RED FOX RUN/TAX PARCEL #34.-1-3.132
- VARIANCE - ACCESSORY STRUCTURE IN FRONT OF PRIMARY STRUCTURE

Mr. & Mrs. Gunther were present to discuss this application. They would like to build a run-in shed for the horses and it will be in front of the house. The shed will be 12x24.

Clara asked if the neighbors are OK with it and Mr. Gunther said he believes so.

Jeff Mulligan stated that there needs to be a public hearing and Kim will contact them when it is time to get the sign in the yard.

Brian Glise asked if there are any height variances needed, setbacks and everything else will follow code and there is not.

Clara asked if there will be posts in the ground and that is correct.

CHAMPANERI, JAYESH/6107 EAST AVON-LIMA ROAD/TAX PARCEL #36.-1-75.1
- LIQUOR STORE SPECIAL USE PERMIT

Mr. Champaneri was present to discuss this application. The building is separate from the Dutch Hollow Market in the back of the parking lot.

Brian Glise stated we were given direction from Lance Brabant and Jim Campbell regarding the process we need to take. The first thing we need to do is have the Planning Board decide if a liquor store is considered a similar use in the General Business zoning since a liquor store is only allowed in a hamlet in Avon which we have none.

The Planning Board members looked over the code for approved uses in this zoning and had discussion on whether they find it to be similar use in General Business.

This is a separate building with its own parking spaces.

If the Board determines it is similar in nature with the acceptable uses than this will proceed as a site plan application. If the Board determines it is not similar in use than the applicant will need to go to the Town Board to ask them to change the code to allow liquor store in General Business. A Special Use Permit is not even allowed for this application.

Kathy Cole asked how big the building is and it is 1700 square feet.

Kathy Cole asked the Board members if they think it is a similar use and they all agreed it was similar in use to code C & F under General Business.

Sherman said the applicant will need a detailed site plan that includes utilities (water, sanitary), lighting, signage, parking spaces and handicap parking as well, landscaping, emergency access to building.

Mr. Champaneri stated for his Liquor License the building will need to be ready by January 2022, but he may need to go for the extension and Kathy Cole agreed he will need to get an extension since it is going to be October already.

The applicant will submit plans to Kim before October 11, 2021, and then MRB will make comments by October 18, 2021, and any changes will be made prior to the October 25, 2021 meeting.

AVON CSG 1 LLC ACTING AGENT FOR STARKEY DRIVE HOLDINGS LLC & PHILIP
SILVAROLE/5530 WOLCOTT DRIVE/TAX PARCEL #44.-1-36.4 - SOLAR FARM

Mr. Bedrin is from Dimension Energy and Mr. Bayer from C&S Companies and will be discussing this application to the Boards.

Dimension Energy has meet with the Town and discussed the process regarding this application. This array is located on Starkey Drive and Agar Road. They will be purchasing 2 parcels from Pooler and Silverale to make it a total of 27 acres and the coverage of panels will be 6 acres.

Jeff Mulligan asked about the wetlands and if they can use that part of the parcel. Mr. Bayer stated you can't place fill material into wetlands but the foundations for solar racks are driven piles and that doesn't constitute fill in the United States.

They have completed the boundary survey, also worked with National Grid for the connection review and paid for the interconnection agreement with them as well.

Mr. Bedrin feels this parcel is ideal for solar since it is more than 1,000 feet from any residential structures and 500 plus feet from commercial structures. Starkey Drive is an industrial use road and they are 300 feet from Agar Road.

Sherman stated the hurdles that must be taken is where it is located, since Solar is only allowed in an Agricultural district and this is in a PDD. The Town Board is required to give this application their support for the project in this zoning district after SEQR is completed.

Jeff Mulligan asked if they are required a Special Use Permit in a PDD and Sherman stated for any solar project a SUP is required.

Kathy Cole asked which way the panels will be facing, and Mr. Bedrin said they would be facing South. They will change tilt with the sun as it rotates. At full height they will be 10-11 feet tall and will have 2 panels on a rack.

Mr. Bedrin stated that there are 2 items that are not compliant with the new solar law, one is being in a PDD and the other is setbacks. The current setback is 100 feet from Starkey Drive and 50 feet from side and rear instead of 100 feet required.

Brian Thorn asked how many development projects Dimension Energy is operating and they just switched their business plan to become construct, own and operate so none so far.

Mr. Bayer has prepared for the Town part 1 of the EAF and he asked if the Planning Board would declare itself lead agency and get the SEQR process rolling.

Sherman asked if they have done a coordination with SHPO and they have not. He also asked if they identified any utilities and if any access roads are in the wetlands. They are not planning to have the access roads in the wetlands.

Sherman also stated that there is a lack of detail regarding the landscaping and decommissioning plan and wondered about the current lease agreement with the farmers that are currently farming the property.

Sherman also feels that Town Board needs to give it's support of the project before we declare Planning Board as lead agency or move forward with SEQR process.

Kathy Cole agreed that this Board will not move forward until they are given the Town Board's support.

Kathy Cole asked on the EAF Part 1 it states there will be 16.74 acres disturbance, is that different from the 6 acres that covers the solar panels. The 6 acres is for the panels only and the 16.74 is the total acreage being disturbed.

They will go to the next Town Board meeting and hopefully this Board will be able to start the SEQOR process at next month's meeting.

Sherman asked about the decommissioning plan since they are owning the parcel were they still planning on following the standard plans and they are.

MOTION TO CLOSE THE MEETING WAS MADE BY KATHY COLE; SECONDED BY CHRIS STERNER.

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

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

CARRIED 7-0.

MEETING CLOSED.