

PLANNING, ZBA & TOWN MEETING
2022

MONDAY, NOVEMBER 21,

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

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

ABSENT:

OTHERS: BRIAN GLISE (CEO, AVON), JAMES CAMPBELL (TOWN ATTORNEY), LANCE BRABANT (MRB GROUP)

VISITORS: JONI MOSHER, BRIAN MOSHER, SCOTT JONES, STEPHEN REDING, JOSHUA MUIR, SCOTT MUIR, GLEN DEZEW, JULIA ARMSTRONG, BRYAN BAYER, JOSEPH MONTESANO, LARRY HEININGER, JAYMESON BAREFOOT, M. MANN EMERY, DAVID FRAZER, LISA FRAZER, LAURA POTTS, RICH POTTS, JANNIE JONES, PATTY MORAN, JOE FRAZER, LIAM COYNE, JULIE COYNE, JANIS COLE, KATHY MONTESANO, NICOLE RIVERA, FAITH LETSON, KATIE MORAN, DANIELLE MORAN, JOSH TRUBIA, MATT MORAN, ROBERT OROSZ, CHERI PARKHOUSE, LESLIE SCHOENTHANL, JIM SZIZESNIAK, KAREN MONTESANO, MEG HOLMES, RANEE WILL, CATHERINE LOOMIS, KATHLEEN SALVATI, MICHAEL DREXLER, PAT RIO, STEVE PANEK, MARSHA ADDRESS

CLERK: KIM MCDOWELL

MOTION TO OPEN THE MEETING WAS MADE BY BOB WESTFALL; SECONDED BY CINDY KELLEN.

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

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

CARRIED 12-0.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM OCTOBER 24, 2022, MEETING SUBMITTED WAS MADE BY KATHY COLE; SECONDED BY CHRISTOPHER STERNER.

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

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

CARRIED 11-0.

Jeff Mulligan stated we have many public hearings tonight. Please make sure to sign in on the sheet provided in the hallway. Everyone will be given three minutes to express their concerns, please state your name, address, and your stance before speaking. After everyone has spoken once then we will open for additional comments. The Board members nor the applicants will answer any questions. We expect everyone to act civil and courtesy to all. If you have any documentation that you would like to have put in the minutes, please give to Kim McDowell.

DAVID & LISA FRAZER/5701 YANNI COURT/TAX PARCEL#35.14-1-49 -
ZBA - AREA VARIANCE - PRIVACY FENCE ON CORNER LOT -PUBLIC
HEARING

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

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

JEFF PASSARELL - AYE

CARRIED 5-0.

Mr. Frazer lives on a corner lot in Royal Springs and has built a privacy fence to enjoy their outdoor patio. Mr. Frazer put up the fence without a permit which is 6 ft 10 inches high, the Town Code states fences can only be 3 feet high on throughfares.

Cindy Kellen asked for clarification on where exactly the fence is on the property.

Jeff Mulligan asked what the set back of the fence is and it is 23 feet, Brian Glise states the code requires it to be 25 feet from the street right of way.

Mr. Frazer showed pictures of the fence and his property to the ZBA Board members.

Jeff Mulligan asked if there is any public comment.

Richard Potts, 5706 Yanni Court, Avon, NY stated he is in support of the fence, and it doesn't appear to have any vision restrictions. He feels it is well built and the Frazer's are entitled to have some privacy.

Christopher Sterner, 5702 Yanni Court, Avon, NY, lives directly across from this and states it is built nicely and has no concerns about vision obstruction.

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

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

CARRIED 5-0.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
DAVID & LISA FRAZER
57021 YANNI COURT - TM# 35.14-1-49
AREA VARIANCE APPLICATIONS - SIDE SETBACK & HEIGHT

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering Area Variance Applications for the construction of 35 foot long privacy fence along the side of the house located at 57021 Yanni Court. The variance applications are for a side setback as the project proposes a 23.5 foot setback where 25 feet is required for a 1.5-foot variance and a height variance of 3' 10" as the project proposes a height of 6' 10" where 3' is allowed 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 Cindy Kellen and seconded by Bob Westfall at a meeting of the Zoning Board of Appeals held on Monday, November 21, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
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 November 21, 2022 meeting.

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

Jeff Mulligan read through the variance questions for the side setback variance of the fence for the Board to answer.

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. NO

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. NO

Whether the requested area variance is substantial. NO

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. NO

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance. YES

TOWN OF AVON

**OPERA BLOCK BUILDING
23 GENESEE STREET
AVON, NEW YORK 14414**

PHONE: (585) 226-2425 • FAX: (585) 226-9299
http://www.avon-ny.org/index_town.html

BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: David and Lisa Frazer

Hearing Date: November 21, 2022

Subject Property Address: 57021 Yanni Court **Zoning District:** Planned Unit Development

Variance Application: Side Setback of 1.5 feet

Tax Account #: 35.14-1-49

Agenda Item: Seeking an Area Variance for a side setback of 1.5-foot, as the project proposed a setback of 23.5 feet where 25 feet is required to allow for the construction of a 35-foot-long privacy fence.

Motion made by: Jeff Passarell

Seconded by: Diane Attea

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

Jeff Mulligan read through the variance questions for the height variance for the Board to answer.

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. NO

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. NO

Whether the requested area variance is substantial. YES

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. NO

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance. YES

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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: David and Lisa Frazer Hearing Date: November 21, 2022

Subject Property Address: 57021 Yanni Court Zoning District: Planned Unit Development

Variance Application: Height Variance of 3' 10" Tax Account #: 35.14-1-49

Agenda Item: Seeking an Area Variance for the height of the fence of 3' 10", as the project proposes a height of 6' 10" where 3 feet is the maximum allowed to allow for the construction of a 35-foot-long privacy fence.

Motion made by: Bob Westfall

Seconded by: Diane Attea

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

STEVE REDING ACTING AGENT FOR TWIN CEDARS OF AVON/6130 EAST

AVON-

LIMA ROAD/ TAX PARCEL#35.-1-22.111 - ZBA - AREA VARAINCE FOR SETBACKS FOR THE WHOLE MOBILE HOME PARK

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

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

CARRIED 5-0.

Jeff Mulligan asked if the applicant had anything new to add and they did not.

Jeff Mulligan stated the Boards received a letter from residents of Twin Cedars.

Cindy Kellen asked if the variance was going to be granted for every lot in the park and that is correct.

Mr. Reding stated they are not adding any new lots, but it would be for the entire park.

Jeff Mulligan asked how many of them have already been built and there have been 56.

Mr. Reding clarified that there are 56 lots that have building permits but not all are installed yet.

Brian Glise stated the ones that he has given C of O's to recently, only one was 28 feet. Brian stated that when he originally looked at the NYS Uniform Fire Prevention and Building Code it required a 5-foot setback from the property line. Then he researched it a bit more and found that the Avon Zoning E-Code requires a 30-foot distance between manufactured homes in a mobile home park. Once Brian found that out, he called and told them they needed to get a variance.

Jeff Mulligan asked for any public comments.

Cheri Parkhouse, 79 Parkview Drive, Avon, NY, she understands this as the lot size between each home will be smaller. Brian Glise stated that it is the distance between each mobile home, our code says 30 feet and they are requesting it to be 20 feet for any of the newer homes installed not the preexisting homes.

Brian Glise understands that the "lot size" will not be changed based on the current application.

Jeff Mulligan stated that we can't answer questions, we need to hear just concerns.

Cheri Parkhouse's concerns are for the new tenants how they will know where the yards are without squabbles, good fences make good neighbors.

Joni Mosher, Twin Cedars employee, feels the misconception is the residents feel their lot sizes are going to shrink and that is not what we are doing. There are two different lot sizes and that determines what size home we can put on those lots. Twin Cedars tries to make the lot lines between homes distinct. If any resident doesn't know where the line is, they can call the maintenance department to come out and show them.

There was much discussion regarding where the 20-foot setback will be going from, and it is from home to home.

Marsha Andress, 84 Parkview Drive, Avon, NY, is concerned whether the homes that are presently there are grandfathered in, so they don't have to worry about the setbacks.

Mr. Andress, 84 Parkview Drive, Avon, NY feels that they are taking too much time to install these new homes and the park is a mess. He feels the Town needs to make them clean it up and get the homes installed.

Jeff Mulligan read the letter that was sent in by Marda McEvoy Neth and Robin Bellew, 89 Hillside Drive, Avon, NY to all present.

As long-time residents of the Twin Cedars Manufactured Home Park, we are concerned and a little disgusted by how all of the new manufactured homes have been installed and continue to be installed in the park, especially now that the owners have a request for a variance to decrease the distance between each home from 30 ft to 20 ft (a requirement by the Town Code and NYS). However, before we discuss this variance request, we would like to bring to your attention some of the other concerns and questions we have.

Today, the Park owners are having new wood poles installed and placing them in the back center of the new homes - very unattractive and blocking the homeowner's view of their yard.

Why aren't they using the poles that are already there? The poles have always been installed on the property line and there will be an unnecessary and unneeded pole for each new home, and that is a lot of poles. Why didn't they repeat what the former owner, Joel Harper, did on Ashmore Drive where they put a power box in the yards and no poles! Will National Grid meter readers be able to read the meters from the road now that the poles are being placed behind the homes?

Why are the owners installing double-wide homes on sites that held single wide homes - they just don't "fit"! The required 30 feet between each home has been ignored resulting in very little lawn space for the new owners and children to enjoy and why the park owners have requested a variance to change the distance between homes.

The owners have installed cement driveways when the rest of the park homes have asphalt driveways, preferring cement driveways, which they have installed in their parks in Florida. Not to mention, the asphalt driveways were in good condition and didn't need to be ripped up, passing the costs of doing so on to the residents.

Are the new owners' driveways 10x20 to allow adequate space for a pickup truck and other larger vehicles? That should be checked out, too.

Why did the owners change the location and the placing of the driveways resulting in the sidewalks being installed in a crooked, unattractive layout? And some of the sidewalks have been installed in the center of the new driveways. The sidewalks have always been installed to the left of the driveways.

Where is the 10x20 cement patio slab that each home is to have according to the Town of Avon Code & NYS? The Park owners ripped up these slabs and now the residents have no place to put a picnic table, patio cover, even chairs - so, you can't entertain or enjoy the outdoors without being in the lawn!

Sheds were always to be in the back of the homes - now we have sheds installed on the main sides of the homes - so they are in people's line of sight and visible to everyone.

Will the Park's sewer plant be able to accommodate adding 94 new manufactured homes, as planned by the owners? In the past, when the Park was at full capacity, there were problems - and now

there will be 94 new homes needing accommodation. In addition, many times the water pressure is often low and what does that mean when the firemen must put out a fire?

All the new homes' axles are being removed so an owner will not be able to move their home to another park should they choose to do so.

And where are the Certificates of Occupancy in the new homes the Park is renting and/or selling?

For 2023, the Park owners have raised our lot rents 4.5%, an additional 1.5% increase above the NYS allowed 3%. The park owners are within their rights to request such an increase but must be able to show increases in their operating expenses; increases in the owners' property taxes on the park; and increases which are directly related to capital improvements in the park. We must tell you many of our residents will be hard pressed to meet such an increase, especially considering our high inflation.

And now, the owners are asking for a variance to decrease the distance between each new home. They want to decrease this distance to 20 feet from the NYS and Town Code required 30 feet. What about fire safety? What about peaceful and private living? We don't want a park where our homes are at risk of being involved in a fire from your next-door neighbor's home because the homes are too close. Plus, we can't open our windows or even sit outside because we can hear our neighbor's conversations, interrupting our peaceful and private living, which is why we chose to live here.

Twin Cedars owners chose to ignore the zoning requirement of homes being 30 feet apart and should not be allowed a variance. Twin Cedars Manufactured Home Park owners have purposely installed double-wide homes on the smaller single-wide home lots. It is our firm belief that the Park owners, like every Town of Avon resident, must be held to the Town of Avon zoning laws and NYS), and therefore, we are asking that this variance be denied.

The Town's Code Enforcement Officer should remain diligent in keeping a very close "eye" on this park to avoid further code violations. This distance between homes issue could have been addressed a year ago.

We can't stress enough that the residents in this park are relying on the Town and Zoning Board to always "have our backs" and to help us make sure our Park remains a safe, aesthetically pleasing, nice place to live - just like all the other homeowners in Avon.

Thank you.

Larry Heininger, Marques & Associates, doesn't have a dog in this fight but many Towns have 10 feet side back from house to house due to fire flow. He feels Brian Glise should determine under the code what the hydrant flows in the park to determine the distance.

Jeff Mulligan asked if there has been a hydrant flow test and Lance suggested asking the Town water department.

Collin Hayes, Planning Board member, stated it would be a good idea to figure out how many lots would be impacted by variance and what the different recommendations are for this in NYS versus our code. Brian Glise has looked at the codes, international code says 5 feet from imaginary line which is 10 feet apart from homes. Avon Town Code has 20 feet and 30 feet, he doesn't feel fire flow has any bearing on this variance, Avon Fire Department has tanker trucks with 1,000 gallons.

Cheri Parkhouse, 79 Parkview Drive, Avon, NY stated the water pressure is low and everything in that letter is true.

Scott Jones, Twin Cedars employee, every hydrant is on a 6-inch main. The low water pressure is due to each house only having a 2-inch line feeding it.

Jeff Mulligan asked if we should close the public hearing and Lance Brabant asked if the Board is ready to act on this application, if they are not then they shouldn't close the public hearing.

Diane Attea asked if any of the concerns in this letter can be clarified. She is concerned about the patio slab being taken away and Brian Glise said that isn't in the Avon Town Code.

Brian Glise stated in 1995 Joel Harper came in to have Town approval for smaller lots. He also stated that Joel Harper has his own sets of rules for the park and Joel enforces his rules, Brian only enforces the Town code.

Jeff Mulligan stated that the only code the Board needs to address is the set back between homes, everything else is irrelevant. He was more concerned about the fire safety concerns. Brian Glise stated he sent the letter to the fire chief, and he wasn't concerned with fire safety.

Tom McGovern asked if they take out a single-wide trailer and put in a double-wide trailer that decreased the distance between each house and that would shrink their lot line. Mr. Reding stated that doesn't change their lot line just the distance between the homes.

Brian Glise stated the lot lines have been made up by Joel Harper in the park, the Town only has the lines for the whole parcel.

Bob Westfall stated we are used to dealing with setbacks and even though the lot lines don't change the houses are just closer together. He feels it does affect the quality of life.

Clara Mulligan asked is it a fire concern to have the homes so close together. Brian Glise stated other areas have smaller distances between structures and the fire departments are equipped to handle it.

Jeff Passarell stated there are no property lines for each resident and Jim Campbell stated there are no property lines since residents don't own the property and that is an issue between resident and landowner.

Tom McGovern stated that the existing homeowners will not have any changes, it will just be if they have a new home installed on the property next to them.

Mr. Reding stated that they are filling up all the empty lots where a resident may have previously enjoyed having an empty lot next to them, but their lot lines are not changing.

Jeff Mulligan asked Jim Campbell for some clarification on how the Board should proceed.

Jim Campbell stated the variance is for the distance between the homes and the other concerns raised in the letter should be addressed with the landlord and it is not in the Board's jurisdiction. The board must decide on the distance between homes only.

ZBA MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY BOB WESTFALL;
SECONDED BY CINDY KELLEN.

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

CARRIED 5-0.

Jeff Mulligan read through the variance questions for the setback variance for the Board to answer.

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. YES

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. YES

Whether the requested area variance is substantial. YES

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. YES

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance. YES

Jeff Mulligan asked Jim Campbell whether the Board could move forward with a motion to grant the variance request. Jim Campbell stated that based on the answers the Board cannot grant the variance since the answers to all of the criteria questions seemed to be in opposition to granting the area variance. Jim further stated that if that was not your intention in answering the criteria questions, you may want to go back and revisit the discussion on the criteria to make sure you have a consensus.

Jeff Mulligan reread the questions and the Board had lengthy discussion about each.

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. NO

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. NO

Whether the requested area variance is substantial. YES

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. NO

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance. YES

Cindy Kellen asked Jim Campbell if they could put limitations on where this variance can be in the park.

Jim Campbell stated with any variance you can deny, approve, or approve with conditions/limitations. If you do conditions or limitations, the record needs to state the rationale behind it.

Cindy Kellen feels they shouldn't be allowed to put double-wide homes on all the lots, Lance Brabant stated they wouldn't be able to do that, it would depend on the lot.

Mr. Reding stated they can't do it on all lots, they do put a mixture of homes in the park. Mr. Reding stated they are not changing any of the lot sizes.

Clara Mulligan asked what percentage of the lots would be able to have a double-wide placed and Mr. Reding stated probably fifty percent.

Cindy Kellen asked how many homes right now are under the 30-foot setback and Mr. Scott thinks about 85 homes currently.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
STEVE REDING FOR TWIN CEDARS
6130 EAST AVON-LIMA ROAD - TM# 35.1-22.111
AREA VARIANCE APPLICATION - SIDE SETBACK

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 20-foot setback between homes where 30 feet is required for a 10-foot variance to allow for consistency and uniformity throughout the whole community located at 6130 East Avon-Lima Rd. 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 Jeff Passarell and seconded by Cindy Kellen at a meeting of the Zoning Board of Appeals held on Monday, November 21, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
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 November 21, 2022 meeting.

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

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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: Twin Cedars of Avon Hearing Date: November 21, 2022

Subject Property Address: 6130 East Avon-Lima Road Zoning District: Agricultural District

Variance Application: Building Setback of 10 feet Tax Account #: 35.1-22.111

Agenda Item: Seeking an Area Variance of 10 feet from the setback between homes, as the project proposes a minimum of 20 feet between buildings where 30 feet is required to allow for consistency and uniformity in community.

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 | x | x | | |
| 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.

MARQUES & ASSOCIATES PC ACTING AGENT FOR AVON RSD LLC/

2569 LAKEVILLE ROAD/TAX PARCEL#45.-1-80.31 - ZBA - SPECIAL
USE PERMIT - CONCEPT PLAN

Mr. Jaymeson Barefoot was present and stated he thought they were coming tonight for a site plan approval and were surprised when they saw the public notice for a special use permit. They are not storing construction equipment.

Kim McDowell read the ZBA application which states storage of construction equipment and at last month's meeting the Board decided the applicant needed a special use permit.

Mr. Heininger, engineer, stated that the intended use for crane storage is a permitted use, and they will expand the parking area and show the future buildings so the SWPPP captures that, so they don't have to come back to the Board's.

The site plan has been updated with the requests that were given at last month's meeting.

There was much discussion as to why they need a special use permit, the applicant doesn't feel cranes are construction equipment nor would it be stored since they will be going in/out each day. The Town Attorney and the ZBA determined that the intended use will require a Special User Permit.

ZBA MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY CINDY KELLEN;
SECONDED BY DIANE ATTEA.

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

CARRIED 5-0.

Lance Brabant stated you are expanding the parking lot so cranes and trucks can be stored and inside the building will be the material that the cranes will be using on the construction sites they are going to each day. There will be no service or sales done at this site.

Mr. Barefoot stated there will be 18 cranes on site.

Mr. Heininger stated this site will be the central site for the cranes to be parked until they are used the next day.

Lance Brabant asked for a statement of operations and what exactly is going to be stored on site and the number of cranes. There will be no fencing and no new lighting.

Jeff Mulligan asked if there were any comments for this application and there were none.

Lance Brabant asked about the future expansion, and he asked if this is two separate properties. Mr. Barefoot stated it is two parcels and when they are ready to add those buildings, they will be back to do a lot line adjustment to include that area with this parcel.

Lance Brabant stated they will need to go back and add the items discussed tonight to the site plan and submit the statement of operations.

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

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

CARRIED 5-0.

Jeff Mulligan stated that the applicant needs to submit additional information for the site plan and the Board's will act at the December 19, 2022.

Kim McDowell stated that the deadline for the December meeting is December 5, 2022.

JOSHUA MUIR ACTING AGENT FOR SCOTT BATZEL/2606 LAKEVILLE RD/TAX PARCEL#44.-1-59 - SPECIAL USE PERMIT

Mr. Muir was present to discuss this application. Mr. Muir owns Truth and Grace auto repair has been located at the Piranha building and they are looking to expand their business. We are planning to move to Scott's Autobody, and they would like to

have the ability to sell a few cars (3-10 cars). Our primary business would be car repair.

Mr. Muir stated the special use permit that Scott's Autobody specifically states body repair and paint, and we would like to get the special use permit in our name and do car repair.

Clara Mulligan asked about changing oil and what would be the difference between the businesses.

Mr. Muir stated there is a collection system built in under the garage and it gets pumped out periodically. Body work is much more restrictive than auto repair.

Kathy Cole asked Brian Glise if the current special use permit has any limit on the number of cars on the parcel. Brian stated the permit doesn't allow the sale of cars and he doesn't believe there is a limit to the number of cars.

Kathy Cole feels there should be a limit to the number of cars on the parcel at one time but feels this is a good facility for the repair shop.

Tom McGovern said the submitted site plan can have 15 cars due to the number of parking spaces shown.

Mr. Muir stated they will keep everything to the number of spaces shown, he does have a couple of spaces for Mr. Batzel to use.

Kathy Cole asked if all the cars would be licensed and they would, except for the for-sale vehicles.

Brian Glise stated the more specific we are with what the Board's would like for the future Board's and Code Enforcement Officer.

Lance Brabant asked if he could give the distance between the building and displace spot for emergency vehicle abilities and that should be about 20 feet.

Kathy Cole and Jeff Mulligan stated the public hearing will be next month and all updated material should be submitted to Kim by December 5th.

PARCEL#44.-1-30.2 - SOLAR ARRAY

Jeff Mulligan reminded everyone of the procedures that were read earlier.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY BOB WESTFALL; SECONDED BY COLLIN HAYES.

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

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

CARRIED 12-0.

Jeff Mulligan asked the applicant if there were any changes/updates and there are not.

Ms. Armstrong and Mr. Bayer gave a quick overview of the application for all those present.

Jeff Mulligan asked for public comments.

Joe Montesano, 5533 Henty Road, Avon, NY feels his quality of life will be impacted because they can't screen the panels from his view. He wonders why solar farms must be on prime farmland, why can't Stokoe Farms put it on other land that they own. In the Town of Avon comprehensive plan, it states to preserve prime farmland and to keep esthetics with the rest of the community. He feels his home value will be reduced and will have a hard time selling in the future. He feels Stokoe will be making money off this and the rest of the community will not.

Catherine Loomis, 5502 Henty Road, Avon, NY states she hasn't heard anything from the applicant as they have stated. She feels this will have a significant impact on her health and wildlife. She feels solar power is important but should be somewhere else. She is also concerned with water runoff.

Kathy Montesano, 5533 Henty Road, Avon, NY is against this application. She loves her views and once the panels are up, they will not have those anymore. The comprehensive plan states to keep up the rural community and she has safety concerns as well. If they catch fire do the toxic fumes come into my house and who maintains the field. She wonders why the Town doesn't have a moratorium on solar fields.

Katie Moran, 5524 Lake Road, Avon, NY this will be her whole backyard view and she hasn't heard from the applicant either. She has concerns and this doesn't go along with the Town's comprehensive plan, this is prime farmland. Stokoe's posts that they want to carry their farming heritage, and this is changing their vision as well. She is concerned for her kid's health. She feels as people drive through Avon this will be seen. There is no benefit or reduce cost of energy from this. She wants to know everything that will affect their health from this solar farm. Why does the Town of Avon not have a solar moratorium.

Kathy Salvati, Commerce Drive, Avon, NY read a statement from Rob Hayes to all present.

I urge you to voice your opposition to a proposed solar facility in Avon. The Public hearing is this Monday, November 21.

As you may or may not know, The Town of Avon is considering a proposal to install a 5+ MWdc community solar energy facility on Henty Road. The proposed project, Avon CSG2 LLC, will be constructed, owned, and operated by Dimension Energy. The landowner, Stokoe Farms, has signed a lease agreement with Dimension Energy.

I oppose this project for a myriad of reasons, but to me, one of them is paramount and I feel compelled to ask our leaders to put a stop to this!

Our sense of place, both here in Avon and in the wider region, is heavily influenced by our long history of agriculture and our farmland is our biggest resource. We are blessed as a region to have some of the most fertile and productive farmland in all of America!! Consider this:

- The Livingston County Agricultural & Farmland Protection Plan and NYS Department of Agriculture and Markets (AGM) recognize that our county has one of the highest concentrations of prime and productive soils in the state, and the Town of Avon has nearly 15,000 acres of prime agricultural farmland and over 1,700 acres designated as Farmland of Statewide Importance. The proposed site is designated as both Prime farmland and Farmland of Statewide Importance.

- Our 2016 Town of Avon Comprehensive plan cites our agricultural investments and history and encourages future development AWAY from prime agricultural soils ... and now a corporate farm and an Atlanta GA based energy company propose to take 15 acres of Prime Agricultural land offline and out of production for at least the next 40 years?

The Livingston County planning board and the County Agriculture and Farmland Protection Board (AFPB) recognize the potential impact of Solar Energy Systems on Livingston County's prime agricultural farmland as a serious concern. Agriculture is the number one industry in Livingston County, and prime soils are identified in the Livingston County Agricultural & Farmland Protection Plan as an important resource to be protected. The identification and protection of these resources on this site need to be seriously considered.

This project is not right for us, it does not fit, and it falls short of the standards we should consider that could make this a viable solution! We need to fight to protect our rural character, our viewsheds and our agricultural heritage. I will voice my opposition on November 21st.

Janis Cole, 312 Genesee Street, Avon, NY knows nothing about solar panels, but her parents lived on Hal Bar Road and overlooked the school solar field with 40 broken panels. She understands that if you don't own the property you don't get to say what is put on it but currently, in Livingston County there are eight townships that have solar fields and nine that do not. There are ten active producing projects, four under construction, ten projects in the approval process, and eight expected projects. That is a total of 4,433 acres that will not be farmland, which is Livingston County's greatest asset. She doesn't know where the electricity goes or who benefits from it other than the landowner. A friend has someone who has one of these on their land and where told the taxes wouldn't go up and they did and now they are disputing it. She feels this is not a good fit for Avon.

Steve Panek, 2161 Pole Bridge Road, Avon, NY has all the same concerns. He showed the Board pictures of other property that Stokoe Farms own that could have solar farms other than Avon. Mr. Panek wants to know if the fire department has gone through training and has keys to the gate. This is setting a dangerous precedent and these farms have one transmission line which means Avon is becoming a solar alley. My six-year-old son wants to see tractors not solar panels. He is asking the Board to reconsider this.

Meg Holmes, 5478 Lake Road, Avon, NY has solar fields on both sides of her house and is going to see them every day. She heard that LaPoma is trying to get a solar farm in that area as well. She bought her house because of the beautiful area and views. She feels it doesn't affect the Board members since they don't live around there. She will not be able to sell her house or will get nothing for it. The trees aren't big enough to block the view of the solar farms. She doesn't understand why they must have so many solar farms in a small area, and she is begging the Board to think about this before approving it.

Katie Moran, 5524 Lake Road, Avon, NY doesn't want to live near a solar farm. My house has been in my family for generations, and she wants to leave it to her children. The property value will decrease due to these solar farms. She stated the wind in this area is insane and the panels will be damaged. How will things be handled if fragments go into our yards. It just isn't a good spot for a solar farm.

Joe Montesano, 5533 Henty Road, Avon, NY wondered if there were any letters from other citizens from Avon. Mr. Montesano proceeded to read two Facebook posts from Bruce Amey and Jim Blye.

Bruce Amey, North Avenue, Avon, NY clearly supports solar energy BUT not at the expense of installing them on prime agricultural property. There are plenty of sites that are not suitable for farming that can be used but the fact is it costs more to install the arrays in these areas. People want to blame the energy companies for solar farms but the fast is, if the owners of the property cared about our community more than their own greed and pocketbooks, the energy companies would need to secure non-agricultural lands to install their arrays. Again, I am all for renewable energy and feel we need to do more, but not the expense of using up good farmland. Our farms are essential to our community and to our economy, not to mention our kitchens.

Jim Blye would recommend everyone read the Village minutes from October 3rd. It states about the school solar field, it has changed hands several times which makes it hard to know who is responsible for the maintenance. There are currently 40 panels that need repair, and it is running at 82% currently. This seems like a lot of problems for a field only several years old. It also quotes the Town Supervisor in that meeting as saying there are only 2 fields. I as a now Livonia resident would like to say Livonia currently has none and a moratorium on them. Lastly as for the stain on the system for NG that someone keeps talking about that NGs problem they have collected fees for years and should have been reinvesting in their assets. That's my 2 cents.

Mr. Montesano stated Stokoe will be making about \$60,000 a year on this array without having to do anything for that land.

Liam Coyne, 6005 East Avon-Lima Road, Avon, NY my family and I have a dairy farm in Avon. He believes that a landowner has rights to their own land but as landowners, we have a moral obligation and responsibility to the rest of the community. He fears that these big companies will come in and prey on small communities. The Town should make sure they take a good look at the PILOT programs and pump the brakes a little bit. He feels a lot of prime farmlands is being chewed up by solar.

Steve Panek, 2161 Pole Bridge Road, Avon, NY doesn't understand why solar needs to be on farmland.

Jeff Mulligan asked Lance Brabant what the next steps are. Lance stated it is up to the Boards to decide if they want to close the public hearing and move forward or to continue the public hearing. If the public hearing is closed the next step is the SEQR process at the next meeting.

Jeff Mulligan suggested leaving the public hearing open to get more resident feedback and the Board can look at information to proceed.

Brian Glise asked if the Boards want Dimension Energy to address any of the concerns and Jeff Mulligan would like that to happen at next month's meeting.

Kat Montesano asked if there could be an independent consultant to talk to the residents and Jeff Mulligan stated anyone can come and talk during the public hearing.

Katie Moran asked if the company would still get in touch with the residents and Julia Armstrong stated that everyone in a 700 feet radius had been sent two letters and Mr. Nick Walsh stopped by each house and put information in their mailbox.

Collin Hayes stated the Boards have heard a lot of concerns tonight and appreciate residents voicing their concerns. But these Board's do not make solar regulations, we take the proposal that is presented to us and apply it to the Town Code. With regards to the concerns heard tonight, those are better voiced to the Town Board.

Jim Campbell stated that Collin is correct, the Town Board has gone through the solar code over the last four years and feels

that solar is appropriate for this community. The Planning and ZBA boards can't change the laws of the Town of Avon only the Town Board can.

Meg Holmes asked if there is a limit on the number of solar farms in Avon and Jim Campbell stated there are not restrictions like that in the code.

Meg Holmes also asked if the Town of Avon could change their Code to not allow solar farms and Jim Campbell stated yes but that would not change any applications that are in process.

Jeff Mulligan stated it is up to the citizens to go to the Town Board.

Kathy Montesano listened to the Board debate tonight on what can be seen in other areas. This solar farm will be seen for the next 15-20 years and then it will sit and decay. What recourse do you have when your neighbor does something that affects you directly.

Kathy Mannix asked if any of the neighbor's talked to the landowners and they haven't been receptive to our concerns.

Tom McGovern is looking forward to Dimension addressing these neighbors' concerns at next month's meeting.

MOTION TO CLOSE THE MEETING WAS MADE BY CHRISTOPHER STERNER;
SECONDED BY BRIAN THORN.

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

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

CARRIED 12-0.

MEETING CLOSED.