

ZONING BOARD OF APPEALS MEETING

MONDAY, AUGUST 27, 2018

MEMBERS PRESENT: JEFF MULLIGAN, CINDY KELLEN, BOB WESTFALL,
DIANE ATTEA, SAM PRICE

OTHERS: COE BRIAN GLISE, ATTORNEY JIM CAMPBELL, MRB
ENGINEER LANCE BRABANT

VISITORS: GUY MATTHEWS, JOHN METZLER, RICHARD GROTH,
KEN PERELLI, JUSTIN BRUCKEL, PETER BRUCKEL,
DAVID LEFEBER, KATHY COLE, KEVIN LILLIS,
ROBERT & CAROLYN MCKEE, DEBRA SALMON, BRUCE
MAXON, JANET MANKO, JUDY FALZOI, ERIC
HUPPERT, BARB PHILLIPS, STAN PHILLIPS,
WOLFGANG RIETZ, LORRAINE RIETZ, ED & SANDRA
CHAMBERS, ANNE BRISTOL, RANDY ARNOLD,

CLERK: KIM MCDOWELL

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

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

CARRIED 5-0.

MOTION TO APPROVE THE MINUTES FROM THE JULY 23, 2018 MEETING AS
SUBMITTED WAS MADE BY DIANE; SECONDED BY SAM.

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

CARRIED 5-0.

TWARDOKUS, DALE, OAK OPENINGS, LLC/TAX MAP PARCEL #26.-1-22.1/
1392 OAK OPENINGS ROAD/SPECIAL USE PERMIT - EXCAVATION
OPERATIONS PUBLIC HEARING

Jeff stated the public hearing is going to be continued at a special meeting on September 17, 2018 due to the fact that the Special Use Permit application was not submitted to Livingston County Planning Board for their recommendations. The Livingston County Planning meeting is September 13, 2018. Visitor, Mrs. McKee asked if this meeting is open to the public and Jim Campbell stated it is.

Jim Campbell also stated that a motion needs to be made to change the regular meeting from September 24, 2018 to September 17, 2018.

MOTION TO MOVE THE ZBA REGULARLY SCHEDULED MEETING FROM
SEPTEMBER 24, 2018 TO SEPTEMBER 17, 2018 WAS MADE BY BOB;
SECONDED BY CINDY.

JEFF MULLIGAN - AYE

CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - AYE

CARRIED 5-0.

Jim Campbell asked, process wise does it make sense to have the Planning Board in attendance on the September 17, 2018 meeting since Mr. Twardokus will need to have site plan approval if the Special Use Permit is granted. The Board members agreed.

Visitor, Mr. Maxon, stated that last Friday the gates were open and they were mining again as well as today. He asked who is going to shut them down until they get a Special Use Permit. Jim Campbell stated that there must be a written complaint received by the Code Enforcement Office for follow up with any concerns. Jim Campbell stated that we don't go to the site on a daily basis to monitor - if you see something that is happening you must call the Code Enforcement Officer for him to be able to respond. Jim Campbell stated they don't have a Special Use Permit so there shouldn't be any excavating/mining operations on the property at this time. Jeff asked Brian to please check on this and Brian will do so.

Visitor, Mrs. McKee, asked how Mr. Twardokus can determine the amount of material being taken out of the mine since there is no scale on premise and this is how the assessment value is determined. Jeff stated that each loader has a scale. Jim Campbell said he has not spoken to the assessor to determine how that is made.

Visitor, Mrs. McKee, also asked how the research into the DEC permit is going and what have they determined. Jim and Lance both looked into it and they conclude that everything has been done properly and the DEC did a thorough job in the SEQR process. In the end they declared a negative declaration.

Jeff stated that nothing more will be discussed on this issue until September 17, 2018.

KYLE FARMS, MATT KYLE C/O CALL LANDS/2122 AVON-GENESE0 RD/TAX
MAP PARCEL#33.-2-4.124-VARIANCE FOR DRIVEWAY FRONT OF 8 FEET-
PUBLIC HEARING

Mr. Kyle is getting deeded 22 acres from Call Farms and the original plan was to share the driveway. The Planning Board determined that they need to own the driveway as well. However, there is only 54 feet of road frontage and our code states there must be 60 feet road frontage. Mr. Kyle is seeking a variance of 6 feet for road frontage on the property.

Jeff read the following SEQR Resolution:

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
WELCH & O'DONOGHUE LAND SURVEYORS, P.C. FOR
KYLE FARMS SUBDIVISION
2122 AVON-GENESE0 ROAD, TOWN OF AVON, NEW YORK 14414
TM# 34-1-11.12 - AREA VARIANCE

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering an application requesting an Area Variance approval for 6 feet as the pre-existing non-conforming driveway only has 54 feet of frontage where 60 feet is required and located at Avon-Geneseo Road within the) zoning district and detailed on the Final Subdivision Plan titled “Kyle Farms Subdivision” prepared by Welch & O’Donoghue Land Surveyors, P.C. revised last July 30, 2018 and all other relevant information submitted as of August 27, 2018 (the current application); and

WHEREAS, the said improvements for an area variance of 6 feet (frontage) is requested as the pre-existing non-conforming driveway only has 54 feet of frontage where 60 feet is required; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Zoning Board 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 Zoning Board 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 *Sam Price* and seconded by *Diane Attea* at a meeting of the Board of Appeals held on Monday, August 27, 2018. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - *Aye*
Samuel Price - *Aye*
Cindy Kellen - *Aye*
Bob Westfall - *Aye*
Diane Attea - *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 Board of Appeals for the August 27, 2018 meeting.

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

Jeff state that there is a request for a pre-existing non-conforming driveway frontage of 54’ where 60’ is required therefore a 6’ variance is requested.

MOTION TO APPROVE 6’ VARIANCE FOR ROAD FRONTAGE WAS MADE BY BOB ;
SECONDED BY SAM.

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

CARRIED 5-0.

**MATTHEWS, GUY/MATTHEWS BUSES, INC./EAST AVON PLAZA/5578 AVON-
EAST AVON RD/TAX MAP PARCEL#35.-1-36.1 - SPECIAL USE PERMIT
APPLICATION**

Mr. Matthews and Mr. Metzler were in attendance from Matthew Buses seeking a Special Use Permit as per the Planning Board. They are purchasing the East Avon Plaza - they intend to improve the property for their operations as well as leasing office space. There are currently 3 businesses in operation on premise

- Daycare Center moving by end of October, vacuum cleaner sales organization that is month to month rental and has been served a termination notice and Jim Jerris who will be off premise by September 15, 2018.

Jeff likes the proposal and asked if the operation will be moving to Avon. The operation will be a little larger than what they have in Dansville and Avon is closer to Rochester for our customers. They are planning to use the daycare center as their offices. This move will help our business grow. The traffic in/out of plaza will be fairly low. The maintenance work is done on the road. They expect 20 employees, hours of operation is from 7AM - 4PM. They will use 5 & 20 for daily deliveries and not really using Lakeville Road entrance/exit except possibly for employees. They will have approximately 100-150 buses on premise from March-September.

A visitor asked if there was still the Park/Ride in the Plaza - Mr. Groth, owner of plaza, stated that he has the authority to give permission to allow the Park/Ride buses on the property.

Lance stated this will need to go to Livingston County Planning for recommendations, Kim will send it over for their meeting on September 13, 2018. He also suggested that the public hearing be done at the joint meeting on September 17, 2018 for the Special Use Permit and site plan approval. Matthews Buses will have a revised site plan for the meeting on September 17, 2018.

BRUCKEL, PETER/QUICKLEE'S TRAVEL PLAZA/TAX MAP APRCEL #55.-1-4.114/2697 LAKEVILLE RD/CONSTRUCTION OF 100 FT POLE SIGN WITH 928 SQUARE FT. OF SIGNAGE

Mr. Peter Bruckel is requesting 100 foot pole sign. Mr. Ken Perelli put a bucket up at 100 feet between the hours of 10-3 for board members to view. Jeff stated we need to open the public hearing before discussion happens. Cindy asked if the public hearing had notice they needed a variance for a second pole sign as well as this sign they are requesting. Livingston County Planning Board had no official action to approve/disapprove just made some comments on what needs to be reviewed before granting approval/disapproval. Visitor & Planning Board Chair, Kathy Cole was in attendance and Jeff asked if the Planning Board had any recommendations. Kathy Cole and Lance stated it hasn't recently been discussed at a Planning meeting. Visitor, David LeFeber asked if the public hearing has been opened yet for comments.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY CINDY; SECONDED BY SAM.

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

CARRIED 5-0.

Lance stated that there were no responses from any other board meetings. Jeff stated that this application has been going around since the first application was for 80 foot sign.

Mr. Ken Perelli stated they applied for the 100 foot sign - it has gone to Livingston County Planning Board and has come full circle back to ZBA to make a determination.

Much discussion on the original application was for 80 foot and then they pulled this application, did more research on what the exact sign footage will be needed to attract the business they need/want. The Planning Board will need to do site plan approval and it will have to state the fall zone for the sign after the variance is granted. Mr. Ken Perelli stated that this is a new application and the 80 foot sign application should not be considered for this new application's decision.

The Board along with Mr. Peter Bruckel and Mr. Ken Perelli discussed why the need for a 100 foot sign, who you are targeting with the sign, why you need to have two signs on this pole. Mr. Ken Perelli gave an overview of what he stated to the Livingston County Planning Board which is what he has explained in the application and they came to a split vote with no action being taken. Jim Campbell stated that this Board needs to look at the most recent recommendation and not look at the older application recommendation.

Visitor, David LeFeber, stated that as a resident of Avon he is in support of the sign. With the flag across the street, he feels this fits into the atmosphere of the area. He feels that the business is a good business, they promote the Town of Avon on premise and he feels it will not set a precedent.

Visitor, Judy Falzoi, stated that we need to follow the 5 criteria/conditions for the variance from the County Planning Board before a decision is made. Jim Campbell states the criteria for area variance doesn't require showing any kind of economic use.

Cindy stated that if this goes through there are three variances: height of the sign, the square footage of the signs and the use of two ground signs.

Jeff read the SEQR for designating lead agency.

TOWN OF AVON PLANNING BOARD RESOLUTION
QUICKLEE'S TRAVEL PLAZA
2781 LAKEVILLE ROAD (US ROUTE 15)
AREA VARIANCE REQUEST - PDD DISTRICT
SEQR - DESIGNATING LEAD AGENCY

WHEREAS, the Town of Avon Zoning Board of Appeals (hereinafter referred to as Board of Appeals) is considering an Area Variance approval for the installation of an 100-foot freestanding sign located at 2781 Lakeville Road within the Planned Development District (PDD) and detailed on the Signage Plan prepared by Land Tech Surveying & Planning, P.L.L.C. all other relevant information submitted as of August 27, 2018 (the current application). The said improvements would exceed the 20-foot height requirement, the 120 square foot area requirement, and the number of permitted freestanding signs per lot, as outlined in Town Code 130-23(3)(4); and

WHEREAS, the Board of Appeals has determined the proposed action referenced above to be an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Board of Appeals has on Monday, July 23, 2018 declared its intent to be designated the Lead Agency for the proposed Action under the provisions of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Board of Appeals has provided written notices to this effect to the involved and interested agencies; and

WHEREAS, the Board of Appeals has not received any written objections from the involved agencies to the Board's being designated as the lead agency under the SEQR Regulations; and

WHEREAS, the Board of Appeals has previously determined that it is the most appropriate agency to insure the coordination of this Action and for making the determination of significance thereon under the SEQR Regulations.

NOW, THEREFORE BE IT RESOLVED that the Board of Appeals does hereby designate itself as the lead agency for the Action identified above herein;

The above resolution was offered by Diane Attea and seconded by Samuel Price at a meeting of the Board of Appeals held on Monday, August 27, 2018. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - *Aye*
Samuel Price - *Aye*
Cindy Kellen - *Aye*
Bob Westfall - *Aye*
Diane Attea - *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 Board of Appeals for the August 27, 2018 meeting.

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

Jim Campbell read all the EAF sheet questions and the Board members answered all questions. Jeff signed the sheets.

Lance read the SEQR Determination of Significance.

TOWN OF AVON PLANNING BOARD RESOLUTION
QUICKLEE'S TRAVEL PLAZA
2781 LAKEVILLE ROAD (US ROUTE 15)
AREA VARIANCE REQUEST – PDD DISTRICT
SEQR – DETERMINATION OF SIGNIFICANCE

WHEREAS, the Town of Avon Zoning Board of Appeals (hereinafter referred to as Board of appeals) is considering an Area Variance approval for the installation of an 100-foot freestanding sign located at 2781 Lakeville Road within the Planned Development District (PDD) and detailed on the Signage Plan prepared by Land Tech Surveying & Planning, P.L.L.C. all other relevant information submitted as of August 27, 2018 (the current application). The said improvements would exceed the 20-foot height requirement, the 120 square foot area requirement, and the number of permitted freestanding signs per lot, as outlined in Town Code 130-23(3)(4); and

WHEREAS, the Board of Appeals has determined the above referenced Action to be an Unlisted Action pursuant to Part 617 of the State Environmental Quality Review (SEQR) regulations; and

WHEREAS, the Board of Appeals determined that said Action to be subject to a coordinated review and approval by other involved agencies under SEQR Regulations; and

WHEREAS, the Board of Appeals has been designated the lead agency, under the provisions of Part 617.6 (3) and (4) of article 8 of the State Environmental Conservation Law; and

WHEREAS, the Board of Appeals has given consideration to the comments provided by the involved agencies and interested agencies at tonight's meeting; and

WHEREAS, the Board of Appeals has completed its' review of Parts 2 and 3 of the Short Environmental Assessment Form (EAF); and

WHEREAS, the Board of Appeals has given consideration to the criteria for determining significance as set forth in Section 617.7 (c) of the SEQR Regulations and the information contained in Parts 1, 2 and 3 of the Short EAF.

NOW, THEREFORE, BE IT RESOLVED that the Board of Appeals does hereby accept the findings contained in Parts 2 and 3 of the EAF and directs the Board of Appeals Chairperson to sign and date the EAF Part 3.

NOW, THEREFORE, BE IT RESOLVED that the Board of Appeals 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) the project is within an identified Archeological Sensitive Area and coordination with the State Historic Preservation Office (SHPO) has begun; issuance of a No Impact letter is required prior to any site disturbance activities taking place on site;
- (vi) the proposed action will not impair the existing community or neighborhood character;
- (vii) there will not be an increase in the use of either the quantity or type of energy resulting from the proposed Action;
- (viii) there will not be any hazard created to human health;
- (ix) there will not be a change in the use of active agricultural lands that receive an agricultural use tax exemption or that will ultimately result in the loss of ten acres of such productive farmland;
- (x) there will not be a larger number of persons attracted to the site for more than a few days when compared to the number of persons who would come to the site absent the Action;
- (xi) there will not be created a material demand for other Actions that would result in one of the above consequences;
- (xii) 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
- (xiii) there are not two or more related Actions which would have a significant impact on the environment.

BE IT FURTHER RESOLVED THAT based upon the information and analysis above and the supporting documentation referenced above, the proposed Action WILL NOT result in any significant adverse environmental impacts.

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

The above resolution was offered by Cindy Kellen and seconded by Samuel Price at a meeting of the Board of Appeals held on Monday, August 27, 2018. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - *Aye*
Samuel Price - *Aye*
Cindy Kellen - *Aye*
Bob Westfall - *Aye*
Diane Attea - *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 Board of Appeals for the August 27, 2018 meeting.

____Kim McDowell_____, L.S.

Kim McDowell, Clerk of the Board

Jeff asked for any comments. Bob still has reservations about 100 foot sign and square footage of sign, the sign is very busy. Mr. Ken Perelli stated the sign seems large but when it is at 100 feet in the air it will not seem that large, if it was smaller it wouldn't be legible to passing cars. They stated that the flag is 120 feet from the ground but flags are not regulated in our code book.

MOTION TO CLOSE THE PUBLIC MEETING WAS MADE BY DIANE; SECONDED BY SAM.

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

CARRIED 5-0.

Jeff read the area variance questions and the board answered them. Jim stated at this point a determination needs to be made.

Each Board member stated their feelings on the sign. Bob has some reservations about the sign, Cindy stated it is excessive and they don't need it, Diane stated it will set a precedent. Jeff and Sam are in favor of the sign.

MOTION TO GRANT THE VARIANCE WAS MADE BY SAM; SECONDED BY JEFF.

JEFF MULLIGAN - AYE
CINDY KELLEN- NAY
BOB WESTFALL- NAY
DIANE ATTEA - NAY
SAM PRICE - AYE

CARRIED 2-3.

Jim Campbell asked is there any other height that the Board would be willing to grant. Bob asked why not 80 feet and Mr. Ken Perelli stated the engineering firm they hired said only 100 foot sign will be sufficient for their needs. Cindy and Diane stated they feel 50 feet is good.

Jim Campbell questioned if the sign is 100 feet and you take off the lower second sign on the pole would you be in favor of that.

MOTION TO GRANT THE VARIANCES, 100 FOOT SIGN, ADDITIONAL 640 TOTAL SQUARE FEET AND SECOND FREE STANDING SIGN ON PREMISE WAS MADE BY BOB; SECONDED BY SAM.

JEFF MULLIGAN - AYE
CINDY KELLEN- NAY
BOB WESTFALL- AYE
DIANE ATTEA - NAY
SAM PRICE - AYE

CARRIED 3-2.

MOTION TO CLOSE THE MEETING WAS MADE BY SAM; SECONDED BY DIANE.

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

CARRIED 5-0.

MEETING CLOSED.