

The Planning and Zoning Commission of the Town of Avon held a virtual *GoToMeeting* on Tuesday, October 10, 2023. Present were Peter Mahoney, Chair, Lisa Levin, Vice Chair, Dean Hamilton, Mary Harrop, Joseph Gentile, Chet Bukowski, Robin Baran, and Alternates Elaine Primeau (did not sit) and Jamie DiPace (did not sit). Alternate Julie Rousey was absent. Also present was Hiram Peck, Director of Planning and Community Development.

Mr. Mahoney called the meeting to order at 7pm.

PUBLIC HEARING

App. #5019 - Forty One Sandscreen, LLC, owner/applicant, request for Special Exception under Section III.H. of Avon Zoning Regulations to permit earth removal to regrade and add retaining walls and fencing, 41 Sandscreen Road, Parcel 3820041, in an I Zone

Present were Jeremy Vearil, owner; David Tompkins, PE, Spring Hand Corps; and Attys Bill and Richard Case, representing the owner.

Mr. Vearil indicated that he has a property maintenance and excavation business since 1993 that serves Avon and surrounding Towns; 90% of his customers are in Avon and Simsbury and are a mix of residential and commercial properties. He noted he has 5 full time employees. In the summer he offers drainage and landscaping services; in the winter he offers snow removal to various commercial and retail businesses. He noted that he has done snow removal for the Town of Avon for the last 12 years. He explained that his request is to excavate/remove 7,000 cubic yards of material to expand and better organize his usable yard space for storage and better efficiency. He noted he runs his business as efficiently and quietly as possible in compliance with zoning requirements in the Industrial zone. Employees generally start between 7-8am and are done between 4-5pm, Monday through Friday. He noted that he is in his shop on Saturdays and tries to keep the noise to a minimum. The subject proposal should help to cut down on noise and light seen by adjoining residences; a solid fence is also proposed for above the wall. He noted that he bought this property in 2021 adding that the former owner ran a similar sized excavation business from this site.

Mr. Tompkins displayed maps of the site and explained that the application requests excavation for an embankment area to make it flat and easier to use. The site/area has historically been industrial in nature and also residential. A retaining wall is proposed to be able to utilize the site more efficiently as well as clean it up. Nothing different is being proposed for the site other than regrading, removing material, and installing a wall.

Mr. Mahoney asked if the proposed retaining wall will be any closer to the property line than the existing buffer or tree line is now.

Mr. Tompkins explained that the proposed retaining wall will not encroach into the existing tree/buffer line. The tree line is located at the top of the slope.

Mr. Mahoney said that the footprint of the parking area is expanding and looks about double.

In response to Ms. Levin, Mr. Tompkins pointed out where the residential properties are located relative to the tree line. He also pointed out that the distance from the embankment is going to be lessened for those residents who live above the site. A solid 6-foot fence is proposed which will block the view making the site less visible. The fence material is undefined currently but will either be vinyl or solid wood. He agreed with Ms. Levin that if additional landscaping were also added (behind or in front of the fence) that that would absorb more sound and provide a better barrier than what currently exists.

Mr. Mahoney said that the pines located closest to the building look like they will be gone such that all that will be left will be deciduous trees. The fence is going to take the place of that buffer – he asked if there are any plans to plant trees afterwards. He noted that planting some conifers behind the proposed fence would be good.

Mr. Tompkins said that nothing is proposed yet but confirmed that planting trees afterwards would be considered.

In response to Mr. Mahoney's questions regarding the CL&P/Eversource ROW, Mr. Tompkins confirmed that the ROW area is located on Mr. Vearil's property and explained that Eversource never abandons a ROW but they have removed all their equipment in this area. Everything in the area has power but there is no room for more development.

Mr. Peck explained that the existing 50-foot Eversource buffer is not going to be disturbed except for the needed drainage.

In response to Ms. Levin, Mr. Peck noted his understanding that while the Regulations call for a bond there is no need for a bond in this instance, as nothing will be turned over to the Town, but noted that it is the Commission's call. If the applicant does not finish the excavation within two years they will need to come back to the Commission for an extension.

Mr. Vearil said that he is not opposed to an insurance bond.

In response to Mr. Mahoney, Mr. Vearil explained that the proposed grading behind the building (abutting Old Farms Crossing) is a continuation of the existing wall so access can be created to get around the entire building for maintenance and storage of seasonal equipment and to be able to get more items out of the view of the adjoining neighbors (the wall allows for things to be put down lower). He clarified that there are trees existing in this area right now that won't be disturbed with the wall installation. He said that he was recently made aware that the existing vinyl fence that is falling down is his so he is responsible for its maintenance. He clarified that he doesn't want to address this fence right now until a fence is picked for the proposed wall so that everything flows nicely.

In response to Mr. Mahoney, Mr. Peck explained that he doesn't know the history of the construction of Old Farms Crossing and the setback to the subject site located in the industrial zone but added that he knows there were discussions about providing screening between the two sites. At the time, a berm was created and landscaping planted on top of the berm.

Mr. Vearil said that his building was built prior to the construction of Old Farms Crossing in the late 1980s.

In response to Mr. Mahoney and Ms. Levin regarding a timeline, Mr. Vearil indicated that he has things to figure out before he begins the project and wants to line things up properly. He noted that he would like to take a little more time to complete the project to be able to cut down on the amount of trucks needed on the site; he also has to consider his day to day operations that must continue for his customers. He said that he would be happy to work out a schedule with Town Staff and the Commission confirming that two years should be sufficient.

Ms. Levin suggested that should an approval be granted that it be subject to a detailed timetable.

Mr. Bukowski agreed, if an approval is granted, with requiring a timetable which also includes interim dates such that the two years is the completion of the entire project.

Mr. Vearil explained/clarified that the wall must go up during excavation.

The hearing for App #5018 was opened for public comment.

Jim McGarrah, Sylvan Street, said that he submitted a memo for the Commission adding his disappointment that no one asked questions relative to the regulations for earth removal and special exception as the amount being requested is large (7,100 cubic yards). Approval of this request would allow the site to have a more intense industrial use; a denial should be strongly considered because it is overscale for the location. The Regulations allow the Commission to take into account the effect of earth removal on neighboring properties.

Mike Blase, Sylvan Street, said that he is an abutter and knows the owner. The former owner had a couple of pieces of equipment but the site today is crowded with a lot of equipment for a small space; the truck fumes are bad. The site is very loud and noisy and expected to get worse with this application; he noted his objection to the subject proposal. He noted that in the winter activity on the site starts in the wee hours of the morning (e.g. plow hookups). Sylvan Street sits much higher than the site such that a six-foot fence won't do anything. There are large oaks that currently exist that help a lot to block the view but the two rows of deciduous trees that were planted years ago have died off.

Judy (and Matt), Old Farms Crossing, said that she abuts the backside of the subject building and noted her opposition to the application. There is a lot of noise at all hours. When the owner cut into the hill all he did was prop up a very old fence that is maybe 4½ feet tall. Broken tree limbs were dumped on the Old Farms Crossing side. An overgrown pine fell a couple of years narrowly missing her building and took out a fence; the owner has not taken down the rest of the tree. She noted she doesn't have confidence in the current promises being made. The site is currently overload with equipment; it's hard to believe the site is going to expand even more. She noted that this is a quality of life issue for everyone concerned; the lack of sleep is horrendous as the business is very loud and intrusive. She asked that this permit not be allowed to go through.

After some discussion regarding noise, Mr. Peck confirmed/clarified that the Town does not have a general noise ordinance, which would be addressed by the Town Council. The existing Ordinance #71 addresses construction noise.

Lou, 84 Sylvan, said that he is opposed to this application on many levels, as the activity will encroach onto his and other people's property lines. The noise levels have increased and will increase even more with this project. He noted that he was injured in Iraq and moved back to this area for peace.

Mr. Bukowski noted that the previous owner filed a similar application years ago which was denied by the Commission. He asked how the current application is different from the one denied.

Mr. Vearil explained that the original owner applied for a building addition that required a variance so the application was withdrawn. A new application was submitted that did not require a variance.

Attorney Bill Case explained/clarified that the aforementioned application was for a building and the subject application is for earth removal; they are not the same. In addition, the Regulations have changed in the last 35-40 years.

Mr. Blase, Sylvan Street, noted that an application to the Zoning Board of Appeals was denied years ago in part due to the embankment on the site; the embankment was required to remain as well as the oak trees.

Mr. Vearil noted his agreement with Attorney Case that the scenarios are different.

Mr. Case indicated that the proposal is to remove 7,000 cubic yards over a two-year period, which is approximately 380 truckloads in total which equates to ½ a truck per day. He noted that this area of Avon has always been used for industrial purposes, which the Commission should consider. The applicant is requesting to be able to maximize the ability to use the land in an efficient way by having access around the entire building and having storage bins; there is no increase in business operations. The proposed fence will be a solid block that will provide more screening that currently exists. In addition, the applicant will work with the Town to provide a landscape buffer of evergreens.

In response to Mr. Mahoney, Mr. Peck explained that there is no current regulation requiring a 100-foot setback between an industrial zone and a residential zone.

Mr. Case clarified/confirmed that the CL&P easement language (from 1946) does not provide any restrictions as to what the owner of the land (Mr. Vearil) can do other than it cannot interfere with the existing telephone poles.

In response to Ms. Levin, Mr. Case explained that the easement language states that the grantor retains the right to use the easement land for any purposes except for buildings so long as said use, in the judgment of the grantee, does not interfere with the rights granted (which is the right to have telephone/electric poles). There is no limitation as to what Mr. Vearil can do with his land; he added that the applicant can work with Eversource's real estate department for confirmation.

Ms. Levin asked, in connection with the Special Exception criteria, if the subject site is a suitable location for the proposed use (excavation, grading, storage bins).

Mr. Peck pointed out that there is a significant elevation difference between the subject site and the houses on Sylvan Street. The subject site is located in the industrial zone that has existed long before many of the residential uses in the area. The Commission needs to consider these points in their review.

Mr. Mahoney motioned to continue the public hearing for App #5019 to the next meeting. Ms. Levin seconded the motion that received unanimous approval.

The public hearing portion of the meeting was closed.

PLANNING AND ZONING COMMISSION MEETING

NEW APPLICATION

App. #5017 - Star Avon, LLC, owner/applicant, request for Site Plan Approval to permit self-storage facility, 60 Security Drive, Parcel 3900060, in an IP Zone

Present was Matt Parrinello, representing the owner.

Attorney Parrinello explained that the proposal is to convert 60 Security Drive to an indoor, climate-controlled self-storage facility. There is no proposal to change the footprint of the existing building other than to install a drive through (through the building) so customers can pull in unload and drive out the other side. He noted that this has been done in their other facilities in the country. Painting will be done where need be and signs installed. Lighting will be converted to LED, the landscaping will be revamped, and potholes repaired in the parking lot as well as striping added. He indicated that they would like to turn the site into a first-class facility that provides a service to residents.

In response to Mrs. Harrop, Mr. Parrinello explained that the existing building façade will generally look the same adding that there may be some areas that are painted. He noted that the existing roof, which he believes is flat, will remain as is but with some patching, if needed.

In response to Ms. Levin, Mr. Peck explained that he will receive a photometric plan noting that if it demonstrates light trespassing off the site it will not be permitted. He noted he could share the photometric plan with the Commission, if wanted.

Mr. Bukowski motioned to approve App #5017 subject to the following conditions:

1. Applicant shall submit an exterior lighting plan to the Director of Planning for review and approval to ensure there will be no light trespass off the property into any non-industrial areas, specifically any abutting residential areas.
2. Applicant shall work with the Planning Director/Town Staff prior to making/installing any changes to the exterior lighting to confirm/ensure compatibility with the neighborhood.
3. Any detached signage requires a special exception application and approval prior to application for a permit and installation on the site. Any attached signage (i.e., wall signage) requires review and approval by the Planning Department prior to applying and obtaining a building permit for installation.
4. All proposed landscaping and/or exterior lighting to focus on the building shall be submitted for review and approval to the Planning Director prior to any installation.
5. Applicant shall schedule a preconstruction meeting with Town Staff Departments of Planning, Building, and Fire at least 2 weeks in advance of the commencement of any site work activities.

The motion was seconded by Ms. Baran and received unanimous approval.

App. #5018 - Simsbury Commons, LLC, owner, Raising Cane's Restaurant, LLC, applicant, request for Site Plan Approval to permit traffic circulation and infrastructure in AVON for restaurant proposed in Simsbury, 530 Bushy Hill Road, Parcel B20/508/001, in a B3 Zone

Present were T.J. Donohue, on behalf of both the applicant and owner, and Jeff Bord, PE, Bohler Engineering.

Mr. Bord displayed maps/plans of the site. Approval has been received from the Town of Simsbury. There is an existing 80-foot buffer between West Main Street and the existing curb line and this will remain as is. The Town of Simsbury asked that landscaping be added in this area, which is shown on the plans. The exiting maneuver that exists today from the site has been maintained as well as the existing drive aisle. The directional signs internal to the site will be relocated to provide more clarity.

In response to Mr. Gentile, Mr. Bord explained that 36 parking spaces are provided in Simsbury (22 spaces are required) adding that all the parking is located in Simsbury with the exception of one parking space which is in

Avon. Mr. Gentile said that he would prefer that none of the site plan be located in Avon adding that he doesn't like the idea of us allowing a Class III restaurant site within Avon when it doesn't fit our Regulations.

In response to Ms. Levin, Mr. Bord said that the one parking space located in Avon could be eliminated, if needed.

In response to Mr. Peck, Mr. Bord confirmed that the one parking space in Avon could be eliminated and the plan would still comply with the Town of Simsbury. He indicated that there is no intention to change the 13 parking spaces located outside of the leased area.

Ms. Levin motioned to approve App #5018 subject to the following conditions:

1. One parking space in the southern corner of the property shall be removed – this space is located in Avon.
2. Traffic/circulation/infrastructure located in Avon is found to be acceptable and shall remain available for parking.
3. Commission recommends that the proposed building architecture undergo review by the Town of Simsbury, as the building will be highly visible in Avon.
4. The applicant shall supply a copy of the asbuilt plan showing parking for the leased area.

The motion was seconded by Mr. Gentile and received unanimous approval.

OTHER BUSINESS

Housing Task Force - Update

Mr. Peck reported that a *virtual GoToMeeting* of the Housing Task Force was held on September 28; in attendance were Mr. Peck, Ms. Levin, Mr. Bukowski, Christine Graesser, and Pam Monroe. He noted that the group decided that a specific charge for the Task Force should be identified so he is currently drafting something that will be shared with the Task Force as well as the Commission before it is adopted. Mr. Peck indicated that he is also conferring with the Town Attorney to make sure that everything for the Task Force is done correctly. He added that he is also currently looking into different communities that have housing groups (private, non-profit groups) and researching how they raise funds. He noted that sometimes these groups work hand in hand with land trusts. He concluded by noting that he will keep everyone informed regarding information and updates in connection with the Housing Task Force.

STAFF UPDATES

Avon Village Center

Mr. Peck reported that Staff is working continuously to get the roads in the Village Center approved, adding that hopefully it will be accomplished in the near future. He noted that he doesn't know of any new tenants in the existing buildings but reported that there are people who are very interested in the residential portion of the project.

There being no further business the meeting adjourned at 9pm.

Linda Sadlon

Avon Planning and Community Development