

The Planning and Zoning Commission of the Town of Avon held a meeting at the Avon Town Hall on Tuesday, March 11, 2014. Present were Linda Keith, Chair, Carol Griffin, Vice Chair, David Cappello, Marianne Clark, Christian Gackstatter, Peter Mahoney, Tom Armstrong, and Alternate Elaine Primeau. Absent was Alternate Jenna Ryan. Also present was Steven Kushner, Director of Planning and Community Development.

Ms. Keith called the meeting to order at 7:30pm.

APPROVAL OF MINUTES

Mrs. Griffin motioned to approve the minutes of the February 18, 2014, meeting, as submitted. The motion, seconded by Mr. Gackstatter, received approval from Mesdames Griffin, Keith, and Clark, and Messrs. Gackstatter and Cappello. Messrs. Mahoney and Armstrong abstained, as they had been absent from the February 18 meeting.

PUBLIC HEARING

App. #4708 -Meredith Corporation dba WFSB-TV, owner/applicant, request for Special Exception under Section IV.A.4.a.of Avon Zoning Regulations to replace communications tower and add Doppler Radar weather system, 375 Deercliff Road, Parcel 2090375, in an RU2A Zone

Also heard at this time but not part of the public hearing:

App. #4709 -Meredith Corporation dba WFSB-TV, owner/applicant, request for Site Plan Approval to replace communications tower and add Doppler Radar weather system, 375 Deercliff Road, Parcel 2090375, in an RU2A Zone

Mrs. Clark motioned to continue the public hearing for App. #4708 to the next meeting, scheduled for April 8. The motion, seconded by Mrs. Griffin, received unanimous approval.

Mrs. Clark motioned to table App. #4709 to the next meeting, scheduled for April 8. The motion, seconded by Mrs. Griffin, received unanimous approval.

App. #4710 -DP3 LLC, owner, Scott Morrison, applicant, request for Special Exception under Section V.O.5.of Avon Zoning Regulations to permit outdoor dining, 300 West Main Street, Parcel 4540300, in a CR Zone

Present were Kim and Scott Morrison, New England Pasta Company/applicants, and John Dillon, property owner.

Mrs. Morrison explained that 2 areas of outdoor dining are requested; one area for New England Pasta and one area for Stonepost Bakery. She noted that it was decided that it would be better and safer to locate the outdoor dining tables closer to the building for New England Pasta; the area in front of the building is 10 feet wide. She noted that 40 feet of fencing is proposed in front of the building, from door to door. She added that six tables of two, for a total of 12 seats, would be placed behind the fence.

In response to Ms. Keith's question about concrete barriers, Mrs. Morrison explained that it is her experience that many people trip and fall over them, noting that there are concrete barriers at the former location of New England Pasta Company at 210 West Main Street.

Mr. Kushner explained that in lieu of having concrete barriers, the proposed fence would be set back slightly to address car bumpers that may hang over. Mrs. Morrison concurred noting that the fence would be set back 5 feet from the edge of the curb to provide 5 feet of walkway (5 feet of walkway and 5 feet of area for tables).

Mrs. Morrison explained that the outdoor seating area for Stonepost Bakery proposes an area 20' x 22' with 20 seats; 37-inch-high fencing would be installed along 2 sides.

In response to Mr. Gackstatter's questions, Mrs. Morrison clarified that the existing sidewalk in front of the building (NE Pasta Company) is 10 feet wide and noted that there are no plantings on the sidewalk; the area is all cement.

Mr. Dillon stated that the fence would be fixed/anchored to the ground and made of wrought iron.

In response to Ms. Keith's question about dumpster installation, Mr. Dillon indicated that it's too cold to pour cement right now but noted that as soon as the weather is warm enough it would be taken care of. Ms. Keith noted that she wants to ensure that conditions of prior approvals are being addressed. Mr. Dillon noted his understanding.

Mr. Kushner suggested that an open design fence (similar to fence at "Fresh Market") be considered, as it would be more aesthetically appealing. Mrs. Morrison noted her understanding and agreement.

Mrs. Morrison stated that a new application for the use of the second floor of the rear building will be submitted for the next meeting. She added that the details are not yet ready but noted that she will be working with the Town to come up with a plan that best complements both businesses. She noted that people are looking for small, private gathering spaces.

Ms. Keith noted her understanding and asked for an overall plan for the site including parking.

Mrs. Morrison noted her understanding and explained that she feels the site planning is now in the final stage.

In response to Mr. Armstrong's question, Mrs. Morrison confirmed that all six tables will be located in a row; the space to the left of the building will not be used.

Mr. Kushner noted that outdoor planters could be located in the open area. Mrs. Morrison concurred.

In response to Mr. Gackstatter's questions, Mrs. Morrison explained that the outdoor seating area would be handled the same as the indoor seating; she noted that some people choose self serve but waitress service will also be available. Mrs. Morrison confirmed that she has staff to address trash issues.

In response to Mrs. Clark's comments, Mrs. Morrison explained that she would provide a trash receptacle outside and reiterated that she would love to see more greenery/plantings in front of the

store.

There being no further input, the public hearing for App. #4710 was closed.

App. #4711 -Bruce and Candace Heublein, owners, Clinton and Colleen Jambor, applicants, request for Special Exception under Section IX.E. of Avon Zoning Regulations to permit house construction in the ridgeline, 60 Gibraltar Lane, Parcel 2400060, in an RU2A Zone

Present were John Stewart, landscape architect, CR3; Robin Pearson, Alter & Pearson, LLP; and Clinton Jambor, applicant.

Attorney Pearson stated that she represents Clinton and Colleen Jambor, applicants, as well as the property owners, Bruce and Candace Heublein. She noted that the property is significant in size with only .97 acres in Avon; the land in Avon is located within the Ridgeline Protection Overlay Zone. She explained that the Jambors would like to purchase the property for their residence and have approached the site with great sensitivity relative to development. The applicants have worked extensively with Town Staff to meet all requirements and come up with a design that is sensitive and respectful of the uniqueness of the site while also considering the environmental considerations. Ms. Pearson noted that the sensitivity exhibited by the Jambors appeals to the Heublein family, who have owned this property for many, many years. Ms. Pearson read, verbatim, and submitted, for the record, copies of a letter addressed to the Commission from Candace Heublein, dated March 10, 2014. Ms. Pearson addressed the Town Planner's comments noting that the subject application is a special exception but noted that much of what is proposed is allowed under the Ridgeline Protection regulations. She noted that except for some minor additional clearing proposed, it would have been possible for the Town Staff to allow the proposed development to occur without having to come before the Commission. She explained, however, that Mr. Kushner indicated that due to the cumulative aspects of the proposal and the willingness of the Jambors to work closely with the Town, it was deemed advisable to come before the Commission. She explained that Avon's Ridgeline Protection regulations allow a property owner to increase the footprint of an existing structure in the overlay area for a cumulative footprint of up to 1,500 square feet; she explained that this is what the subject application proposes. The Overlay Zone allows for clearing for septic areas, which is requested in this application, and also allows for clearing up to 15 feet around the perimeter of the 1,500-square-foot footprint, also proposed as part of this application. She noted that the construction of a pool adjacent to the footprint of the existing structure is also requested, which is a little above what would be allowed by right under the Regulations. Removal of 2 trees is needed to construct the pool and that is partly the reason for the subject application. She noted that approximately 225 square feet of additional clearing (above what would be allowed by right under the Ridgeline Protection regulations) is requested for driveway construction. In front of the area proposed to be cleared for driveway construction is a grove of old trees that screens the area requested to be cleared. Ms. Pearson indicated that while the subject proposal is more than what would be permitted by right under the Regulations it is modest, as noted by the Heublein family. She concluded by noting that she feels the subject application meets the requirements of the Regulations and is worthy of the Commission's favorable review.

Dr. Clinton Jambor explained that he and his wife both have separate medical practices located on Dale Road in Avon and added that they moved to the area approximately 8 years ago. He noted that both he and his wife are very excited about the subject property, as they have wanted to move to Avon for the past few years. He noted that the property has been in the Heublein family for 6

generations and added that the Heublein family has been very supportive of their house plans. Dr. Jambor indicated that a lot of time and resources have gone into the subject proposal; he added that he and his wife are very passionate about the site, as it has beautiful views and outcroppings.

John Stewart displayed photos of the site and submitted copies for the Commission. Mr. Stewart noted that the site contains less than one acre in Avon, as the majority of the site, approximately 9 acres, is located in Bloomfield. He noted that the existing house, located in Avon, sits right on the ridge and there are 2 buildings in Bloomfield, a garage and storage building. He explained that the proposal is to build a 1,500-square-foot addition behind the existing house. The north and south walls of the existing structure are proposed to be saved such that you would not see anything beyond what exists now. Mr. Stewart clarified that, by right, a 1,500-square-foot addition could be built in either direction and the existing structure could be used as a garage. He noted that a 1,500-square-foot rectangle is almost 1½ times the size of the existing footprint of the existing house. He added that the entire area could be cleared for a 1,500 SF addition plus an additional 15 feet around the addition but noted that a decision was made not to do that, as it didn't appear to be sensitive to the area or respectful to the Town and the Regulations. He noted that the existing deck in front of the existing structure would remain and the proposed pool would extend to the south side of the house. He explained that the property located in Bloomfield drops down to the MDC Reservoir and further explained that aside from the septic system to be located just over the Town line, the Jambors have no intention of developing that area. The site is forested and a 30-foot area along the ridge has been proposed as a conservation easement area; there would be no construction and no trees taken out of this area. Mr. Stewart displayed several photographs of the site taken from different locations in Avon (Montevideo Road and Gibraltar Lane) and noted that the existing structure is barely visible from Route 44. He addressed the existing concrete deck (located in front of existing structure) noting that it is in good shape and there is no need to take it down. He noted that the area where the pool is proposed is quite open and fencing would be needed; there is a large tree that is proposed to be saved but added that there are no shrubs of any kind and therefore some junipers, some deciduous trees and some pines are proposed.

In response to Mr. Cappello's questions, Mr. Jambor explained that the millstones were brought to the site by the Heublein family and will remain. Mr. Stewart explained that the existing chimney is not really worth saving, as it's in rough shape. He noted that clearing for the pool is very minimal but noted that some clearing will be needed for the septic system.

In response to Mr. Gackstatter's questions, Mr. Stewart confirmed that the intention is for the existing large juniper tree to remain. He explained that the millstones are large, probably 5-6 feet in diameter. He noted that the pool location is proposed parallel to the property line. Mr. Stewart explained that the existing structure is a single-roof building that has stuffed animals on the inside (taxidermy). He addressed proposed construction noting that the existing roof would come off and the back of the house removed to allow the addition; there is no significant amount of plant material in this area.

In response to Mrs. Clark's question, Mr. Stewart explained that no blasting is proposed although ledge does exist.

Mr. Stewart noted that the existing floor grade of the existing structure remains. He explained that the architect/engineer/surveyor have designed the building addition such that no blasting would be needed; the areas of elevation change would be located and the house addition/design worked

around it. He further explained that the pool can be pinned directly to the ledge; no blasting needed. The terrace proposed behind the pool would be constructed via piers such that there would be no land disturbance.

In response to Mrs. Griffin's question, Mr. Jambor explained that the pool may be only 3 to 4 feet deep on one end but noted that the land drops down so the other end could be 6 feet deep. He indicated that his goal is to work within the existing environment and construct without blasting.

Mr. Stewart confirmed that no basement is proposed and noted that the only digging proposed is just what is necessary for the slab.

Ms. Pearson indicated that a basement would be allowed under the Zoning Regulations but noted that the applicant has decided against it.

Mr. Stewart addressed the proposed house exterior noting that the intention is to use two shades of brown to match the environment. He added that every effort would be made to harmonize the proposed stonework around the house with the existing stones on the site. He noted that the existing trees located in view just beyond the existing structure would be saved and further noted that the trees proposed to be removed are allowed to be removed by right. Mr. Stewart referred to the elevation photos of the proposed structure noting that earth/brown tones are used. The proposed pool has an infinity edge. He explained that the proposed structure (second floor) "steps back" and does so because the Regulations allow only 100 square feet of building on top of an existing structure. He explained that the proposed third floor "steps back" again noting that these efforts are to minimize the impacts and views from below. He noted that scotch pines and junipers are proposed, as those types of trees can withstand the windy environment on top of the mountain. He explained that there is an existing septic system on the site that cannot be located and therefore a new septic system is proposed and has been engineered.

In response to Ms. Keith's concern about the portion of the road/driveway proposed to be eliminated, Mr. Stewart explained that the existing road/driveway would terminate at a specific point noting that there is a large outcropping of ledge nearby. He indicated that the photo showing the "view" looking up the driveway would remain the same after the driveway portion is removed. He noted that only necessary clearing would be performed such that when you walk out of the house the ledge would exist right out of grade.

In response to Ms. Keith's question, Mr. Kushner confirmed that the Commission can only address the property located in Avon. He indicated that he has talked with the Town Planner in Bloomfield and they are aware of the proposal and have no concerns; there are no ridgeline regulations in Bloomfield. The vast majority of the house will be constructed in Avon and all inspections will be conducted in Avon; Bloomfield relinquishes any responsibilities in this regard. The Farmington Valley Health District will be involved in the approval of the septic.

In response to Mrs. Griffin's questions/concerns regarding the exterior of the house, Mr. Stewart explained that the architect decided that it would be better to use wood for the proposed addition, even though the existing structure is brick; wood offers more subdued tones/colors. He noted that the Jambors' intent is to use non-reflective, non-mirrored glass for the windows.

In response to Mr. Gackstatter's question, Mr. Stewart explained that the 150-foot setback line is

located in Bloomfield; everything is located within the setback.

In response to Mr. Gackstatter's question, Mr. Kushner explained that the ridgeline regulations were adopted in the 1990s and noted that, initially, the regulations had no special provisions giving rights to existing property owners to allow house additions. Existing homeowners on Montevideo Road and Deercliff Road asked for special consideration to existing houses and the Commission deemed that a reasonable request. A provision was added to the ridgeline regulations allowing up to 1,500 square feet of additional building footprint to existing homes, by right, even if the existing home and proposed addition are located within the 150-foot setback. He further explained that he reviewed the meeting minutes from that time and noted that it was understood that the addition could be more than one story, as long as the addition was within the building height limits. He added that that is how the initial parameters of working within, approximately, a 3,000 square foot addition to an existing house evolved. Mr. Kushner indicated that Mr. Stewart and Ms. Pearson point out that one could add to the side of the house, which would, arguably be contrary to what the Commission's normal objective is, which is to minimize footprint. Also included in the rules with respect to exemptions is the ability to clear 15 feet outside the foundation of the proposed 1,500-square-foot addition because there has to be some disturbance in order to build a house (i.e., backfill a foundation, septic installation). He noted that up to 200 square feet of clear cutting is allowed without the benefit of a permit. He explained that he believes the Staff and the applicant are in agreement with Ms. Pearson's earlier comments such that a small amount of additional proposed clearing, beyond the 200 square feet allowed, is within the purview of the Commission. He noted that, arguably, the pool requires a permit from the Commission but noted that pools, by themselves, do not necessarily appear to be a regulated activity under the Zoning Regulations. Clear cutting or blasting to create an area for a pool would be a regulated activity but the pool itself may be exempt. Mr. Kushner noted that the Staff has been working on this project for many months and explained that as this project evolved the initial thought has been that mostly everything proposed could be built by applying for a building permit. He explained that although sensitivity has been exhibited with regard to all the proposed activities it seems like the cumulative impact of the proposal is fairly significant. There are a modest number of activities that are not exempt and therefore it was felt that the application should be presented to the Commission. Mr. Kushner concluded by noting that the Staff and the applicant's team have been working in a cooperative manner from the beginning.

Mr. Gackstatter asked that if an existing house is knocked down to the foundation and rebuilt, is that considered a new house or an addition to an existing structure. Mr. Kushner explained that that is really a legal question but noted that there have been discussions in the past about similar non-conforming situations where a foundation remains and a couple of walls have remained. He indicated that the subject application takes the position that while a lot of renovations are proposed for the original house, enough of the house is being preserved such that the applicants believe they are entitled to the 1,500 square foot addition.

In response to Ms. Keith's comments, Mr. Stewart explained that the foundation would remain along with the terrace and the floor grade; he noted that the intention is to save as much of the north and south walls as possible and the framing for a third wall. Mr. Jambor stated that the back wall would not remain.

In response to Mr. Gackstatter's question about whether the front 3 brick walls would remain as the original house, Mr. Stewart indicated that the original house is going to remain as much as is possible; as much as the wainscoting can remain. He explained that he is not the architect and

doesn't know exactly how the process would occur but further explained that he asked the architect if the house could remain and the architect indicated that he would make it work. Mr. Stewart commented that possibly the brick walls to remain have wood installed behind them.

Ms. Pearson explained that the Regulation is not specific on that issue and the intent is clearly to build off of what exists. She indicated that, perhaps, it is possible to draw a line such that the applicant must continue to use the existing surface even if it's ugly and does a disservice to the building; she added that she doesn't feel that benefits anyone. She further explained that without the regulation prohibiting any changes to the "skin" of the existing building or the removal of part of the existing building, the applicant feels comfortable that the proposal works within the regulation and is doing everything possible to make the project as modest and least obtrusive as possible. Ms. Pearson concluded by noting that she feels that everything that is proposed is in the spirit of the Ridgeline Regulation but added that the Regulation does not provide clear guidance on how much can be removed before you are no longer adding on.

Mr. Gackstatter asked what is allowed to be built on this site, as of right, if the proposal is for a new structure rather than an addition.

Ms. Pearson explained that if someone was proposing to build on this site they could still come before the Commission for a special exception to build a new structure within the ridgeline protection area. She noted that the Ridgeline Regulations are not a prohibition against any development but rather are a set of rules that require applicants to be mindful of the environmental and aesthetic aspects of a piece of property. The Commission decides what safeguards should be required of an applicant wanting to build a new house in accordance with the special exception approval that might be granted.

Mr. Gackstatter asked if the subject proposal was not deemed an addition but rather considered a knock down, what "as of right" do the applicants have the right to build on this property.

Mr. Kushner explained that although what is being proposed to be added is clearly substantial compared to what currently exists, the rules are written such that someone is allowed to add 1,500 square feet to an existing structure. He further explained that the rules don't state that if the existing structure is, for example, 2,000 square feet that you can increase by "X", or increase by "Y" if the existing structure is 3,000 square feet.

Ms. Pearson commented that the end result of the subject proposal is a structure that is modest compared to what others have been allowed to build.

Mrs. Griffin commented that the purpose of the Ridgeline Regulations is to protect the rock structure underneath from disintegrating from blasting and to protect the tree line. She added that she feels the applicants have gone out of their way to ensure that no blasting is needed and the proposed building would occur on top of the existing ledge and removing as few trees as possible. She added that she doesn't feel the proposed building would be an eyesore from below.

Ms. Keith noted that the proposal is not to gut the existing building; a significant amount of the original building would remain. She added that she doesn't feel this application would have progressed to this point and the Commission would not be reviewing it as a proposed addition if the Staff felt that it was out of line. She noted that she feels this proposal has been appropriately reviewed by Staff and the applicant's attorney, as an addition and not new construction.

Mr. Armstrong acknowledged that he hasn't read the Ridgeline Regulations completely but noted that he feels counsel needs and would like the proposal to be an addition and that is why it is proposed over the footprint. He added that if we're talking raw land and undeveloped that it presents other legal issues.

Mr. Gackstatter noted his understanding but voiced his concerns about setting future precedent with regard to what constitutes additions.

Mr. Armstrong noted his agreement with Mr. Gackstatter.

Ms. Keith indicated that she doesn't feel the proposal is precedent setting because so much of the existing building would remain. She noted that she feels the Commission has plenty of history to stand on and further noted that she and Mrs. Griffin have been part of the Commission since the 1990s; she added that she and Mrs. Griffin know and understand the purpose and direction of the Ridgeline Regulations. She reiterated that she feels no precedent is being set and communicated that she is taken with the consideration exhibited and the efforts made to make this proposal appealing.

Ms. Pearson addressed concerns about precedent setting and explained that the only homeowners that can avail themselves of the ability to add up to 1,500 square feet of footprint are those who have structures that have existed prior to the adoption of the Ridgeline Regulations. She indicated that there has to be a limited number of properties in Town that fall into this category and added that a 1,500-square-foot footprint is not all that large. Of the existing structures, there are probably some that are already at least that big that cannot take advantage of the addition argument. She concluded by noting that the subject property is very unique and very small.

Mr. Stewart addressed the proposed additional 225 square feet of clearing noting that this area has short evergreen and pine trees, 15 to 20 feet tall at the maximum. He noted that if these trees are cleared it won't be noticeable from below because there are mature trees, 30 to 40 feet tall, that would be seen. He noted that the proposed conservation easement would protect these larger trees.

Mr. Kushner addressed the property located in Bloomfield, not proposed to be developed, and noted that this acreage is located well outside the ridgeline protection zone. He explained that the statutory purpose for adopting ridgeline regulations has a lot to do with the unique geology/outcroppings of the area but also the plant and animal communities that this topography supports. He further explained that plants and animals do not know where the Town lines are and where the ridgeline protection overlay zone starts and stops; so, arguably, some of these plants and animals that are supposed to be protected under State Law may extend into the 8 acres located in Bloomfield. He pointed out that these 8 acres are located immediately adjacent to several thousand acres of protected land owned by the MDC as part of their watershed.

In response to Mr. Kushner's comment about a possible conservation easement being offered over the aforementioned 8 acres, Ms. Pearson clarified that the applicant is interested in achieving the purpose of the Regulations which is to protect the ridgetop and, therefore, offers a conservation easement over the land area located north of the proposed house. She explained that although the acreage in Bloomfield is probably not going to be suitable for development, the Jambors do not want to give up their right to walk through this area. Ms. Pearson further explained that although walking through the area may be allowed under a conservation easement she added that it seems

unnecessary, as the land is not located in Avon and not related to the ridgeline protection goals.

In response to Ms. Keith's question, Mr. Stewart confirmed that the proposed conservation easement area is 30 feet deep and approximately 225 feet in length.

In response to Mr. Armstrong's question, Mr. Kushner explained that when a property owner wishes to cut trees in the ridgeline the Town generally goes out to meet with the property owner. Dead/dying tree removal and small pruning projects are usually approved but explained that not a lot of latitude would be given to allow much more clearing than what is shown on the plans.

Ms. Pearson stated that she would advise her clients that they would need to return to the Commission for special exception approval for any additional clearing, beyond a fallen tree, in the ridgeline/conservation area.

Mr. Stewart noted that the Town has allowed, in the past, selective removal of trees with the intention to preserve the tree line within the ridgeline. He further noted that no assumption is being made that this practice applies to the subject application and added that the Jambors' wish is to keep the site as pristine and natural as possible.

In response to Ms. Keith's comments, Mr. Stewart confirmed that Mr. Jambor has talked with his neighbor Mr. Zahren, who has conveyed his full support for the proposal and has no concerns.

In response to Mr. Gackstatter's question, Mr. Stewart explained that no building is proposed in Bloomfield because the applicant wishes to develop the 1,500-square-foot addition that the Regulations allow. He further explained that the property grade drops off dramatically and immediately becomes very steep as soon as you cross the Town line into Bloomfield.

In response to Mr. Gackstatter's questions and comments, Mr. Kushner explained that the proposal falls within the height limits allowed under the Regulations; 35 feet is the maximum height permitted in a residential zone and added that there are no special height restrictions or separate rules for the ridgeline. He noted that there is only a modest amount of square footage proposed for the third story and no peak roof. Mr. Kushner communicated that the applicants are trying to do the right thing in connection with their proposed addition.

Ms. Pearson concluded and summarized the proposal noting that the applicant has taken steps and every attempt was made to safeguard and minimize any visual impacts. She added that the photo renderings submitted show that the proposed building would not be visible, from below, with the tree line behind it. Safeguards included in the plan include restricting tree removal and other vegetation. Supplemental plantings are also proposed; 2 trees are proposed to be removed for the pool and 4 pine trees are proposed as replacements so it doesn't feel like the tree line has been altered. The colors for the exterior of the building have been limited, as well as window reflectivity. The height and mass of the proposed structure has been limited by not constructing horizontally along the ridge, which could have been proposed; the addition is proposed behind the existing building, not expanding the width. Ms. Pearson communicated that efforts have been made to reduce impacts and meet the intent of the Regulations.

There being no further input, the public hearing for App. #4711 was closed.

App. #4712 - Silvio Brighenti Family, LLC, owner/applicant, request for 1-lot Resubdivision, 2.58 acres, 16 Timothy Way, Parcel 4350016, in an R40 Zone

App. #4713 - Silvio Brighenti Family, LLC, owner/applicant, request for Special Exception under Section IV.A.4.p. of Avon Zoning Regulations to permit one rear lot, 16 Timothy Way, Parcel 4350016, in an R40 Zone

Present were Robert M. Meyers, Meyers, Piscitelli & Link, LLP; David Whitney, PE, Consulting Engineers, LLC; and Jeff Brighenti, owner.

Attorney Meyers explained that the subject parcel is a remnant lot left over from the Bridgewater Subdivision and that is the reason for the subdivision application. A strip of land has been added (deeded from the Town) for access to this proposed rear lot. He noted that a 20-foot waiver of the required 80-foot front yard setback is requested. He noted that approval has been granted by the Inland Wetlands Commission.

In response to Ms. Keith's question, Mr. Meyers explained, with regard to the request for a reduction in the front yard setback from 80 feet to 60 feet, that the front yard for the rear lot has significant trees. Mr. Kushner confirmed that the area is heavily forested. Mr. Meyers indicated that the applicant has no interest in cutting trees.

In response to Mr. Armstrong's question, Mr. Meyers confirmed that the neighbors are in support of the proposal.

In response to Mr. Kushner's question regarding the grading plan for the front yard, Mr. Whitney explained that the proposed grading plan can absolutely be modified to preserve trees.

In response to Mr. Gackstatter's question, Mr. Whitney explained that part of the reason for the request for a front yard setback waiver is to allow the house to be moved forward, provide a decent backyard, and provide more of a buffer to the wetlands.

Mr. Kushner asked that prospective buyers of this rear lot be asked to show sensitivity with regard to the tree line adjacent to the existing lots on Timothy Way such that trees are not cut up to the property line. Mr. Brighenti and Mr. Meyers noted their understanding and concurred.

There being no further input, the public hearing for Apps #4712 and #4713 was closed, as well as the entire public hearing.

PLANNING AND ZONING COMMISSION MEETING

Mrs. Clark motioned to waive Administrative Procedure #6 and consider the public hearing items. Mrs. Griffin seconded the motion that received unanimous approval.

Mr. Armstrong noted his concern relating to procedures for discussing/imposing conditions of approval and decision making; he indicated that he is uncomfortable taking a vote on an application unless the conditions are written down beforehand.

Ms. Keith explained that any and all proposed conditions of approval are discussed by the

Commission before any decisions are made/votes are taken. Conditions of approval, if imposed, are written as stated by the Commission.

Mr. Kushner offered clarification such that in more complex applications, where a number of conditions may be considered/imposed, the Commission asks that these proposed conditions be drafted/written down ahead of time to allow time for review. He explained that, typically, in order to keep the process moving forward, the Commission will make a motion and craft conditions during the discussion that occurs before the vote is taken. He noted that oftentimes conditions refer back to written reports by the Staff (Director of Planning and the Town Engineer) plus additional items that may come about as a result of input at the public hearing.

Mr. Mahoney indicated his agreement with Mr. Armstrong's concerns and noted that he had similar concerns when he first joined the Commission.

Ms. Keith explained that even if an item is being discussed, the Commission can decide to table the decision for an application to the next meeting. She noted that she doesn't foresee an issue with any of tonight's applications but noted her understanding of concerns in this regard.

App. #4712 - Silvio Brighenti Family, LLC, owner/applicant, request for 1-lot Resubdivision, 2.58 acres, 16 Timothy Way, Parcel 4350016, in an R40 Zone

App. #4713 - Silvio Brighenti Family, LLC, owner/applicant, request for Special Exception under Section IV.A.4.p. of Avon Zoning Regulations to permit one rear lot, 16 Timothy Way, Parcel 4350016, in an R40 Zone

Mr. Mahoney motioned to approve Apps. #4712 and #4713 subject to the following conditions:

1.A 20' waiver of the required 80-foot front yard setback is granted.

2.Access to the rear lot is permitted at less than 30 feet, as depicted on the "Feasibility Site Plan" for 16 Timothy Way, prepared by David Whitney, Consulting Engineers, LLC, dated February 12, 2014, revised to February 27, 2014.

Mrs. Griffin seconded the motion that received unanimous approval.

App. #4711 -Bruce and Candace Heublein, owners, Clinton and Colleen Jambor, applicants, request for Special Exception under Section IX.E. of Avon Zoning Regulations to permit house construction in the ridgeline, 60 Gibraltar Lane, Parcel 2400060, in an RU2A Zone

Mrs. Clark motioned to approve App. #4711; Mrs. Griffin seconded the motion.

Mr. Gackstatter asked why the proposed pool doesn't fall under the Commission's purview to regulate. Mr. Kushner explained that the word "pool" does not appear in the Zoning Regulations as a regulated activity but clarified that tree clearing, earth excavation, and blasting to create an area for a pool do constitute regulated activities. He further explained that because the subject pool proposal works within the existing grade and the area is essentially devoid of trees, except for 2 trees in the area of the millstones and the barbeque pit, it doesn't appear to fall under the definition of a regulated activity. Mr. Gackstatter asked whether this means that anyone with property along the ridgeline can install an above-ground pool with an infinity edge and decking right on the cliff edge.

Mr. Kushner explained that most lots would have a more heavily wooded condition such that the cutting of trees would likely constitute a regulated activity but noted that if a lot has already been clear cut and a similar type of construction were proposed it possibly would be allowed. He pointed out that the intent of the Ridgeline Regulations is to protect the natural condition that exists; the natural rock and vegetation. Although a pool is an artificial structure, not a lot of what currently exists naturally is proposed to be changed; the pool would be placed in an area that is already clear cut on existing rock. Mr. Kushner explained that from the standpoint of protecting the natural environment and from what would be seen from the Valley below, it may not be that big of an impact. He noted that he believes this may be the first time that a pool is proposed that did not involve some type of clearing or earth removal.

In response to Mr. Gackstatter's question about the deck, Mr. Kushner explained that the Regulations allow 1,500 square feet of living space; an outdoor deck is not part of that.

Mr. Gackstatter commented that there are plenty of areas on the ridge that are just rock; he asked if anyone that owns a house on the ridge can put a deck along the ridgeline within the 150-foot setback.

Mr. Armstrong noted that if there were trees in the way permission to cut trees would be needed before a deck was built.

Ms. Keith commented that she doesn't feel there are many properties that would fall into this scenario.

Mr. Kushner indicated that while he can't answer Mr. Gackstatter's question, he acknowledged that such a scenario may be possible. He explained that the subject applicant made a great effort to work with experts and work with the natural topography on the site. He pointed out that the house is proposed to be built over existing ledge and noted that this is not typically the case, as most homeowners are looking for a more man-made controlled environment. On the other hand, if a homeowner had a similar thought process to the subject applicant and had a rocky area behind their house located in the ridgeline protection area that was devoid of trees and they came up with a clever way to install piers over the existing topography to build a deck it might be permitted under the Regulations.

Mr. Kushner concluded by noting that if the Commission feels such an activity should not be allowed then possibly the Regulations should be modified.

Mrs. Clark indicated that she feels the applicants have gone out of their way to stay within the Regulations to create an aesthetically pleasing proposal. She noted her understanding of Mr. Gackstatter's comments but noted her agreement that this property is unique and not likely to be seen again.

Mr. Armstrong commented that the trees to come down for the pool slightly exceeds what is allowed under the Regulations but 4 trees are proposed to be added.

Mr. Kushner concurred and explained that the language governing 200 square-feet of clear cutting could be improved, as it can be difficult sometimes to define this area in relation to new construction. He clarified that the proposed 450 square feet of additional clearing involves some of

the driveway construction and a small area for a dog play area. This 450 SF is not part of the proposed tree clearing for the 1,500-square-foot footprint, or the area 15 feet outside the building, or the area to cut trees for the septic system. Mr. Kushner confirmed that any activity in Bloomfield does not count.

Mr. Gackstatter acknowledged the sensitivity exhibited by the applicants but conveyed his concerns with building on the edge of the ridgeline. He noted that he has a problem with the proposal and indicated that the applicants are abiding by the letter of the law to make the proposal work in their favor, as opposed to the intent of what the Commission is really trying to do.

Mr. Armstrong commented that it appears great efforts were made to make the proposal an addition; the pad would remain in place but the back wall would not remain in order to join the addition. An effort would be made to preserve both side walls and the front wall, where the glass may be replaced. He noted that he feels the applicant should be encouraged to refacade the front wall with brown tones.

Mr. Kushner indicated that while the architectural plans are fairly refined at this point, the applicant should be aware that there will be some limitations on what changes can be made; the building footprint as currently shown needs to be retained.

Ms. Keith pointed out that the vote is being taken based on what has been represented.

Mr. Kushner noted that while the Fire Marshal recommends a fire sprinkler system and encourages the applicant to investigate and consider this option, it is not a Fire Code requirement and suggested that the Commission may not want to include this as a condition of approval.

Mrs. Clark motioned to approve App. #4711 subject to the following conditions:

1. Applicant shall comply with requirements of the Farmington Valley Health District in their comments dated March 5, 2014.
2. No trees shall be removed beyond what is shown on the "Site Clearing and Planting Plan", Sheet No. L1b, dated 2/19/14, prepared by CR3 LLP. All clearing limits shall be staked in the field by a licensed surveyor and inspected by the Town prior to any tree clearing.
3. A conservation easement (7,060 SF) shall be granted, as depicted on Sheet No. L1a, Site Development Plan, dated 2/19/14, prepared by CR3 LLP.
4. No blasting is permitted.
5. No basement construction is permitted.
6. Low reflective glass shall be used for all windows.
7. Earth tones/colors shall be used on the house exterior.

The motion, seconded by Mrs. Griffin, received approval from Mesdames Clark, Griffin, and Keith and Messrs. Cappello, and Armstrong. Messrs. Mahoney and Gackstatter voted in opposition of

approval.

App. #4710 -DP3 LLC, owner, Scott Morrison, applicant, request for Special Exception under Section V.O.5. of Avon Zoning Regulations to permit outdoor dining, 300 West Main Street, Parcel 4540300, in a CR Zone

Mr. Mahoney motioned to approve App. #4710 subject to the following condition:

1. Applicant shall prepare fence detail for outdoor dining areas for both New England Pasta Company and Stonepost Bakery. This detail shall be submitted to the Town/Director of Planning for review and approval prior to the installation of fencing.

Mrs. Clark seconded the motion that received unanimous approval.

OTHER BUSINESS

Proposed regulation change for “heliports” – Town of West Hartford

Mr. Kushner reported that the Town of West Hartford is conducting a hearing tonight for an ordinance that Arnold Chase has been working on with the West Hartford Town Council. Mr. Chase’s house is located entirely in West Hartford and he would like to build a heliport, located mostly in West Hartford with a small portion in Avon; the heliport would be permitted by the State and the FAA. He noted that Mr. Chase indicates that the State’s regulations indicate that fewer than 18 flights per day do not require permitting by the FAA; more than 18 flights per day require FAA permits. Mr. Kushner noted that Mr. Chase has communicated that he does not own a helicopter and does not plan to buy one but occasionally has guests attending functions at his house that may have use of a helicopter and may want to land on his site but it would be less than 18 times. He explained that Mr. Chase wishes to be licensed as a heliport, as he also wants to have aviation lights and other electronics.

In response to Mr. Gackstatter’s questions about required lights/beacons, Mr. Kushner noted that Mr. Chase has indicated that required lights would go on and off via a remote control operation but Mr. Kushner added that he is not familiar with airport lighting requirements.

Mrs. Griffin indicated that she doesn’t feel it’s proper to have helicopters landing in a residential zone, as the noise and vibrations are bothersome and she added that she doesn’t feel it’s safe.

Mr. Kushner explained that the Commission has an opportunity to provide input/comments to the West Hartford Town Council, as the public hearing being held tonight will be continued. He noted that comments from the Town of Avon could note that permitted heliports are not appropriate in the entire Town, particularly in residential areas, as they would have an adverse impact on the public health, safety, welfare, and property values for all nearby residents. He added that Avon appreciates that some modest benefit may be realized by LifeStar being able to land in West Hartford. Mr. Kushner explained that if the Town of West Hartford creates regulations and Mr. Chase applies for a special permit for a heliport use, the Town of Avon would most likely have another opportunity for input. He commented that if West Hartford ends up approving rules, the rules should require that a significant buffer exists between the pad and the closest residential property line. He noted that Mr. Chase has indicated that he thinks his property is 400 feet from the closest property line.

Ms. Keith indicated that she feels 1,000 feet to the closest property line should be required but noted that this location is not going to be the prime spot for LifeStar to land. She added that her position is such that this is a minor public safety issue with a more public, wellbeing concern for surrounding properties. She indicated that these concerns need to be strongly stated in the Commission's letter to West Hartford, if the Commission concurs. She commented that she feels there should also be an emphasis on allowed times of operation.

Mr. Kushner noted his agreement with Ms. Keith adding that the total number of flights per year is also an important factor. He noted that Mr. Chase has indicated that he is willing to accept a cap on the number of flights allowed yearly (i.e., possibly a maximum of 15 flights per year). Mr. Kushner communicated that Mr. Chase has indicated that he is allowed under FAA regulations up to 18 flights per year but he cannot light the area and added that Mr. Chase wants to be able to have lights. He added that Mr. Chase has also indicated that multiple helicopter trips in one day are not expected.

Mr. Gackstatter commented that Mr. Chase can put a landing pad on his property, put a big "H" on it but not light it and it would not be considered a heliport. He could have helicopters land on his property now using a set of car lights and asked why he needs a heliport. He suggested that Avon should convey their position that heliports cannot be built on residentially-zoned properties; commercial properties are a different discussion.

Mr. Armstrong noted that he doesn't feel a distance of 1,000 feet should be mentioned in the Commission's comments, as that could be viewed as a point for compromise. He indicated that his feeling from the Commission is that no consideration should be given for heliports.

Mrs. Griffin commented that she feels it is unfair to allow a heliport near or next to existing residential homes.

Mrs. Primeau noted her concerns relative to the size and number of seats in a helicopter being allowed to land and asked whether the heliport would be located in West Hartford.

Mr. Kushner explained that he hasn't seen any plans for a heliport, as Mr. Chase is currently trying to change the regulations.

Ms. Keith indicated that regardless of the details of the proposed heliport, the Commission needs to inform West Hartford that the Town of Avon is not happy with a heliport proposal.

In response to Mr. Gackstatter's question, Mr. Kushner noted that the proposed regulation speaks to the ability to bring tanker trucks onsite for fueling but not allow fuel storage.

Mr. Armstrong commented that he's not sure what rights Avon would have should this issue move forward in West Hartford; he suggested that this be investigated.

Mr. Kushner noted he would draft a letter to the West Hartford Town Council noting the Commission's position that heliports are unacceptable in residential areas due to concerns with potential adverse impacts on residential properties, even taking into account considerations and efforts provided in the draft language to mitigate some of the impacts. The Town of Avon has concluded that heliports are inappropriate in the Town of Avon and they are not permitted.

There being no further business, the meeting adjourned at 10pm.

Respectfully submitted,

Linda Sadlon, Clerk

LEGAL NOTICE
TOWN OF AVON

At a meeting held on March 11, 2014, the Planning and Zoning Commission of the Town of Avon voted as follows:

App. #4710 -DP3 LLC, owner, Scott Morrison, applicant, request for Special Exception under Section V.O.5. of Avon Zoning Regulations to permit outdoor dining, 300 West Main Street, Parcel 4540300, in a CR Zone **APPROVED WITH CONDITION**

App. #4711 -Bruce and Candace Heublein, owners, Clinton and Colleen Jambor, applicants, request for Special Exception under Section IX.E. of Avon Zoning Regulations to permit house construction in the ridgeline, 60 Gibraltar Lane, Parcel 2400060, in an RU2A Zone **APPROVED WITH CONDITIONS**

App. #4712 - Silvio Brighenti Family, LLC, owner/applicant, request for 1-lot Resubdivision, 2.58 acres, 16 Timothy Way, Parcel 4350016, in an R40 Zone **APPROVED WITH CONDITIONS**

App. #4713 - Silvio Brighenti Family, LLC, owner/applicant, request for Special Exception under Section IV.A.4.p. of Avon Zoning Regulations to permit one rear lot, 16 Timothy Way, Parcel 4350016, in an R40 Zone **APPROVED WITH CONDITIONS**

Dated at Avon this 12th day of March, 2014. Copy of this notice is on file in the Office of the Town Clerk, Avon Town Hall.

PLANNING AND ZONING COMMISSION
Linda Keith, Chair Carol Griffin, Vice Chair

LEGAL NOTICE
TOWN OF AVON

The Planning and Zoning Commission of the Town of Avon will hold a Public Hearing on Tuesday, April 8, 2014, at 7:30 pm at the Avon Town Hall on the following:

App. #4714 -DP3 LLC, owner/applicant, request for Special Exception under Section VII.C.4.a. of Avon Zoning Regulations to permit wall signs on 2 elevations, 300 West Main Street, Parcel 4540300, in a CR Zone

All interested persons may appear and be heard and written communications will be received. Applications are available for inspection in Planning and Community Development at the Avon Town Hall. Dated at Avon this 21st day of March, 2014.

PLANNING AND ZONING COMMISSION Linda Keith, Chair Carol Griffin, Vice Chair

