The Planning and Zoning Commission of the Town of Avon held a meeting at the Avon Town Hall on Tuesday, April 23, 2019. Present were Linda Keith, Chair, Thomas Armstrong, Vice Chair, Mary Harrop, Joseph Gentile, Lisa Levin, Brian Ladouceur, Jr., and Alternates Elaine Primeau (sat), Jill Coppola, and Linda Preysner. Peter Mahoney was not present. Also present was Hiram Peck, Director of Planning and Community Development.

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

**APPROVAL OF MINUTES**

Mrs. Harrop motioned to approve the minutes of the March 12, 2019, meeting as submitted. The motion seconded by Mr. Armstrong received unanimous approval.

**PUBLIC HEARING**

App. #4893 - Cornerstone Landing LLC, owner, Melinda Harvey, applicant, request for Special Exception under Section VI. H.3.k. of Avon Zoning Regulations to permit dog training center, 205 Old Farms Road, Parcel 3360205, in an I Zone

Present were Melinda Harvey, applicant, and Brett Eisenlohr, owner.

Melinda Harvey explained that her request is for a dog training center, noting that this is badly needed in this area. The center would be open 7 days a week with most classes being held in the evenings and on weekends, as people work during the day. The majority of classes would take place inside the training facility although some instruction would take place outside (e.g. proofing). She confirmed that there would be no daycare or boarding of dogs; a training facility is the proposal.

In response to Mr. Ladouceur’s question, Ms. Harvey explained that proofing means teaching dogs to behavior while being distracted outside.

Mr. Armstrong commented that dog licenses should be checked, in addition to the other items noted in the information. He also asked about fencing and that the yard be patrolled for dog waste.

Ms. Harvey explained that checking dog licenses is not something she currently does and noted that while he could she pointed out and noted her concern that her clients come from all over the Farmington Valley and beyond (about 10 towns in total) adding that she is not familiar with the laws of every town. She indicated that she follows the law and asks for proof of rabies shots and current vaccine information. She further explained that there is no fencing at the site but dogs will be on leashes at all times when outside. She confirmed that the yard will be kept clear of dog waste.

Mr. Armstrong commented that he would be happy if each dog’s collar was checked for a licensed tag and if one doesn’t exist that the owner be asked about it.

Ms. Harvey noted her understanding and agreement.

Ms. Keith asked, for example, if there are eight dogs inside the facility at one time and one dog is taken outside on a lead how are the other seven dogs kept from racing to the door.

Ms. Harvey explained that all dogs are mostly on leashes when inside the building. She added that there is a double door (similar to what exists at dog parks) where something is put up in front of it if someone has to go outside. She further explained that before any dog is taken outside all dogs have to be under control by their owners. She confirmed that she has never had a loose dog.

In response to Mrs. Harrop’s question, Ms. Harvey confirmed that all the owners are always present with their dogs during training, as dog training is largely about training the owners. She noted one exception such that a puppy may be dropped off for a few hours for one on one training.

In response to Mr. Gentile’s question about parking, Ms. Harvey explained that there are 22 parking spaces dedicated for this use and have been shown/highlighted on a map of the site.

She noted that as many as 10 or 11 spaces may be used at one time; there is crossover with people coming and going. She indicated that under normal conditions she will be able to keep all the parking for her clients in the dedicated parking spaces, as class size is a maximum of eight dogs. She added that if, for example, she were to hold a workshop on a Sunday she would get permission to park in other areas on the site.

In response to Ms. Keith’s questions, Brett Eisenlohr, owner, explained that the parking spaces located in the one-way drive area are parallel parking spaces located behind the building. He confirmed that there will not be a “cat place” use in the building

Jim McGarrah, Sylvan Street, commented that he wants to make sure that the Commission has considered the residential areas proximate to the location of the proposed special exception business such as Old Farms Crossing, Sconsett Bluff, Berta Lane, and Sylvan Street. He noted his concerns for potential disturbances to neighbors (i.e., noise, etc.) with live animals and their owners, evening hours, and seven days a week operation and asked if the use is appropriate for the area. The special exception uses as noted in the Regulations are supposed to be similar uses; there is nothing like the proposed use listed.

Ms. Keith commented that the applicant has represented/explained that the dogs would be inside the building 90% of the time and there would not be multiple dogs outside barking. If the business is run as it has been represented, the neighbors would not know it’s even there. She added that if the Town receives any complaints that the Commission will take care of it.

Ms. Harvey noted that while dogs do verbalize, they verbalize to excess when they are bored. When dogs’ minds are engaged and occupied they do not bark. She acknowledged that certainly some dogs may bark for a minute or so but explained that she cannot teach a class over barking dogs. She noted that she will not be outside at night with barking dogs.

In response to Mr. McGarrah’s question about protection for neighbors, Mr. Peck explained that there are conditions of approval recommended by Staff (e.g., noise) should an approval be granted.

In response to Ms. Keith’s question, Mr. Peck explained that should the application be approved the special exception information and conditions would carry on and be transferred to a new owner should the business be sold. However, he further explained and clarified that a new owner would be required to operate the business exactly as it was approved and represented by the original owner (Harvey). If there were any changes at all to the business plan of the new owner, they would be required to come back to the Commission for review and approval prior to conducting business.

Mr. Eisenlohr stated that he was a law enforcement officer in Avon for 25 years and also served as the animal control officer for a time. He explained that there is a State Statute that addresses nuisance dogs such that residents have the opportunity to call their local police department to investigate.

In response to Mr. Gentile’s question, Mr. Peck explained that should there ever be an internal problem inside the building between the tenants, the building owner/landlord will be required to address it.

There being no further comments, the public hearing for App. #4893 was closed.

App. #4894 - DP1 LLC, owner, Khaled Ayad, applicant, request for Special Exception under Section VI.C.3.b.of Avon Zoning Regulations to permit Class III restaurant, 210 West Main Street, Parcel 4540210, in a CR Zone

Marwan and Khaled Ayad were present.

Marwan Ayad explained that he and his father, Khaled, own and operate the proposed restaurant noting that the details have been discussed at length with Mr. Peck. He stated that their original Mediterranean restaurant (River’s Edge Bistro) is located in Unionville and the proposal is to open a second location in Avon with the same menu but with an added emphasis on breakfast.

Mr. Peck explained that the size of the proposed restaurant space is approximately 2,700 SF and the parking onsite is adequate due to consolidated parcel agreements that exist between 200 and 210 West Main Street as well as between 214 (16 spaces at M & R Liquors) and 210 West Main Street. He referenced his Staff Comments noting recommended conditions should an approval be granted.

In response to Ms. Keith’s questions, Khaled Ayad explained that initially he will have 8-10 employees/staff and later determine if more are needed. The restaurant would be open from 8am to 9pm, Monday through Friday, and from 8am to 9:30pm or 10pm on weekends. Mr. Ayad added that the restaurant will be BYOB and communicated his assurance that employees would park as far away from the entrance as possible (i.e. to the rear of the building) to keep parking spaces open for patrons.

In response to Mr. Armstrong’s question, Khaled Ayad explained that no outdoor dining is proposed at this time.

In response to Marwan Ayad’s question, Mr. Peck confirmed that outdoor dining would require a similar application process to the subject application.

In Response to Ms. Levin’s question, Mr. Peck explained that Town Staff would work with the property owner should questions arise about the possible need for additional stop signs internal to the subject site.

Mr. Ladouceur addressed parking and commented that the restaurant at 200 West Main will operate during similar hours as the proposed restaurant. In response to Mr. Ladouceur’s question, Mr. Peck explained that the parking requirement for the subject restaurant is 3/1,000; about 30 spaces are needed. He added that all the businesses in this location were reviewed (Deepwater Seafood, William Raveis Real Estate, and E & D Pizza) and while it is understood that the restaurants may have overlapping hours the real estate office will be open different hours than the restaurants. E & D Pizza also does a lot of takeout. He indicated that the parking has been deemed adequate, as there are also 16 spaces available at M & R Liquor via the aforementioned consolidated parcel agreement.

Mrs. Harrop noted that she frequents E & D Pizza and has never experienced a problem parking in that plaza.

There being no further comments the public hearing for app. #4894 was closed, as well as the entire public hearing portion of the meeting.

**PLANNING AND ZONING COMMISSION MEETING**

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

App. #4893 - Cornerstone Landing LLC, owner, Melinda Harvey, applicant, request for Special Exception under Section VI. H.3.k. of Avon Zoning Regulations to permit dog training center, 205 Old Farms Road, Parcel 3360205, in an I Zone

Mr. Armstrong motioned to approve App. #4893 subject to the following conditions:

1. Prior to the issuance of a C/O and use of the building space, all requirements of the Building Official, Fire Marshal, AWPCA, and the Farmington Valley Health District shall be met and compliance demonstrated.
2. No overnight boarding of dogs is permitted.
3. Dog training shall be conducted exactly as represented. At the discretion of Town Staff, any significant changes to the use as represented may require reapplication and review by the Commission.
4. Dog behavior and noise shall be closely monitored to ensure that no disturbance and/or nuisance to the surrounding neighborhood is created.
5. Any wall signage shall be reviewed and approved by Town Staff prior to installation. A building permit issued by the Building Department is also required prior to any sign installation.

The motion seconded by Ms. Levin received unanimous approval.

App. #4894 - DP1 LLC, owner, Khaled Ayad, applicant, request for Special Exception under Section VI.C.3.b.of Avon Zoning Regulations to permit Class III restaurant, 210 West Main Street, Parcel 4540210, in a CR Zone

Mrs. Primeau motioned to approve App. #4894 subject to the following conditions:

1. Applicant shall comply with all requirements of the AWPCA, Farmington Valley Health District, Building Official, and Fire Marshal.
2. Applicant shall apply for a building permit with the Building Department prior to doing any work on the interior of the building as well as installing any wall signage on the exterior of the building.

Ms. Levin second the motion that received unanimous approval.

**OTHER BUSINESS**

Request for extension to October 17, 2020, to complete Stratford Crossing (Apps. #4683-84)

Attorney Robert Meyers explained that both the Town and the developer agree on the items that need to be completed; the request is for an extension to October 2020. The State Statute allows for a five-year extension.

In response to Mrs. Primeau’s question, Mr. Peck explained that a one-year extension is needed due to the timing of the seasons for both paving and plantings and because occasionally things have to be redone (pavement curb fix, etc.) such that it is better to allow a little more time than less time. He noted that there are a total of 11 items to be completed.

Mrs. Primeau commented that she understands a one-year request but this request is for one and a half years.

Mr. Meyers explained that the requested extension allows for a second paving season if needed.

Mr. Armstrong motioned to approve an extension to October 17, 2020, to complete the Stratford Crossing Subdivision (11 items). The motion, seconded by Mrs. Harrop, received approval from Messrs. Armstrong, Gentile, Ladouceur, and Mesdames Harrop, Keith, and Levin. Mrs. Primeau voted in opposition of approval.

Avon Village Center Status Update

Present were Kelly Coates, President, and David Taglianetti, VP Development, Carpionato Group.

Kelly Coates explained that he does not have a presentation but provided project status on the following items: 1) Whole Foods exterior; 2) FEMA; 3) OSTA; 4) Division of site into manageable sections; 5) final bid package for site improvements; 6) final bid packages for all buildings in Phase 1A; and 7) final bid packages for offsite improvements.

Ms. Keith noted that the Commission was expecting written answers to their questions but did not receive anything. She noted that March 15 was the promised start date adding her concerns that they do not have anything in writing but would like a verbal update.

Mr. Coates commented that he wished the start date could have been March 15. He noted Whole Foods was chagrined after reading the minutes of the last meeting despite being able to build in other local communities in CT. Whole Foods will not sign a lease until the building exterior is approved by the Commission. He clarified that there are no drawings to present tonight because he can’t present something that Whole Foods has not agreed to; he added that Whole Foods has the Commission’s approved drawing and they like it. Two alternatives were presented at the last meeting and neither was acceptable. A third alternative drawing was presented and found to be possibly acceptable with modifications so that drawing was revised and presented to Mr. Peck who informed the applicant that the Commission wants the building to look like the approved plan/design, so that drawing was scrapped. The existing architect continues to work on the other buildings near Whole Foods but a new architect (Jacobs.com) has been hired for Whole Foods. He submitted information about Jacobs to Mr. Peck. Mr. Coates explained that Jacobs does all the interiors for Whole Foods. A Whole Foods in Sudbury MA was just completed by Jacobs; Sudbury is a comparable community to Avon. He explained that he has met with the President of Whole Foods and showed him a plan that the Commission could live with and got Whole Foods to agree that they could live with something similar to it. He pointed out that the entrance for Whole Foods is different from the Commission’s approved plan and the café and garden area are also different but noted that the language in the agreement/approval provides for that.

Mr. Coates indicated that his hope is to be in front of the Commission at their next meeting to review exterior plans for Whole Foods.

Mr. Ladouceur commented that the Commission reviewed two designs at the last meeting; the first design was unanimously rejected and the second design although not great was better than the first and headed in the right direction. The Commission asked the applicant to go back and review the approved design book and come back with a revision of the second design. He noted he doesn’t remember a third version. He communicated his disappointment that a new version has not yet been submitted.

Mr. Meyers clarified that there were two very ugly versions presented to the Commission.

Ms. Keith commented that the Commission approved this in July 2018 with the plans that are in the book. There has clearly been a change somewhere between the architect and Carpionato as to what was expected to be there and should have been presented immediately to Whole Foods that they have to follow the design guidebook. It’s unfair to both Whole foods and the Commission to allow Whole Foods to think they could change what was already approved and agreed to by Carpionato Group.

Mr. Coates confirmed and offered assurances that he gave Whole Foods the design book and plan; he personally gave it to the President of Whole Foods when he met with him. He explained that the President of Whole Foods is brand new to his position and it was explained to him what he has to do to work with a community; he had not gone through that process before. He noted that he has gotten many approvals with the very first historic district commission in the US, located in Newport, RI, adding that he understands how to work collaboratively. He noted that he wants to sign the deal and start getting rent from Whole Foods but explained that the drawings presented at the last meeting were insisted upon by Whole Foods; it was not Carpionato’s presentation. Mr. Coates commented that at the last meeting there is no possible way that Whole Foods did not understand what the Commission wants. There have been six or seven different versions reviewed since then in an attempt to reach completion. He noted his understanding that the President of Whole Foods will review the final version tomorrow and then make a presentation to Carpionato, reiterating his confidence that there will be something to present at the May meeting. He commented that there is a continual push to get this project underway and the only thing holding up the lease signing is the approved drawing.

Mr. Armstrong commented that he wants to see the drawings ahead of the next meeting and not the night of the meeting (May 21).

Mr. Coates noted his understanding explaining that he would have better information tomorrow after his meeting with Whole Foods. He added that he will keep Mr. Peck in the loop at all times but noted he only has so much control over the process.

Ms. Levin indicated that her understanding is that we are on the seventh drawing for Whole Foods in an effort to comply with the original approved plan. She asked Mr. Coates to share with the Commission what he thinks the seventh drawing will look like and how it differs from the versions presented at the Commission’s March meeting.

Mr. Coates concurred with Ms. Levin’s understanding and explained that if you look at the drawings presented in March they tried to capture the stone that exists on the exterior of the Town Hall such that the buildings came off looking very dark and heavy; to counter that there were towers placed on either end of the building. The approved drawings show a shallower roof pitch on either end of the building. The right side of the building as you enter the store, called the strong side, is where the produce and flowers are located. This area has to have a flattened down exterior, the way the approved drawing looks.

Ms. Levin asked if the Avon Whole Foods is going to look like the Whole Foods in Sudbury, MA.

Mr. Coates explained that hopefully the next drawing the Commission sees for the Whole Foods in Avon looks very close the approved drawing shown in the design guidebook, adding that that is what he is working towards. As clarification, the design for Avon is being moved away from the Sudbury Whole Foods design.

Ms. Keith addressed an earlier discussion regarding the darkness of the exterior stone for the building and noted that it would be helpful at the presentation to be given at the next meeting that the colors shown on the drawings be accurate and as expected.

Mr. Coates indicated that he thinks the Commission will be happy with the next presentation adding that actual materials (slate, clapboard) to be used on the building will be provided. He noted that the Commission has been very clear asking to line it up with the approved drawing; he added that he has made this clear to Whole Foods.

Mr. Ladouceur commented that he wants to see not only the building face by itself but also what the building will look like while driving down Route 44; while driving up Climax Road; and views from the middle of the parking lot with vehicles and trees present.

Ms. Keith said aerial views are not helpful; sightlines are needed. She commented that the building may have to be brought up a bit but confirmed that she doesn’t want it seen from the road and wants the parking lot hidden from view from the road. She commented that vegetation needs to be cropped so there is some at the top but noted that she doesn’t want tall trees that do not have leaves in the fall and winter.

Mr. Coates noted his understanding adding that both elevation (flat) drawings as well as renderings will be provided at the next meeting. He explained that he met with the Building Official and Fire Marshal today regarding their concerns (run and means of ingress and egress). He noted that he is meeting with VHB and Richter & Cegan tomorrow regarding utilities. He noted that the formal letter of map revision has been received from FEMA and a copy given to Mr. Peck. All OSTA submissions are complete and two bonds need to be posted; one for Town road and one for State roads. Once bonds are posted the Certificate will be received; this is anticipated by June 1. He addressed dividing the site into manageable sections noting that at the same time Whole Foods is delivered all the exteriors of nearby buildings have to be 100% complete. He explained that there are two tenants that will not sign until there is an announcement on Whole Foods, because those tenants would locate here only because of Whole Foods.

In response to Ms. Keith’s question, Mr. Coates confirmed that the architectural detail for the two aforementioned tenants and respective buildings is still outstanding. He noted that these two buildings need to be done at the same time as the Whole Foods building, adding that the Whole Foods buildings will take longer to build.

Ms. Keith noted that no road work or utility work has begun on Climax Road; it was supposed to begin last September 2018. Mr. Coates referenced the approval conditions and explained that currently only permit drawings exist and full final civil engineering drawings are needed to begin work. VHB has the contract along with Fuss & O’Neill and Richter & Cegan and final bid worthy drawings are currently being prepared for both onsite and offsite work. He noted that he wants to get work started as soon as possible.

In response to Mr. Armstrong’s question about the building on the corner of Climax Road and Route 44, Mr. Coates explained/clarified that that building is not currently under design adding that it will have to leased such that they are not going to spec build it. Mr. Armstrong commented that he may have some difficulty with that adding that he doesn’t want that building to be forgotten and go unbuilt because it is the gateway. Mr. Armstrong commented that if Whole Foods wants total visibility he may have a problem with that building not be constructed adding that a solution will have to be figured out for him. Mr. Coates noted his understanding.

Mr. Ladouceur commented that Whole Foods won’t want construction traffic after they open.

In response to Mr. Ladouceur’s questions, Mr. Coates referenced his earlier comments about building all the buildings at the same time and explained that he was referring to the buildings on the southern side of Main Street in Phase 1A. He explained/clarified that the buildings on the northern side of Main Street will be constructed as soon as possible.

Mr. Coates further explained that while he wants every building to be built as soon as possible, the project has to be divided into manageable bites so it can get done because there’s a lot of construction and it’s a very complicated project. He explained that final bid documents for Phase 1A are also necessary, which are proposed to be submitted to the Town on or before June 1, 2019, and bonds posted. The bid documents for Whole Foods will take six weeks, at the earliest, from the date the exterior gets approved. Building permits would then be submitted with two weeks of review and then the building starts. The Whole Foods building will take 40 weeks to build then food starts getting delivered and training takes place with the store opening four weeks after that. This entire period of time is about one year.

In response to Mrs. Primeau’s question about what kind of tenant would occupy the aforementioned building on the corner of Climax Road and Route 44, Mr. Coates explained that it would likely be a financial services tenant, like a bank, but noted that there is no room for a drive through. A restaurant would take up too much parking. He noted that he is flexible on getting it leased and opened.

Mr. Coates reported that he has an 18K SF medical office tenant that wants to locate on the other side of the Park (not located in Phase IA). He noted that he is working on a lease for a 10K SF learning academy and an outdoor clothing company that is waiting for confirmation on Whole Foods. The Dartmouth Company has been hired and they are the exclusive broker for Whole Foods as well as many other New England stores. An office broker has also been hired and is working on the project.

In response to Ms. Keith’s question, Mr. Peck explained that he would like to take the information received tonight and merge it with the outstanding questions as well as the Commission’s comments tonight and forward to the developer by the end of the week.

Mr. Peck commented that although we have not seen any architectural revisions as a result of the last meeting, he believes a lot of work is going on behind the scenes. The time frames are really getting stretched out; he pointed out, as noted earlier tonight, that excavation was scheduled to begin in September 2018 but it did not. There are phases of the excavation that were supposed to be completed in January 2019. There is a significant amount of road work and infrastructure that needs to be done which is expensive and will be very time consuming (e.g., approvals needed from Town Council, etc.). He referenced the July 31, 2018, approval noting there were benchmarks and the applicant was supposed to update the Town quarterly and provide updates and a detailed construction schedule. He noted that this information has not been received noting that it will be included in the list of questions to be given to the developer.

Mr. Peck agreed with Mr. Armstrong’s comments that the sequencing and timing of items like soil removal, building foundations, and road work is important to know.

Ms. Keith noted her frustration on the applicant’s inability to meet their promises and timelines. Nothing has been done for this project except for the relocation of the bike trail but more was expected and promised to Avon’s residents. The Commission’s reputation is on the line and do not typically operate this way. She communicated her extreme disappointment in the project on behalf of the entire Commission adding that no viable excuse exists. She noted her hopes for good information at the May meeting asking that the developer take the Town seriously.

Mr. Ladouceur commented that the plan for the proposed road work, including earth removal and actual road construction (temporary roads, road closures, detours, etc.) was quite complex adding that there needs to be the same level of detail and process moving forward when road work actually begins. The Commission needs to be informed of any changes well in advance and not the night of the meeting.

In response to Mr. Ladouceur’s question, Mr. Coates explained that all of the elements of the project are moving forward, including the residential buildings. He noted that there will be no problem leasing residential buildings in Avon.

Mr. Coates concluded by stating that he is waiting for a plan on Whole Foods tomorrow. He explained that if it doesn’t look like the approved plan it will have to be tweaked again reiterating his hopes to be at the May meeting but noting that he cannot promise anything at this time.

There being no further business the meeting adjourned at 8:30pm.

Linda Sadlon

Planning and Community Development