The Planning and Zoning Commission of the Town of Avon held a meeting at the Avon Town Hall on Tuesday, November 19, 2019. Present were Linda Keith, Chair, Tom Armstrong, Vice Chair, Mary Harrop, Peter Mahoney, Lisa Levin, and Brian Ladouceur, Jr. Absent were Joseph Gentile, and Alternates Elaine Primeau, Linda Preysner, and Jill Coppola. Also present was Hiram Peck, Director of Planning and Community Development.

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

**APPROVAL OF MINUTES**

Mr. Mahoney motioned to approve the minutes of the October 15, 2019, meeting. The motion seconded by Mr. Armstrong received unanimous approval.

Mrs. Harrop motioned to approve the minutes of the October 29, 2019, meeting. The motion was seconded by Mr. Ladouceur. Mr. Armstrong pointed out an incomplete sentence at the bottom of Page 157 to be completed. The amended motion was unanimously approved.

**PUBLIC HEARING**

App. #4909 Kenneth and Aimee Mair, owners/applicants, request for Special Exception under Section IV.A.4.q.of Avon Zoning Regulations to permit an accessory apartment, 586 Deercliff Road, Parcel 2090586, in an RU2A Zone

Kenneth and Aimee Mair were present.

Mr. Mair stated that the proposed accessory apartment is existing basement square footage that will be used by their aging parents; there is currently access to the area from multiple locations. A sink and a small kitchenette area would be added as well as minor wheelchair accessibility.

In response to Mr. Armstrong, Mr. Mair explained that he has reviewed the Regulations noting that while the existing basement area proposed for the Accessory Apartment exceeds the square footage in the Regulations it is a separate lower level providing independent living space. He further explained that the house has a total of 6,500 SF; 5,000 SF upstairs and 1,500 SF in the basement. He clarified that the basement living area is closer to 1,000 SF if you take away the laundry and utility areas.

Mr. Mair reported that approval has been received from Farmington Valley Health District. He reiterated that no additional square footage is being added and all existing access points remain the same.

Aimee Mair explained that the request is to add a sink, a stove with a microwave, and some cabinets; everything is already there; the area is fully finished with access to the outside and rest of house. She explained that in order to make the space more handicap accessible the existing sliding door may have to be changed to a different style door. No other structural changes are proposed.

Mr. Peck reported that there are two utility rooms, a laundry room, and an air-handler room; the basement living area is about 900 SF. He explained that because the structure already exists that the Commission has discretion and can waive the size requirement. He added that the size/square footage is insubstantial in the Staff’s opinion.

Mr. Armstrong noted that App. #4909 meets the special exception criteria in Section VIII.

There being no further comments the public hearing for App. #4909 was closed.

App. #4910 Estate of Donald Cole, owner/applicant, request for two-lot Resubdivision, 12.40 acres, 70 Sunrise Drive, Parcel 4190070, in an R40 Zone

App. #4911 Estate of Donald Cole, owner/applicant, request for Special Exception under Section IV.A.4.p.of Avon Zoning Regulations to permit two rear lots, 70 Sunrise Drive, Parcel 4190070, in an R40 Zone

App. #4912 Estate of Donald Cole, owner/applicant, request for Special Exception under Section III.G.4.f.of Avon Zoning Regulations to permit regrading in the floodplain, 70 Sunrise Drive, Parcel 4190070, in an R40 Zone

Present were David Whitney, PE, on behalf of the applicant and Bill Cole, owner and applicant.

Mr. Whitney acknowledged receipt of a letter from Matt and Sylvia Schultz and info regarding accident history from the Avon Police Department.

Mr. Whitney explained that the subject applications are identical to the previous applications (#4905-06-07) heard at the October 29 meeting. Apps. #4905-06-07 were withdrawn due to a needed request for a waiver (i.e., number of lots on a permanent cul-de-sac). The subject applications include the request for a waiver. He stated, for the record, that all the information presented at the October 29 public hearing also applies to the subject applications. He explained that the site is a 12-acre parcel with an existing house at the end of Sunrise Drive; the proposal is a resubdivision to create one new nine-acre lot. Approvals have been granted by the Farmington Valley Health District and the Inland Wetlands Commission.

In response to Mr. Ladouceur, Mr. Peck explained that the wetlands approval and requirements stand and apply to the subject site regardless of application decisions made by this Commission.

Mr. Whitney confirmed that there have been no changes to the subject plans. He addressed the number of lots permitted on a permanent cul-de-sac, noting that the Subdivision Regulations are somewhat confusing on this topic. Permanent, not temporary, cul-de-sacs up to 1,500 feet allow up to 20 lots, whichever is more restrictive; 1,500 to 2,000 feet allow 15 lots; and 2,000 to 2,500 feet permit 10 lots. He explained that the Regulations also state that if any applicant can demonstrate adherence to the design standards but an alternative plan better protects the community the Commission can waive these standards and the decision in part can be based on recommendations from the Traffic Authority and Fire Marshal. He explained that Sunrise Drive was built in the 1960s, likely before the aforementioned language (number of lots on permanent cul-de-sacs) was part of the Subdivision Regulations and when it was built there were 20 lots on a road that is 1,700+ feet in length that under today’s Regulation would permit 15 lots. Sunrise Drive is an existing non-conforming condition. He referenced the Aspenwood Subdivision (2013 approval) noting that, originally, the cul-de-sac was proposed for the middle of the site as a permanent cul-de-sac, 1,500 feet long with 16 lots. The Commission wanted the cul-de-sac to be temporary and extended to the west such that it would abut large parcels at 63 Sunrise Drive and 841 West Avon Road with the intention that someday the cul-de-sac could be extended to West Avon Road. A temporary cul-de-sac is not limited with regard to the number of lots. He referenced the 16 lots for Aspenwood, explaining that there is 937 feet of road beginning from West Avon Road then continues for another 800 feet for a total of 17 lots. Starting at the intersection (of Aspenwood Drive) and heading to the permanent cul-de-sac on Sunrise Drive is 780 feet and there are currently 10 existing lots but the current Regulations would allow 20 lots. The subject proposal asks for the 11th lot. Mr. Whitney indicated that if this measurement methodology is correct he doesn’t believe a waiver is needed, although it’s been requested. He said if the entire neighborhood is considered on a permanent cul-de-sac then there are 27 existing lots on Sunrise Drive and the subject proposal would be the 28th lot, needing the requested waiver.

In response to Mr. Mahoney, Mr. Peck explained that the Aspenwood cul-de-sac is likely permanent at this point. He further explained that although there is potential in the future to extend that road (cul-de-sac) there is no ability at this point to make that assumption because the land is privately owned.

In response to Ms. Keith, Mr. Peck explained that the applicant is doing their best to cover all the bases given the wording/language in the Subdivision Regulations adding that should an approval be granted that it would be best to include the waiver.

Mr. Whitney stated that he believes that the applications meet all the criteria for the requested waiver and added that he provides nine reasons (in his letter dated 11/12/19) why one new lot on Sunrise Drive will not pose any adverse effect on adjacent properties or public safety and welfare.

In response to Ms. Levin, Mr. Whitney explained that if the subject proposal is approved creating the 28th lot on Sunrise Drive that the only property remaining with potential to be subdivided is 63 Sunrise Drive. He noted that 63 Sunrise has one existing house and if subdivision were permitted any new lot(s) would have to be rear lot(s) unless Aspenwood (road) was extended.

Ms. Levin asked if a waiver would be granted for 63 Sunrise Drive should an application come before the Commission.

Ms. Keith commented that 63 Sunrise Drive is heavily encumbered by poorly drained soils, possible wetlands.

Mr. Ladouceur commented that Aspenwood is a curved road which might not meet the criteria noted by Mr. Whitney (i.e., Sunrise Drive is a straight road with no excessive grades).

Mr. Peck explained that every application that comes before the Commission is considered on a case by case basis such that it is not a good idea to speculate about what may be decided for other parcels in the future.

In response to Ms. Levin, Mr. Peck explained that a waiver consideration depends on how a parcel is accessed. If access for a proposal at 63 Sunrise Drive is through Aspenwood (road) then a waiver would need to be considered but noted that Mr. Whitney displayed a map showing a possible extension, which could also be the case. Determination on whether a waiver is needed or not should be considered only once an application is submitted for review.

In response to Mr. Armstrong, Mr. Whitney explained that Aspenwood (road) is shown on recorded/filed plans as a temporary cul-de-sac and would have to be extended about 600 feet, passing through both 63 Sunrise Drive (Candels property) and 841 West Avon Road (Smith Farm), should 63 Sunrise Drive be proposed for development. He indicated that dividing 63 Sunrise Drive could result in maybe be five or six lots and be similar to the Aspenwood Subdivision.

The hearing was opened to public comment.

Carol Griffin, Haynes Road, noted her understanding that all public comments made at the last public hearing are also made part of tonight’s record. She commented that she needs to know how the proposed new lot better protects health, safety, and welfare.

In response to Mrs. Griffin, Mr. Whitney read aloud his letter addressed to the Commission requesting a waiver, dated November 12, 2019. He explained that the original applications (#4905-06-07) had not specifically requested a waiver and that is why the applications were withdrawn and resubmitted with a specific waiver request. He explained/clarified that the Regulations do not say that you have to make it better bur rather it says it will not have a significant adverse impact on adjacent properties or public health, safety, and welfare.

Mr. Whitney read aloud the nine reasons he cited in his November 12 letter as to why granting a waiver for one new lot will not adversely affect the neighborhood.

In response to comments, Mr. Whitney indicated that the applicant has no objection to requiring the access way to be owned in fee by the new rear lot (rather than by the existing front lot), as either scenario satisfies the Regulations. He explained that there is only 25 feet of shared driveway that would have to be paved but the remainder of the driveway could be an all-weather surface.

In response to Mr. Armstrong, Bill Cole, applicant, stated that sprinkling the building is not required by the Fire Marshal so a sprinkler system will not be installed. Mr. Cole noted that there is a pond nearby/available.

In response to Mr. Armstrong, Mr. Whitney noted that the length of the driveway is about 900 feet to the new rear lot; there is a fire hydrant on Aspenwood. Mr. Armstrong commented that the fire hydrant is about 600 feet away from the end of the cul-de-sac and the driveway is 900 feet; Avon has a volunteer fire department that would likely take 15 minutes to arrive.

Mr. Ladouceur commented that the Fire Marshal always recommends sprinklers but does not require them (unless the location is Deercliff Road) and the recommendation is the same for every application regardless of the situation adding that that should be taken into consideration.

In response to questions from Maria McCormick, Haynes Road, Mr. Whitney explained that the subject new rear lot could not be further subdivided in the future because the maximum number of rear lots on a common driveway is two. He pointed out the conservation restrictions areas required by the Inland Wetlands Commission’s approval. He explained that the applicant is willing to extend the conservation restriction area by 10 feet along the northern property line. He pointed out that the plans also show a 20-foot no-cut area to provide as much privacy as possible to all parties.

In response to Mr. Armstrong and Ms. Keith, Mr. Cole confirmed that the Fire Code now requires that smoke detectors and carbon monoxide detectors be hard wired (not battery reliant) adding that the modern Building Code addresses many fire safety issues.

In response to Mr. Armstrong, Mr. Whitney explained that most of the aforementioned pond is located on the front/existing lot; none of the pond is located on the proposed rear lot.

In response to Mr. Armstrong, Ms. Keith said that the Fire Department can use a pond without permission in an emergency; they can also drain swimming pools.

Mrs. Griffin said that she was on the Commission when the Aspenwood Subdivision was approved and noted her recollection that it was determined that it could possibly make conditions somewhat better because it had a provision to extend Aspenwood someday reaching to West Avon Road therefore providing a second access, for safety reasons. She commented that she doesn’t think the subject applications can be shown to better protect and these are the words in the Regulations; adding only one more lot doesn’t make it any better.

Ms. Levin noted her understanding of Mrs. Griffin’s comments but noted that while the entire proposal is being considered in connection with Section 5.06.01 of the Subdivision Regulations, the issue of the waiver is subject to the language/criteria in Section 1.05.4 (v), which states that the granting of a waiver will not have a significant adverse effect on adjacent property or on public health, safety. She noted that if a waiver was not being requested then the standards under Section 5.06 would have to be considered.

Mrs. Griffin commented that the proposal would have to be considered under the standards in Section 5.06 in any event, with or without a waiver.

Ms. Keith noted her agreement that it would have to be considered under both.

Mr. Ladouceur commented that the proposal is not to build a development; it’s adding one lot.

There being no further input the public hearing for Apps. #4910-11-12 was closed, as well as the entire public hearing.

**PLANNING AND ZONING COMMISSION MEETING**

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

App. #4909 Kenneth and Aimee Mair, owners/applicants, request for Special Exception under Section IV.A.4.q.of Avon Zoning Regulations to permit an accessory apartment, 586 Deercliff Road, Parcel 2090586, in an RU2A Zone

Mr. Mahoney motioned to approve App. #4909, as submitted. The motion seconded by

Ms. Levin and received unanimous approval.

Mr. Armstrong noted that App. #4909 meets the requirements of Sections IV.A.4.q. and VIII of the Zoning Regulations.

App. #4910 Estate of Donald Cole, owner/applicant, request for two-lot Resubdivision, 12.40 acres, 70 Sunrise Drive, Parcel 4190070, in an R40 Zone

Mr. Ladouceur motioned to approve App. #4910 subject to the following condition:

1. A waiver is granted in accordance with Sections 5.06.01 (*Permanent cul-de-sacs*) and 1.05.04 (*Waiver)* of the Subdivision Regulations. The Commission found the waiver provisions to be met, in a vote approved 5-1.

The motion was seconded by Mrs. Harrop and received approval from Messrs. Ladouceur and Armstrong and Mesdames Harrop, Keith, and Levin. Mr. Mahoney voted in opposition of approval.

App. #4911 Estate of Donald Cole, owner/applicant, request for Special Exception under Section IV.A.4.p.of Avon Zoning Regulations to permit two rear lots, 70 Sunrise Drive, Parcel 4190070, in an R40 Zone

App. #4912 Estate of Donald Cole, owner/applicant, request for Special Exception under Section III.G.4.f.of Avon Zoning Regulations to permit regrading in the floodplain, 70 Sunrise Drive, Parcel 4190070, in an R40 Zone

Mr. Ladouceur motioned to approve Apps. #4911 and #4912 subject to the following conditions:

1. Applicant shall comply with all recommendations/requirements of the Planning Director, Farmington Valley Health District, Town Engineer, and Fire Marshal.

2. A 10-foot conservation restriction shall be placed along the northern border of Parcel #4190068, connected to the wetlands conservation restriction.

3. The shared portion of driveway access shall be owned by Parcel #4190068. A Mutual Driveway Access and Easement Agreement shall be submitted to the Planning Department for review and approval prior to filling on the Land Records.

Mrs. Harrop seconded the motion that received approval from Messrs. Ladouceur and Armstrong and Mesdames Harrop, Keith, and Levin. Mr. Mahoney voted in opposition of approval.

**INFORMAL DISCUSSION**

Dom’s Coffee – 20 West Main Street

Attorney Cheryl Rice was present on behalf of Dom’s Coffee. She explained that Dom’s Coffee, a Euro-style gourmet coffee shop, has been trying for over a year to sell wine and beer and hard cider. (App #4877 was approved in Oct 2018 for sale of wine/beer). She asked that a consideration be given to modifying the Avon Zoning Regulations in connection with café permits, which are currently not allowed in any zone and there is also no definition for café in the Regulations. She noted that Dom’s has been open for five years and has become a very popular destination due to the casual, relaxed and quiet environment where people like to hang out with laptops but also is a place where business meetings take place. There are thousands of gourmet coffee houses, similar to Dom’s Coffee, opening all over the country due to the demand. She explained that data also indicates that these types of coffee houses are also now offering wines, craft beer, and specialty cocktails to enhance offerings to their customers and, in turn, enhance their businesses. These types of coffee houses are not turning into brothels or “speakeasys” that are open until 2am; they are open until 9pm or 10pm with a limited offering of alcohol choices. Customers want a place where they can stop in to meet friends while enjoying a drink and a snack and then go home; they are not looking for a bar environment. Ms. Rice explained that Dom’s Coffee cannot get a Tavern Permit from the State Liquor Commission because they open before 8am (even if they do not sell alcohol). Dom’s Coffee cannot get a restaurant permit either (per State Statutes) because they do not have a commercial kitchen or a large offering of hot meals, both of which are required by the State Liquor Commission. She explained that café permits in the State of CT are very liberal adding that Dom’s Coffee fully satisfies all the State requirements for café permits. She commented that is it likely that when the café permit language was added to Avon’s Regulations that the intent was to prohibit watering hole places, like noisy bars, where people hang out until 2am. Dom’s Coffee never intends to have music or be open to excessive hours. Ms. Rice explained that the request is to consider eliminating the prohibition of café permits in the Regulations and, in turn, consider allowing café permits, by special exception, such that Dom’s Coffee could be allowed to sell beer, wine, and hard cider in accordance with the approval they received last year.

In response to comments/questions from the Commission, Mr. Peck explained that the applicant is asking that the prohibition of café permits be eliminated but then make café permits only allowed by special exception approval. A change in the existing Regulations is needed to first remove the language that currently prohibits café permits and then new language added to address special exception requirements in connection with requests for a café permit. He confirmed that the Commission has a lot of discretion in connection with special exception applications. He explained that he has talked with the State Liquor Commission several times noting that State Statutes prevail with regard to café permits.

Gitana, the owner of Dom’s Coffee, explained that the primary business is a coffee shop adding that the wine and liquor will only be an aside. She explained that her customers are always asking for a glass of wine to go with their cheese plates.

Mr. Ladouceur noted his concerns for totally eliminating the café permit regulation but also noted his understanding that anyone seeking a café permit would have to submit a special exception request to the Commission for review and approval. He commented that he would like Avon’s Regulations to have specific safeguards built in (e.g. café permits cannot be open past 11pm, live entertainment, distance from schools, etc.) to offer protections to the Town in connection with the broad terms contained under the State’s Café Permit. He commented that the State could change their Café Regulations at any time.

Mr. Mahoney commented that by allowing café permits only by special exception gives the Commission much discretion over every aspect of a proposal.

Mr. Peck noted his understanding of the concerns adding that he is happy to draft language for review by the Commission. He explained that while the State can allow whatever they want in connection with café permits the Town of Avon, in modifying their Regulations, would just be further restricting what is allowed by the State.

The Commission unanimously agreed for a draft regulation to be written by Mr. Peck for review.

Ms. Keith commented that the proposed regulation change should address and correct the current issues for Dom’s Coffee.

Ms. Rice communicated her agreement and appreciation.

**OTHER BUSINESS**

Big Y – 255 West Main Street – new wall signs proposed

Mr. Peck explained that the new/proposed large red circle wall signs are internally illuminated; the existing wall signs are not illuminated. He indicated that he would like to suggest to Big Y, at the Commission’s agreement, that they use halo lighting/back lighting for only the letters rather than illuminating the entire large red circle. He pointed out that there are other businesses along Route 44 (banks) that do have internally illuminated signs.

The Commission indicated that they prefer the existing signage over the proposed. The Commission also prefers halo lightning for just the sign letters as opposed to internally illuminating the entire red circle.

Mr. Peck noted his understanding adding that although the proposed sign is far from the road he confirmed that he would talk to Big Y about the Commission’s suggestions.

**STAFF UPDATES**

Avon Village Center

Mr. Peck reported that site excavation is ongoing and progressively rapidly. The temporary roads are scheduled to be in place by early December. No building permits will be issued until the bonds are received by the Town; he explained that he has been told that the bonds are due any day now. A foundation permit will be issued for Whole Foods once the bonds are received. The master agreement between the Town and the developer is also still outstanding. Many details are still being reviewed with the peer review architects (e.g. windows, trim, roof skylights). He reported that he has asked the developer several times to provide flagman on Climax Road, adding that the hope is that they will be in place by this coming week. He explained that the job could be shut down if they don’t comply because it’s a dangerous situation but noted that he hopes it would not come to that. He commented that the earth removal trucks are leaving the site heading in different directions to different sites utilizing different routes such that no one road is overburdened. The Town is utilizing some of the earth material for utility projects. There have been no complaints recently about truck traffic.

Avon Mill Apartments

Mr. Peck reported that the developer for Avon Mill has redone and made some improvements to the traffic study such that the original Level of Service (LOS) was F and is now upgraded to

LOS C for the residents of River Mead (access was provided for River Mead residents to allow them to reach the traffic light at Avonwood Road/Route 10 and also the possibility for a right turn lane at the traffic light onto Route 10). The developer also intends to provide updated detailed information on school enrollments and slightly reduce the number of new units. He explained that the developer would like to come back with a modified formal submission but only if the Commission is agreeable.

The Commission agreed to review a revised application submission. Mesdames Keith and Harrop noted that the existing buildings are in dire need of renovation.

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

Linda Sadlon

Avon Planning and Community Development