

The Planning and Zoning Commission of the Town of Avon held a regular, hybrid meeting (in person - Selectman's Chambers AND virtual GoToMeeting) on Tuesday, February 20, 2024. Present were Lisa Levin (in person – sat) Chair, Peter Mahoney (virtual – sat) Vice Chair, Joseph Gentile (in person – sat), Robin Baran (in person – sat), Alternate Randall Bowers (in person – sat), Christopher White (in person – sat), Chet Bukowski (virtual – sat), Alternate Christine Graesser (in person – did not sit) and Alternate Elaine Primeau (virtual – did not sit). Jamie DiPace was absent. Also present was Hiram Peck, Director of Planning and Community Development.

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

#### **MEETING MINUTES** January 30, 2024

Ms. Levin asked for revisions to the January 30 minutes (Page 547 – Ms. Baran ...."I can't see how this application meets the special exception requirements – there is one criterion on both parts that is not being fulfilled" (***Clarification requested by Ms. Baran ...i.e. "It is the purpose of this section to preserve the natural features of the landscape" as stated in III.H.1; and "That the proposed plans have provided for the conservation of natural features" and "the protection of the environment of the area" as stated in VIII.H.)***) – but some of the other ***criteria*** are. (i.e. "... keep the land suitable for appropriate future uses, prevent the occurrence of nuisances from earth removal operations which will affect the value and enjoyment of neighboring properties, and control earth removal operations in order to protect the public health and safety" as stated in III.H.1; and "... drainage basins, ... and sustained maintenance of the development" as stated in VIII.H.). (Page 548.... The excavation of 700 \****7,000 (\*Correction requested by Ms. Levin)***). (Page 550... ~~Any required bond~~ \****The required bond (\*Revision requested by Ms. Levin)***). (Page 551... \****Commission directed Staff to prepare revised alternate policy (\*Revision requested by Ms. Levin)***).

#### **PUBLIC HEARING**

App. #5023 - Atlas Construction Services, owner/applicant, request for Special Exception under Section VI.C.3.b. of Avon Zoning Regulations to permit Class III restaurant, 275 and 279 West Main Street, Parcels 4540275 and 4540279, in a CR Zone

#### **OUTSTANDING APPLICATION**

App. #5022 - Atlas Construction Services, owner/applicant, request for Site Plan Approval to permit demolition of existing buildings and construction of one new building and two pads, 275 and 279 West Main Street, Parcels 4540275 and 4540279, in a CR zone

Present were Attorney Bob Meyers on behalf of the owner; Michael Ott, PE, Summer Hill Engineers; and Dave Sullivan, traffic engineer, SLR.

Mr. Peck reported that the applicant has agreed to eliminate any reference to invasive species in the landscape plan. There will be a discussion tonight about the potential for conservation/preservation of the rear portion of this property. The Commission asked at the last meeting about making safer left-turns in and out of the site; the applicant will be presenting information tonight.

Mr. Meyers said we anticipate a condition of approval that the applicant will work with the Planning Director on the landscape plan. The law is pretty clear that a commission does not have authority to exact from an applicant money or land or anything of value to be given to a private citizen or private party (i.e., letter from the Land Trust). He noted that his understanding is that Mr. Peck also spoke with the Town Attorney who provided the same information. The traffic engineer is here tonight to present a plan relating to left turns.

Dave Sullivan displayed a map showing a new, proposed left-hand turn lane from Route 44 into the subject site. There are currently two full-access driveways on the site with the driveway located closest to Walmart being a right turn-out only. The other driveway, as it located about half-way between two signal lights on route 44, will remain a full access driveway (all turns both in and out). He explained that the center lane of Route 44 would have to be shifted to incorporate the proposed left-turn lane – the road shoulders would become smaller – there are other existing areas on Route 44 that have small shoulders. He confirmed that any proposal needs to be approved by the State.

In response to Ms. Baran, Mr. Meyers explained that Route 44 is a State highway so the State has the ultimate authority on what gets built. If the State says no to the proposal outlined by Mr. Sullivan it does not come back to the Commission. The applicant must comply with the State.

In response to Ms. Levin, Mr. Meyers explained that the State has jurisdiction over everything affecting an encroachment permit, which includes site driveways and ingress/egress.

Mr. Sullivan explained that the State considers what happens on a site to have an effect on the operations on their roadways.

In response to Mr. Bowers, Mr. Sullivan confirmed that the aforementioned right-turn out only can exist without needing the State to do the proposed left-hand turn lane from Route 44 into the site.

Mr. Sullivan further explained that the State is usually more conservative in their access – the State will be more conservative than what we are showing and likely take things away – they are very unlikely to add things. He noted his confidence that the proposed left turn in – even with smaller shoulders -will probably be fine with the State. If the State has any recommendations for the site itself it will likely be more restrictive (i.e., installation of a sign that says no-left turn).

Ms. Baran said that vehicles sitting in the left-turn lane on Route 44 would be dealing with two lanes of traffic in both directions as well as the lane they are in - making it really five lanes of traffic. She noted her concerns during rush hour traffic.

Mr. Sullivan explained that vehicles waiting on Route 44 in the left-turn lane to enter the site won't be moving – they will be waiting for a gap in traffic and this is not unlike any other intersection that has a turn lane.

Mr. Bowers said that there would be a crossing traffic pattern - left-hand in and left hand out – this will also create a visual obstruction for those sitting to make a left-hand turn out of the site with cars stacked up in the left turning lane on Route 44.

Mr. Sullivan explained that this is only a 50-foot turn lane – the analysis tells us that there's probably going to be one car there – you would be looking behind the car sitting there – it's really not an obstruction.

Mr. Gentile asked if there was no left turn out of the site if that would be a deal breaker – taking a left out of the site is playing chicken. He is very worried about public safety.

Ms. Levin said that she hadn't realized until after the last meeting the elevation/grade in this area on Route 44 – it's increasing the accident risk in this area. She also noted her concerns with left-hand turns out of the site.

Mr. Sullivan explained that the subject design is not unique – this is a very traditional unsignalized left-turn lane – you probably go by 25 of these each day if you travel up and down Route 44. The left-turn lane gets the

left turners out of the traffic stream in a very traditional manner. The sightlines relative to left turns out of the site are good – there is nearly 600 feet of sight distance looking west for east bound vehicles approaching – for the posted speed limit you need about 415 feet of sight distance – we have more than is required. There are hundreds of feet of sight distance in the other direction – you can see past the signal at Walmart.

Mr. Meyers said that the applicant is not present tonight and therefore he cannot answer the question about whether removing the left turnout is a deal breaker.

In response to Ms. Levin, Mr. Peck offered to talk to the DOT before a decision is made.

Mr. Bowers also asked about no left turns out of the site being a deal breaker – also, relative to the proposed left turn lane on Route 44, it looks like the shoulder would be moved closer to the left-hand turn exit from the site moving vehicles closer to passing traffic.

Mr. Sullivan confirmed that the shoulder is moving closer to the stop bar such that the stop bar would be shifted back a couple of feet – he said that if there was anything along the site frontage that would obstruct sightlines our recommendation would be to keep all that maintained (the existing vegetation at the site frontage would be cut back). If we were pushing it far enough back such that the grades were getting in the way they would have to be graded down.

In response to Ms. Levin, Mr. Peck said that Mr. Meyers' earlier comments summed up the issue relative to the conservation easement – he suggested that if the Commission wants to protect the property, Sheet C2.1 of the plan set shows where erosion controls will be setup during project construction – this area could be used as a conservation area to protect all the wetlands as well as the pond on the rear of the site – and this does not adversely impact either of the two building pads proposed. If the Commission wants to propose a conservation easement he suggested that the line shown on Sheet C2.1 be used and that such easement run to the Town, as dedication of an easement to a third party is not acceptable to the applicant.

In response to Ms. Levin, Mr. Peck confirmed that the easement would include the entire area which includes the existing trails, the wetlands and pond and the floodplain area. As with any other conservation area, the entire area would be maintained (trash removal, etc). Town Wetlands Staff would have access to the area and the pond to ensure everything is kept clean. Access to the area by the general public is not acceptable to the applicant.

In response to Ms. Levin, Mr. Peck said that the parking is based on current requirements in the zoning regulations – the plan shows an adequate number of parking spaces for the current restaurant proposal. Total parking on the site would be reassessed at such time when uses for the other two pad sites are proposed. There is plenty of parking on the site – there are two existing parking lots on site in addition to the parking around the existing building, which will be replaced with a new building.

The hearing was opened for public comment.

Rick Dubiel, Deepwood Drive, was present as co-president of the Avon Land Trust. In July of 1999 the Commission approved a conservation restriction (260 West Main Street) that said it shall be deeded to the Avon Land Trust – there is precedent. He offered the Land Trust to hold the aforementioned conservation easement or partner with the Town. The Town has not been a good steward (complaints of poor maintenance) of the area between CVS and Marketplace.

There being no further comments, Mr. Mahoney motioned to close the public hearing for App. #5023; the motion was seconded by Mr. Bowers and received unanimous approval.

Ms. Baran said she would like to wait to vote to get an answer to Mr. Gentile's question.

Mr. Gentile said that he believes that at one time the site was one way in and one way out and they may want to consider that as an alternative plan to what they have now.

Mr. Mahoney said that he is in favor of the proposed left-hand turn lane on Route 44 – his biggest concern is left turns out of the site but noted that the State DOT will likely make the right decision so he's not sure it's worth holding up a decision on tonight.

Ms. Levin said she would also like to hear from the applicant if the Commission decided it was best to eliminate the left turn out of the site.

Mr. White motioned to table Apps #5022 and #5023 to the next meeting; the motion was seconded by Mr. Bowers and received unanimous approval.

The public hearing portion of the meeting was closed.

## **PLANNING AND ZONING COMMISSION MEETING**

### **NEW APPLICATION**

App. #5024 - Farmington Valley American Muslim Center, Inc, owner/applicant, request for Site Plan Approval to permit parking expansion, 35 Harris Road, Parcel 2570035, in an R40 Zone

Present were Tristan Wallace, PE, Loureiro Engineering, on behalf of the applicant, and Khamis Abu-Hasaballah, President of FVAMC

Mr. Peck explained that the proposal is to add 28 parking spaces to the existing parking lot for a total of 140 spaces. Currently there is significant overflow parking onto the local streets on Fridays at noon, which is their busiest time. Additional landscaping is proposed for screening for the neighbors. The shed and dumpster that are currently located on an abutting property have been pulled back onto the subject site. There are two parking attendants on site during the busy times to ensure that people go in and out of the site in the proper manner. The applicant is well aware that there are issues with significant amounts of traffic during the busy time. The rest of the time there is much smaller amounts of traffic – maybe 50 people at any given time.

Mr. Wallace explained that a 28-space parking lot expansion is proposed – about ½ an acre of area on the south side of the existing building. Current parking lot has 106 spaces – proposal will bring total spaces to 134. Friday services can be 300± people – regular days can be 500-100 people. No changes to the entrance or exit drives are proposed. In addition, the aisle for some of the existing parking lanes is being converted to two way, instead of one way, to improve internal circulation. Relocation of existing lights is proposed on the landscaped areas to the front and rear – any additional lights proposed will meet compliance (no light off the site). Additional landscaping is also proposed to help mitigate any light intrusion. Stormwater is handled onsite via an infiltration system sized for a 100-year storm. Erosion and sedimentation controls will be used – silt fence will be installed around the perimeter of the disturbed area – construction entrances and exits will be utilized. Slope conditions on part of the site limit the area that can be developed but the subject proposal is a positive step forward.

In response to Mr. Bowers, Mr. Abu-Hasaballah explained that we have people coming to this facility five times per day – the night prayer is 15-20 people at 7:30pm. Friday service from 1-1:30pm sometimes is 300 people – these are people who work in the area with their own car – we can have 180-200 cars at once. On average we have 250 people.

In response to Ms. Baran, Mr. Wallace clarified that some parking spaces will be taken out to make room for the parking expansion – he further clarified that the new spaces will be attached/be part of the existing parking lot.

In response to Mr. Gentile regarding outdoor lighting, Mr. Abu-Hasaballah said we follow the lunar calendar so prayer time changes – the time goes from 5:30-6 until 9:30-10 and the time will change as the seasons change.

Mr. Bowers said there will be fewer parking spaces available while the new parking is being constructed creating additional traffic needing to park elsewhere.

Mr. Abu-Hasaballah said that even with the additional spaces requested we are getting a lot more people – we are thinking of having two services on Fridays to help alleviate the parking needs.

Mr. Wallace said that hopefully the construction timeline is short such that the site can get back to normal use.

In response to Mr. Levin, Mr. Wallace explained that he doesn't have the info relative to how much material will be removed but further explained that no significant cuts are proposed – the existing landscape is relatively flat so we are really creating some depression areas to capture stormwater. Ms. Levin said we need to know the amount of earth removal. He indicated that there has been some clearing in the area – some of the existing vegetation along the south side of the parking lot will need to be removed but the intent is to replace that with evergreen and deciduous plantings along the south side. If there is a wish to intensify this more landscaping can be discussed. Ms. Levin said we need a new map to identify the revised landscaping plan and where the shed and dumpster will be located. Mr. Wallace said that the intent is to remove the shed and dumpster from the south side of the site – there are some open areas along the north side but an exact location is not yet known.

Mr. Abu-Hasaballah said that the shed was put in its current location with the full permission of the neighbor – but we are more than happy to move it somewhere else. He noted that the building has about 5,000 square feet of space inside the sanctuary – there are no seats – people sit on the floor.

In response to Messrs. Bowers and Gentile, Mr. Wallace indicated that while he doesn't have an exact capacity number from the Fire Marshal, as the site has existed for quite some time, he noted that the building can comfortably accommodate about 400 people; the proposed parking is well over the minimum requirement.

After some discussion about parking and building occupancy, Mr. Peck explained that he spoke with the Fire Marshal who indicates that he has no problem with what is being proposed – the minimum number of parking spaces is more than is required for the size of this space – the minimum number of spaces is about 75-80 here – the proposal is for more than the minimum but there is no required maximum.

Mr. Gentile asked what the need will be for worshippers to still park offsite. Mr. Abu-Hasaballah said that he thinks there will still be that need such that in time he may return to talk about additional parking. We try to park as many cars on site as possible – in grassed areas too – to keep cars off of Harris Road, which is legal but not safe.

In response to Mr. White, Mr. Abu-Hasaballah explained that coming back for more parking is theoretical at this point – these things are quite costly – it may be two or three years before we return. We are doing the best we can for right now.

In response to Ms. Levin, Mr. Abu-Hasaballah said we have two neighbors – John Albanese and Alex Odski – he has talked to both of them. We have Brian across the street and we have Michelle on the other side facing the entrance driveway and we are constantly in contact. We had an issue with lighting with a neighbor Peter Starr which has since been addressed and is fine as far as I know.

Ms. Levin asked the Commission if they would like to schedule a public hearing for March 12.

Ms. Baran motioned to table App #5024 and schedule a public hearing for App #5024 at the March 12 meeting; the motion was seconded by Mr. White. The motion was approved by Mesdames Baran and Levin and Messrs. White, Mahoney, Gentile, and Bowers.

#### **OTHER BUSINESS**

##### 8-24 Referral - Purchase .87 acres for Route 44 Sanitary Pump Station

Mr. Peck reported that this 8-24 Referral is for the Town to purchase a small strip of property (.87 acres) that includes the current pumping station, located on Route 44 just west of Nod Road. The purpose is to allow the rehabilitation of the existing sewage pump station - currently the subject property is owned by the Blue Fox Run Golf Course who has indicated a willingness to sell it to the Town. A slight revision to the property lines will allow the Town to do the work needed to be done in the future without seeking approval from a private party. There are four pine trees in the area that are not in great shape – the Town Engineer has indicated that these trees will likely come down in any event, and not as a result of the aforementioned acquisition.

Mr. Mahoney motioned to approve the 8-24 Referral to purchase .87 acres for the Route 44 Sanitary Pump Station, as it is necessary that this purchase be made.

Ms. Levin amended the motion to say that the proposed acquisition is consistent with the goals of the 2016 POCD in that it maintains the adequate public facilities to serve Avon residents and businesses and that further it will provide or assist in the provision of a range of public utilities to service all citizens of Avon.

Mr. Mahoney said that by making this motion we are making that determination.

Ms. Levin said that her understanding of the 8-24 charge is that we have to look to make sure that whatever action is being proposed is consistent with the POCD.

Mr. Mahoney said ok.

Mr. Gentile seconded the amended motion that received approval from Messrs. Mahoney, Gentile, White, Bowers, and Mesdames Baran and Levin.

##### Housing Task Force

Mr. Peck reported that the Town Committees are currently discussing names for the task force and names will be submitted to the Town Council for their next meeting.

Alternate Seating - Admin Policy #3 – Proposed Revisions

~~Ms. Levin said that revisions were made to Admin Policy #3 and included in the Commission's agenda package. Alternates will be selected by party affiliation—two lists will be maintained.~~ ***(Ms. Levin asked for the following replacement language....Ms. Levin said the proposed revisions to Admin Policy #3 were circulated to the Commissioners for their review. The revisions propose selecting the alternate based on the absent member's party affiliation.)***

Mr. Gentile motioned to adopt the revisions to Admin Policy #3; the motioned was seconded by Mr. White and received approval from Messrs. Gentile, White, Mahoney, Bowers, and Mesdames Baran and Levin.

**STAFF UPDATES**CFPZA – Annual Meeting

Mr. Peck reported that the annual CFPZA meeting is March 28, 2024. Information on short-term rentals will be presented - please let Town Staff know if you wish to attend.

FOIA Virtual Meeting – Town Attorney - Feb 28, 2024 7pm

Mr. Peck reported the Town Attorney will be present information on ethics and FOIA at a virtual GoToMeeting to be held on February 28 at 7pm. He recommended that Commissioners join this training opportunity.

Zoning Regulations Update and Meeting Date

Mr. Peck reported that the revisions/update to the Zoning Regulations is up to Section Four, which involves permitted uses. The consultant recommends inserting a use table (there is not one currently). He suggested that we hold a special meeting (virtual GoToMeeting) on Tuesday March 5 at 7pm to discuss Section Four.

Ms. Levin asked that we start having a conversation with the consultant about the abutter regulation.

Mr. Peck noted his understanding adding that abutter information is in the administrative section near the end but we can bring it up.

The meeting adjourned at 8:50pm.

Avon Planning and Community Development