

The Planning and Zoning Commission of the Town of Avon held a regular hybrid meeting (*in person – Selectman’s Chambers, Avon Town Hall, and virtual GoToMeeting*) on Tuesday, March 12, 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), Christopher White (in person – sat), Chet Bukowski (virtual – sat), Alternate Randall Bowers (virtual – sat), Christine Graesser (in person – did not sit). Absent were Jamie DiPace and Alternate Elaine Primeau. Also present was Hiram Peck, Director of Planning and Community Development.

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

MEETING MINUTES

Ms. Levin asked for a revision to the February 20 minutes (Page 558 at top.~~Ms. Levin said that revisions were made to Admins 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. White motioned to approve the minutes as revised; the motion was seconded by Mr. Mahoney receiving unanimous approval.

PUBLIC HEARING

App. #5025 -Gregory and Elizabeth Ferry, owners/applicants, request for 2-lot Subdivision, 3.58 acres, 17 Berta Lane, Parcel 1270017, in R40 and R30 zones

App. #5026 - Gregory and Elizabeth Ferry, owners/applicants, request for Special Exception under Section IV.A.4.p.of Avon Zoning Regulations for one rear lot, 17 Berta Lane, Parcel 1270017, in R40 and R30 zones

Present on behalf of the owners were David Whitney, PE, Consulting Engineers, and Atty Robert Meyers

Mr. Whitney displayed maps for the subject site noting that the request is for a two-lot subdivision and one rear lot. There is an existing house at 17 Berta Lane - the existing driveway will be widened to 12 feet and the common portion paved, per Town Regulations, to become a common driveway to also serve the proposed rear lot. The existing house has a well and septic and the new lot will also have a well and septic – approval granted from FVHD. A conservation restriction area is proposed on the new (rear) lot to buffer the new house from the neighbors as well as comply with open space requirements. The plan complies with the Zoning Regulations.

In response to Ms. Levin, Mr. Whitney explained that the common portion of the driveway shall be paved per the Regulations but added that the requirement for the remainder of the driveway is that it be a durable all-weather surface. The subject site is not steep such that the proposed rear lot is perfectly suitable for development.

The hearing was opened for public comment.

Christine Graesser, Lawrence Avenue, noted her interest in creating affordable housing and asked what size the proposed house on Lot #2 will be. Mr. Whitney explained that the size of the proposed new house is not yet known adding that the submitted plan is only a feasibility plan. Mr. Meyers clarified that the subject application is only to create an approved building lot.

Louis Bonalumi, Sylvan Street, said that he is good with this application and it should go through.

Mr. Gentile motioned to close the public hearing for Apps #5025 and #5026; the motion was seconded by Mr. White and received unanimous approval.

The public hearing portion of the meeting was closed.

PLANNING AND ZONING COMMISSION MEETING

Mr. White motioned to approve Apps. #5025 and #5026 subject to the following conditions:

1. The Commission made a finding that the applicable sections of the Special Exception requirements have been met. This is a residential use in a residential zone – the approved rear lot meets all dimensional and open space requirements.
2. The rear lot shall be identified on the record mylar as 21 Berta Lane (Parcel ID 1270021), per the Town Assessor.
3. All requirements of the Fire Marshal shall be met and compliance demonstrated regarding access to the rear lot. It is noted that these requirements are properly shown on the submitted plan and are in accordance with regulation requirements.
4. All requirements of the Engineering Department and Farmington Valley Health District shall be met and compliance demonstrated prior to issuance of any C/O for the new residence.
5. All requirements for an as built plan shall be met prior to issuance of any C/O for the new residence.
6. A proper conservation easement document shall be prepared and submitted to the Director of Planning for review and approval. This document shall be recorded on the Avon land records at the same time as the record subdivision map.

The motion was seconded by Ms. Baran and received unanimous approval (Gentile, Baran, White, Bukowski, Mahoney, Bowers, Levin).

OUTSTANDING APPLICATIONS

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

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

Attorney Robert Meyers was present on behalf of the owner.

Mr. Peck reported that he provided final recommendations to the Commission – the two outstanding items are the conservation area and the left-turn out of the site. A copy of the proposed conservation easement was received and forwarded to the Town Attorney for review/comments. The State DOT has the ultimate decision but the Commission can recommend that no left turns out of the site be permitted. He explained that the DOT is very strict on how they interpret turning movements and they will do the right thing regardless of the Commission's decision – if the DOT determines a turning movement to be unsafe they will let the Town know – a final determination by the DOT is needed before any development can occur on this site. He also noted that he is happy to work with the applicant relative to the architecture of the building (Shake Shack) to ensure a good fit for the area.

Attorney Meyers confirmed that the applicant is fine with all proposed conditions and agreeable to work with the Planning Director in connection with the conservation restriction and the architecture as well as comply with any/all requirements of the State DOT.

In response to Ms. Levin, Mr. Meyers confirmed that all information relative to the proposed left-turn lane on Route 44 heard at the last meeting has not changed and is part of the record.

In response to Mr. White, Mr. Meyers confirmed that the applicant is happy to comply with whatever decision is made by the State DOT (i.e., if the DOT determines that no left turns out of the site will be permitted the applicant is ok with that – it's not a deal breaker).

Mr. Gentile said that he's been reassured that the State DOT will know best as to whether it is safe to take a left turn when exiting this site. He noted his hope that the DOT finds a left turn out of this site to be unsafe and therefore will not be permitted.

Ms. Levin noted her agreement adding that should an approval be granted she would strongly support a condition that left turns out of the site be prohibited. She is not comfortable with the elevation of this site even though the traffic engineer has noted the sightlines are adequate. There are other left turns allowed onto Route 44 but this site is different. She noted her understanding that the State DOT has the final say. The proposed left-hand turn lane into the site would help traffic on Route 44.

Ms. Baran said that she agrees that if an approval is granted that there be a condition that reads that left turns out of the site be carefully considered and prohibited. She also noted concern for left turns out of the site while also allowing left turns into the site (proposed new lane on Route 44) essentially creating five lanes of traffic.

Mr. Bowers noted his agreement that if an approval is granted that left turns out of the site be prohibited. He also noted concern for the proposed left-turn lane into the site as that would push the road shoulders out towards cars exiting the site. The ultimate decision is up to the DOT but we should discourage both left turns out and left turns in – limit site to only right turns in and right turns out.

In response to Mr. Mahoney, Mr. Peck confirmed that the State DOT will review this site relative to turning lanes and movements more strictly than the Commission. The proposed left turn into the site is very similar to the left turn in, in front of Fresh Market – and similar to a number of other sites along Route 44.

Mr. Bukowski said that relative to the left turn out of the site he noted his agreement that our approval is merely a recommendation and the State DOT has the final say.

Mr. Mahoney said there are many different facades for Shake Shacks adding his confidence that Mr. Peck will be helpful in working with the applicant to accomplish satisfactory architecture for the building on this site.

Ms. Levin motioned to approve Apps. #5022 and #5023 subject to the following conditions:

1. The Commission made a finding that App #5023 meets the requirements for the Special Exception standards, as contained in Section VIII of the Regulations.
2. No site work including demolition shall proceed until a predevelopment meeting is held with Town Staff at least 2 weeks prior to the commencement of any such work.
3. All requirements of the Town Engineering Department shall be satisfactorily addressed and compliance demonstrated prior to signoff for a building permit and a C/O application.

4. All requirements of the Farmington Valley Health District shall be satisfactorily addressed and compliance demonstrated prior to a signoff for a building permit. Work required to be performed prior to a building permit, as noted in the FVHD comments, may be pursued as permitted by FVHD Staff.
5. All requirements of the Avon Water Pollution Control Authority (WPCA) shall be satisfactorily addressed and compliance demonstrated both before and after any construction on the site.
6. All requirements of the Avon Fire Marshal shall be satisfactorily addressed and compliance demonstrated with regard to emergency access and outdoor dining patron protection, as well as all other emergency and fire code requirements.
7. The applicant shall work with Town Planning Staff to delineate a proper conservation easement area on the subject property. A conservation easement in favor of the Town of Avon excluding public access shall be drafted and submitted to Town Planning Staff and Town Attorney for consideration/review and approval. An approved conservation easement shall be recorded at the same time as the final asbuilt on the Avon Land Records.
8. While the Commission understands that the final traffic pattern, including access and egress to the property, is under the control and jurisdiction of the CT State DOT, the Commission is of the unanimous opinion that left-hand turns out of the site should be prohibited in order to achieve maximum safety. The left turn restriction, we believe, should be required to satisfy Section VIII D. of the Special Exception Regulations.
9. The Commission recommends that the applicant's proposal to construct a left-hand turn lane from Route 44 into the subject site be approved and that the applicant has acknowledged an agreement to work with the State DOT to obtain approval for the left-hand turn lane into the site.
10. The applicant shall submit all as-built plans as required by each Town Department prior to signoff for a final C/O.

The motion was seconded by Ms. Baran and received unanimous approval (Gentile, Baran, White, Bukowski, Mahoney, Bowers, Levin).

Mr. Bowers stated for the record that his vote is a support for the application as a whole but noted that he is not in favor of Condition #9 as stated for the reasons previously outlined.

OTHER BUSINESS

8-24 Referral – Purchase .87 acres for Route 44 Sanitary Pump Station (65 Nod Road)

Mr. Peck reported that due to a timing issue the Town Manager requests that the Commission reapprove this item, that had been previously approved at the Feb 20 meeting.

Mr. Mahoney motioned to approve the 8-24 Referral to purchase .87 acres at 65 Nod Road subject to Staff recommendations dated March 8, 2024. The motion seconded by Mr. White received unanimous approval. (Gentile, Baran, White, Bukowski, Mahoney, Bowers, Levin)

Housing Task Force

Mr. Peck reported that this item is still with the Town Council.

STAFF UPDATES

Mr. Peck reported that he has been working with the Town Attorney to set up a virtual GoToMeeting/work session to discuss land use – the meeting is set for March 19 at 7pm - the Town will send out a meeting link.

Mr. Peck reported that the Town received an appeal from the neighbor regarding the Commission's decision on 41 Sandscreen Road – details will be provided at a later date.

Mr. Peck reported that some minor questions have been raised by Commission members in connection with the changes made to Administrative Policy #3 – those questions have been passed along to the Town Attorney and any info will be passed along when known.

Mr. Peck addressed the AVC tenant report – Grapes of Avon (liquor store) is the last liquor permit in Avon. He explained that Ivy Rehab currently has one existing office site and they are adding another – they will have two separate tenant/office spaces in AVC. He explained that he is constantly talking with the developer about the lack of variety in tenants (too many medical uses). It's been difficult to get restaurants in AVC due to the arrangements Whole Foods has with the developer - the Town has little control. He addressed the residential component of AVC noting that he has referred two residential developers recently to the AVC developers, The Carpionato Group, who have said they will be coming forward with additional construction in the near future but there is no information at this time. We are hopeful they will come in soon but we don't have much control.

Ms. Levin said that she has heard that businesses are reaching out to the developer who is not responding.

Mr. Peck said that if he has information (names of businesses) he can find out the details of the situation from the developer.

Mr. Peck addressed an ongoing project at Avon Mill (now called Avon Wood - 64 Avonwood Road) noting that there are a number of items that were part of the original approval (in 2020) that need to be reviewed by the Commission before things can move forward on the site with Phase Two, which involves creating the new road and creating new units (2 apartment buildings and some duplexes and quads) - some of the new units are supposed to be affordable. Phase One was the rehabilitation of the three existing buildings on site (approximately 188 units). The Town has had a lot of trouble with the developer getting the proper permits to perform work. The site changed ownership after the approval was granted – the new owner/developer also has a new engineer – the Town Engineering Department has not been happy with the new plans.

He recommended that this item be listed on the next agenda, if possible, so the developer can be present to provide information and answer any questions. A detailed report along with all Information pertaining to the original application (all approvals, all minutes, all maps/drawings, etc.) will be provided to all Commission members - any/all new plans/information that has been provided by the developer will also be provided. It's a complex project with a lot of details. He noted his understanding that many of the current members were not on the Commission at the time of this approval.

In response to Ms. Levin, Mr. Peck indicated that he would look into the neon "open" signs at 225 West Main Street; he noted that there are a number of other businesses in Town that also have "open" signs.

Mr. Mahoney said that Raymour and Flanagan also has an "open" sign and there are many others in Town.

Ms. Levin said that some businesses in the Starbucks Plaza would like to display merchandise outside - racks of clothing – which has traditionally been done. Apparently there have been some comments that the Town does not allow it or the developer doesn't allow it. She asked if Section V.D. of the Regulations should be addressed during the current update process.

Mr. Peck explained that he has spoken with a number of businesses in that plaza – the hardware store has stuff all over their front steps - he asked that everyone keep in mind that if the Regulation is going to be changed or ensure that the current Regulation is enforced, the hardware store will have to remove all their outdoor items. Every business will have to be treated the same.

Ms. Levin said that she is wondering why some of the clothing stores in the Starbucks Plaza should not be allowed to display merchandise outside if the hardware store is allowed to.

Mr. Peck explained that what the hardware store is doing is illegal, as it doesn't comply with the Regulations. The reason for not having clothing racks/merchandise in the walkways in the Starbucks Plaza is because many people walk through there. Historically, it has been the Town's position that they do not want to see merchandise displayed outdoors. It's up to the Commission how they want to handle this.

Ms. Baran said that the same rules should apply to everyone regarding outdoor display.

Mr. Bukowski suggested that we don't change anything unless/until we get contacted by a business owner asking to display items outside. Ms. Levin agreed.

In response to Mr. Mahoney, Mr. Peck indicated that he is not aware of any plazas in Town that have private covenants that restrict tenants from displaying merchandise outside.

The meeting adjourned at 8:30pm

Avon Planning and Community Development