

AVON-BY-THE-SEA PLANNING BOARD MEETING MINUTES APRIL 14, 2015

A REGULAR MEETING OF THE Avon-By-The-Sea Planning Board was held on the above date in the Avon Elementary School, Fifth Avenue, Avon, NJ 07717.

Present: M. Davey, V. Ernst, Chair R. Maloney, F. McGovern, S. McLaughlin, J. Oldakowski, J. Ryan, C. Talmage, Board Engineer C. Rooney, Board Attorney M. Kitrick, Mr. Timothy Gallagher as secretary.

Absent: T. Egan, M. Kenny, Mayor R. Mahon, Commissioner R. McGovern

Chairperson R. Maloney opens the meeting in compliance with the Open Public Meetings Law and leads the Pledge of Allegiance to the Flag at 7:10PM.

First on the agenda is the approval of the March minutes.

Motion by Maloney second by Ryan to approve the March 12, 2015 meeting minutes.

The vote:

Aye: R. Maloney, F. McGovern, J. Ryan, C. Talmage

Abstain: M. Davey, S. McLaughlin

Late: Ernst, Oldakowski

Motion to approve minutes passed.

Next on the agenda is an "Administrative Decision" concerning Doug & Arlene Gallagher, new single family residence approved by board, 339 Sylvania Avenue. Engineer Rooney refers to a letter from the Gallagher's architect Mary Hearn addressing the "AS BUILT" survey. The survey showed a discrepancy in impervious coverage (which the Gallagher's are removing pavers to come into compliance). There is a problem with the square footage of the existing garage on the property as well. The percent coverage of garage and residence is 2% higher than what the board granted. It is Mr. Rooney's opinion that there is no obvious remedy to this. Mr. Rooney recommends that the board revise the resolution to reflect the actual conditions of what was built and that there is no need to have the Gallagher's appear before the board again. Discussion follows with board members Talmage, F. McGovern, McLaughlin, Ryan, Maloney, Kirick and Rooney. Attorney Kitrick sees the Administrative Decision to approve as an alternative to requiring the Gallagher's appearing again.

Richard Connor's Avon zoning official testifies to the board that the original survey was inaccurate as stated in the letter by Architect Mary Hearn. The house was built to the calculations of original survey. Mr. Connors recommends removal of impervious coverage.

The miscalculations are referred to as an honest mistake on behalf of the surveyor.

A subsequent "AS Built" should be submitted after impervious removed will be required.

Motion by Ryan seconded by McLaughlin that the "Administrative Decision" be approved.

The vote:

Aye: Davey, Ernst, F. McGovern, McLaughlin, Ryan

No: Talmage

Abstain: Maloney

Resolution passed.

Next and last on the agenda is the continuation of the Mesko hearing, 20 Poole Avenue.

Chairperson Maloney states that he was not in attendance for the first half of hearing and did not listen to tape. He will be stepping down. Mr. Oldakowski steps down as well. Board member John Ryan will chair for the rest of the meeting.

Attorney M. Kitrick gives brief background of the property and owner's Mesko since 2003.

They are here under court order to appear. Mr. Kitrick is of the opinion that the current law is what should apply to this application.

Attorney for Mr. Mesko, Mr. Steven Griegel states that he believes law in affect 2001 should be considered. Mr. Griegel presents with Mr. Mesko surveys marked as A2 and A6. Building coverage is addressed. Survey's are compared. They are asking for a variance for the plan to stay as is. West brick wall encroaches unto borough property as does east wall unto the neighbor's property. Surrounding property grades and 20 Poole grade discussed in hand with the purpose of walls and the impervious makeup.

Group of photo's evidence A10 Section Two entered and reviewed. Engineer Rooney states that the photo's do not represent the coverage adequately. Photo A11, aerial photo entered into evidence as reflecting current conditions. Photo A12 depicting view from front of house entering street.

Attorney Griegel refers to evidence A10 Section 5 containing the meeting minutes from February 15, 2001. The plans dated February 5, 2011.

Section 6 A10 as plans from township files after the 2001 meeting. One plan marked in prior hearing, signed off by zoning official in 2003 showing a basement. Mr. Mesko describes these plans as his construction drawings submitted to the zoning/construction official for approval.

He believed at the time this was the procedure before taking out permits to build. He first submitted foundation plans for approval. The construction plans were eventually approved as submitted with the basement on plans. Discussion with Mr. Mesko and board members on the dates and initials on the construction plans in evidence.

Mr. Griegel addresses evidence labeled A10 Section 7 (Township Permits, Approvals & Violations). Letter dated 12/2/2010 from the Construction Official requesting a Flood Certification and final "As Built Survey" as the TCO had expired May 5, 2009. Building and subcode permits #182-2003 & # 178-2014 with inspections dated and initialed discussed. Mr. Mesko states that he has disconnected the sump pumps that were discharging into the Shark River as requested by the borough and his plan to reconnect to come into compliance. Two photo's marked A15 entered into evidence. Photo's shows borough storm/catch basin at west of his property line. Mr. Mesko would like to discharge sump pump into storm drain.

Mr. Mesko and Mr. Griegel discuss the recent inspection by the Fire Official & Zoning Official.

Questions from the audience.

Lynn Belletier of 24 Poole Avenue asks about the height approved by planning board.

Mr. Mesko replies that they built below 35'.

Mr. Ed Vay 25 Poole Avenue asks about property set back requirements for new building. Engineer Rooney answers code requirements.

Board member Ernst asks Mr. Mesko what he does for a living. Mr. Mesko states that he built pools.

Board Engineer Rooney goes over his report dated February 5, 2015.

Attorney Griegel states that his client has put in permits for a sump pump. Engineer Rooney addresses Mr. Mesko's thoughts to tie in his sump pump with the drainage catch basin to his west on the Borough marina property. Mr. Rooney explains that the catch basin in photo A15 is a self contained infiltration system, there is no capacity to accept any other water. There are other connections.

Discussion between Mr. Rooney and Mr. Mesko on basement variance and the impact of retaining it as is and not filling it in. Technically no new construction should have basements in a Flood Hazard area. Mr. Rooney states that a sump pump will not be sufficient while the flood water is above grade and the basement is 4' below grade. Mr. Rooney states that the flooded basement could put the borough in harms way and jeopardizes other properties. Mr. Griegel states that they are seeking the variance to keep the basement as it will be a hardship to fill it in.

Mr. Steven Kegelmann sworn in by Mr. Kitrick. Mr. Kegelmann states that he is a Certified Flood Plain Manager, Deputy Emergency Management Coordinator for Avon and the Community Ratings Systems Coordinator for FEMA. Mr. Kegelmann is asked by Mr. Rooney as to the ramifications if FEMA guidelines or the Borough's Flood Plain Management Ordinance are not followed. Mr. Kegelmann responds essentially under 44CFR Part 60 FEMA does not allow for basements. It does however allow for variances to be granted to offer relief. The procedure after variance is given: First the board or borough must notify in writing the Regional Administrator of National Flood Insurance Program stating the variance conditions and the reason for granting. Secondly a notice to the home owner regarding the potential impact on their flood insurance and the potential for life safety hazards. Additionally these basement variances granted would have a negative point affect against the Community Rating System, which could negatively affect flood insurance policy costs overall.

Mr. Richard Connors is sworn in by Kitrick. Mr. Connors is the borough Construction Official, Zoning Official. Mr. Connors references to Mr. Kegelmann's testimony on the CRS ratings. Mr. Connors states that the CRS Program ratings are passed on to the insurance companies the reduction is passed on to everyone in the borough. Attorney Griegel questions Mr. Connor's on his experience with the CRS Program. Mr. Connors replies that the borough is in the process of application to the CRS.

Discussion between Griegel and Rooney as to whether filling in the basement or relying on sump pumps and other mechanicals for relief in a flood. Mr. Rooney states that there is absolutely no equivalence.

Questions from the audience.

Lynn Belletier 24 Poole Avenue. She states that they were granted a variance to rebuild after "SANDY". Their previous flood insurance before rebuilding was \$4,200 under the guidance of Mr. Kegelmann and Mr. Connors their flood insurance is now \$500.

Attorney Griegel requests the board if there is a vote tonight would they separate the vote on the variances requested. Variances requested are discussed. M. Davey states in his 13 years as a member of the board they have never separated the variances into separate votes. Board agrees.

Mr. Rooney does not feel that it is practical to remove any of the building. Impervious coverage can be reduced.

Motion to carry application to May 14, 2014 meeting by Ryan seconded by F. McGovern.

The vote:

Aye: F. McGovern, McLaughlin, Ryan, Talmage

No: Davey, Ernst

Motion to carry is passed.

Motion to adjourn.

Aye all.

Minutes approved at the May 14, 2015 meeting.

Motion by Vice Chair T. Egan seconded by F. McGovern.

The vote:

Aye: Egan, Ernst, Kenny, Mayor Mahon, F. McGovern, Oldakowski, Ryan, Talmage

Abstain: 0

No: 0

A handwritten signature in black ink, appearing to read 'Sheila Sullivan', written in a cursive style.

Sheila Sullivan / Planning Board Secretary