

AVON-BY-THE-SEA PLANNING BOARD MEETING MINUTES FEBRUARY 12, 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.

Vice Chair Egan called for a caucus before the 7pm start.

Present:

M. Davey, Vice Chair T. Egan, V. Ernst, M. Kenny, Mayor R. Mahon, F. McGovern, S. McLaughlin, J. Ryan, C. Talmage, Board Engineer C. Rooney and Board Attorney M. Kitrick

The following topics were discussed.

A three (3) member committee to be formed to review Master Plan and Land Development Use Code with possible revisions.

Regulations for Solar panels and emergency generators.

Impervious Coverage definition- review and interpretation. Also assess possible acceptance and application of new products (i.e. pervious pavers, artificial turf, etc)

Front Yard- specifically the requirements affecting properties along Shark River and Sylvan Lake.

Construction guidelines for deep basements, impacts to groundwater, sump pump discharges etc.

Site grading limitations (cut & fills)

Requirement for providing on-site 2 car garage on conforming lots.

Vice Chair Egan opens the meeting at 7pm with the opening statement in compliance with the Open Public Meetings Law and leads the Pledge of Allegiance to the Flag.

First on the Agenda is the approval of the January 8, 2015 Reorganization and Regular meeting minutes. Motion by Mahon seconded by Egan to approve.

The vote:

Aye: Davey, Egan, Ernst, Kenny, Mahon, McLaughlin, F. McGovern, Ryan, Talmage

Motion passed.

Board attorney Kitrick addresses the board in regards to the Amato Resolution for 19 Washington Block 54 Lot 3 (minor subdivision). Mr. Kitrick states that he had the recording of the meeting of October 9, 2014 transcribed and is attached to the resolution.

Mr. J. Ryan chairs the Amato resolution vote.

Second on the agenda is a motion by Ryan seconded by Kenny to memorialize Amato Resolution for a Minor Sub Division of 19 Washington, Block 54 Lot 3.

The vote:

Aye: Kenny, McLaughlin, Ryan

Abstain: Davey, Egan, Ernst, F. McGovern, Talmage

Motion is passed.

Third on the agenda is a new application John Mesko 20 Poole Avenue, Block 43.02 Lot 2 & 2.01. Application seeks Variance Relief "C" (Bulk). The applicant is also seeking approval of their "As Built" Survey dated Revised 1/20/2015.

Mr. Mesko is represented by Attorney Steven Griegel and has Mr. Mark Shourd as a professional engineer to testify. Mr. Kitrick swears in Mr. Griegel, Mr. Shourds, Mr. Mesko, Borough Engineer C. Rooney and Borough Zoning & Construction Official Richard Connors

Mr. Griegel addresses the board client is asking for the increase in lot impervious coverage and lot coverage. Mr. Griegel asks Mr. Mesko to give a history of the property concerning previous planning board application (hearings on 1/18/2001 and 2/15/2001).

Mr. Griegel enters into evidence Exhibit A1 Resolution dated February 15, 2001. Mr. Griegel and Mr. Mesko discuss the body of the resolution.

Entered into evidence A2 Survey Site Plan Plan dated 11/24/2000.

Entered into evidence A3 a Foundation Plan dated 4/2002. Signed by Pat McMahon on 9/15/2003. Only foundation permit granted at this time.

Discussion between Mesko & Griegel on basement shown on the signed foundation plans and the inspections that followed. Not until recently was Mr. Mesko informed that he was not allowed to have a basement as he is in a flood zone. Discussion on "Sandy" damage to the basement and repairs done. Discussion on town requesting that the basement be filled in and the sump pump be rerouted. It had been dumping into the Shark River. He has since disconnected the pump. The borough requested that Mr. Mesko apply for a permit to reroute the sump pump.

Letter dated 2/1/2015 to the Borough Engineer & Borough Attorney B. Cooke for Construction Official Richard Connors put in evidence as A4. Mr. Griegel addresses the letter as the first time Mesko was officially told to fill in basement. Mr. Griegel reads the first sentence of the second paragraph paragraph of the letter regarding the Borough's Flood Damage Prevention ordinance adopted in 1979 and amended in 2009.

Mr. Griegel marks into evidence A5 a letter from borough engineer Charlie Rooney (T&M Associates) dated 2/5/2015. Also marked into evidence A6 a revised survey from Thomas P. Santry dated 2/03/2015. Marked into evidence A7 a photo of the front of the driveway at 20 Poole. Discussion between Mesko and Griegel as to discrepancies in the original survey and the most recent survey. Mr. Kitrick asks for clarification as to which survey they are referring to. Mesko and Grigel discuss Mr. Rooney's letter date 2/05/2015 exhibit A5.

Marked into evidence A8 a photo of the walls on the sides of his property.

Board member Ryan asks Mr. Mesko if he had the full set of plans ever submitted to the board.

Mr. Mesko states that he did appear before the board in 2001 then had asked for an extension from the board in July 2003.

Ryan asks if Mr. Mesko has a copy of any plans signed by the board? Mr. Mesko replies that he only has a foundation plan signed by the than Zoning Official Pat McMahon 9/15/2003.

Discussion between R. Connors and Kitrick as to the procedure of an applicant having full set of plans to appear before the board.

Board Attorney Kitrick states that he does not see any indication in the resolution that refers to anything but variance approval. He does not see where a full set of plans were submitted. Wouldn't it be typical to present a full set of plans? Regardless of the boards approval of a full set of plans at some point a construction official issued permits.

Mr. Ryan states that he would like to see the plans that were approved by the board. Griegel has no direct answer.

Mr. Griegel states that the application having been started and received a resolution it would seem that at some time there was an approval of full set of plans.

Kenny asks for copies of all approvals the applicant has received for the building. Griegel marks exhibit A9 (building, fire, plumbing and electrical technical sheets).

Mr. Mesko states that all finals have been completed and it is the "Final As Built" approval that has been dragging the process out.

Kenny asks if the "As Built" has not been approved then you do not have a CO to occupy the house and that your TCO has since expired from 2008? Mr. Mesko answers that it is correct they have never gotten CO.

Discussion on the history of the application with the current board between Kitrick and Griegel.

It is pointed out by Mr. Kitrick that no current sitting member was involved in the previous hearings for Mr. Mesko and 20 Poole Avenue.

Board member Ernst asks Mr. Mesko what actions he has taken to reduce impervious coverage and if any of the walls are on borough property.

Mr. Mesko states that at some point the previous zoning official had requested he put up retaining walls to address the run off issue with neighbors. He also answers Mr. Ernst's question as to the wall encroaching on borough property. Mr. Mesko answers that the wall to the west is 8" on borough property.

Discussion on borough code involving impervious coverage between Mesko, Ernst & Kenny.

Mr. Griegel introduces Mr. Mark Shourds professional engineer to give testimony. Mr. Shourds' expertise is accepted. Mr. Shourds states that he was not involved in any previous plans or documents regarding this property. Mr. Shourds states that he is often called to review projects files that are in the middle of application. Mr. Shourds addresses the Borough's Land Ordinance as to building and impervious coverage. Mr. Shourds testifies the method used to draw up the 2000 Survey and compares it to the methods and techniques used now. The discrepancy between the two survey's impervious coverage calculations is addressed by Mr. Shourds.

Mr. Shourds suggests that there is no detriment in granting the requested variance to the neighborhood. States that the applicant wants to come into compliance.

Discussion between Mr. Griegel and Mr. Shourds re: Mr. Rooney's letter dated 2/05/2015 in regards to the retaining wall, riverstone and pavers.

Discussion with Mr. Ernst, Mr. Shourds, Mr. Rooney and Mr. Connors in regards to the Flood Plain Ordinance adopted in 1979 and revised in 2009. Mr. Rooney states that the revision in 2009 was based on a change in the Flood Map. The underlying language and paragraphs were not modified. The requirement not to build a basement below the flood elevation stood in place.

Mr. Griegel states that they here tonight looking for a variance for impervious- lot coverage and amended Site Plan approval for lot coverage. The letter dated 2/01/2015 addressing the basement violation should have no bearing on this application and is a Red Herring. The basement should not be in front of the board now. There are other venues to address the basement issue.

Mr Kitrick addresses Mr. Griegel that the applicant is asking for an amended site plan approval, Mr. Kitrick does not see any site plan or plot plan with board approval in any resolution or evidence presented this evening.

Mr. Kitrick states that it is permissible for this board to make inquiry into the entire site.

Mr. Ryan asks Mr. Connors if the town wanted someone to put up a wall would it be in writing? Do you have documentation? Mr. Connors states that yes that would be the procedure.

Mr. Mesko states that he lost files after the storm.

Mr. Rooney requests current photos when they return.

Ms. Kenny would like more information as far as documentation when they return. She asks where the water is pumping to if not the river. Mr. Mesko states that the basement has had water in it. He is waiting for permit approval.

No questions from the public or board.

Motion by Ryan seconded by McLaughlin to carry the application to the March 12, 2015 meeting with no further notice.

The vote:

Aye: All

Motion to adjourn by Egan seconded by Ryan.

The vote:

Aye: All

Minutes were approved at the March 12, 2015 meeting.

Motion by F. McGovern seconded by Ryan to approve the February 12, 2015 Meeting Minutes as written.

The vote:

Aye: Kenny, Mayor Mahon, Ryan

Abstain: Oldakowski

Minutes of February 12, 2015 approved.

Sheila Sullivan/ Planning Board Secretary