

## AVON-BY-THE-SEA PLANNING BOARD MEETING MINUTES JUNE 11, 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: Vice Chair Teresa Egan, M. Kenny, Mayor R. Mahon, Chair R. Maloney, F. McGovern, S. McLaughlin, J. Oldakowski, J. Ryan, C. Talmage, Board Engineer C. Rooney, Board Attorney M. Kitrick.

Absent: M. Davey, V. Ernst, Commissioner R. MCGovern

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

First on the agenda is a motion by Ryan seconded by Egan to approve the Minutes of the May 14, 2015 meeting.

The vote:

Aye: Egan, Kenny, F. McGovern, Oldakowski, Ryan, Talmage

Abstain: Mayor Mahon, Chair Maloney, S. McLaughlin

Motion to approve the May 14, 2015 minutes approved.

Second on the agenda is the application for 423 Sylvania Avenue, Block 15 Lot 12. Owner/Applicant Fossella, continued from May 14, 2015 meeting.

Attorney Michael Rubino represents Carol and Frank Fossella. Mr. Rubino states that they have succeeded in reducing the impervious coverage from 55.17% down to 52.95%. Mr. Rubino goes over variances needed. He states that Mrs. Fossella has a debilitating disease and that special reason to allow the variances should be considered. He references ADA Act and case law.

Mr. Rubino calls architect Mary Hearn to testify as to the changes she has made to the project to reduce the impervious coverage previously presented.

Ms. Hearn enters into evidence **A-8** updated site plan. Ms. Hearn states that they have made quite a few reductions and changes to make the project more compliant. They followed the board's suggestions. Ms. Hearn and Engineer Rooney go over Mr. Rooney's review letter dated June 6, 2015.

No questions or comments from the public or the board.

Egan speaks in favor of the applicant's revised plans. Ryan is in agreement. McLaughlin also finds the revised plans welcome. Maloney states that he believes that the applicants listened to the board and makes a motion to approve as submitted with a variances on zoning chart be consistent with A8. Seconded by F. McGovern.

The vote:

Aye: Egan, Kenny, Maloney, F. McGovern, McLaughlin, Ryan, Talmage.

No: 0

Oldakowski has been noticed and cannot sit.

Motion to approve application is passed.

At this point in the meeting Chairperson Maloney steps down as he has not listened to the tape of the portion of the May meeting concerning Assuncao. Vice Chair Teresa Egan will chair.

Third on the agenda is the continuation from the May 14, 205 meeting of the application for 41 Norwood Avenue, Block 21 Lot 3. Owner/ Applicant Robert Assuncao (15 Yearling Path, Colts Neck, NJ 07722).

Attorney Michael Rubino present to represent applicant. Mr. Rubino addresses variances needed for project. All professionals previously sworn in.

Exhibits previously entered are discussed.

Architect for applicant Mary Hearn enters into evidence **A-14** as Plot Plan Revision dated 5/26/15. Ms. Hearn explains the revised plans. There are no proposed changes to the front structure. Garage structure has been relocated to accommodate a driveway. The proposed impervious coverage is now at 50% which is allowed. The front structure height elevation is driven by the elevator shaft and the extra 9" needed. Propose a 7' foot basement, 9' first floor, 8' second floor. The third floor ½ story needs 8' 6" for cab ceiling for elevator. The house does sit above grade. The house now sits at 36.3' where they are proposing a reduction of height to 35.7'. Addresses **A-2** photo of front structure

The garage being relocated has eliminated the rear set back variance and side yard setback . They are still proposing 25.1' for garage height where 23.4' existing. Allowable is 18' f or garages.

Discussion between Ms. Hearn and Engineer Rooney concerning front projections and their relation to our front yard setback requirements. Ms. Hearn enters into evidence **A-15 Section 113.10** of the Borough's Land Development Ordinance. Ms. Hearn enters into evidence **A-16** photos of 500 Jefferson Avenue, Avon. Ms. Hearn designed this house and it was approved by our zoning official at the time. Ms. Hearn states that these photos show projections into the

front yard which are similar to what is proposed in the project. Mr. Rooney states that the front yard setback is measured from the furthest wall to the street. In his review letter Mr. Rooney had addressed this in comment 1.2.

Discussion on front yard projections follows with Rooney, Hearn, Egan and Kitrick.

Ms. Hearn addresses comments in review letter with Mr. Rooney. Discussion on front yard setback requirements with Egan, Rooney, Kitrick, Hearn and Rubino.

Comment 1.4 of Mr. Rooney's review letter date April 3, 2015 referencing the garage.

Ms. Hearn states that the proposed garage will not have rental opportunity. It will be used for an office and a gym area.

Comments 1.5, 1.6 discussed. Comment 2.1, 2.2, 2.3 addressed.

Question from board member Talmage of Hearn concerning the elevator centering. Hearn states the elevator is almost dead center.

Mr. Assuncao testifies that after the last meeting he and Ms. Hearn did their best to find ways to reduce the nonconformities. The goal is to meet the family's needs. They plan on moving here full time. They are giving up two apartments which is a benefit to the town. He also feels that the project would eliminate an eye soar in the neighborhood.

Questions from board? No Comments? No

Questions or comments from the audience?

Harold Corbran 36 Woodland Avenue is sworn in. Mr. Corbran comments that the project would be a vast improvement and is in favor of the project.

Frank Nedza 19 Norwood Avenue sworn in and comments that the applicants giving up the 2 rental units is a benefit to town. He is in favor of the project.

Bob Morford 45 Norwood Avenue sworn in. He reviewed the plans and feels that the proposal, in that it will remove 2 units and the new structures, would be a positive impact in town.

Discussion between Rubino and Kitrick as to whether a "USE" Variance is required for the garage proposal. Mr. Rubino argues that a "USE" variance is not necessarily required for special reasons. Mr. Kitrick recommends to the board that a "USE" variance is required. He also agrees with Ms. Hearn's interpretation as to the projection issue.

Mr. Rubino states that the proposed height of rear structure is necessary to accommodate what they are requesting. The structure will not be out of character for that lane or unusually high.

Questions or comments from the board?

Board member Kenny asks for assurance that the rear living space will not be turned into a rental, as there will be a shower and bathroom? Can there be a deed restriction?

Rubino does not believe a deed restriction is needed. His clients however would be agreeable if that is what the board wants. Egan states that as time goes properties sell and things change. The town has to protect itself.

Board?

Board member Ryan states that the owners are demolishing and starting new and does not feel that the board should allow a garage with living space.

Board member Talmage states that they are starting with a clean slate and empty lot and can easily come into compliance. Will not approve a 25' garage.

Vice chair Egan voices concern with the garage. Most garage apartments in town are old structures. Our ordinance has eliminated garage apartments. Ms. Egan cannot remember at any time where the board has allowed a new garage apartment on a razed property. Height for garage should be 18'.

Board member McLaughlin does not approve of the garage height.

Attorney Rubino discusses with the board the opportunity to possibly bifurcate the vote and separate the structures.

Rubino states that his client has no intent to develop property if their project is not approved.

Motion by Egan to approve as submitted seconded by F. McGovern.

The vote:

Aye: F. McGovern, Oldakowski

No: Egan, Kenny, McLaughlin, Ryan, Talmage

Abstain: 0

Motion to approve USE variance for 41 Norwood Avenue is denied.

Fourth on the agenda is the continuation of Mesko application 20 Poole Avenue. Mr. Mesko is seeking coverage relief. Representing Mr. Mesko is attorney Steven Griegel and engineer Mark Shourds.

Board member Oldakowski steps down.

Mr. Griegel introduces into evidence **A28 Survey dated 6/3/2015** and **A29 T&M review letter from Charlie Rooney dated 6/9/2015**.

Mr. Shourds testifies to his qualifications. He refers to Rooney's letter and discusses with Griegel as to the breakdown of coverage in Comment 1. Mr. Shourd addresses Comment 2 of the letter regarding the tire strips. **A30 Photo Board of neighborhood parking. A31 photo of driveway** Mr. Shourd believes that the strips are sufficient for Mr. Mesko's parking and does not impede on the side walk.

Mr. Griegel and Mr. Shourd address Comment 3 of review letter. Discussion on water discharge and required permits, if any. Discussion on sump pump discharging into the river.

Mr. Rooney goes over his review letter, comment by comment. Mr. Rooney asks for documentation of the applicant's correspondence with the State NJ DEP that refers to an ISSUE of NO INTEREST regarding discharge of sump pump into river. Mr. Griegel states that he has e-mails he can provide if needed. Board attorney Kitrick states that if application is approved it would be conditional on a drainage plan being provided and acceptable to Rooney. This condition will also have a timeline. Mr. Shourd agrees that he can have a test pit done and drainage plan ready in 30 days.

Discussion between Rooney, Mesko and Shourd on installation of a dry well, lawn elevation and high tide level.

Griegel rests.

Egan asks if the applicant can further reduce impervious coverage. Mr. Shourd is of the opinion that they reduced as much as they can. Mr. Rooney believes that the applicant has done the best they can in reduction.

Question's from audience? Comments? None

Question's or comments from the board?

Board member Ryan agrees with Mr. Rooney's assessment on coverage.

Motion by F. McGovern to approve application conditional on drainage plan, no living area in the basement and information on the battery back up to sump pump, seconded by Kenny.

The vote:

Aye: Egan, Kenny, F. McGovern, McLaughlin, Ryan

No: Talmage

Motion to adjourn by Egan.

Aye: All

Minutes of this meeting were approved at the July 9, 2015 board meeting.

Motion by Egan seconded by Ryan to approve the Minutes of the June 11, 2015 meeting as written.

The vote:

Aye: Egan, Kenny, Maloney, F. McGovern, Ryan

No: 0

Abstain: Robert McGovern

Absent: Davey, Ernst, Mayor Mahon, McLaughlin, Oldakowski, Talmage

Planning Board Secretary

Sheila Sullivan  
