

Minutes of the Planning Board Meeting of March 11, 2010

The meeting was opened by Chairman Richard Maloney

Attendance-

Present- Davey, Egan, Ernst, Mahon, McLaughlin, Placitella, Ryan, Talmage Maloney

Absent- Kenny, O'Malley McGovern (Present for caucus),

Motion to approve the resolution for Mr. & Ms. William Tomljanovic of 216 Washington Ave. Block 49 lot 12.

Motion by Maloney, Second by Ryan, that the resolution be approved.

Yes-- Davey, Egan, Ernst, Mahon, McLaughlin, Placitella, Ryan, Talmage Maloney

No- None

The only hearing for this meeting is an application for a minor sub-division for Louis and Mary Amato of Block 48.01, Lots 14.01 and 14.03 located at 101 Third Ave.

Timothy Middleton Esq. was the Attorney for the Applicants.

Michele Taylor of Taylor Design was the Planner for the Applicants, and

Jason Fichter of Insight Engineering was the Engineer and prepared the plans for this application.

In a brief opening statement Attorney Middleton outlined that the applicants, Louis and Mary Amato, were requesting a minor sub-division. This was a sub-division of lot 14.01 and 14.03 into two new lots, 14.05 and 14.07. He pointed out that one new lot (lot 14.05) would be land locked, and this will be a violation of section 40:55D -35 of the Municipal Land Use Law. That section states no development permits may be issued unless the lot abuts a street giving access to buildings on the interior lot. Attorney Middleton stated this application will not require any additional new variances.

He then introduced Michele Taylor of Taylor Design, and Jason Fichter of Insight Engineering who would explain the application and review the exhibits. Ms. Taylor and Mr. Fichter were sworn in by Attorney Michael Rubino.

The following Exhibits were presented during the hearing.

A-1 Plans for the proposed Sub Division.

A-2 Survey of the property as it currently exist

A-3-Site photos

A-4-Letter from Tony Vecchio, Fire Marshal for the Borough of Avon, to Louis and Paul Amato regarding Fire Department access to the property.

Attorney Middleton called on Jason Fichter to explain the plans submitted.

In his presentation Mr. Fichter expanded on the application using Exhibits A-1 and A-2.

He outlined the two new lots 14-05 and 14-07 indicating lot 14.05 was 11,675 Sq. Feet and lot 14.07 was 9,237 Sq. Feet. He continued with the dimensions as listed on Exhibit A-1.

As Mr. Fichter continued he explained the house that is currently on the lot will remain and be the residence of the Applicants. It is located on new lot 14.05, the interior lot. He then continued giving the conditions of the lots-using Exhibit A-1 to show the conditions and size of each of each lot. He stated the applicant will remove the garage and the existing driveway and at this time we have no construction planned for lot 14-07, but in the future we will most likely put a house on that lot.

In answer to a question about impervious coverage from Engineer Rooney he answered that we will comply with the Borough ordinance of 50% impervious coverage for both lots. With the use of Exhibit A-2 Mr. Fichter presented how access to this interior lot will be gained by providing a new curb cut and a new driveway. This new driveway will provide additional off street parking for the home owners of the property, provide access for emergency vehicles, and will be constructed with materials to allow for the aerial truck to utilize its outriggers if it ever becomes necessary. The driveway will be 12 feet wide at the start, to 17 feet, and then go to 28 feet by the house that is located on the land locked lot.

AS he continued Mr. Fichter again stated the impervious coverage will stay under 50% even with the new driveway proposed for the property. Mr. Fichter mentioned this application requires no new variances from the Avon Borough Ordinances, that the existing dock will remain, and the front yard setbacks on the river and Third Ave will be in line with what is required.

Attorney Middleton then called Michele Taylor of Taylor Design, the Planner for the Applicants, to provide testimony.

In her presentation Ms. Taylor using and referring to exhibit A-1, A-2, and A-3 outlined the new lots and the location to the surrounding properties. Ms. Taylor stated the lots are in the Residential District. They will face North/South as do most of the lots on Roosevelt Ave., as well as most other Avon houses located on the river. She did speak with the fire official and also visited the site. This application allows both lots to take advantage of Shark River and be consistent with front and rear yards that currently exist on Shark River properties. The size of the new two lots will be 11,675 sq. feet and 9,237 Sq. feet. At this size they will be larger than most lots in this area.

As she continued she mentioned that the applicant will comply with all NJDEP and Avon Flood Damage Ordinances. I feel this application will not obstruct views of existing residences and will have no negative impact on existing houses in this area. This application is consistent with your Master Plan and with the density of the surrounding area.

Attorney Middleton questioned Mary Amato who will reside at this location.

Mr. Fichter then replied to the report from Engineer Rooney. At this time Engineer Rooney stated the remedy you are proposing is not the only remedy. It is possible to create a flag lot as an alternative plan. If this was done lot 14.05 would not require an easement. I mentioned this as an alternative to what you are proposing. I am not saying one plan is better than the other, but I just want the board members to be aware that other remedies do exist.

After a brief discussion on the driveway Attorney Middleton added that I think we can address the concerns with the driveway by having one driveway, using one curb cut, and having it serve both property's.

When the meeting was opened to the public for questions the following asked to be heard:

Marilyn Placitella from 301 Washington Ave asked for clarification of the proposed driveway . Mr. Fichter answered, the proposed new driveway will be 126 feet long and will vary in the width from 12 feet to 17 feet to 28 feet by the residence.

Mike Placitella from 301 Washington Ave about any proposed houses for this lot. Mr. Fichter replied any new house will be consistent with the Borough ordinance. Mr. Placitella then asked, How any new house would front on third Ave.? Mr. Fichter replied any new house will be consistent with the Avon Borough Ordinance. Mr. Placitella suggested that if you went with a flag lot you would not need a variance. The answer to this by Attorney Middleton was yes.

Linda Henderson of 108 Second Ave. asked for a definition of Hardship. Attorney Rubino answered this by indicating that by one section of the law it might be considered a hardship, but that in other cases it might not be consider a hardship. It depends on how the lot is sub divided. Planner Taylor added that how the house is placed on the property might be considered a hardship. If we went to third Ave with the sub division it might be considered a hardship. Attorney Middleton suggested we could apply for a hardship variance if we had to.

Gary Jarrone of 324 McKinley Place asked a question on the size of the lots and how they were measured from the river? Mr. Fichter explained the procedure used to measure the properties.

Howard Harde from 15 Washington Ave. asked who is the contract purchaser? The answer by Attorney Middleton was that Louis and Mary Amato are the contract purchasers. A second question was does this decision set a precedent? Attorney Rubino replied that a Planning Board decision does not usually set a precedent. Each application must be decided on the facts and circumstances of that particular application. Another question was can the lot be sub divided East to West? Answer by Attorney Middleton was that if this was done the existing house would have to be taken down.

Chairman Maloney opened the meeting to the public for any one having a comment to make on this application.

Mary Caparaso who is representing the family of the owner asked to make a comment. My family purchased this house over 40 years ago and it has been in the family for all this time. At this time the proceeds from the sale of the house will provide for the care of my father who has had a stroke.

Following this Chair Richard Maloney made some statements. As you do this you will realize the major question has to do with access to lot 14.05, the interior lot, which by State Statute becomes a land locked lot, but by the Avon Ordinance any house on the river has 2 fronts, one on the street and one on the river. So after the sub. division the interior lot (Lot 14.05) will front on the river but not on the street. So the question becomes how do you have access to the interior lot 14.05 after a house is built on lot 14.07. A different sub division of the lot would create a flag lot, and this east/west sub division is not consistent with what we have in this area. A shared driveway seems to make more sense.

Also, a statement on Coah, other state agencies, and Avon Borough requirements will have to appear in any decision by the board. Much of the discussion and the major question has to do with a shared driveway across the rear of the new lot 14.07 to land locked lot 14.05. Any new driveway should be at least six feet off of the property line. to the North.

Attorney Middleton stated we can go 6 feet off the North property line.

Mahon asked if there are disadvantages to a shared driveway? Attorney Middleton responded that we can come to an agreement on a shared driveway. In regard to a second curb cut Mr. Fichter stated, a second curb cut would increase the impervious coverage.

A suggestion that we make this decision at a future meeting was raised. Attorney Middleton then stated we would very much like to have a decision tonight. What we have discussed tonight can be clearly articulated by Engineer Rooney in consultation with Jason Fichter so that all of this can be put into a resolution..

Attorney Rubino- You can submit a letter to Mr. Rooney with a definite proposal showing exactly what you intend to do.. This would allow a resolution to be completed that will accurately show what has been agreed to.

Attorney Middleton- That should not be a problem.

A motion was made by Maloney that the sub-division as proposed and discussed be approved, including the following stipulations, modifications, and revisions. A second to this motion was made by Ryan.

1. That the proposed sub division of block 48.01, lot 14.01, be allowed to become two lots, known as Block 48.01, lots 14.05 and 14.07.
2. The new lots will have a shared driveway with an easement on the north side of 14.07 that will allow access to the new lot 14.05, and also for use by emergency vehicles. This shared driveway should be offset six (6) feet from the property line common to Lot 2. It will be 12 feet wide at the street and then widen to 16 feet midway across proposed lot 14.07. The proposed easement description, and final arrangement of the driveway, must be submitted to Engineer Charles Rooney and Attorney Michael Rubino to be reviewed and/or approved.
3. The proposed materials used to construct this driveway will meet the requirements set by, and approved by, the Avon Fire Official and Planning Board Engineer Charles Rooney.
4. The driveway will be set at least 6 feet off of the north property line
5. Only one curb cut will be allowed. on Third Ave to service both properties.
6. The access easement will also be used for the utilities to lot 14.07. The proposed easement description allowing for an easement for the utilities will be submitted to Engineer Charles Rooney and Attorney Michael Rubino to be reviewed. .

7. The rear set back for a house to be constructed on lot 14.07 will be set at 30 feet
8. Any stipulations for off site parking will be in agreement with all Avon Ordinances. Such stipulations should be discussed with Engineer Charles Rooney and/or Attorney Rubino.. Any plan for off site parking must be reviewed by Engineer Rooney and Attorney Rubino.
9. The applicant will comply with all NJDEP requirements, the Avon Flood Damage Ordinance, as well as any other agencies that apply to this application..
10. The applicant agrees to repair and/or replace any damage to the sidewalk along Third Ave and to the roadway of Third Ave. that may occur during construction as to be determined by the Construction Official..
11. At least four (4) copies of signed and sealed revised plans will be submitted to Planning Board Engineer Charles Rooney for final approval.
12. At least one (1) copy of the signed and sealed revised plans will be submitted to Planning Board Attorney Michael Rubino for final approval.
13. At least two (2) copies of signed and sealed revised plans will be submitted to Planning Board Secretary Cliff Brautigian. One for his file and one for Planning Board Chairman Richard Maloney.
14. Planning Board Attorney Michael Rubino may add, exclude, or change the stipulations to this motion as required for clarity, or if not included by the Planning Board Secretary.

Vote on the motion:

Yes- Davey, Ernst, Mahon, McLaughlin, Ryan, Talmage, Maloney

No- None

Abstained- Egan

Noticed- Placitella