

**AVON-BY-THE-SEA PLANNING BOARD MEETING MINUTES MAY 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: Vice Chair T. Egan, V. Ernst, M. Kenny, Mayor R. Mahon, F. McGovern, R. McGovern J. Oldakowski, J. Ryan, C. Talmage, Board Engineer C. Rooney, Board Attorney M. Kitrick.

Absent: M. Davey, Chair R. Maloney, S. McLaughlin

Vice Chair T. Egan opens the meeting in compliance with the Open Public Meetings Law and leads the Pledge of Allegiance to the Flag at 7:10 PM.

First on the agenda is the approval of the April 14, 2015 meeting minutes.

Motion by Egan seconded by F. McGovern to approve minutes as written.

The vote:

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

No: 0

Abstain: 0

Motion passed.

Second on the agenda is the continuance of the variance hearing for Mesko 20 Poole Avenue. Attorney Steven Griegel representing Mr. Mesko states that he will give evidence of Mr. Mesko's attempts to reduce coverage.

Entered into evidence:

A16- Survey by Thomas P. Santry dated REVISED 5/12/2015. Mr. Mesko testifies that he removed pavers to reduce area coverage.

A17 to A27 photos . These photos are marked into evidence as a description to support the new survey.

Mr. Mesko states that the building & impervious coverage have been reduced.

Mr. Kitrick swears in Mr. Thomas P. Santry professional surveyor as a witness. Mr. Santry. Mr Santry

Testifies that he prepared the survey marked A16 and the numbers are accurate.

Discussion follows between Mr. Rooney and Mr. Santry regarding the most current revised survey and the survey marked A6 and dated 2/3/2014, in particular the second floor deck, fish pond, rear terrace & stairs and side walls. Mr. Rooney believes the coverage is more than what Mr. Santry has stated and asks for supplemental data.

Driveway pavers as increase in coverage discussed between Egan and Rooney. The pavers were not included on the revised survey as stated by Mr. Mesko and Mr. Santry when the question is asked by board member Talmage.

No questions or comments for Mr. Santry.

Mr. Mesko and Mr. Rooney discuss Mr. Rooney's suggestions to decrease coverage and why Mr. Mesko did not implement these suggestions.

Board member Kenny states that she would like to see a survey that shows all coverage. Board member Ernst agrees.

Mr. Kitrick asks board engineer Rooney if there is enough information provided tonight for a decision to be made. Mr. Rooney does not believe so. They need the stairs, wall, rear first floor deck Mr. Kitrick comments that the applicant was asked to come tonight with a proposal that showed all calculations and they have not. The revised survey does not accurately depict the description of the site today. Mr. Griegel disagrees, feels they presented the best they could.

Board member Ryan and Vice Chair Egan agree that the survey is not accurate and they would like to see accurate calculations.

For the Record Mr. Kitrick states that based on the past hearings and proposals he is not confident they will come back with what the board has asked for repeatedly. There are applicants waiting to be heard.

Mr. Rooney comments that he would like to see the Individual numbers on the drawing, showing the break out for the wall width, front terrace stairs and pavers, rear terrace and lawn area calculations.

Board member Ryan motions to carry Mesko to the June 11, 2015 meeting, seconded by Vice Chair Egan.

The vote:

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

No: 0

Abstain: Oldakowski

Motion to carry with no further notice is passed.

Third on the agenda is a "Use" Variance for Carol & Frank Fossella 432 Sylvania Avenue, Block 15 Lot 12. They are represented by Attorney Mike Rubino and Architect Mary Hearn.

Ms. Hearn puts into evidence:

**A1- PHOTO BOARD, A2- MARY'S PHOTO BOARD, A3- SHEET ONE OF FIVE COLOR PLAN, A4 – FRONT ELEVATION THREE OF FIVE, A5 – COLOR ELEVATIO FOUR OF FIVE, A6 – COLOR FLOOR PLAN SHEET TWO OF FIVE, A7 – FLOOR PLAN FIVE OF FIVE**

Mr. Kitrick swears in Mr. Rubino, Ms. Mary Hearn, Carol Fossella, Frank Fossella and Engineer Rooney.

Board member Oldakowski has been noticed and will be recused as such.

Mr. Rubino addresses the board as to the application. Mrs. Fossella has Myotonic Dystrophy. Myotonic Dystrophy is a chronic, progressive disease that causes multi-system organ dysfunction. Mrs. Fossella has generalized severe weakness. Mr. Rubino states that the Fossella's have sold their principal residence and would like to move to Avon permanently. The house at 432 Sylvania is a modest house with a rear cottage. They would like to expand the main house and renovate it to make it ADA accessible for Mrs. Fossella. They also plan on installing a modest pool, deck and patio. The pool will be used to help with Mrs. Fossella's aquatherapy. He thinks the board should look at this application differently in regards to the handicap issues involved. Mr. Rubino reads letters from Dr. Marie Nevin of the Summit Medical Group. Mr. Kitrick comments that the letter cannot be introduced as evidence because the person who wrote them is not present.

Mrs. Fossella testifies regarding her diagnoses and it's progression. The renovations will help her navigate the house. The pool would be for therapy.

Mr. Rubino asks Mr. Fossella to address the board as to his wife Carol's needs and physical condition. Mr. Fossella states that his wife's health has declined in recent years to the point that she needs help with all daily activities. They purchased the house ten years ago and have enjoyed Avon immensely. They currently reside in an apartment which is not conducive for Carol. Mr. Fossella comments that Mary Hearn's plans with its open space design would give his wife a safer environment to maneuver through the house. Mr. Fossella states that the pool is necessary for Carol's therapy.

The back cottage is rented to the same tenant since they purchased the property.

Mr. Rubino calls Architect Mary Hearn to testify. Ms. Hearn offers up A2 14 photos of subject property and aerial of the property, A3 site plan. They would like to renovate first floor and renovate existing covered porch. A6 shows halls to be widened, adding a master bedroom and bath, powder room and a laundry room. Walkway from driveway to lift to first floor. Minor modifications to the second floor to bring it up to code. Ms. Hearn believes that these renovations ADA compliance for Mrs. Fossella. Discussion between Rubino and Hearn as to the variances requested. Proposed building coverage is 37.01%. The proposed impervious coverage is 55.17%. Ms. Hearn states that all of the increased impervious is tied into making the house ADA compliant.

Board Engineer C. Rooney's review letter is addressed by Ms. Hearn. Review comment 2.1 as to what impervious will be removed to be shown on the site plan.

Mr. Rooney asks Hearn if the existing foundation can support the project. Ms. Hearn answers that most of the additional will be on new ground and the existing foundation has been examined and found to be sound.

Vice Chair Egan addresses the foundation stating that if during the project the foundation has to be replaced that they understand that they will have to come before the board again.

Off street parking discussed. Engineer Rooney asks if they had considered reducing the rear property. Mr. Fossella states that the cottage is modest enough they would not consider that an option.

Egan asks if pool could be reduced to 11' x 11' from 12' x 12'. Mr. Fossella agrees that it could be smaller.

Kenny states that she feels the Fossella's have an opportunity to reduce rear house. Mr. Rubino does not feel that that option is realistic or fair to ask this of the Fossella's. He refers to the American Disabilities Act and its relevance to this application and Mrs. Fossella's recognized disease. He feels that the board should only be concerned with the main structure and focus on making it compliant to accommodate Mrs. Fossella's needs. Discussion follows as to the applicability of ADA.

Egan asks how long will they be able to use the pool? Mr. Fossella answers that the pool will be heated and they could possibly utilize the pool from April to November. He will be taking Mrs. Fossella to off site locations. Ernst asks if the pool could be in the basement? Mr. Fossella says that it would be dangerous bringing her to the basement. The basement is also only 6' 4" in height.

Questions from the public. Comments?

Joe Oldakowski 426 Sylvania Avenue is sworn in. Mr. Oldakowski speaks in support of the project. He is a neighbor of the Fossella's and has no objections to what they have proposed.

Kathleen Clohosey 428 Sylvania Avenue, next door neighbor to the Fossella's is sworn in. She has no objection to the proposed project and is in support.

Lisa Marie Yavaronne rear cottage tenant of the Fossella's is sworn in. States that the property is kept in beautiful shape and the board would be remiss as a town not to accommodate the Fossella's.

Board member asks Hearn if any accommodation can be made to shave some impervious along rear side walk, pool, driveway and patio. Ms. Hearn believes that she can.

Vice Chair Egan would be in favor of project if they could get to 53% coverage. Member Ryan is in agreement.

Rubino addresses the board that they will revise and return next month's hearing.

Mr. Rooney asks that revised plans be made available before the meeting. Rubino agrees.

Motion by Egan seconded by Ryan to carry the application to June 11, 2015 meeting with no further notices.

The vote:

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

No: 0

Recuse: Oldakowski

Motion to carry passed.

Fourth on the agenda is an application for (USE) "C" and (BULK) "D" variances. The applicants Elaine & Robert Assuncao own 41 Norwood Avenue, Block 21 Lot 3.

In attendance are Attorney Michael Rubino, Elaine Assuncao, Robert Assuncao and Architect Mary Hearn. They are sworn in by Mr. Kitrick.

Mr. Rubino gives brief description of the project. The applicants would like to take down the front house and build new. They would also like to take down the rear structure, consisting of a garage with two apartments above. They would replace the structure with a garage with living space above including a workout area and office. Proposed height would be 25.1'. Mr. Rubino addresses variances needed. These are all listed in the application.

Mr. Rubino enters into evidence:

A1- MIKES PHOTO BOARD, A2 – MARY'S PHOTO BOARD, A3 – SITE PLAN SHEET ONE OF FIVE COLORED, A4 – FLOOR PLANS SHEET TWO OF FIVE, A5 – COLORED ELEVATION SHEET THREE OF FIVE, A6 – COLORED ELEVATION SHEET FOUR OF FIVE, A7 – COLORES SHEET FIVE OF FIVE DETACHED GARAGE

Mr. Rubino calls Mrs. Assuncao to testify before the board. Mrs. Assuncao states that she has been coming to Avon for thirty years. They live in Colts Neck at present. They would like to build a family house and plan to move here on a full time basis. They would give up the two apartments and use the rooms above the garage for Mr. Assuncao's office. She states that Mr. Assuncao needs an office away from the house activity when he is working on a case.

Mr. Assuncao testifies that they purchased the property September 2014. It is their hope to tear down the current structures and rebuild. The structure as it is now would not withstand a renovation, the foundation is poor. The front and rear properties are in disrepair. Water bills indicate three meters. Most of his cases are document intense including large boards hence the need for a large office. Keeping fit is important to the family and the gym would be used by all.

Questions of the applicant? None

Mary Hearn offers to the board, A2 – PHOTOS BOARD OF SUBJECT PROPERTY and A1- PHOTOBOARD OF INTERIOR & EXTERIOR. Ms. Hearn describes the site as 50' by 140' compliant lot. Proposing 2 ½ story front dwelling with covered front porch, rear open deck and a rear two (2) story garage with living area above.

There are eight (8) Bulk noncomforties at the site now.

Propose the front house to be completely compliant except for the height of principal house where they propose 35.7%. They also propose two bays in the front of the house. (A5) that will not exceed front yard setback. Reference to back accessory structure, Ms. Hearn states that an area map shows the lane and the existing rear structures on other surrounding properties as giving evidence that the proposed rear structure at the proposed height of 25.1' to not be out of character. They propose a full second floor. Existing height of rear is 23.4'. Ms. Hearn offers A8 – ADJACENT REAR ACCESSORY STRUCTURE HEIGHT CALCULATIONS by Jensen Wallace & Associates of surrounding properties. A9 – WJH Engineering letter with elevations on property. Hearn briefly describes evidence A5- Floor plan heights. A3 , A4, A7 -, . Goal is seashore aesthetic.

Board Engineer Rooney goes over his letter of review dated April 3, 2015. Hearn, Rubino, Rooney discuss comments 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8.

Hearn offer photos of outdoor kitchens to address Mr. Rooney's question on the rear deck. A10, A11, A12, A13.

Miscellaneous comments in Mr. Rooney's review letter discussed 2.1, 2.2, 2.3 , 2.4, 2.5

Comments from the public?

Brian Dugan 43 Norwood Avenue is sworn in. Mr. Dugan approves of the project.

Motion to carry the application to June 11, 2015 meeting by Egan seconded by Talmage.

The vote:

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

No: 0

Motion to carry is passed.

Motion to adjourn by Talmage.

Aye: All

Minutes approved at the June 11, 2015 meeting.

Motion by Ryan seconded by Egan to approve minutes.

The vote:

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

No: 0

Abstain: Mayor R. Mahon, Chair R. Maloney, McLaughlin



Sheila Sullivan / Planning Board Secretary Avon-By-The-Sea