

AVON-BY-THE-SEA PLANNING BOARD MEETING MINUTES NOVEMBER 13, 2014

A regular meeting of the Avon-By-The-Sea Planning Board was held on the above date in the Avon Elementary School, Fifth Avenue.

Chairperson Maloney opened the meeting at 7pm with the opening statement in compliance with The Open Meetings Law and led the Pledge to the Flag.

Present: M. Davey, Vice Chair T. Egan, Ernst (late), Mayor R. Mahon, Chair R. Maloney, F. McGovern, Commissioner R. McGovern, J. Ryan, Board Engineer C. Rooney, Board Attorney M. Kitrick

Absent: M. Kenny, S. McLaughlin, J. O'Malley, C. Talmage

First on the agenda is a motion to approve the October 9, 2014 minutes.

Motion by Maloney seconded by Ryan to approve meeting minutes as written.

The vote:

Aye: Egan, Mahon, Maloney, R. McGovern, Ryan

Abstain: Davey, F. McGovern

Motion passed.

Second on the agenda is a resolution to memorialize the (Amato) subdivision Block 5 Lot 3. Attorney Kitrick addresses the board that the resolution was prepared and forwarded to attorney for Paul Amato Timothy Middleton and attorney for objector Howard Hardie, Craig Gianetti for their review prior to this meeting. This afternoon Mr. Middleton called Mr. Kitrick with objection to some of the language in the proposed resolution in particular page 3 paragraph F. Mr. Kitrick recalls that the inquiry came Chair R. Maloney regarding the potential inverse condemnation issue with adjoining Lot 11. In the resolution the language states that Mr. Middleton's client/ applicant who is also a principal in CMM

Construction will not seek inverse condemnation from Avon-By-The-Sea in regards to Block 54 Lot 11 , Mr. Middleton has a different recollection and position on what was stated that evening. Mr. Middleton also objects to the language regarding inverse condemnation also appears on page 6. Mr. Kitrick spoke with Mr. Middleton today. Borough attorney Kitrick advises that the consideration of the adoption of the resolution be carried until January at the request of the applicant. Mr. Kitrick has also informed Mr. Middleton that the representations received from him must be followed up in writing. Mr. Gianetti objects to carrying the resolution adoption.

Motion by Maloney to carry the adoption of the Amato resolution to the January meeting with the understanding that the applicant has waived time through February, seconded by Ernst.

The vote:

Aye: Ernst, Mayor R. Mahon, Maloney, R. McGovern, Ryan

Abstain: Davey, F. McGovern,

Recuse: Egan

Absent: Kenny, McLaughlin, O'Malley, Talmage

No: 0

Motion to carry adoption of resolution passed.

Third on the agenda is the continuation of the Carroll (715 First Avenue) application.

Attorney Martin McGann on behalf of applicant Mr. Carroll. Revised drawings have been submitted. Revised plans have changed the front setback and the height has been reduced from 38' to 35'. It is his recollection that these were the two main elements of the board's concern. Lot coverage complies, side yard setbacks comply, building coverage complies, parking issues improved with the two car detached garage. Separation distance between house and garage is 23' where 25' is required. Reduced basement ceiling height.

Board Engineer Rooney asks for clarification on the side entrance and the need of stairs or stoop or if door is at grade?

Architect Dario Pasquariello is sworn in. He testifies that they have been able to eliminate the need for concrete steps going into the basement. The landing is at grade. Mr. Rooney asks that the site plan be corrected to reflect the elimination of that feature. He would also request that the drawings regarding the ½ story we would like to see a line that demarcates the height of 5' in the habitable space.

Chairperson Maloney asks if the only variance they are requesting is for the distance between garage and main structure?

Mr. Pasquariello answers yes.

Vice chair Egan asks if there are any plans for back yard decks or patios in the future?

Mr. Carroll answers that they have no plans.

No further questions or comments from the board or the public.

Chairperson Maloney takes it back to the board and speaks in favor of the application as submitted , makes a motion that application be approved, seconded by Ryan.

The vote:

Aye: Egan, Ernst, R. Mahon, R. Maloney, Ryan

Abstain: Davey, F. McGovern

Absent: Kenny, McLaughlin, O'Malley, Talmage

No: 0

Motion to approve application is passed.

Fourth on the agenda is an application seeking a waiver of parking requirements as code. Applicant is listed Mr. Douglas Stehle owner and operator of the restaurant Caveman Culinarian LLC doing business as Cave'. The property is located at 515 Sylvania Avenue Block 25 Lot 1.02.

Representing Mr. Stehle is attorney Mr. Jules Rossi.

Board attorney Kitrick swears in Mr. Stehle, Mr. Rossi and board engineer C. Rooney.

Mr. Stehle is seeking relief for 6 more seats. He is currently operating with 28 seats (these include the 6 he is seeking). Mr. Stehle states that he did make efforts to rent parking off Main Street but it was too expensive. Mr. Stehle answers Mr. Rossi's questioning of the basement and its use. Mr. Stehle states that the basement is for storage and mechanical only. Mr Stehle describes his restaurant makes a positive impact on the downtown area as it is unique and draws clients from all areas. He also states that the garbage issue has been addressed.

(Throughout most of the hearing Attorney for the applicant Mr. Jules Rossi is inaudible)

Entered into evidence is A1 a Site Plan prepared by Paul Lawrence showing floor plan.

Egan can more tables be added? Mr. Stehle states that he has an occupancy of 49 but his kitchen could not handle that many diners.

Egan asks if he plans on any outdoor dining? Mr. Stehle would consider that in the future. He states that outdoor seating does not count as occupancy.

Engineer C. Rooney goes over his review letter dated October 1, 2014.

Mr. Rooney addresses 1.1, 1.2, 1.3, 1.4, 1.5 .

Questions from the board.

Egan asks Mr. Stehle what his hours of operation are.

Mr. Stehle responds that as of now they are closed Mondays, Tuesday 10-3pm, Wednesday through Saturday 11-9pm , Sunday 9-3pm.

Question's from the public.

Sheila Watson 504 Sylvania Avenue asks Rooney if a business is free from parking code if there is outside dining. Mr. Rooney replies yes.

Renee McGorry 507 Sylvania Avenue asks Mr. Stehle if he plans on adding seats in the future. Mr. Stehle states that he has an occupancy of 40 and would not go above that. Mr. Rooney interjects adding would trigger a parking variance.

Ms. McGorry asks if the grill is being used in the back of the building and why it has not been moved. Mr. Stehle state that it is not used and he hasn't had the time to move it.

Janice Scrabis 126 Washington Avenue, owner of the property where Cave' is located. In response to (Mr. Rossi?) says that there is nothing that could have been done in regards to alleviating the existing nonconformities.

Mayor Mahon asks J. Scrabis if that when she owned the property did she ever experience parking problems? J. Scrabis answers that she never had a parking issue.

Frank Gorman 501 Sylvania Avenue asks J. Scrabis what her hours were when she operated the Tea Room at 515 Sylvania? Scrabis answers 11-4pm. She was licensed for 22 seats.

Paul Lawrence licensed architect for the applicant is asked by Mr. Rossi if he is familiar with the borough's Land Development Ordinance and as such does he feel that the relief sought for parking would be detrimental? Mr. Lawrence states no.

Questions from board? No

Questions from the public

George Watson 504 Sylvania Avenue asks Mr. Lawrence how he bases his consideration. Mr. Lawrence states that he has been a client of the "training Room" for ten years located around the corner from Cave' and is very familiar with the area. He feels that the request for parking is not unreasonable.

Mr. Rossi finished.

Comments from the public?

Sheila Watson 504 Sylvania Avenue is sworn in by Kitrick. S. Watson testifies that the area is already congested and lists all the businesses in the immediate area that need parking. Traffic flow is steady & cross traffic jeopardizes pedestrians.

Watson also references the Baptist Church located on the corner of Fifth and Sylvania that is for sale. The sale of which will also affect the parking situation.

Sean McGovern 512 Lincoln Avenue sworn in. (inaudible) Speaks in favor of the application.

Kelly Cutillo 510 Lincoln sworn in. She is in agreement with Mr. McGovern and encourages the board to approve.

Janice Scrabis the owner of 515 Sylvania comments that the homes around the property all have driveways.

Renee McGorry 507 Sylvania Avenue is sworn in. States that they do not have off street parking as Scrabis testified. Concerned that the approval will set a precedence.

No more comments from the public. Back to the board for questions or comments.

Mayor Mahon states that over the years other businesses in town have never asked for a parking waiver. We are imposing a decision here that has never been enforced on other establishments.

Board member Egan addresses her concern about noise and its affect on the neighbors as an annoyance.

Mr. Stehle states that losing the six seats would affect his income. Leaving town is not really an option.

Chairperson Maloney agrees with Mayor that a viable Main Street is a benefit for Avon. He is in favor of the application.

Engineer Rooney comments referring to the Land Development Ordinance (113-14.F (paragraph 5) the interpretation being that Cave' would not be permitted to have any outdoor seating unless they get a variance from the board. Review of Site Plan has the front of 515 Sylvania as being right on the property line.

Chairperson Maloney motions to approve the application as submitted with the caveat of the removal of the outdoor grill, seconded by Mahon.

The vote:

Aye: Davey, Egan, Ernst, Mahon, Maloney, F. McGovern, R. McGovern, Ryan

Abstain: 0

No: 0

Motion to waive parking requirements is passed.

Motion by F. McGovern seconded by Mayor Mahon to approve minutes.

Minutes approved as written December 11, 2014.

The vote:

Aye: Davey, Egan, Mayor Mahon, F. McGovern

Abstain: Ernst, Kenny, McLaughlin

Absent: Maloney, R. McGovern, Ryan

No: 0

Sheila Sullivan/Planning Board Secretary