

AVON PLANNING BOARD MEETING MINUTES
OCTOBER 10, 2013

Chairperson Richard Maloney opens the meeting at 7PM with opening statement and salute to the flag.

Attendance:

Davey, Egan, Ernst, Mayor R. Mahon, Chairperson R. Maloney, F. McGovern, Commissioner R. McGovern, McLaughlin, O'Malley, Ryan, Talmage, Engineer Rooney, Attorney Kitrick, Engineer Avakian

Absent:

Kenny

Attorney Kitrick addresses Mr. Rubino and for the record states that the three members absent from the September meeting (Talmage, Ernst, O'Malley) have listened to the audio and have signed notarized certifications.

First on the agenda is the approval of the September 12, 2013 meeting minutes.

Motion by Ryan, seconded by Davey to approve.

The vote:

Aye: Davey, F. McGovern, McLaughlin, Ryan

Abstain: Egan, Ernst, Maloney, O'Malley, Talmage

No: 0

Second on the agenda is the continuation of the Gallagher hearing from September.

Mr. Ryan sits in as chair. Mr. Maloney and Ms. Egan recuse themselves.

Attorney for the Gallaghers Mr. Michael Rubino introduces Mr. Gallagher and architect Mary Hearn. Attorney Kitrick swears in Ms.Hearn.

Mr. Rubino addresses the board to the fact that they are presenting revised plans with respect to Mr. Avakian's review letter.

Ms. Hearn introduces exhibit A9 (revised site plan).

Ms.Hearn describes the revisions as an improvement on the setbacks. These revisions have eliminated the need for setback variances. They have included a generator in the revisions.

Discussion with board members Talmage and McLaughlin concerning the rear cottage staircase and the pros and cons of covering the staircase. They agree that covering the staircase would make it safer. Ms. Hearn states that the Gallaghers would prefer the staircase to be covered.

No questions from the audience.

In his summation Mr. Rubino reiterates the proposal will eliminate a two family dwelling, setbacks have been brought to conformance and there is ample evidence that the proposal would be an enhancement to the neighborhood.

Comments from the board.

Mr. Ryan states that the stairs should be enclosed although he does not favor granting coverage over the allowable of 35% the effort made to accommodate the home to the

property he is in favor of project. Mr. Talmage is not in favor of new construction going over allowed coverage and comments that keeping the garage apartment which is a nonconforming use is something the board strives to eliminate.

Mr. F McGovern also is not in favor of approving new construction over 35% believes the architect did an excellent job in trying to get close to the 35% and he would be in favor of approval Ms. McLaughlin comments that while she also is not in favor of new homes being over 35% she feel that they have made enough compromises and in this case she is in favor of the project.

Motion by F. McGovern to approve application with the rear cottage stairs to be covered bringing coverage to 38.7% seconded by McLaughlin.

The vote:

Aye: Davey, Ernst, F. McGovern, O'Malley, Ryan

No: Talmage

Motion to approve application is passed.

Chairperson Maloney chairs for the rest of meeting.

Third on the agenda is an application by Catherine Higgins 110 Washington Avenue Block 51 Lot 9.02 carried over from last month. Ms. Higgins applies to lift existing house and increase impervious coverage for additional steps and retaining wall.

Attorney Armen McComber representing Ms. Higgins & David Gaines introduces himself. States that his clients home sustained substantial amount of damage from super storm "SANDY". The home had over 11' of water

They are seeking variance to raise home to be reasonably assured that the home would not suffer this extent of damage again.

The height request is an USE Variance and asking to increase impervious coverage.

Discussion regarding the interpretation of State Legislature passed Assembly Bill 3890 between Mr. McComber & Attorney Kitrick.

Board Attorney Kitrick swears in Mr. David Gaines, Engineer Rooney, Professional Planner Tom Peterson, Architect J. Regan.

Exhibit A1 photo board with ten (10) photos. Photos show home after damage was inflicted.

First witness Mr. David Gaines addresses the photo board. Mr. Gaines gives evidence to the high water marks shown on photo board. Mr. Gaines details damage & remediation needed for the crawl space where duct work was located. Photo's A2-A6 show inside of damage to the house. Mr. Gaines states that the house is now fully restored.

Chairperson Maloney asks where the mechanicals were located and if they were damaged. Mr. Gaines responds that the mechanicals were on the first floor and were damaged.

No questions from the public.

Mr. J. Regan licensed architect testifies. Mr. Regan introduced as evidence A7 (Existing section A & revised proposed cross section on board).

They are asking to raise the house 5'4" higher than current elevation.

The house currently has three staircases and if house is raised the staircases would need more steps with landings which would affect the impervious coverage. The client would also like to raise the grade in the front of property and construct a retaining wall.

Mr. Maloney discusses with Mr. Regan the proposed height. Mr. Maloney remarks that the proposed finished floor elevation would be 4' above where "SANDY" was and 5' above the "Hundred Year Flood" FEMA elevation, Mr. Maloney comments that it comes down to getting the duct work out of water.

Mr. McOmber states that putting the ductwork at 11' -12' is necessary to prevent damage in the event of another storm.

Mr. McOmber goes over Engineer Rooney's Review Letter. Coverages are discussed that bring the impervious is over the allowable without obtaining variance relief. They believe the added coverage was added by previous owners. Mr. Regan had designed the original house and testifies that the plan did not have this added coverage when built.

There is an agreement that calculations should be done to get true impervious.

Mr. Rooney and Mr. Regan discuss the grading and the retaining wall aspects with regards to drainage.

Mr. McOmber states that they will resubmit plans.

There are no questions from the public.

Mr. Tom Peterson is called to testify as Planner.

Mr. Peterson feels that the house clearly has to be raised at no fault of the clients.

Anything more than 10% of the allowable height becomes a USE Variance under MLUL.

Mr. Peterson believes there is positive criteria in raising the house is that it becomes Flood Zone Compliant which would eliminate any future flood damage hardship for owners. Raising the house would also benefit the neighborhood as homes that are damaged affect the surrounding homes. The height of the house does not impinge on the neighbors. This application is Special because the house exists as it is and was built in compliance of the flood elevations at that time.

Mr. McOmber states that is clear that they will be coming back before the board.

Mr. McOmber asks for comments from the board

Engineer Rooney states that they are exceeding flood compliance.

Mr. Maloney agrees with Mr. Rooney and comments on how setting the height precedent would affect the rest of the town. Ultimately this whole discussion comes down to ductwork and can't overcome & approve.

Mr. McOmber states that the only benefit for his clients is to get their ductwork out of water and never have to go through the hardship again.

Board member Ryan agrees with Mr. Maloney. Mrs. Egan comments on the impervious needing to be addressed and the height taken down. Mr. Talmage, F. McGovern and McLaughlin all comment that they are in agreement with the other board members.

Attorney Kitrick addresses Mr. McOmber as to the need for a reasonable date to come back before the board.

Mr. McOmber asks that they be carried to December 12, 2013 without further notice.

Mr. Kitrick addresses the audience as to the application being carried to December 12, 2013 without further notice.

Motion by Ryan seconded by Maloney that application be carried.

The vote:

Aye: Davey, Egan, Ernst, Maloney, F. McGovern, McLaughlin, O'Malley, Talmage

No: 0

Motion to continue to December meeting is passed with no further notices.

Third on the agenda is a new application for 415 Second Avenue Block 31 Lot 7. Ms. Marzarella is sworn in by Attorney Kitrick.

The applicant Marie Marzarella would like to demolish the existing house due to damage from the storm "SANDY" and construct new 2 ½ story single family residence.

Marie Marzarella purchased the property three (3) months before "SANDY".

Ms. Marzarella states that she was advised by professionals that due to the extent of the damage to the residence it was in her best interest to rebuild.

Tom Peterson the architect for Ms. Marzarella enters into evidence A1 – A4 (photos 2 per page), A5 (aerial photo).

Mr. Peterson testifies that the lot is 50' x 50'. There is no adjacent property to purchase. It is an existing developed property. The existing building was severely damaged and the cost of renovation would far exceed the cost of building new. The proposed new house would correct some of the existing nonconformities. The existing garage would be removed and replaced with a small shed. The proposal is to raise the house to 35'.

The house will be raised 1' above BFE. Existing building coverage is 50.6% & proposed will lower the coverage to 43.5%. Impervious existing is 82.9% and proposed will bring that number down to 69.8%. Easements for utilities will be protected if necessary.

The style of the architecture is very much in keeping with the seashore flavor of the town and will be beneficial.

Discussion follows between Mr. Kitrick and Mr. Peterson concerning the possibilities of shared utilities. Mr. Kitrick asks if the client would be agreeable to put easement conditional & recordable by deed for approval. Mr. Peterson replies that his client would be agreeable.

Engineer Rooney addresses his Review Letter concerning the placement of driveway.

Mr. Peterson states that the curb cut is existing. Mr. Peterson and Mr. Rooney address all items in Mr. Rooney's review letter.

Mr. Maloney asks for questions from the public? There are none.

Comments from the public?

Liz Glosser owner 17 Lincoln Avenue is sworn in and comments that she is favor of the application.

Phil Scardilli owner 408 Second Avenue, is sworn in and is in favor of improvement.

J.O'Connell owner 137 Sylvania Avenue is sworn in and is in favor of proposal.

Lillian Borrone owner 225 Sylvania is sworn in. Mrs. Borrone, previous owner of property and is delighted to fully support the proposal.

Chairperson Maloney brings the discussion back to the board.

Motion to approve application with easement agreement by Ernst seconded by F. McGovern.

The vote:

Aye: Davey, Egan, Ernst, Maloney, F. McGovern, McLaughlin, O'Malley, Ryan, Talmage

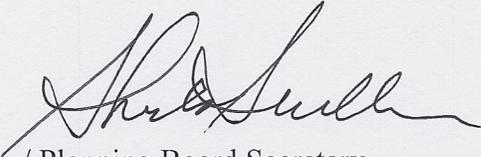
No: 0

Abstain:0

Motion to approve is passed.

Motion to adjourn by Ryan seconded by Maloney.
The vote;
Aye: All

Minutes approved at November 14, 2013 meeting.

A handwritten signature in black ink, appearing to read 'Sheila Sullivan', written in a cursive style.

Sheila Sullivan / Planning Board Secretary