

## AVON PLANNING BOARD MEETING MINUTES OCTOBER 9, 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 Richard Maloney read the opening statement in compliance with the Open Public Records Act and led the Pledge of Allegiance to the Flag.

Present: Vice Chair T. Egan, V. Ernst, Mayor R. Mahon, M. Kenny, Chair R. Maloney, Commissioner R. McGovern, S. McLaughlin, J. Ryan, C. Talmage, Borough Engineer C. Rooney & Planning Board Attorney Mark Kitrick

Absent: M. Davey, F. McGovern, J. O'Malley

First on the agenda is the approval of the September 11, 2014 meeting minutes.

Motion by R. Maloney to approve minutes seconded by Ryan.

The vote:

Aye: Egan, Kenny, Maloney, McLaughlin, Ryan, Talmage

Abstain: Ernst, Mayor Mahon, R. McGovern

Motion is passed.

Chairperson Maloney puts into record that the Donohue/Bailey application presented at the September meeting for 419 Woodland Avenue has been withdrawn.

Second on the agenda is a new application for John Carroll owner of 715 First Avenue Block 7 Lot 10.02. The applicant is seeking a Variance Relief "C" (Bulk) for height.

Attorney Mark Kitrick swears in applicant Mr. J. Carroll, Mr. Carroll's attorney Martin McGann, Engineer Daniel Caruso, Architect Alexander Zabasajja, Planner Andrew Janiee, Borough Engineer C. Rooney & Mike Colucci from Mac Builders

Mr. Carroll testifies that he and his wife have owned the home for 29 years and the family has used it as a seasonal residence. The family proposes to demolish the house and build a new 2 ½ story year round residence. Mr. Carroll feels that the house is structurally unsound. Basement only 5'. Rooms are small. He states that the current condition of the house is such that he feels

replacement is their only option. Building a new home would alleviate code issues and bring the height down also providing much needed parking.

Mr. McGann and Mr. Carroll discuss proposal for new garage that would provide two parking spots. They also discuss the proposed height of house although over the allowable it will be lower than the existing home. They also plan to move house forward to come into compliance with 25' between the main house and the garage as per code. There is no property adjacent for sale. As evidence to support this Mr. McGann offers into evidence A1 (correspondence with owners of 107 Lakeside Avenue dated 9/25/2014). In discussion of the height proposal Mr. McGann offers into evidence A2 ( rendering of front elevation).

Chairperson Maloney question's if the front porch be lowered, Mr. Carroll does not believe it will vary much.

Applicant's engineer Daniel Caruso gives testimony to set backs of neighboring properties. Refers to the property as being nonconforming in size at 5,000 sq. ft. Mr. Caruso refers to the height of some of the homes in the proximity as being at 38.8', 39', 40' & 41'.

Questions from board?

Borough Engineer Rooney asks Mr. Caruso what the lot sizes are for the lots he had previously referred to in regard to their height. Mr. Caruso two lots are basically twice the size of our lot.

Questions from the public? No

Planner Andrew Janiee enters into evidence A3 ( photo board, street aerial, various photos of the neighborhood ). Seeking relief for minimal lot area and a height variance (bulk). Even though the height exceeds the current code the proposed height would be an improvement, as would the building coverage being reduced. Total impervious will be in compliance. The proposal is for a fairly modest home. Feels they have a "solid application". The Bulk variance would not be substantially detrimental to neighborhood. Renovation is not feasible. Proposed home will be keeping in character with the seashore home. Current home is not up to code. New home will meet all the UCC criteria.

Chairperson Maloney addresses his remarks in relation to the "Master Plan" and how starting with a clean slate should allow the applicants to comply with our code. Feels that this project can be done without seeking variances. In particularly the basement is proposed to be 9' when 8' would be sufficient. First floor framing also loses 1' by having a 9' first floor height where again 8' would be sufficient. Discussion on front yard setback and the floor heights between Maloney and the Mr. Janeii. Entered into evidence A4 ( reverse of A3 photo board- neighborhood characterization).

Questions from the board? No

Questions from the public? No

Mr. McGann offers no further testimony.

Chairperson Maloney states that he wants to protect the "Master Plan". He is looking for a reason to approve the height variance. What is unique about this proposal?

Mr. McGann states that his client would consider moving the house back.

Borough engineer Rooney goes over his review letter dated August 19, 2014.

Comments from the public? No

Comments from the board.

Vice Chair Egan comments that if the basement and first floor are dropped 1' each that the height variance would not be needed.

Chairperson Maloney agrees with Egan, he is not comfortable with the 37.5' height.

Board member's Ryan, Kenny & Talmage would like to see the height come into conformance.

Mr. McGann confirs with client.

Applicant's attorney McGann requests that the application be carried with no further notices to the November 13, 2014 meeting.

Motion by Maloney seconded Ryan that the application be carried with no further notices to the November 13, 2014 meeting.

The vote:

Aye: Egan, Ernst, Kenny, Maloney, McLaughlin, Ryan, Talmage

Abstain: R. McGovern

No: 0

Motion to carry is passed.

Next on the agenda is a new application. Development Relief Requested for a MINOR Subdivision Approval, Block 54 Lot 3 (on tax records Lot 4 is shown as an additional lot) – although it was merged with lot 3. Owner Paul Amato.

Attorney Mark Kitrick asks that the secretary announce which members will be hearing the application. They are Ernst, Kenny, Maloney, R. McGovern, McLaughlin, Ryan, Talmage

Attorney Tim Middleton starts to outline the application. Attorney Craig Gianetti representing Mr. Howard Hardie interjects that he has an objection to the application being heard as there were no Notices sent to property owners within 200'. A letter had been sent regarding the objection dated October 9, 2014. Mr. Gianetti refers to an application by Mr. Amato to develop Block 54 Lots 3, 4 & 11. Mr. Middleton states that that particular application has been formally

withdrawn and the application being presented this evening is a NEW application. Mr. Middleton states that Avon's Zoning Ordinance does not require Notices for Minor Subdivisions. Notices are also not required under the MLUL. Borough Attorney Kitrick is in agreement that Notice is not required.

Mr. Middleton introduces project engineer Jason Fichter.

Mr. Kitrick swears in Mr. Jason Fichter Insite Engineering and Borough Engineer C. Rooney.

Mr. Fichter describes the application and property dimensions. Entered into evidence is A1 (on board a copy of Minor Subdivision). Mr. Fichter addresses Borough Engineer C. Rooney's review letter pertaining to flood zones and how they relate to this property. Mr. Fichter testifies that the houses will be "High and Dry". Finished floors will be well above flood elevations. Engineer Rooney's review letter is discussed and comments addressed.

Chairperson Maloney asks for any questions from the board? None

Any questions from the audience? None

Mr. Gianetti refers to Mr. Rooney's review letter in particular comment 1.1. He feels that lot 11 should be addressed.

Mr. Middleton objects as lot 11 is not part of the application and is not relevant.

Mr. Gianetti feels that the prior history of Lot 11 in past applications would be impacted by this subdivision, essentially making it land locked.

Mr. Middleton states we are only here to adjudicate the new application For Lots 3 & 4, not Lot 11. Mr. Middleton states that the owner has no definitive plans for Lot 11.

Lot 11 is not owned by Joyce & Paul Amato. It is owned by CMM.

Chairperson Maloney asks Mr. Middleton if they were approved would they put on record that the owner will not come back before the board with Lot 11 and claiming it landlocked.

Mr. Middleton responds " unequivocally, no".

Questions or comments from the public? None

Engineer Rooney goes over his letter and comments.

Mr. Gianetti comments that a condition of the approval that any present structures will be removed within 190 days of memorialization of resolution. Also needs to be a statement in the resolution noting that by putting homes on lot 3 & 4 will essentially creating Lot 11 as land locked and that this applicant or any other applicant cannot come in front of this board to developed.

Mr. Middleton feels that Mr. Gianetti's request is inappropriate for the board to consider. The resolution should not be burdened with extraneous information as to what might impact Lot 11.

Board Attorney Kitrick states that resolutions address the application only. Which does not require variances for approval. It is a fully conforming application

Board attorney Mr. Kitrick comments that if approved the board will require a Subdivision Deed to be approved by the board attorney and board engineer.

Motion by Chairperson Maloney to approve application seconded by Kenny to approve application.

The vote:

Aye: Ernst, Maloney, R. McGovern, McLaughlin, Ryan, Talmage

Recuse; Egan

No: 0

Motion to adjourn by Maloney seconded by Ryan.

Aye; All

Minutes approved at the November 13, 2014 meeting.

Motion to approve minutes by Maloney seconded by Ryan.

The vote:

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

Abstain: Davey, F. McGovern

No: 0

Absent: Kenny, Ernst, McLaughlin, O'Malley, Talmage

  
Sheila Sullivan/ Planning Board Secretary