

**MINUTES OF A MEETING OF THE  
VILLAGE OF AVON PLANNING BOARD  
WEDNESDAY, APRIL 17, 2013  
7:00 PM; VILLAGE HALL, WHITNEY ROOM**

**I. ATTENDANCE**

Malcolm D. LaFever, Chairman  
Paul M. Drozdziel  
Kevin O'Donoghue  
Bonnie Taylor-Davis

**GUESTS**

Thomas Freeman, Mayor  
Kurt Rappazzo, MRB Group  
Mr. & Mrs. Michael Rubert

Anthony Cappello, Code Enforcement Officer

**ABSENT**

Laura Nobles  
William Wall

**QUORUM**, 4 Present, 2 Absent, 1 Vacant

**MAYORAL REMARKS – NEW CHAIRMAN SEATED**

The Board was a man down, Mayor Freeman began. With Richard E. Martin getting back in the game (and O'Donoghue retained as his surveyor), the Mayor said it would have been difficult for Martin and O'Donoghue not voting whenever Martin materials came before the Board (as such Martin had been asked to step down).

Mayor Freeman said he had asked LaFever to be the chairman (replacing O'Donoghue) and had asked that Rappazzo attend that night's meeting to let LaFever know MRB, the Village's engineering consulting firm, was available to him and the Board as a resource. The Board could also have Village Atty. Reid Whiting present at meetings when necessary or to phone or E-mail inquiries to him.

There was no Village Board liaison at that night's meeting - due to an Association of Village Boards dinner meeting at Peppermint's Restaurant - but, Mayor Freeman said, hopefully, Board members would see Trustees rotating through their meetings on a regular basis.

LaFever told members he had talked to the Mayor about having a Deputy Chairman. Drozdziel had been acting in that capacity (filling-in when O'Donoghue had been unavailable or had a conflict) and LaFever thought he should continue in that capacity.

**II. APPROVAL OF THE MINUTES**

**MOTION:** O'Donoghue moved for approval of the minutes of the meeting of March 20, 2013, seconded by Taylor-Davis. Voting in favor were: LaFever, Drozdziel, O'Donoghue and Taylor-Davis. Voting against were: none.

**CARRIED**, 4 Ayes, 0 Nays

**III. OLD BUSINESS**

**A. Public Hearing – POSTPONED**

Richard E. Martin, Applicant  
 14 Five Lot Lane  
 Avon, NY 14414

“The Martin-Pole Bridge Road Subdivision, Sect. 1”  
 3-Lot Minor Subdivision; 100-ft X 200-ft lots  
 Zoned A-Agricultural

Village Atty. Whiting hadn’t advertised the public hearing so, it had been postponed.

Martin also had a re-zoning proposal on the table, affecting approximately 23 acres of land between Pole Bridge and Hal Bar Roads. The Village/Town line was on the west side of Pole Bridge Road.

Both the subdivision and rezoning proposals were within 500 feet of the Village/Town line, O’Donoghue told Board members. Any zoning change within 500 feet of a municipal boundary had to be referred to the County Planning Board for a recommendation, he added.

Furthermore, the Mayor wanted the Martin-Pole Bridge Road Subdivision to include sidewalks, O’Donoghue continued. But, he pointed out any sidewalk in the Town’s right-of-way would be on Town property.

We want a walking community, according to our Comprehensive Plan, Cappello remarked, adding that’s what the plan called for.

That had been one thing the Mayor had wanted him to take up with the Board, O’Donoghue said.

But, Avon Central School owned the property south of Martin on Pole Bridge Road and the School District wouldn’t put any sidewalks in, Cappello speculated.

**IV. NEW BUSINESS**

**A. Michael Rubert, Applicant**  
 Rochester, NY

Motor Vehicle Service Station & Commercial Garage  
 293 East Main Street (former Floyd’s Motor Corp.)  
 Avon, NY 14414  
 Zoned B-2 General Business (owned by Bill Gray’s)

Rubert told Board members he wanted to open an auto repair shop in the former Floyd’s Motor Corp. Tom Wahl’s (Bill Gray’s, Inc., of Webster) owned the property.

The property had always been used for automotive, Cappello said, adding Floyd’s had serviced their own cars there and that business hadn’t been gone a year.

But, in a B-2 district, motor vehicle service stations and commercial garages were only permitted with a special use permit, Drozdziel pointed out (and special use permits weren’t transferrable, they didn’t go with the land).

Had Floyd’s repaired cars? Taylor-Davis asked.

Did Rubert want to do strictly repairs or sales, too? Drozdziel followed-up.

Repairs, not sales, Rubert responded.

Then, that activity has existed there before, Taylor-Davis said.

#### **Planned Activities/Timetable**

Chapter 30, Article VI, Section B "Motor vehicle service stations and commercial garages," paragraph 5, said:

*No vehicles shall be permitted to be standing or parked on the premises of a motor vehicle service station other than those used by the employees in the indirect or direct operations of the establishment and those being served.*

Can I leave cars outside, waiting for service? Rubert inquired.

Yes, Cappello responded.

You're not going to be selling gas? O'Donoghue questioned.

No, Rubert answered.

When do you hope to get started? O'Donoghue followed-up.

The sooner the better, Rubert said, noting it took eight weeks to become a registered repair shop with the New York State Department of Motor Vehicles (DWV).

#### **Recommendations/Concerns**

Recommendation? LaFever asked.

What are our concerns? Drozdziel wondered.

Rubert's filling out an application, Taylor-Davis opened.

The applicant should also contact the State Department of Environmental Conservation (DEC) about storing oil in tubs or drums, Cappello added.

55-gallon drums, Rubert clarified, adding the garage did have a floor drain that Floyd's had used to drain water from vehicle doll-ups.

The best thing would be to seal the drain, Cappello said.

This is a B-2 district and the use is not changing, LaFever pointed out.

No external changes had been proposed and the use was a historical one, Rappazzo agreed, suggesting the Board may wish to let the Zoning Board of Appeals decide the issue.

Would Rubert be burning waste oil in a furnace? Drozdziel wondered.

No, Rubert responded, explaining there was a radiant heater that heated the garage.

A B-2 district with the use not changing, LaFever reiterated, adding he'd like to see a positive recommendation.

**MOTION:** Drozdziel moved for a positive recommendation to the Zoning Board of Appeals pending Rubert's completing a special use permit application and his compliance with the Code, seconded by Taylor-Davis. Voting in favor were: LaFever, Drozdziel, O'Donoghue and Taylor-Davis. Voting against were: none.

**CARRIED, 4 Ayes, 0 Nays**

The floor drain should be sealed or an oil separator installed, Rappazzo urged. Rubert was given a special use permit application, advised to complete it and return it to the Clerk's office with the \$35 fee then a meeting of the Zoning Board of Appeals (ZBA) could be called, likely within one-to-two weeks time.

A. "The Martin-Pole Bridge Road Subdivision-Sect. 1" – resumed

Returning to the discussion of sidewalks, Drozdziel asked if the Martin-Pole Bridge Road subdivision application had to be referred to the County Planning Board.

Martin hoped the Village Planning Board could approve the subdivision so that he could begin selling off the lots, O'Donoghue said.

As far as the sidewalks were concerned, LaFever said he didn't know if they'd connect to anything.

The Mayor, Rappazzo noted, had talked to Martin about his posting \$3,000 as a "payment in lieu of installation." Such funds, he explained, would be held until future development along Pole Bridge Road warranted the installation of sidewalks.

While conceding the Village needed sidewalks, LaFever said he couldn't see putting them in front of Martin's lots if nothing were done with the neighboring lots.

If it were unfeasible to install sidewalks in the Town right-of-way, it might be better to secure a 10-foot easement from Martin, O'Donoghue suggested. He was looking for some direction to give Martin, he told Board members.

The Board asked the Deputy Clerk to contact the County Planning Department and ask if both the subdivision and zoning changes should be referred to the County Planning Board for a recommendation.

The Board further discussed a recommendation to Mayor Freeman and the Village Board to approach Town Supervisor David LaFeber and the Town Board about a cooperative sidewalk venture, running the length of the unimproved property on the west side of Pole Bridge Road, but took no formal action on the suggestion.

**MISCELLANEOUS****A. Local Government Workshop – Upcoming Training Opportunity**

The Genesee/Finger Lakes Regional Planning Council was going to host its **Spring 2013 Regional Local Government Workshop** Thursday, May 16, 2013 at the Burgundy Basin Inn with overviews on Planning Board and Zoning Board of Appeals powers and duties, community design tools, inspiring investment in your community and other sessions, LaFever noted, adding it was a good opportunity to get training hours in.

**B. 6-foot Chain Link Fence – R-1 District**

An insurance company had contacted him, Cappello told Board members, asking if they could put a 6-foot high chain link fence in front of James VanMaaren property at 144 Wadsworth Avenue (formerly owned by Niagara Mohawk).

The front portion of the property was zoned R-1 One Family Residential while the backside was I-1 Light Industrial. The insurance company was interested in cutting down on skateboarders and otherwise reducing VanMaaren's liability exposure.

Chapter 30, *Zoning*, Section 43, Paragraph I of the Village Code read:

***2. Fences may be erected, altered or reconstructed to a height not to exceed three (3) feet Above ground when located within twenty-five (25) feet from the right-of-way line.***

Cappello had been concerned about the style of fence proposed, chain link, or did it have to be wood? he'd wondered. Cappello told Board members he planned on telling the insurance company and VanMaaren they could only erect a "residential-style" fence.

**V. ADJOURNMENT**

The Board adjourned at 8:50 PM.

Gary Margiotta  
Deputy Clerk