

**MINUTES OF A JOINT MEETING OF THE
ZONING BOARD OF APPEALS & PLANNING BOARD
OF THE VILLAGE OF AVON
TUESDAY, JANUARY 27, 2015
7:00 PM, VILLAGE HALL, WHITNEY ROOM**

I. ATTENDANCE

ZONING BOARD OF APPEALS (ZBA)

Daniel Freeman, Chairman
James Gerace
Richard K. Hite
Ernest Wiard

ABSENT

Barbara Sadden

QUORUM, 4 Present, 1 Absent

PLANNING BOARD

Paul M. Drozdzziel, Chairman
Patrick McCormick
Laura Nobles
Kevin O'Donoghue
Bonnie Taylor-Davis
William Wall
1 seat vacant

QUORUM, 6 Present, 0 Absent, 1 Seat Vacant

OTHERS ATTENDING

Reid A. Whiting, Village Attorney
Robert Hayes, Village Trustee
James K. Schillinger, Jr., Area Variance & Subdivision Applicant

II. APPROVAL OF THE MINUTES

MOTION: Hite moved for approval of the minutes of the Zoning Board of Appeals meeting of July 15, 2015, seconded by Wiard. Voting in favor were: Freeman, Gerace, Hite and Wiard. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

III. OLD BUSINESS

Nothing pending.

IV. NEW BUSINESS

A. Area Variance Application: James K. Schillinger, Jr.
Public Hearing 42 Valley Lane
Avon, NY 14414

Schillinger wanted to divide a 100-foot X 639-foot parcel, extending west from 75 High Street to 42 Valley Lane, into two lots. The 75 High Street lot would be 18,454-square-feet, 1,546-square-feet less than the 20,000 minimum called for in the Village Code. The land was zoned One Family Residential (R-1).

Rationale & History: Schillinger had purchased the land 20 years ago and now wanted to sell the 75 High Street portion to his sister. Schillinger wanted to retain a blacktop driveway along the southern border of the 75 High Street property as an ingress/egress easement as long as his sister owned the property.

Freeman read the NOTICE OF PUBLIC HEARING :

NOTICE OF
PUBLIC HEARING

PLEASE TAKE NOTICE that a public hearing will be held before the Planning Board and the Zoning Board of Appeals of the Village of Avon on Tuesday, January 27, 2015, at 7:00 pm in the Whitney Room at the Village Hall, 74 Genesee Street, Avon, New York on the following matter with the meeting of the Zoning Board of Appeals to follow the meeting of the Planning Board:

APPLICATION OF
JAMES K. SCHILLINGER, JR.
FOR AN AREA VARIANCE

Concerning the subdivision of 75 High Street and 42 Valley Lane, leaving 75 High Street with a lot of 18,454-square-feet, 1,546-square-feet less than the required square footage for a residential lot.

The Planning Board and the Zoning Board of Appeals will, at the aforesaid time and place, Hear all persons in support of this application or objections thereto. Persons may appear In person or by agent or attorney. The revised subdivision may may be reviewed at the Village Hall.

Dated: January 9, 2015
By Order of the: Planning Board, and
Zoning Board of Appeals
Of the Village of Avon

The Boards agreed the ZBA action on Schillinger's area variance application should be considered first and Freeman proceeded, asking Schillinger to explain his area variance application.

Schillinger assured the Board he wouldn't be building another house, but would instead be selling his parents' house, at 75 High Street, to his sister, Joan Farrell. In so doing, Schillinger wanted to move the lot line to 15-feet east of his woodshop thus keeping the shop and a second out-building on his 42 Valley Lane property.

Does something have to be filed with the county? Hite asked.

Yes, Whiting responded, a subdivision map which, he said, O'Donoghue had prepared.

The action proposed was more like a lot line adjustment than a subdivision, O'Donoghue volunteered, adding, there was no new lot being created.

Were there any other questions, discussion or concerns? Freeman asked.

Whiting read the five factors set forth in the statute concerning area variances:

1. Would an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting the area variance?
2. Could the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance?
3. Was the requested area variance substantial?
4. Would the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
5. Was the alleged difficulty self-created? This consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

There were options other than what Schillinger had proposed, Hite noted.

But, this was the cleanest way for tax purposes, Schillinger responded. With the lot line adjustment, the 75 High Street house would remain assessed, as it was, while the other buildings would be on the lot with his 42 Valley Lane house.

Whiting reiterated the third, fourth and fifth statutory factors, noting the "self-created" proviso wouldn't be a fatal deficiency.

The alleged difficulty was self-created, Hite pointed out.

Did any utilities cross the lot line? Wall asked.

Yes, Schillinger responded, one of his garages was fed from his house while the other was fed from his parents' house.

You'll retain the ingress/egress easement as long as your sister owns the 75 High Street property? Drozdziel inquired.

Yes, Schillinger answered, adding he'd retain the option to buy the 75 High Street house back should his sister decide to sell.

Any other discussion? Freeman asked.

MOTION: Wiard moved to approve Schillinger's area variance application, seconded by Hite. Voting in favor were: Freeman, Gerace, Hite and Wiard. Voting against were: none.

The Village owned the land north and south of the stone & gravel lot and had wanted to obtain Pozzangheras' land in between to maintain it as a parking area, O'Donoghue told Board members.

What did the Village want to park there? Nobles asked.

The Village wanted the lot for public parking, daily and overnight, O'Donoghue responded. The Town of Avon would contribute towards the lot's purchase price, Whiting said, adding the Pozzangheras would retain seven parking spaces.

Were there any buffers? Nobles followed-up.

Not at this time, Whiting told her.

Was there any lighting? Taylor-Davis wondered.

There were three light poles to the southwest, southeast and west, Wall said.

It would be nice, Nobles opined, if the lot could be improved.

That may be the plan down the road, O'Donoghue speculated. The subdivision was just to create the parcel, he said, but added he was pretty sure the Village planned on improving the lot.

I can convey that sentiment to the Village Board, Trustee Hayes offered.

I'd like to see the Village setting a good example, Nobles reasoned.

The subdivision created a new tax parcel, Drozdziel observed.

Yes, O'Donoghue confirmed, but pointed out, since the Village didn't pay taxes, that was something of a moot point.

Did the subdivision application require a public hearing? Drozdziel asked.

No, O'Donoghue said.

MOTION: Taylor-Davis moved for a POSITIVE RECOMMENDATION on the Village's purchase of the stone and gravel parking area and the subdivision of the 57 Genesee Street property, seconded by Wall. Voting in favor were: Drozdziel, McCormick, Nobles, Taylor-Davis and Wall. Voting against were: none. Abstaining was O'Donoghue, who had been the surveyor.

CARRIED, 5 Ayes, 0 Nays, 1 Abstention

VIII. NEW BUSINESS

A. Village Board – Trustee Hayes

Trustee Hayes had nothing to share from the Village Board.

B. Lot Line Adjustment Legislation

Drozdziel had done a Google search and found three examples of lot line adjustment legislation, from:

- Town of Canandaigua which Drozdziel said seemed straightforward
- Town of Milford
- Town of Victor

If lot lines were moved, a survey map would have to be filed with the County, O'Donoghue noted.

Lot line adjustment legislation would streamline the process – as long as you weren't creating a non-conforming lot, Drozdziel remarked.

A lot less than 20,000-square-feet would be considered non-conforming and would require an area variance from the Zoning Board of Appeals, O'Donoghue noted, adding, in the Village, most lot line adjustments would involve creating lots less than 20,000-square-feet.

The Town of Victor's legislation seemed cut and dry, McCormick said.

The Village could come up with a checklist, Trustee Hayes suggested, then, as long as the lot line adjustment proposed, didn't violate this or that, the adjustment could be handled as an administrative matter, perhaps, something that could be taken care of by the Code Enforcement office.

Drozdziel said he would review the three examples further and see if he could come up with a proposal the Board could recommend to the Village Board.

XI. ADJOURNMENT

MOTION: McCormick moved for adjournment at 8:00 PM, seconded by Taylor-Davis. Voting in favor were: Drozdziel, McCormick, Nobles, O'Donoghue, Taylor-Davis and Wall. Voting against were: none.

CARRIED, 6 Ayes, 0 Nays

Gary Margiotta
Deputy Clerk

**MINUTES OF A MEETING OF THE
VILLAGE OF AVON PLANNING BOARD
TUESDAY, FEBRUARY 17, 2015
7:00 PM; VILLAGE HALL, WHITNEY ROOM**

I. ATTENDANCE

Paul M. Drozdziel, Chairman
Patrick McCormick
Kevin O'Donoghue
William Wall

OTHERS

Anthony J. Cappello, Code Enforcement Officer
Brian Glise, Fire Marshal
Lance Brabant, Sr. Planning Assoc., MRB Group
James & Elizabeth Welch, subdivision applicants
Timmy Batzel, Village Trustee

ABSENT

Laura Nobles
Bonnie Taylor-Davis
1 seat vacant

QUORUM, 4 present, 2 absent

IV. NEW BUSINESS

A. Charlton House Subdivision, Phase I

James & Elizabeth Welch, owners
310 East Main Street
Avon, NY 14414
Kevin O'Donoghue, Surveyor

The Welch's had applied to divide 260.434 acres of property at 310 East Main Street into two lots. Lot 1 would begin opposite Pole Bridge Road and extend in an L-shape, west behind TOPs Market. The lot would cover 29.971 acres and have Charlton House and the property's other structures on it. Lot 2 would be the remaining acreage, 226.629 acres of farmland and 3.834 acres of wetlands. Lot 2 would be vacant, agricultural land.

Other lands owned by the Welch's included 92.736-acres, adjoining the aforementioned lots to the east, in the Town of Avon.

The Welch's had put the land up for sale and James Welch said the subdivision was intended to improve its "marketability." He described the main house, the Charlton House, as "quite unusual." The house was:

a 30-room mansion
built in 1894
designed by Rochester architect, J. Foster Warner; and
accessed via a tree-lined drive from East Main Street
across a bridge

Referring to the property overall, Drozdziel noted part was in the Village and part was in the Town, were the Welch's applying for a 3-lot or 2-lot subdivision. Their application had indicated two lots.

Charlton House had been used as a Bed & Breakfast Inn with a paddock and stable, Welch began.

With the applied for subdivision, O'Donoghue said, one tax parcel would be created for the house and another for the rest of the property.

Welch didn't see them breaking-up the farm land into separate parcels, he told Board members.

Would a parcel be created with no accessibility? Wall wondered.

No, O'Donoghue responded. The 29.971-acre Lot 1 had the tree-lined driveway entrance from East Main Street and the 226.629-acre Lot 2 had access both from Dream Valley Boulevard (the road serving TOPs Market) as well as from High Street.

Any development plans for the 29.971-acre Lot 1? Drozdziel asked.

No, Welch said, adding they'd love to see it remain as it was.

When the Planning Board did the Village of Avon Comprehensive Plan (in 2011), members had envisioned "mixed-use" on the land north of TOPs, Drozdziel followed-up.

(Page 36, Section D. Uptown of the plan read 1. Rezone the vacant area north of TOPs Plaza as a "mixed-use" district as shown on the future land use map)

This (application) had to go before the Livingston County Planning Board? Trustee Batzel asked.

The County Planning Board met the second Thursday of the month, Brabant interjected, adding their next meeting was Thursday, March 12, and recommendations from that meeting could be expected a week later (March 19).

The Village Planning Board typically met the third Tuesday of the month and their next meeting was scheduled for March 17, but Drozdziel pointed out it wasn't unusual for them to re-schedule, they liked to work with people.

So, it was your intent to keep Lot 2 as farm land? Drozdziel asked, wondering if there might be any drainage concerns for surrounding areas such as High Street or D'Angelo Parkway.

The Village Board would rather see the Charlton House Subdivision, Phase I, divided into three lots rather than two? O'Donoghue asked.

Yes, Trustee Batzel responded.

The Village Board had expressed an interest in making the subdivision three lots? Drozdziel followed-up.

Send the Livingston County Planning Department the most complete application possible so, you don't have to go back to them a second time, Brabant cautioned. Don't send them a 2-lot subdivision then tell them later you've had second thoughts and now want a 3-lot subdivision.

I don't see any advantage to going to a 3-lot subdivision, Drozdziel remarked.

No, O'Donoghue agreed, I don't either.

Referring to the Short Environmental Assessment Form, filled out in conjunction with the subdivision application, Brabant suggested O'Donoghue answer question, "12.b. Is the proposed action located in an archeological sensitive area?" yes.

The New York State Department of Environmental Conservation had an Environmental Assessment Form "mapper," Brabant continued, and the mapper program would complete the form for him, if question 12.b. is answered, yes.

So, if the Charlton House Subdivision, Phase I, application were:

- referred to the Livingston County Planning Board Wednesday, February 18
- the County Board would meet Thursday, March 12
- a public hearing notice would be sent to the Liv. County News Monday, March 16
- the County Board would issue their recommendation Thursday, March 19
- the public hearing notice would appear in the March 19 edition of the LC News
- the legally-required 10 days would be allowed to pass
- the hearing would be conducted Tuesday, April 7; and,
- a decision would be rendered at the conclusion of the hearing

With that time table agreed upon, Brabant and Batzel left the meeting at 8:07 PM.

II. APPROVAL OF THE MINUTES

MOTION: McCormick moved for approval of the minutes of the meeting of January 27, 2015, seconded by O'Donoghue. Voting in favor were: Drozdziel, McCormick, O'Donoghue and Wall. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

III. OLD BUSINESS

A. Proposal to reduce the Board from seven members to five

- Mayor Thomas Freeman introduced the proposal March 18, 2014
- The proposal was an agenda item May 20, 2014
- A recommendation to leave the membership at seven was sent to the Mayor May 27, 2014
- The proposal was reintroduced June 17, 2014
- The proposal was an agenda item July 15, 2014, but was not discussed
- The proposal was an agenda item August 19, 2014, and the 7-member preference confirmed

The Board had operated with one seat vacant since former Chairman Malcolm D. LaFever resigned, due to health reasons, in the spring of 2014. Member Taylor-Davis had since submitted her resignation, effective April 30, 2015.

MOTION: McCormick moved to reduce the size of the Board from seven members to five with no alternate, seconded by Wall. Voting in favor were: Drozdziel, McCormick, O'Donoghue and Wall. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

B. Lot line adjustment legislation

Drozdziel had distributed three examples January 27, from:

- Town of Canandaigua
- Town of Milford
- Town of Victor
-

Lot line adjustment legislation would allow the administrative disposition of simple subdivision requests, applications not creating substandard lots such as those less than 20,000-square-feet or any other circumstance requiring a variance.

Drozdziel said he hadn't yet drafted a version for Board consideration, but would by the next meeting. The goal, he added, was to simplify and speed-up the process, but the kicker was few applications would be affected with the substandard lot exclusion.

C. Parcel-based zoning

The Village wanted to transition to parcel-based zoning in hopes of eliminating inconsistencies. Four hundred parcels would likely be affected. The Board planned to meet with Heather Ferrero, Livingston County Deputy Planning Director, on the subject.

Drozdziel asked the clerk to contact Ferrero about coming to the Board's May meeting.

V. ADJOURNMENT

MOTION: McCormick moved for adjournment at 8:30 PM, seconded by O'Donoghue. Voting in favor were: Drozdziel, McCormick, O'Donoghue and Wall. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

Gary Margiotta
Deputy Clerk

AGENDA FOR A MEETING OF THE
VILLAGE OF AVON PLANNING BOARD
TUESDAY, MARCH 17, 2015
7:00 PM; VILLAGE HALL, WHITNEY ROOM

MEETING CANCELLATION

The Planning Board meeting of March 17, 2015, has been cancelled.

Gary Margiotta
Deputy Clerk