

**MINUTES OF A MEETING OF THE
VILLAGE OF AVON PLANNING BOARD
TUESDAY, APRIL 19, 2016
7:00 PM, VILLAGE HALL**

I. ATTENDANCE

Paul M. Drozdziel, Chairman
Marilyn Borkhuis
Patrick McCormick
Kevin O'Donoghue (7:12 PM)

ABSENT

William Wall

QUORUM, 4 Present, 1 Absent

OTHERS

Anthony Cappello, Code Enforcement Officer
Brian Glise, Fire Marshal
Robert Hayes, Trustee
Kurt Rappazzo, Civil Engineer, MRB Group
Reid Whiting, Village Attorney

GUESTS

Robert Austen, 213 East Main Street
Dale McAdam, 173 East Main Street
William Nevin, 45 Hal Bar Road
Erika O'Brien, 73 Temple Street
Kathy Salvati, 219 Commerce Drive
David Sharman, 115 East Main Street
Rebecca Sharman, 115 East Main Street
Susan Ware, 173 East Main Street
Four others not signed-in

Matthew Newcomb, Project Engineer
for Country Hill Estates,
Passero Associates, Rochester

II. APPROVAL OF THE MINUTES

MOTION: McCormick moved for approval of the minutes of the March 16, 2016, meeting, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis and McCormick. Voting against were: none.

APPROVED, 3 Ayes, 0 Nays

III. OLD BUSINESS

B. REZONING APPLICATION

The PathStone Development Corporation of Rochester had applied for a change of zoning classification (rezoning) for a portion of Parcel 34.11-01-65.1 from A, Agricultural, to PRDD, Planned Residential Development District. The area in question covered approximately seven (7) acres and was located south, east and west of the Avon Town Plaza and north of the Avon Nursing Facility.

Said property was owned by Richard E. Martin of 22 River Street. The Planning Board had conducted a public hearing on the application March 16, 2016. The Board was still going over the comments received and, as such, wouldn't be discussing the application that night, Drozdziel stated.

Based on a summary of the speakers from the hearing and their concerns, Newcomb said Passero and PathStone had drafted responses. He distributed copies to Board members.

Drozdziel assured Newcomb there would be further discussion on the application and the Board would try to bring their deliberations to a close next month.

A. MINIATURE HORSE IN AN R-1 DISTRICT CONTRARY TO CHAPTER 54, ANIMAL & DOG CONTROL, OF THE MUNICIPAL CODE.

Susan Ware & Dale McAdam, 173 East Main Street

173 East Main Street was in an R-1, One Family Residential, district. The property was 74-feet wide and 300-feet deep. Chapter 54, Animal and Dog Control, Section 1, Keeping of certain animals restricted, of the Municipal Code said:

“No person shall permit, keep or maintain sheep, horses, cows, goats, skunks, pigs, foxes, poultry, chickens, ducks, geese or any other animal or fowl, except animals commonly used or known as ‘household pets,’ such as cats, dogs, birds, fish and the like in any building or on any property within the Village of Avon except in the agricultural district and except that horses may continue to be kept, subject to the provisions of this chapter, if they were kept prior to the date of the adoption of this local law.”

Ware introduced herself, her husband, Dale McAdam and their friends, the Sharmans. Ware said she had had two therapy dogs in the past, but both had passed.

Ware worked at Rochester Psychiatric Center and wanted to have a miniature horse in her back yard. *Begin Again Horse Rescue* in Lima had visited. The horse she would receive wouldn't be much bigger than her German shepherd, but probably heavier.

Ware told Board members she would like to train the horse as a “therapy horse.” She wouldn't need a trailer to transport the horse. Ware said the animal could ride in their van with her.



Miniature Horses Used as Therapy Horses

Why not keep the horse somewhere else? McCormick asked.

They could, but she needed to have the horse with her, she contended.

It would be raised as a family pet, McAdam added.

And, the horse would be gelded, Ware said.

For whatever it was worth, McAdam told Board members he was a psychologist (professor of psychology at the University of Rochester). He asked what else he and his wife could tell the Board.

The horse, he said, would be bred from other miniature horse, specifically from a herd of 11 that had been rescued in Phelps, Ontario County, earlier this year.

This was one of the more unusual proposals they had ever had, McCormick remarked.

Ware said she made visits to the Avon Nursing Facility.

And, to group homes, David Sharman added.

Ware worked with developmentally disabled individuals, McAdam noted.

Does one horse bring a second and a third and a fourth? Drozdziel asked.

No, no, Ware responded.

Was there any noise from a horse? Drozdziel asked.

They whinny, but not much, Ware answered.

Miniature horses have tiny fee and would not have to be shod, McAdam said.

And, their having one miniature horse would not lead to two or more, "Why would you say that, Paul?" Ware asked.

Because you might rescue one horse then have a need to rescue a second, then a third, Drozdziel responded.

Horses live 25 years, Ware noted.

Any research on how much area was needed to support a horse? Drozdziel asked.

Begin Again Horse Rescue had visited their house and said their back yard was adequate, Ware said. Ware & McAdam had a 74-foot X 300-foot lot with a fenced back yard. The back yard was between one-fourth and one-third an acre. John Dowd lived to the west at 167 East Main Street and Willis Curtis was rehabbing the house to the east at 181 East Main Street.



Looking East



Ware/McAdam Back Yard



Looking West

But, was there a minimum lot requirement for a horse? Drozdziel persisted. He had done a Google-search and found mention of an acre requirement. He was concerned for the welfare of the horse and with feeding the horse – would Ware & McAdam have enough green space?

The Board could appreciate Ware & McAdam's intentions, but someone else could come in, saying they wanted a larger horse or a therapy pig, McCormick speculated.

Drozdziel hopped on McCormick's suggestion, saying he himself might want a therapy pig.

No, no, now look, Ware said, you decide every case on its merits.

Or you do the obvious and stick to the Code, Drozdziel countered.

But, any case for a variance was argued on its merits, McAdam reasoned.

As an alternative, couldn't they board the horse? Drozdziel asked.

To train a *therapy horse*, Ware said she'd need to have the horse with her. She added she'd trained two therapy dogs, they were gone now, but they'd been wonderful.

Why not get another therapy dog? McCormick asked.

We're working on that, McAdam said.

But, Ware said she'd always loved horses, she'd ridden them when she was younger and *therapy horses*, she said, were "magical."

But, Ware should appreciate the Board's concern, McCormick said. The next person might simply want a miniature horse for their kids.

Not everybody would want to train a *therapy horse*, Ware persisted, adding they did.

Again, looking for alternatives, Drozdziel reiterated Ware could lease space in a barn.

For a *therapy horse*, that wasn't such a good idea, Ware asserted, adding she thought they'd already answered that question. If she were training a *therapy horse*, she said, the horse would have to be working with her.

Borkhuis asked if Ware had neighbors present.

David Sharman lived several houses to the west on East Main Street at Richmond Lane. The only place he'd found mention of an acre requirement for a horse was Maryland and that was a zoning requirement not a requirement for the horse per se.

People thought of a horse in a certain way, but a miniature horse was a different animal, Sharman continued. A miniature horse's impact on a neighborhood was probably less than a dog, he theorized.

Sharman served on the Town of Avon's Planning Board and said there were a limited number of miniature horses around. What other limitations did the Board consider reasonable for Ware and McAdam? When their ordinance was written, Sharman added, there probably hadn't been any other miniature horses in the Village.

As for Ware, Sharman said she'd been great with the therapy dogs.

Rebecca Sharman said she'd read in Time magazine where they were using miniature horses as seeing-eye animals and horses, she pointed out, lived so much longer than dogs.

Commenting on earlier remarks, David Sharman said he had never heard of service pigs.

Austen said Ware & McAdam were good with animals, he thought they'd do a nice job. There must be bonding between a trainer and the therapy animal, he added. The animal must be calm, he added.

You couldn't raise a service dog in a kennel, Austen continued, adding it'd be a big expense to board a horse. Austen lived three doors away and, as a neighbor, said he had no objection to Ware having a miniature horse.

Edward Forsythe of 164 Sackett Road told Board members he had a service dog, adding any animal could become a service animal. Forsythe had seen service dogs that might make a miniature horse look small.

Had Ware had any endorsements from her "*immediate*" neighbors? Hayes inquired.

The Dowds were OK with it, Ware responded. The house on the other side of them had belonged to Gladys Iler and was currently being rehabbed.

Had she told the horse rescue people that the miniature horse she got would be coming into her house? Drozdziel asked.

Yes, oh, yes, absolutely, Ware responded, adding there was no other way to train a *therapy horse*.

The Board took each case on its merits, but that could result in a community filled with exceptions, Drozdziel noted. He applauded Ware's dedication and compassion, but pointed out she lived in a highly populated area.

However, not everyone was going to want to do what they were proposing, Ware pointed out.

Ware was talking about a small horse, but it was still a horse, Drozdziel said, adding he hadn't walked the neighborhood.

Borkhuis was new to the process. The Board would make a recommendation to the Zoning Board of Appeals. Borkhuis was up in the air on how to look at things, saying she, personally, didn't have a problem with Ware's proposal, but wondered about the next person who came in with such a request.

Wouldn't the next person have to go through the same process? Austen asked.

What about the next person who wanted a pot-bellied pig? McCormick asked, adding he knew people interested in raising chickens.

Under the classic use variance scenario, this application would fail, Whiting remarked, pointing out there were Agricultural districts in the village. He didn't know if Ware's application could be considered a hardship.

To obtain a use variance, the applicant should be able to demonstrate applicable zoning regulations would cause an unnecessary financial hardship.

Ware wasn't asking to add something to their house that would provide them with more money, she said.

But, would the use variance add something of value? McAdam followed-up-.

Drozdziel called for a motion.

MOTION: O'Donoghue moved for a favorable recommendation to the Zoning Board of Appeals, seconded by Borkhuis. Voting in favor were: O'Donoghue and Borhuis. Voting against were: Drozdziel and McCormick.

NO ACTION VOTE: 2 Ayes, 2 Nays

C. AVON GAS WAY - USE VARIANCE INQUIRY

338 Wadsworth Avenue

Karl Sawicki of J.O. Cook, owners of Avon Gas Way, had stopped by Village Hall in February, expressing an interest in allowing Michael Countryman, who operated a vehicle repair shop at Avon Gas Way, to sell used vehicles there. Sawicki had been told the March meeting would be taken up by the PathStone public hearing.

Avon Gas Way was in an R-1, One Family Residential, district. Allowing the sale of used vehicles there would represent an expansion of a non-conforming use. Sawicki had not contacted the Planning Board about following-up at that night's meeting.

Ten used vehicles had since been lined-up along the southern border of the Avon Gas Way property, the vehicles apparently offered for sale.



Used Vehicles Lined-up at Avon Gas Way

D. MCDONALD'S RESTAURANT – PROPOSED ADDITION & INTERIOR ALTERATIONS

250 East Main Street

The proprietors of McDonald's had proposed a 14-foot, 8 1/2-inch addition to the rear of the restaurant to accommodate larger coolers in May of 2013. They had also proposed interior alterations, removing the building's large front windows while retaining the restaurant's seating capacity and footprint.

McCormick asked if there had been any movement on that proposal. There hadn't, Cappello responded.

E. TOM WAHL'S RESTAURANT – PROPOSED PARKING LOT EXPANSION

283-293 East Main Street

Wahl's had introduced a concept plan November 17, 2015, to add 37 parking spaces and a 24-foot-wide rear driveway to their parking lot, but had since withdrawn the application.

Nevin confirmed the application's withdrawal then noted PathStone would require 16-feet of Wahl's property to make the extension of Clinton Street they'd proposed a legal road.

That was a "great loose end," Rappazzo responded, adding PathStone reportedly had a letter from Wahl's indicating a willingness to provide them with the 16 feet they needed.

F. LIVONIA, AVON & LAKEVILLE (LA&L) RAILROAD BRIDGE PROJECT

Across Spring Street east of Sackett Road

McCormick asked if there were any word on LA&L bridge project. The bridge was just over 12-feet high, raising it had been proposed.

That project was due to get underway this summer, Hayes told McCormick.

IV. NEW BUSINESS
Nothing pending.

V. ADJOURNMENT
MOTION: McCormick moved for adjournment at 8:18 PM, seconded by Borkhuis. Voting in favor were: Drozdziel, Borkhuis, McCormick and O'Donoghue. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

Gary Margiotta
Deputy Clerk