

PLANNING, ZBA & TOWN MEETING

MONDAY, APRIL 15, 2024

MEMBERS PRESENT: PLANNING: KATHY COLE, CLARA MULLIGAN, BRIAN THORN, CHRISTOPHER STERNER, COLLIN HAYES, THOMAS MCGOVERN

ZBA: JEFF MULLIGAN, DIANE ATTEA, CINDY KELLEN, KITTY BRESSINGTON

ABSENT: KATHY MANNIX (PLANNING BOARD), THOMAS MCGOVERN (PLANNING BOARD), BOB WESTFALL (ZBA)

OTHERS: BRIAN GLISE (CEO, AVON), MATTHEW SOUSA (MRB GROUP)

VISITORS: KEVIN O'DONOGHUE, JAY BAREFOOT, BRENDAN BRAINARD, REV. MICHELLE ALLEN, SUE ORMAN, MICHAEL ENGLERT, LARRY HEININGER, ELLEN TURNER, BALE BENSON, MARCIA REGATUSO, MAUREEN KINGSTON, STEPHEN & JENNIFER MORSCH, ROBERT BENSON, ROBERT NEWTON, KATIE MASTRELLA

CLERK: KIM MCDOWELL

Jeff Mulligan called the meeting to order.

MOTION TO OPEN THE MEETING WAS MADE BY CLARA MULLIGAN; SECONDED BY KITTY BRESSINGTON.

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 9-0.

The Planning and ZBA Board members, as well as Brian Glise, Matthew Sousa, and Kim McDowell introduced themselves to those present.

Jeff Mulligan reviewed the emergency exits for all present.

Jeff Mulligan stated due to the number of public hearings tonight he would like all comments brief and pertaining only to the application being discussed.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM MARCH 18, 2024, MEETING SUBMITTED WAS MADE BY CHRISTOPHER STERNER; SECONDED BY CINDY KELLAN.

KATHLEEN COLE -ABSTAIN
THOMAS MCGOVERN - ABSENT
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 8-0.

BRAINARD, BRENDAN/2086 LAKEVILLE ROAD/TAX MAP#45.-1-4/ZBA - VARIANCE FOR SETBACKS

Mr. Brainard was present to discuss his application and there have been no changes since last meeting to his application. He would like to put an addition (master bedroom and living room) on his current home to make it their forever home.

MOTION TO OPEN PUBLIC HEARING WAS MADE BY CINDY KELLEN; SECONDED BY KITTY BRESSINGTON.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Jeff Mulligan asked if there were any comments from the public and there were none.

Jeff Mulligan stated this is for a 6 feet side setback variance instead of the 30 feet required in our code and that is correct.

Jeff Mulligan began the approval process.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
BRENDON BRAINARD
2086 LAKEVILLE ROAD. - TM# 45-1-4
AREA VARIANCE APPLICATIONS - SETBACK

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering Area Variance Application for the addition of a home at 2086 Lakeville Road. The variance application is for allowable side setback as the project proposes a 6-foot side setback where 30 feet is required, as described in the application and discussed at the **April 15, 2024** ZBA meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Appeals does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Board of Appeals in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Cindy Kellen and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
Bob Westfall - ABSENT
Diane Attea - AYE
Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded

in the minutes of the Town of Avon Zoning Board of Appeals for the April 15, 2024, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

**MOTION TO CLOSE PUBLIC HEARING WAS MADE BY CINDY KELLEN;
SECONDED BY KITTY BRESSINGTON.**

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

TOWN OF AVON

OPERA BLOCK BUILDING
23 GENESEE STREET
AVON, NEW YORK 14414
PHONE: (585) 226-2425 • FAX: (585) 226-9299
http://www.avon-ny.org/index_town.html

BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: Brainard Area Variance
Hearing Date: April 15, 2024

Subject Property Address: 2086 Lakeville Rd. Zoning District: Residential 1 (R-1)

Variance Application: Area Variance Tax Account #: 45-1-50.920

Agenda Item: Seeking an area variance, 6-foot side setback where 30 feet is required a principal structure.

Motion made by: Kitty Bressington Seconded by: Cindy Kellen

Board Members	Present	Motion		Recusal
		Aye	Nye	
1. Jeffery Mulligan, Chairman	X	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. Cindy Kellen	X	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. Bob Westfall		<input type="checkbox"/>	<input type="checkbox"/>	
4. Diane Attea	X	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	

5. Kitty Bressington	X			
Alternate: _____		<input type="checkbox"/>	<input type="checkbox"/>	

Approved:

Denied:

Conditions:

1. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.
2. Any modification to the plans, variance, and/or project will require the application to be re-reviewed by the Zoning Board of Appeals and any prior approvals granted be deemed null and void.

Kim will get in touch with Mr. Brainard when his building permit has been approved and processed.

ALLEN, REVEREND MICHELLE/2385 AVON-GENESE0 ROAD/TAX MAP#43.-1-7.13/ZBA - SPECIAL USE PERMIT - AIR B-N-B

Reverend Allen was present to discuss her application.

Jeff Mulligan stated there were concerns regarding emergency vehicle access due to the length of the driveway at last month's meeting and we did receive an email from the fire department stating their requirements.

Collin Hayes read the following email/letter from the Fire Chief to all.

Hi Michelle,

In follow up to our conversation this afternoon (4/14/2024) at approximately 1:45pm, we have agreed to adjust the location and size of the 1st turnaround closest to RT. 39. The turnaround is being moved closer to the RT. 39 entrance and will be 30 feet deep as opposed to 50 feet deep. We discussed that you will look into widening the driveway on the other side opposite the turnaround. This is due to the fact that there is not enough room for a turnaround on your property in the original location on the map.

Thanks, Dave Nelson, Chief, East Avon Fire Department

After looking at the property located at 2385 Avon Geneseo Road, I have a few recommendations that I would like to propose.

1. Per NYS code (511.2.2), "when driveways are in excess of 500 feet in length and does not exit to another road, a turnaround shall be provided suitable for use by fire apparatus". The current state of the property and driveway does not allow enough space for our trucks to turn around. Therefore, I suggest that two turnarounds be added. The first suggested

location being near the 2nd turn in the driveway when entering from Route 39 and the second suggested location being up near the house. Suggested turnaround locations are also shown on the attached map. Suggested turn around size is 14 feet wide by 50 feet deep with a 14 feet height clearance.

2. The tree lines along the driveway and turnarounds should have a 14 feet height clearance.

3. Signage should be added at the road. The sign size should be about 12" x 18" and would communicate the total distance from the road to the house. See example attached.

4. Signage should be added along the driveway in 500-foot increments. The footage should be calculated from the house to the road, but the signs should be visible to someone who is driving from the road to the house. The sign size should be about 10" X 14" or 7" X 14". See example attached.

Thank you, Dave Nelson Chief East Avon Fire Department

Reverend Allen inquired if anyone else in the Town had to do this and Brian Glise stated this is common practice and no one else has a driveway that long in the Town of Avon.

MOTION TO OPEN PUBLIC HEARING WAS MADE BY CINDY KELLEN; SECONDED BY DIANE ATTEA.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Jeff Mulligan asked for any comments from the Board members and there were none.

Jeff Mulligan stated for the approval these conditions will need to be completed.

Reverend Allen stated she does plan on having a microwave and small refrigerator in each room.

Brian Glise said in the Code for the Town of Avon, there can be no cooking devices in bedrooms.

Reverend Allen stated that these things are important for an Air B-N-B.

There was much discussion on alternatives for not having a microwave in the room, such as a common area in the house can be

used instead or giving them access to her kitchen; all of which are not feasible in her residence.

Jeff Mulligan stated this will not be passed with the microwave in the room and asked how Reverend Allen wanted to proceed.

Reverend Allen would like the Board to make the approval on this application and then she will determine her next steps.

Collin Hayes questioned the advertising sign permit and that is not part of this approval process, it is a separate permit.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
REVEREND MICHELLE ALLEN - 2385 AVON-GENESE0 ROAD
BED AND BREAKFAST (SHORT TERM RENTAL)
AGRICULTURAL DISTRICT
TM# 43-1-7.13
SPECIAL USE PERMIT APPLICATION

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Special Use Permit Application to allow the owner to operate a short-term rental at 2385 Avon-Geneseo Road as detailed on the sketch plans and all other relevant information submitted and discussed at the **April 15, 2024** Joint Board Meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Zoning Board does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Zoning Board in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Kitty Bressington and seconded by Cindy Kellen at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

- Jeff Mulligan - AYE
- Cindy Kellen - AYE
- Bob Westfall - ABSENT
- Diane Attea - AYE

Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

MOTION TO CLOSE PUBLIC HEARING WAS MADE BY DIANE ATTEA; SECONDED BY KITTY BRESSINGTON.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
REVEREND MICHELLE ALLEN - 2385 AVON-GENESE ROAD
BED AND BREAKFAST (SHORT TERM RENTAL)
AGRICULTURAL DISTRICT
TM# 43-1-7.13
SPECIAL USE PERMIT APPLICATION

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Special Use Permit Application to allow the owner to operate a short term rental at 2385 Avon-Geneseo Road as detailed on the sketch plans and all other relevant information submitted and discussed at the **April 15, 2024** Joint Board Meeting; and

WHEREAS, the Town of Avon Zoning Board classified the above referenced Action to be an Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, on **April 15, 2024**, in compliance with NYS Town Law, the Zoning Board held public hearing on the current application and completed a formal review of the application; and

WHEREAS, per §130-45(B)(1) of the Town of Avon Town Code, the

Planning Board completed a review of the application materials and provided recommendations to the Zoning Board of Appeals at the **April 15, 2024** Joint Board Meeting; and

WHEREAS, the Zoning Board does hereby determine the proposed Special Use Permit is in compliance with the provisions of Chapter §130-35 of the Town Code; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approve the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §130-35.
2. In the event of any complaints about the Special Use Permit operations being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board of Appeals.
3. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the site is being operated in accordance with the conditions specified by the Zoning Board of Appeals.
4. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with NYS Building Code requirements and Town Code requirements and conditions of this approval.
5. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
6. That applicant adheres to all comments and recommendations made in the letter from the Chief of the East Avon Fire Department.

The above resolution was offered by Kitty Bressington and seconded by Cindy Kellen at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
Bob Westfall - ABSENT
Diane Attea - AYE

Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the Monday, **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

AVON RSD LLC (CP WARD)/2569 LAKEVILLE ROAD/TAX MAP#45.-1-80.31/PLANNING - SITE PLAN MODIFICATION

Mr. Jay Barefoot was present to discuss his applications for both site plan modifications and a special use permit.

Kathy Cole asked to discuss the lighting first on the parcel.

Mr. Barefoot stated that a former employee put up the lighting without his knowledge. The height is noncompliant, but they are dark sky compliant and just need to be turned down.

Cindy Kellen asked if they are planning to clean up the lot so the supplies that are out front will not be so visible and Mr. Barefoot will be moving them to the back of the property, and they are putting up a fence just in the front of the building.

Matthew Sousa stated when this site plan application was originally submitted over a year ago, it included this expansion. Matthew doesn't have concerns outside of the lighting for this portion of the application.

Matthew Sousa stated that he combined both the site plan modification and special use permit into this resolution and both Boards need to accept this resolution.

Collin Hayes read the SEQR Resolution - Unlisted Action to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
CP WARD PARKING EXPANSION
2569 LAKEVILLE ROAD
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) ZONING DISTRICT
TM# 45.-1-80.31
SPECIAL USE PERMIT & SITE PLAN APPLICATIONS

SEQR RESOLUTION - UNLISTED ACTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) has received a Site Plan & Amended Special Use Permit Applications to allow for the expansion of an existing facility and increase gravel parking at site located at 2569 Lakeville Road and as detailed on the site plans dated February 28, 2024, and all other relevant information submitted and discussed at the **April 15, 2024** Joint Board Meeting; and

WHEREAS, the Planning Board has reviewed the Short Environmental Assessment Form (EAF) Part 1, prepared by the applicant on the above referenced site plan application (hereinafter referred to as Action); and

WHEREAS, the Planning Board determines that said Action is classified as an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has determined that the proposed development is subject to a single agency review pursuant to Part 617.6(b) (4) of the SEQR Regulations; and

WHEREAS, the Planning Board determines that it is the most appropriate agency for making the determination of significance thereon under the SEQR Regulations; and

WHEREAS, The Zoning Board of Appeals made a recommendation to the Planning Board that the proposed Action WILL NOT result in any significant adverse environmental impacts; and

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7(c) (1) of the SEQR Regulations and the information contained in the Short EAF Part 1; and

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short EAF; and

NOW, THEREFORE BE IT RESOLVED the Planning Board has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):

- (i) there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

- (ii) there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed Action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed Action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site;
- (iii) there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed Action;
- (iv) the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations;
- (v) there will not be an increase in the use of either the quantity or type of energy resulting from the proposed Action;
- (vi) there will not be any hazard created to human health;
- (vii) there will not be a change in the use of active agricultural lands that receive an agricultural use tax exemption or that will ultimately result in the loss of ten acres of such productive farmland;
- (viii) there will not be a larger number of persons attracted to the site for more than a few days when compared to the number of persons who would come to the site absent the Action;
- (ix) there will not be created a material demand for other Actions that would result in one of the above consequences;
- (x) there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and
- (xi) there are not two or more related Actions which would have a significant impact on the environment.

BE IT FURTHER RESOLVED, based upon the information and analysis above and the supporting documentation referenced above, the proposed Action WILL NOT result in any significant adverse environmental impacts.

BE IT FINALLY RESOLVED that the Planning Board does hereby make a Determination of Non-Significance on the proposed development,

and the Planning Board Chairman is hereby directed to sign the Short Environmental Assessment Form Part 3 and issue the Negative Declaration as evidence of the Planning Board's determination.

The above resolution was offered by Brian Thorn and seconded by Christopher Sterner at a meeting of the Planning Board held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Collin Hayes - AYE
Kathy Mannix - ABSENT
Christopher Sterner - AYE
Clara Mulligan - AYE
Brian Thorn - AYE
Thomas McGovern - ABSENT

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

Kathy Cole read the conditions of the site plan resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
CP WARD PARKING EXPANSION
2569 LAKEVILLE ROAD
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) ZONING DISTRICT
TM# 45.-1-80.31
SPECIAL USE PERMIT & SITE PLAN APPLICATIONS
SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) has received Site Plan & Amended Special Use Permit Applications to allow for the expansion of an existing facility and increase gravel parking at site located at 2569 Lakeville Road and as detailed on the site plans dated February 28, 2024, and all other relevant information submitted and discussed at the **April 15, 2024** Joint Board Meeting; and

WHEREAS, on **April 15, 2024**, in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the current application; and

WHEREAS, the Planning Board has determined the proposed action to be an Unlisted action and subject to a single agency review pursuant to Part 617.6(b)(4) of the SEQOR Regulations; and

WHEREAS, on **April 15, 2024**, the Planning Board made a determination of non-significance and filed a negative declaration thereby concluding review pursuant to SEQOR; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approve the requested Site Plan with the following conditions:

1. The Site Plan Approval with conditions as specified is valid for a period of 180 days from today and shall expire unless the site plans have been signed by the Planning Board Chair or an extension is requested by the Applicant and approved by the Planning Board prior to the expiration date.
2. The comments from the Town Engineer in a letter dated **March 15, 2024**, are to be addressed to the satisfaction of the Town Engineer prior to signatures being affixed to the plans.
3. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
4. Site Plan approval is conditioned on the application receiving amended Special Use Permit Approval from the Zoning Board of Appeals.
5. The lights as depicted on the site plans are lowered so as to compliance with the provisions of the general business / light industrial zoning district. Furthermore, the lights are to be adjusted to face downward limiting the impact to abutting properties and the Right of way.

The above resolution was offered by Brian Thorn and seconded by Christopher Sterner at a meeting of the Planning Board held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Collin Hayes - AYE
Kathy Mannix - ABSENT
Christopher Sterner - AYE
Clara Mulligan - AYE

Brian Thorn - AYE
Thomas McGovern - ABSENT

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

Jeff Mulligan began the process of the special use permit approval.

MOTION TO OPEN PUBLIC HEARING WAS MADE BY CINDY KELLEN; SECONDED BY KITTY BRESSINGTON.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Jeff Mulligan asked for any comments from the Board members.

Kitty asked about the future owner's condition for this resolution. Matthew Sousa stated this special use permit stays with the property, therefore if the property is sold then the new owner would need to come in and transfer the special use permit in their name.

Jeff Mulligan asked if there were any comments from the public and there were none.

MOTION TO CLOSE PUBLIC HEARING WAS MADE BY KITTY BRESSINGTON; SECONDED BY DIANE ATTEA.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Jeff Mulligan read the conditions of the special use permit resolution to all present.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
CP WARD PARKING EXPANSION
2569 LAKEVILLE ROAD
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) ZONING DISTRICT
TM# 45.-1-80.31
SPECIAL USE PERMIT & SITE PLAN APPLICATIONS

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received Site Plan & Amended Special Use Permit Applications to allow for the expansion of an existing facility and increase gravel parking at site located at 2569 Lakeville Road and as detailed on the site plans dated February 28, 2024, and all other relevant information submitted and discussed at the **April 15, 2024** Joint Board Meeting; and

WHEREAS, on **April 15, 2024**, in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the current application; and

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) as part of Site Plan review, classified the above referenced Action to be an Unlisted Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, on **April 15, 2024** the Planning Board made a determination of non-significance and filed a negative declaration thereby concluding review pursuant to SEQR and granted site plan approval; and

WHEREAS, the Zoning Board does hereby determine the proposed Special Use Permit for the expansion of an existing facility and increase gravel parking is in compliance with the provisions of Chapter §130-35 of the Town Code; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approve the requested amended special use permit with the following conditions:

1. The special use permit shall remain in effect for the current and future owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §130-35.

2. In the event of any complaints about the Special Use Permit operations being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board of Appeals.
3. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the site is being operated in accordance with the conditions specified by the Zoning Board of Appeals.
4. All conditions required as part of the Site Plan Approval are to be addressed prior to issuance of the Special Use Permit.

The above resolution was offered by Kitty Bressington and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - AYE

Cindy Kellen - AYE

Bob Westfall - ABSENT

Diane Attea - AYE

Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

Kim will get in touch with the applicant once the permit application has been approved and is ready for pick up.

NEWTON, ROBERT/5058 PAPERMILL ROAD/TAX MAP#54.-1-1.112/ZBA - VARIANCE

Mr. Newton was present to discuss this application, he is requesting a variance for a 16-foot side setback and a variance of an additional 864 square footage to his pole barn.

Brian Glise stated Mr. Newton got a variance for the square footage and side set back when he originally constructed the barn and since he wants to expand the building, he will need another variance.

MOTION TO OPEN PUBLIC HEARING WAS MADE BY CINDY KELLEN; SECONDED BY KITTY BRESSINGTON.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Jeff Mulligan asked if there were any comments from the public and there were none.

Clara Mulligan asked if there were any neighbors near the property that should be taken into consideration, and there are not.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
ROBERT NEWTON
5058 PAPERMILL ROAD. - TM# 54-1-1.112
AGRICULTURAL ZONE (AG)
AREA VARIANCE APPLICATIONS - SETBACK

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering Area Variance Application for the construction of an 864 square foot addition at 5058 Papermill road. The variance application is for allowable side setback as the project proposes a 14-foot side setback where 30 feet is required, as described in the application and discussed at the **April 15, 2024** ZBA meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Appeals does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Board of Appeals in making this classification has satisfied the procedural requirements under

SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Kitty Bressington and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
Bob Westfall - ABSENT
Diane Attea - AYE
Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

**MOTION TO CLOSE PUBLIC HEARING WAS MADE BY CINDY KELLEN;
SECONDED BY DIANE ATTEA.**

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

TOWN OF AVON

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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: Newton Area Variance
Hearing Date: April 15, 2024

Subject Property Address: 5058 Papermill Road. Zoning District: Agricultural (Ag)

Variance Application: Area Variance

Tax Account #: 54-1-1.112

Agenda Item:

1. Seeking a 16-foot area variance for a side yard setback for an accessory structure. The owner proposes 14 feet where 30 is required.
2. Seeking an 864 square foot addition to an already non-confirming accessory structure.

Motion made by: Cindy Kellen

Seconded by Diane Attea

Board Members	Present	Motion		Recusal
		Aye	Nye	
1. Jeffery Mulligan, Chairman	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. Cindy Kellen	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. Bob Westfall		<input type="checkbox"/>	<input type="checkbox"/>	
4. Diane Attea	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5. Kitty Bressington	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Alternate: _____		<input type="checkbox"/>	<input type="checkbox"/>	

Approved:

Denied:

Conditions:

3. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.
4. Any modification to the plans, variance, and/or project will require the application to be re-reviewed by the Zoning Board of Appeals and any prior approvals granted be deemed null and void.

Kim will get in touch with Mr. Newton when his permit application has been approved and processed.

ENGLERT, MICHAEL/AVON POWER EQUIPMENT/1533 WEST HENRIETTA ROAD/TAX MAP#35.-1-11.11/ZBA - SIGN VARIANCE

Mr. Englert was present to discuss his application. He owns Avon Power Equipment, and he would like to put one sign up near the road and remove all the signs from his building. He has a sponsor who will pay for the full sign, and this would be

beneficial to his business. The sign will be illuminated, double sided, and a list of what he offers.

Jeff Mulligan stated this is an area variance of an additional 46 square foot sign since the code allows a maximum of 120 square feet per property.

MOTION TO OPEN PUBLIC HEARING WAS MADE BY CINDY KELLEN; SECONDED BY KITTY BRESSINGTON.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Jeff Mulligan asked if there were any comments from the Boards.

Clara Mulligan asked if there were any options in design that would not require a variance and Mr. Englert stated this was a predetermined sign from the company that is paying for it.

Brian Thorn asked if anything would be on the pedestal of the sign and there would not be.

Jeff Mulligan feels that since he is putting all the signs in one area, that is beneficial to people driving by to see everything in one place instead of trying to read every sign on the building itself.

Jeff Mulligan read the five variance questions for the Board to answer.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance - NO
2. Whether the benefit sought by the applicant can be achieved by some method, feasibly for the applicant to pursue, other than an area variance - NO
3. Whether the requested area variance is substantial - NO
4. Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district - NO
5. Whether the alleged difficulty was self-created, which consideration

shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance - better looking.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
AVON POWER EQUIPMENT - MICHAEL ENGLERT
1533 WEST HENRIETTA ROAD. - TM#35-1-11.110
GENERAL BUSINESS (B-1)
AREA VARIANCE APPLICATIONS - SIGN VARIANCE

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering a 46 square foot area variance application for the construction of a sign pylon at 1533 West Henrietta Road, as described in the application and discussed at the **April 15, 2024** ZBA meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Appeals does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Board of Appeals in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Kitty Bressington and seconded by Cindy Kellen at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
Bob Westfall - ABSENT
Diane Attea - AYE
Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the **April 15, 2024**, meeting.

Kim McDowell, L.S.

Kim McDowell, Clerk of the Board

MOTION TO CLOSE PUBLIC HEARING WAS MADE BY DIANE ATTEA; SECONDED BY CINDY KELLEN.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: Avon Power Equipment
Hearing Date: April 15, 2024

Subject Property Address: 1533 West Henrietta Rd Zoning District: General Business (B-1)

Variance Application: sign Variance Tax Account #: 35-1-11.110

Agenda Item: Seeking a 46 square foot area variance to put a sign pylon outside of business on Route 15.

Motion made by: Diane Attea Seconded by Kitty Bressington

Table with 5 columns: Board Members, Present, Motion (Aye, Nye), and Recusal. Rows include Jeffery Mulligan, Cindy Kellen, Bob Westfall, Diane Attea, Kitty Bressington, and an Alternate.

Approved: [checked box]

Denied: [unchecked box]

Conditions:

1. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.
2. Any modification to the plans, variance, and/or project will require the application to be re-reviewed by the Zoning Board of Appeals and any prior approvals granted be deemed null and void.
3. Removal of all building mounted signs currently on the existing structure. Any additional signage that should be placed on the building in the future will require an additional variance.

Kim will get in touch with the applicant when the permit application has been approved and processed.

BENSON, KENNETH/6225 CLEARY ROAD/TAX MAP#45.-1-71/PLANNING -
SUBDIVISION - 2 LOT

Ms. Mastrella, O'Neill-Rodak Land Surveying, was present to discuss this application along with Mr. Benson. They are dividing the property into two lots where the road separates them currently.

Matthew Sousa asked if there were any new developments being proposed and there are none.

Kathy Cole questioned what will be done with the manufactured home on the property and he has no plans to do anything with it currently.

Kathy Cole asked if any Board members had any comments and there were none.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY CLARA MULLIGAN;
SECONDED BY CHRISTOPHER STERNER.

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 5-0.

Kathy Cole asked if there were any public comments from those present and there were none.

Kathy Cole read a comment that was received via email today to all present.

I am unfortunately unable to attend tonight's public hearing on the Benson request for approval of a two-lot subdivision at 6225 Cleary Rd, and consequently wish to offer the following thoughts for submission to the Zoning Board.

I was chairman of the Zoning Board of Appeals in the early/mid 90's. That was a while ago, but if I recall correctly, the Board issued Mr Benson a special use permit for citing of the mobile home that is still on the property. I seem to recall that use was intended for temporary residence of an employee. Also, if I recall correctly, the Board attached special conditions to the permit, which I believe have not been complied with. While I do not have an opinion on the permission of the requested subdivision as such, I would encourage the Planning Board to first review the Special Use permit conditions, and if the property is found in noncompliance, to delay further consideration of the subdivision until compliance with the permit and Town codes is achieved.

I am attaching three photos of the property in question. The mobile home has been vacant for some time, and its condition appears to be uninhabitable.

Respectfully,
Dale Kriewall
2512 Garden St\Avon

Brian Glise researched the information in the email, he couldn't find any special use permit being issued.

Collin Hayes stated our code doesn't allow a mobile home outside of a mobile home park.

Brian Glise stated this goes back a way and they were given permission to put a mobile home on the property that was 1200 square feet.

Mr. Benson gave some background information regarding the mobile home and when his father purchased this property. He also stated the mobile has nothing to do with this subdivision application and that is correct.

Maureen Kingston stated that when the mobile home was put on the property it was because he wanted to save his barn that was across the road.

Mr. Benson clarified he will clean it up, but it takes time, and he has had no power to do anything until recently for this property.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY CLARA MULLIGAN;
SECONDED BY BRIAN THORN.

KATHLEEN COLE -AYE

THOMAS MCGOVERN - ABSENT
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 5-0.

Collin Hayes read the SEQR Resolution - Unlisted Action to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
KENNETH BENSON SUBDIVISION
6225 CLEARY ROAD
AGRICULTURAL (A) - ZONING DISTRICT
TM# 45.-1-71

SEQR RESOLUTION - UNLISTED ACTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the proposed single lot subdivision (lot 1 = 58.128 acres and lot 2 = 30.805 acres) with no new development proposed as shown on the Final Subdivision Plan titled "Kenneth W. Benson Jr. subdivision" prepared by O'Neill-Rodak Land Surveying Associates, P.C., dated March 20, 2024, and all other relevant information submitted as of April 15, 2024 (the current application); and

WHEREAS, the Planning Board has determined the above referenced application (hereinafter referred to as Action) to be an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has determined that the proposed development is subject to a single agency review pursuant to Part 617.6(b) (4) of the SEQR Regulations; and

WHEREAS, the Planning Board determines that it is the most appropriate agency for making the determination of significance thereon under the SEQR Regulations; and

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7(c) (1) of the SEQR Regulations and the information contained in the Short Environmental Assessment Form Part 1; and

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby designate itself as lead agency for the proposed development above herein; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):

- (i) there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (ii) there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site;
- (iii) there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed action;
- (iv) the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations;
- (v) there are no known important historical, archeological, architectural, or aesthetic resources on the site, or will the proposed action impair the existing community or neighborhood character;
- (vi) there will not be a major change in the use of either the quantity or type of energy resulting from the proposed action;
- (vii) there will not be any hazard created to human health;
- (viii) there will not be a substantial change in the use, or intensity of use, of land including open space or recreational resources, or in its capacity to support existing uses;
- (ix) there will not be a large number of persons attracted to the site for more than a few days when compared to the number of persons who would come to such a place absent the action;

- (x) there will not be created a material demand for other actions that would result in one of the above consequences;
- (xi) there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and
- (xii) there are not two or more related actions which would have a significant impact upon the environment.

BE IT FURTHER RESOLVED that based upon the information and analysis above and the supporting documentation, the Planning Board determines that the proposed action WILL NOT result in any significant adverse environmental impacts.

BE IT FURTHER RESOLVED that the Planning Board directs the Chairperson to sign and date Part 3 of the Short Environmental Assessment Form and to identify on the Form that the proposed Action will not result in any significant adverse impacts.

BE IT FINALLY RESOLVED that the Planning Board directs that copies of this determination be filed as provided for under the SEQR Regulations.

The above resolution was offered by Collin Hayes and seconded by Brian Thorn at a meeting of the Planning Board held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Collin Hayes - AYE
Kathy Mannix - ABSENT
Christopher Sterner - AYE
Clara Mulligan - AYE
Brian Thorn - AYE
Thomas McGovern - ABSENT

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

Kathy Cole read the Short EAF Parts 2 & 3 to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
KENNETH BENSON SUBDIVISION
6225 CLEARY ROAD

AGRICULTURAL (A) - ZONING DISTRICT
TM# 45.-1-71

SUBDIVISION PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the proposed single lot subdivision (lot 1 = 58.128 acres and lot 2 = 30.805 acres) with no new development proposed as shown on the Final Subdivision Plan titled "Kenneth W. Benson Jr. subdivision" prepared by O'Neill-Rodak Land Surveying Associates, P.C., dated March 20, 2024, and all other relevant information submitted as of **April 15, 2024** (the current application); and

WHEREAS, the Planning Board opened a Public Hearing on **April 15, 2024** and completed a formal review of the proposed subdivision in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

WHEREAS, the Planning Board has determined the proposed development to be an unlisted action pursuant to Part 617.6(b)(4) of the SEQR Regulations; and

WHEREAS, on **April 15, 2024**, the Planning Board, serving as lead agency, made a determination of significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Board hereby Approves without Conditions; Approves with the following Conditions: or Denies the application for the following reasons:

The above resolution was offered by Brian Thorn and seconded by Clara Mulligan at a meeting of the Planning Board held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Collin Hayes - AYE
Kathy Mannix - ABSENT
Christopher Sterner - AYE
Clara Mulligan - AYE
Brian Thorn - AYE
Thomas McGovern - ABSENT

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

Kathy Cole signed the subdivision map, and the applicant will register it with the County and then supply the Town with copies.

MORSCH, STEPHEN & JENNIFER/3929 SOUTH AVON ROAD/TAX MAP#52.-1-6.122/PLANNING - 2 LOT SUBDIVISION

Kevin O'Donoghue and Mr. Morsch were present to discuss this application.

Kevin stated they created a lot around the existing house for the subdivision, which creates a lot that needs a variance for an accessory building without a primary structure, and once the new house gets built, a variance for an accessory building in front of a primary structure. Also needed is a special use permit for the business currently being run on the property that is not an agricultural business.

Kevin submitted an updated map showing where the fuel tanks are on the property and their protected concrete barriers.

Brian Glise stated the fuel tanks are unpermitted at this time, but Mr. Morsch has the permit to submit tonight.

Jeff Mulligan stated that according to his sheets the variances need to be approved first before taking action on the other items.

Matthew Sousa stated he combined the two variances on the SEQOR Type II Resolution but will have the ZBA Decision sheets separately for the two variances.

MOTION TO OPEN PUBLIC HEARINGS FOR BOTH VARAINCE REQUESTS WAS MADE BY CINDY KELLEN; SECONDED BY KITTY BRESSINGTON.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Jeff Mulligan asked if there were comments from any Board members in reference to the two variances and there were none.

TOWN OF AVON PLANNING BOARD RESOLUTION
MORSCH SUBDIVISION
3929 S. AVON ROAD
AGRICULTURAL (A) - ZONING DISTRICT
TM# 52.00-1-6.112

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering a Variance Application to allow for an accessory structure to be located in front of a primary structure and to allow for an accessory structure to be located on a property without a primary structure at 3929 S. Avon Road, as described in the application and discussed at the **April 15, 2024** ZBA meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Appeals does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Board of Appeals in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Cindy Kellen and seconded by Kitty Bressington at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
Bob Westfall - ABSENT
Diane Attea - AYE
Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

MOTION TO CLOSE PUBLIC HEARINGS FOR BOTH VARAINCE REQUESTS WAS MADE BY KITTY BRESSINGTON; SECONDED BY DIANE ATTEA.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: Morsch Subdivision Variance
Hearing Date: April 15, 2024

Subject Property Address: 3929 S. Avon Road Zoning District: Agricultural (Ag)

Variance Application: Area Variance Tax Account #: 54-1-1.112

Agenda Item: Allow an accessory structure to be located in front of a primary structure at 3929 S. Avon Road.

Motion made by: Kitty Bressington Seconded by Diane Attea

Board Members	Present	Motion		Recusal
		Aye	Nye	
1. Jeffery Mulligan, Chairman	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. Cindy Kellen	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. Bob Westfall		<input type="checkbox"/>	<input type="checkbox"/>	
4. Diane Attea	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5. Kitty Bressington	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Alternate: _____		<input type="checkbox"/>	<input type="checkbox"/>	

Approved:

Denied:

Conditions:

1. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.
2. Any modification to the plans, variance, and/or project will require the application to be re-reviewed by the Zoning Board of Appeals and any prior approvals granted be deemed null and void.

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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: Morsch Subdivision Variance
Hearing Date: April 15, 2024

Subject Property Address: 3929 S. Avon Road **Zoning District:** Agricultural (Ag)

Variance Application: Area Variance **Tax Account #:** 54-1-1.112

Agenda Item: Allow an accessory structure to be located on a property without a primary structure.

Motion made by: Cindy Kellen **Seconded by** Kitty Bressington

Board Members	Present	Motion		Recusal
		Aye	Nye	
1. Jeffery Mulligan, Chairman	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. Cindy Kellen	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. Bob Westfall		<input type="checkbox"/>	<input type="checkbox"/>	
4. Diane Attea	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5. Kitty Bressington	x	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Alternate: _____		<input type="checkbox"/>	<input type="checkbox"/>	

Approved:

Denied:

Conditions:

1. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.
2. Any modification to the plans, variance, and/or project will require the application to be re-reviewed by the Zoning Board of Appeals and any prior approvals granted be deemed null and void.

Matthew Sousa stated the next application to review is the special use permit for the business on the property.

TOWN OF AVON PLANNING BOARD RESOLUTION
MORSCH SPECIAL USE PERMIT
3929 S. AVON ROAD
AGRICULTURAL (A) - ZONING DISTRICT
TM# 52.00-1-6.112

SEQR RESOLUTION - TYPE II ACTION - SUP

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received Special Use Permit Application to allow for 6,582 square foot non-agricultural accessory structure in the agricultural zone at site located at 3929 S. Avon Road and as detailed on the sketch plans dated January 10, 2024, and all other relevant information submitted and discussed at the **April 15, 2024** Joint Board Meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Zoning Board does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Zoning Board in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Kitty Bressington and seconded by Cindy Kellen at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
Bob Westfall - ABSENT

Diane Attea - AYE
Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

MOTION TO OPEN PUBLIC HEARING WAS MADE BY DIANE ATTEA; SECONDED BY KITTY BRESSINGTON.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Jeff Mulligan asked if there were any comments from the Board.

Collin Hayes asked if this is for the approval of the nonagricultural business on this property, which is correct.

Kitty Bressington read the special use permit resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
MORSCH SPECIAL USE PERMIT
3929 S. AVON ROAD
AGRICULTURAL (A) - ZONING DISTRICT
TM# 52.00-1-6.112

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received Special Use Permit Application to allow for 6,582 square foot non-agricultural accessory structure in the agricultural zone at site located at 3929 S. Avon Road and as detailed on the sketch plans dated January 10, 2024, and all other relevant information submitted and discussed at the **April 15, 2024** Joint Board Meeting; and

WHEREAS, on **April 15, 2024**, in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the current application; and

WHEREAS, the Town of Avon Zoning Board of Appeals (hereinafter referred to as Zoning Board) as part of their review, classified the above referenced Action to be an Type 2 Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, on **April 15, 2024** the Zoning Board made a determination of non-significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approve the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current and future owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §130-35.
2. In the event of any complaints about the Special Use Permit operations being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board of Appeals.
3. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the site is being operated in accordance with the conditions specified by the Zoning Board of Appeals.

The above resolution was offered by Cindy Kellen and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - AYE
Cindy Kellen - AYE
Bob Westfall - ABSENT
Diane Attea - AYE
Kitty Bressington - AYE

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board of Appeals for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

MOTION TO CLOSE PUBLIC HEARING WAS MADE BY DIANE ATTEA; SECONDED BY CINDY KELLEN.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 4-0.

Matthew Sousa stated now we can approve the subdivision application.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY BRIAN THORN; SECONDED BY CHRISTOPHER STERNER.

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 5-0.

TOWN OF AVON PLANNING BOARD RESOLUTION
MORSCH SUBDIVISION
3929 S. AVON ROAD
AGRICULTURAL (A) - ZONING DISTRICT
TM# 52.00-1-6.112

SEQR RESOLUTION - UNLISTED ACTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the proposed single lot subdivision (lot 1 = 76 acres and lot 2 = 3.483 acres) with no new development proposed as shown on the Final Subdivision Plan titled "Morsch-Nations Road subdivision Phase 2" prepared by Welch & O'Donoghue Land Surveyors, P.C., dated February 8, 2024, and all other relevant

information submitted as of **April 15, 2024** (the current application); and

WHEREAS, the Planning Board has determined the above referenced application (hereinafter referred to as Action) to be an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has determined that the proposed development is subject to a single agency review pursuant to Part 617.6(b) (4) of the SEQR Regulations; and

WHEREAS, the Planning Board determines that it is the most appropriate agency for making the determination of significance thereon under the SEQR Regulations; and

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7(c) (1) of the SEQR Regulations and the information contained in the Short Environmental Assessment Form Part 1; and

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby designate itself as lead agency for the proposed development above herein; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):

- (i) there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (ii) there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site;
- (iii) there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed action;

- (iv) the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations;
- (v) there are no known important historical, archeological, architectural, or aesthetic resources on the site, or will the proposed action impair the existing community or neighborhood character;
- (vi) there will not be a major change in the use of either the quantity or type of energy resulting from the proposed action;
- (vii) there will not be any hazard created to human health;
- (viii) there will not be a substantial change in the use, or intensity of use, of land including open space or recreational resources, or in its capacity to support existing uses;
- (ix) there will not be a large number of persons attracted to the site for more than a few days when compared to the number of persons who would come to such a place absent the action;
- (x) there will not be created a material demand for other actions that would result in one of the above consequences;
- (xi) there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and
- (xii) there are not two or more related actions which would have a significant impact upon the environment.

BE IT FURTHER RESOLVED that based upon the information and analysis above and the supporting documentation, the Planning Board determines that the proposed action WILL NOT result in any significant adverse environmental impacts.

BE IT FURTHER RESOLVED that the Planning Board directs the Chairperson to sign and date Part 3 of the Short Environmental Assessment Form and to identify on the Form that the proposed Action will not result in any significant adverse impacts.

BE IT FINALLY RESOLVED that the Planning Board directs that copies of this determination be filed as provided for under the SEQR Regulations.

The above resolution was offered by Collin Hayes and seconded by Christopher Sterner at a meeting of the Planning Board held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE

Collin Hayes - AYE
Kathy Mannix - ABSENT
Christopher Sterner - AYE
Clara Mulligan - AYE
Brian Thorn - AYE
Thomas McGovern - ABSENT

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

Kathy Cole read the Short EAF Parts 2 & 3 to all present.

Kathy Cole asked if there were any comments from the public and there were none.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY CLARA MULLIGAN; SECONDED BY CHRISTOPHER STERNER.

KATHLEEN COLE - AYE
THOMAS MCGOVERN - ABSENT
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 5-0.

Kathy Cole read the following to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
MORSCH SUBDIVISION
3929 S. AVON ROAD
AGRICULTURAL (A) - ZONING DISTRICT
TM# 52.00-1-6.112

SUBDIVISION PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the proposed single lot subdivision (lot 1 = 76 acres and lot 2 = 3.483 acres) with no new development proposed

as shown on the Final Subdivision Plan titled "Morsch-Nations Road subdivision Phase 2" prepared by Welch & O'Donoghue Land Surveyors, P.C., dated February 8, 2024, revised on March 7, 2024, and all other relevant information submitted as of **April 15, 2024** (the current application); and

WHEREAS, the Planning Board opened a Public Hearing and completed a formal review of the proposed subdivision in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

WHEREAS, the Planning Board has determined the proposed development to be an unlisted action pursuant to Part 617.6(b)(4) of the SEQR Regulations; and

WHEREAS, on **April 15, 2024**, the Planning Board, serving as lead agency, made a determination of significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Board hereby Approves without Conditions; Approves with the following Conditions; or Denies the application for the following reasons:

The above resolution was offered by Christopher Sterner and seconded by Collin Hayes at a meeting of the Planning Board held on Monday, **April 15, 2024**. Following discussion thereon, the following roll call vote was taken and recorded:

- Kathleen Cole - AYE
- Collin Hayes - AYE
- Kathy Mannix - ABSENT
- Christopher Sterner - AYE
- Clara Mulligan - AYE
- Brian Thorn - AYE
- Thomas McGovern - ABSENT

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the **April 15, 2024**, meeting.

Kim McDowell, L.S.
Kim McDowell, Clerk of the Board

Kathy Cole signed the subdivision maps and once Kevin registers them with the County, he will give the Town a couple of maps.

Kathy Cole announced this will be her last meeting, she has resigned from the Planning Board as of May 1, 2024. Everyone thanked Kathy for her many years of service to the Town of Avon.

Kathy Cole stated that Brian Thorn is the Deputy Chairperson for the Planning Board, and he will be the interim until the Town Board chooses a replacement.

MOTION TO CLOSE THE MEETING WAS MADE BY CHRISTOPHER STERNER; SECONDED BY JEFF MULLIGAN.

KATHLEEN COLE -AYE
THOMAS MCGOVERN - ABSENT
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- ABSENT
DIANE ATTEA - AYE
KITTY BRESSINGTON -AYE

CARRIED 9-0.

MEETING CLOSED.