

ZONING BOARD OF APPEALS

TOWN OFFICES/BUCKLEY CENTER
AVON, MASSACHUSETTS 02322-1496
TEL. (508) 588-0414 - FAX (508) 559-0209

TOWN OF AVON

2022 SEP 21 A 9:27

TOWN CLERK

July 19, 2022

Mr. Kevin Foster, Chairman announced that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, Subchapter 20 and the Governor's March 23, 2020 Order imposing limitations on the number of people that may gather in one place, this hearing of the Zoning Board of Appeals will be conducted via remote participation. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings as provided for in the Order. Kevin Foster reminded the viewing audience that persons who would like to view this meeting while in progress may do so by joining the Zoom link for the videoconference in session.

Mr. Kevin Foster, Chairman called the meeting to order at 7:13 p.m. Each Board member acknowledged their presence at the meeting by responding in the affirmative during the roll call.

The following were present:

Appeals Board Members: Kevin Foster, Edward Mekjian, Peter Crone, Chuck Comeau, Carl Walker, Peter Marinelli

Members not present: Gerald Picardi

Visitors: Joe Harnan, Director of Leasing of Avon West Trust, c/o Messina Enterprises; Nick Facendola, P.E. Level Design Group representing Wine.com; Mark Glasberg representing Wine.com; Robert Borden, Building Inspector; Lynne McKenney, Recording Secretary

Public Hearing for Case # 22-4, Wine.com, 33 Wales Avenue

The Public Hearing for Case # 22-4, 33 Wales Avenue opened at 7:13 p.m.

Kevin Foster, Chairman read in the following Public Hearing Notice.

Notice is hereby given that a Public Hearing will be held in the Town Offices, Town of Avon, Massachusetts on Tuesday, July 19, 2022, at 7:15 pm to hear the following petition(s) requesting a Special Permit from the Avon Zoning By-Laws. The hearing will be held at the Avon Town Hall, 65 East Main St. Avon, MA. Please visit <https://www.avon-ma.gov/node/63/agenda/2022> for updates on hybrid participation and Covid protocols.

Case # 22-4 Petitioner, Wine.com, 33 Wales Ave., Avon is requesting to amend the Special Permit issued in Case # 00-2 of April 29, 2000. As required for retail sales in the Industrial Zone. The Petitioner wishes to expand the existing "online" retail business to include Units D & E at Wine.com, 33 Wales Ave., Avon, Massachusetts. Plans may be viewed by appointment prior to the hearing at Town Offices or found on the Town Website. <https://www.avon-ma.gov>.

Discussion

The Chair recognized the Petitioner, Nick Facendola, P.E. Level Design Group representing Wine.com. Wine.com is requesting to amend the Special Permit issued in Case # 00-2 of April 29, 2000. As required for retail sales in the Industrial Zone. Wine.com wishes to expand the existing "online" retail business to include Units D & E at Wine.com at 33 Wales Avenue. Nick Facendola explained the need for more space for storage and packing within the facility. He explained that a 1/3 of the building is retail (10,785 square feet).

The Board of Appeals reviewed the plans and requested clarification regarding the total space of the building being used for retail. Kevin Foster, Chair spoke with the Avon Police Department regarding any issues on 33 Wales Avenue. There have been no issues. The members of the board clarified that the building will only be used for the storage and packaging of beer and wine products. Robert Borden, Building Inspector referenced Avon bylaw Section 255-5.4E2. Peter Marinelli, ZBA member mentioned that the Board of Health has not received any records regarding the septic pumping since 2017. Records of this information need to be forwarded to the Board of Health for their records. The Board of Appeals decided it was better to grant a new special permit rather than amend the special permit granted on April 29, 2000, Case # 00-2.

A memo dated July 18, 2022 from the Avon Board of Health stated that they have no objections as long as the expansion does not change the design criteria for the septic system. The system was designed for 54 workers and 14,000 square feet of office space at 1,860 gallons per day. The memo also states that the Board of Health has no records of this system being pumped since the installation in 2017. The DEP recommends systems are pumped every three years. The system should be pumped prior to an expansion and routine pumping maintenance shall continue to be made on the system.

Motion

A motion was made by Chuck Comeau to issue a Special Permit, Section 255-5.4 E2 which will allow 10,785 square feet of retail space floor area within 33 Wales Avenue, Discussion on the motion. Peter Marinelli discussed that the Board of Health has not received a copy of the paperwork regarding septic pumping since 2017 and is requesting these copies be forwarded to the Board of Health, seconded by Peter Marinelli. A roll call vote was taken. Kevin Foster voted aye, Chuck Comeau voted aye,

Carl Walker voted aye, Peter Crone voted aye, Peter Marinelli voted aye, and Edward Mekjian voted aye. The motion carries.

The Public Hearing for Case # 22-4, Wine.com, 33 Wales Avenue closed at 7:42 p.m.

Public Hearing for Case # 22-5, 75 Stockwell Drive (Messina)

The Public Hearing for Case # 22-5, 75 Stockwell Drive opened at 7:43 p.m.

Kevin Foster, Chairman read in the following Public Hearing Notice.

Notice is hereby given that a Public Hearing will be held in the Town Offices, Town of Avon, Massachusetts on Tuesday, July 19, 2022, at 7:45pm to hear the following petition(s) requesting a Special Permit from the Avon Zoning By-Laws. The hearing will be held at the Avon Town Hall, 65 East Main St. Avon, MA. Please visit <https://www.avon-ma.gov/node/63/agenda/2022> for updates on hybrid participation and Covid protocols.

Case # 22-5 Petitioner, Avon West Trust, c/o Messina Enterprises, 400 Franklin Street, Braintree, MA 02185, requesting a Special Permit as required by Section 255.5.3 E.5 of the Avon Zoning By Law to allow Food Trucks as a convenience to shoppers at the following addresses: 15, 20 & 75 Stockwell Drive, Avon, Massachusetts. Plans may be viewed by appointment prior to the hearing at Town Offices or found on the Town Website. <https://www.avon-ma.gov>.

Discussion

Petitioner, Mr. Joe Harnan, Director of Leasing of Avon West Trust, c/o Messina Enterprises explained his request for a Special Permit as required by Section 255.5.3 E.5 of the Avon Zoning By Law to allow Food Trucks as a convenience to shoppers at the following addresses: 15, 20 & 75 Stockwell Drive, Avon, Massachusetts. He discussed the following:

- Messina would like to give shoppers more food options
- Food trucks are licensed through the Board of Health
- Requesting three food trucks, but is willing to start with one or two
- Last year went well with To-Go Box food truck
- Possible space could be New Balance front parking area or the old Staples area (willing to be flexible with food truck location depending on what is best traffic wise)
- Year round with the exception of winter time, requesting seven days a week, but willing to start with weekends

The members of the Board of Appeals and Robert Borden, Building Inspector discussed the following with Mr. Joe Harnan:

- Traffic issues (depending on where the food trucks are located on Stockwell Dr.
- Kevin Foster is concerned with traffic and parking for tractor trailers/vehicles
- Chuck Comeau is concerned with traffic flow as well, especially taking left turns, and accidents occurring
- Concerns with pedestrian safety (set up jersey barriers)
- No food trucks in the parking lot of Dunkin Donuts and Subway
- Concerns regarding the propane tanks on the food trucks
- Start with one food truck on Fridays, Saturdays, Sundays and holidays as a trial
- Format needed for food trucks (possible checklist) for vendors

A memo dated July 14, 2022 from the Board of Health stated that the Board of Health has no objection as long as any Mobile Food Truck planning to operate at this location still obtains a permit from the Avon Board of Health to operate in town. The Mobile Food Trucks should not be allowed to use these addresses as commissaries or shall dispose any wastewater at these locations. The petitioner and the Mobile Food Trucks must determine what the policy will be on trash and restrooms. Will the trucks be allowed to dispose of waste in the dumpsters at these sites? Will the operators of the trucks be allowed to use the restrooms at these sites? The petitioner should contact the Board of Health and submit the agreements they will have with the Mobile Food Truck operators.

The Zoning Board of Appeals will consult with the Town of Avon legal representative regarding the correct wording for the approval of the Special Permit. Mr. Joe Harnan, petitioner for Messina Enterprises requested a continuance for Case # 22-5, 75 Stockwell Drive.

Motion

A motion was made by Chuck Comeau on behalf of the applicant to continue the Public Hearing to August 2, 2022 at 6:30 p.m. for **Case # 22-5** Petitioner, Avon West Trust, c/o Messina Enterprises who is requesting a Special Permit as required by Section 255.5.3 E.5 of the Avon Zoning By Law to allow Food Trucks at the following addresses: 15, 20 & 75 Stockwell Drive, seconded by Peter Marinelli. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Chuck Comeau voted aye, Carl Walker voted aye, Peter Crone voted aye, Peter Marinelli voted aye, and Edward Mekjian voted aye. The motion carries.

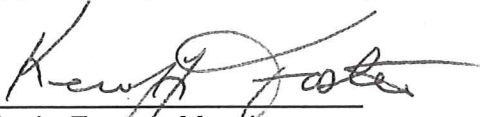
Discussion

The Zoning Board of Appeals discussed the upcoming continued Public Hearing for Brave Estates, 188 Central Street. Jacob Driscoll of Jacobs Driscoll Engineering, Inc. will be the engineering representative.

Minutes:

A motion was made by Edward Mekjian to approve the meeting minutes of July 12, 2022, seconded by Chuck Comeau. No discussion on the motion. A roll call vote was taken. Kevin Foster voted aye, Chuck Comeau voted aye, Carl Walker voted aye, Peter Crone voted aye, Peter Marinelli voted aye, and Edward Mekjian voted aye. The motion carries.

Approved by:


Kevin Foster, Member**List of Documents**

1. July 19, 2022 Meeting Agenda
2. July 12, 2022 Meeting Minutes
3. Case # 22-4 33 Wales Avenue: Public Hearing notice, application
4. Board of Health memo for 33 Wales Avenue
5. Case # 22-5 75 Stockwell Drive (Messina): Public Hearing notice, application, abutters list
6. Board of Health memo for 75 Stockwell Drive