

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

TOWN OF AVON
2023 JUL 31 P 2:34
TOWN CLERK

June 27, 2023

Mr. Kevin Foster, Chair called the meeting to order at 6:40 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, Chuck Comeau, Jeffrey Tibnam, Peter Crone

Members not present: Carl Walker, Gerri Picardi

Visitors:

Paul Oliveria, Hayes Group (via Zoom); Brandon Li, Kelly Engineering (via Zoom); Abutter Mary Lou Sullivan (via Zoom); Frank Marinelli, Attorney for 225 Bodwell St.; Rene Gagnon, Zenith Consulting Engineer; Brian Campbell, A&B Realty, LLC.; Paul Cusson, Delphic Associates; Dashaya Toney, Justin Williams, and Nicholas Habb, MBL Land & Development & Permitting, Corp.; Greg Driscoll, JDE, Inc.(via Zoom); Brian Winner, Town Counsel; Robert Borden, Building Inspector; Lynne McKenney, Recording Secretary

Warrants:

A motion was made by Edward Mekjian to pay the warrant for \$400.00 to JDE Civil, Inc. to update well sheets and monitor well readings for Case # 19-3, Joanna Estates, seconded by Kevin Foster. No discussion on the motion. A roll call vote was taken. Vote unanimous. The motion carries.

A motion was made by Edward Mekjian to pay the warrant for \$2,975.00 to JDE Civil, Inc. for peer review for Case # 22-3, Brave Estates, seconded by Kevin Foster. No discussion on the motion. A roll call vote was taken. Vote unanimous. The motion carries.

Motion

A motion was made by Edward Mekjian to approve the meeting minutes of May 16, 2023, seconded by Kevin Foster. No discussion on the motion. A roll call vote was taken. Vote unanimous. The motion carries.

Public Hearing – 108 Bodwell Street

The Public Hearing for 108 Bodwell Street opened at 6:50 p.m.

Kevin Foster, Chair read in the following public hearing notice for 108 Bodwell Street.

Notice is hereby given that a Public Hearing will be held in the Town Offices, Town of Avon, Massachusetts on Tuesday, June 27, 2023, at 6:45 pm to hear the following petition(s) requesting a Variance from the Avon Zoning By-Laws. The hearing will be conducted via hybrid participation. The meeting link can be found at <https://www.avon-ma.gov/node/63/agenda/2023>.

Case # 23-1 Petitioner, Ahmet Kincak of Epro, LLC at 108 Bodwell St. Avon, MA requesting relief in the form of a Variance under Section 255- 8.6 to allow a reduction in the required parking count from the required 83 to 26. The owner requests to expand the building, if this expansion if approved it will not create the demand for the required parking at the industrial property located and known as 108 Bodwell St. 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>.

AVON ZONING BOARD OF APPEALS

Kevin Foster, Chairman

Ad placement in The Brockton Enterprise on June 12 and June 19, 2023

Brandon Li, Kelly Engineering Group introduced himself. Mr. Li and Paul Oliveira, Hayes Group reviewed the site plan regarding 108 Bodwell Street. ERD Metal is the owner of the building.

Brandon Li on behalf of the applicant is requesting that the Zoning Board of Appeals issue a Variance per Section 225.12.9 for relief from parking under Section 255-8.1/255-8.6 of the Town of Avon Zoning Bylaw. Currently there are no striped car parking stalls at the site. The property is owned and operated by ERD Metal. The operation currently employs approximately 13 employees. The existing 6.33 Acre is within the Industrial Zoning District. The site is bordered by Kiddie Drive to the North, Bodwell Street to the East, and industrial properties to the west and south. The site is currently developed with one 50,058 square foot warehouse building, multiple loading areas and paved parking lots, utilities, and other site development features. The site has three curb cuts along Bodwell St. An extensive Bordering Vegetated Wetland (BVW) exists on the southern and western portion of the site. There is also a small wetland system located in the front corner of site where Bodwell St and Kiddie Drive meet. Currently there are no striped car parking stalls at the site. The plan will expand the main warehouse by 26,592 square feet and expand the northerly warehouse by approximately 5,839 square feet. ERD anticipates that with this addition they could employ 15 to 20 employees at a maximum. The Avon Zoning Bylaw section 255-8.6.8 requires 1 parking space per 1,000 square feet of gross floor area for Wholesale, Warehouse or Storage Establishment. Therefore, the applicant is seeking relief from the parking requirement.

Kevin Foster, Chair read in the following statement from a letter dated 6-26-23 from The Board of Health. Below are the following concerns/requirements:

In regard to the variance request under Section 255-8.6 to allow a reduction in the required parking count from the required 83 to 26 spots due to a request to expand the building, the Board of Health has the following concerns/requirements:

- A Title 5 Inspection of this property would need to be made prior to any addition.
- Depending on the type of expansion, the septic system may need to be upgraded.

The petitioner should contact the health agent to discuss.

Edward Mekjian stated that the Conservation Commission never received a Notice of Intent from the applicant. A storm water management plan needs to be completed due to substantial changes being made. There are significant water drainage issues, which currently drain into 1 Kiddie Drive. The applicant is required to file with the Conservation Commission prior to the next meeting with the Zoning Board of Appeals. The applicant has a record of the flagged wetlands by ECCO-Tech wetland scientist.

Abutter Mary Lou Silvia explained that drainage (run off) is a huge issue.

Due to the closeness of the 100-day timeline (8/10/23), the applicant may have to request an extension.

A motion was made by Edward Mekjian on behalf of the applicant, to continue the Public Hearing to July 25, 2023, at 7:15 p.m., seconded by Chuck Comeau. No discussion on the motion. A roll call vote was taken. Vote unanimous. The motion carries.

Public Hearing – 225 Bodwell Street

The Public Hearing for 225 Bodwell Street opened at 7:40 p.m.

Kevin Foster, Chair read in the following public hearing notice for 225 Bodwell Street.

Notice is hereby given that a Public Hearing will be held in the Town Offices, Town of Avon, Massachusetts on Tuesday, June 27, 2023 at 7:00 pm to hear the following petition(s) requesting a Variance from the Avon Zoning By-Laws. The hearing will be conducted via hybrid participation. The meeting link can be found at <https://www.avon-ma.gov/node/63/agenda/2023>.

Case # 23-2 Petitioner, Paul Mamane, ONEG II LLC, 71 Mason Terrace Brookline, MA at 225 Bodwell St. Avon, MA requesting relief in the form of a Variance under Section 255- 8.6 to allow a reduction in the required parking count to approximately 75% of the required. The petitioner is proposing to construct a 4,760 s.f. addition to the existing building. The use (existing combined with proposed) requires 101 parking spaces and the petitioner is proposing to restripe existing paved areas for 76 spaces at the industrial property located and known as 225 Bodwell St. 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>.

AVON ZONING BOARD OF APPEALS

Kevin Foster, Chairman

Ad placement in The Brockton Enterprise on June 12 and June 19, 2023

Kevin Foster, Chair read in the following statement from a letter dated 6-26-23 from The Board of Health. Below are the following concerns/requirements:

- This system was designed for 120 employees at 15 gallons per day and 6700 square feet of office space at 75 gallons per day per 1000 square feet. The total gallons per day this system was designed for is 2,303 GPD. As long as this addition remains storage or warehouse space and the number of employees does not exceed 120, an increase to the septic system is not required. Shall this space be anything else, the parameters of 310 CMR 15.000 (Title 5) should be considered for minimum required GPD.
- A Title 5 Inspection of this property would need to be made prior to any addition. There have been previous inspections of this system made in the last four years. The most recent inspection from 3/31/2020 was only valid for two years. In 2019, the Board of Health had received two Title 5 Inspections from this property, one passing and one failing. The Board of Health had Mr. William Blakemore make an inspection in addition to the other two and he determined the system was passing. There are concerns that this septic system may experience high ground water. When designed, groundwater was determined to be 34" below grade. would like to place a shed at the compost site as shelter for the compost attendant. The proposed plan is to place an 8'x10' shed near the center of the site (drawing attached). This shed is at least sixty (60) feet from the northern lot line and forty (40) feet from the eastern lot line.

On behalf of the applicant Paul Mamane, Frank Marinelli, Attorney and Rene Gagnon, Zenith Consulting Engineer introduced themselves.

Frank Marinelli explained that there is only one tenant, Marshall Paper Tube Company. There are 45-50 employees on the 6:30 a.m. to 3:00 p.m. shift. The applicant would like to improve the facility. He explained that the applicant will achieve 76 parking spaces where 101 are required. This is approximately 75% compliance. Regarding the Variance criteria, the soil condition is wet on portions of the property south and east of the existing building, which restrict the addition of parking and paved area at the rear (easterly) of the existing building, there is an upward slopping topography and wooded area, which also restricts the addition of parking and paved area. The easterly boundary is slanted. He explained that this constitutes a hardship to provide more than the provided and adequate 76 parking spaces.

Rene Gagnon of Zenith Consulting discussed the site plan with the members of the Zoning Board. Kevin Foster has concerns regarding maintenance of the property. Chuck Comeau made the applicant aware that the battery storage is in the incorrect spot. A policy and sign are required regarding no trucks backing into the facility off Bodwell Street. The applicant stated that an RDA had been filed with Conservation. The applicant will also meet with the Planning Board this week.

A motion was made by Chuck Comeau to grant the Variance under Section 255-8.6 for reduction of parking spaces from 101 to 76 contingent on conditions, seconded by Chuck Comeau. No discussion on the motion. A roll call vote was taken. Vote unanimous. The motion carries.

A motion was made by Chuck Comeau to close the public hearing, seconded by Edward Mekjian.

**Continued Public Hearing:
Case # 22-3 Petitioner, 188 Central St.
(Brave Estates)**

The Public Hearing for Case # 22-3 opened at 8:20 p.m.

The Public Hearing has been continued from July 19, 2022; August 2, 2022; September 20, 2022; October 25, 2022 (cancelled); December 6, 2022; January 17, 2023; February 28, 2023; March 28, 2023; May 16, 2023; June 27, 2023

Discussion:

The members of the Zoning Board of Appeals discussed the updated waiver list regarding Brave Estates and the revised third Peer Review from JDE, Inc. as of the June 20, 2023 submission. The previous review comments from JDE, Inc., except for the following two items have been addressed by the applicant.

- 1.) A Waiver for the pipe segments that are flowing less than 2.5 fps needs to be requested.
- 2.) The Water Quality Treatment Volumes are being met; however, the report does not clearly show it.

The board members clarified with Paul Cusson, Delphic Associates that the most recent Site Plan drawings are dated January 10, 2023. The Zoning Board of Appeals received on June 20, 2023, a Drainage Analysis Report dated January 10, 2023, revised through June 20, 2023, memo dated June 20, 2023, regarding response to JDE, Inc. comments, and Waiver List updated on June 26, 2023. On behalf of the applicant, Paul Cusson would like the board members to issue a decision at the upcoming meeting. He would like to keep the project moving forward. The applicant will file a Notice of Intent (NOI) with the Conservation Commission.

Motion

A motion was made by Edward Mekjian on behalf of the applicant to continue the Public Hearing to July 31, 2023, at 7:15 p.m., seconded by Chuck Comeau. No discussion on the motion. A roll call vote was taken. The motion carries.

A motion was made by Edward Mekjian to adjourn the meeting at 9:10 p.m., seconded by Jeffrey Tibnam.

Approved by:



Kevin Foster, Member

List of Documents

- June 27, 2023, meeting agenda
- Warrants
- List of Waivers JDE, Inc. updated on June 26, 2023
- Brave Estates Site Plan dated January 10, 2023
- Brave Estates Drainage Analysis dated January 10, 2023, revised through June 20, 2023,
- Brave Estates Memo dated June 20, 2023, regarding response to JDE, Inc. comments.
- Brave Estates Waiver List updated on June 26, 2023