

THE ZONING BOARD OF APPEALS OF THE TOWN OF AVON HELD A REGULAR MEETING FOR A PUBLIC HEARING ON THURSDAY, DECEMBER 19, 2019, AT THE AVON TOWN HALL, BUILDING #1 (LOWER LEVEL).

Present were Board members Mackenzie Johnson, Chester Bukowski, Eileen Carroll, and Alternate members Thomas O'Neill and Vi Smalley; absent were Chair Ames Shea, Vice-chair Andrew Bloom, and Alternate member Francesco Lupis. Also present was John McCahill, Planning and Community Development Specialist.

Board member Mackenzie Johnson served as interim chair for this evening's meeting at the request of Chair Shea, in her absence, and also in the absence of Vice-chair Bloom. Interim Chair Johnson called the meeting to order at 7:06 p.m.

### PUBLIC HEARING

Interim Chair Johnson stated that the Avon Zoning Board of Appeals was created as required by Section 8-6 of the Connecticut General Statutes, and functions in accordance with the powers and duties of Section X – Administration and Enforcement, C., of the Town of Avon Zoning Regulations. All applications will be heard in the order shown on the agenda and the public hearing will be closed after all applications are complete. Voting will follow after the close of the hearing.

John McCahill stated that the Town published legal notices in accordance with the Connecticut General Statutes and also notified the abutters to the subject property, as part of the Zoning Board of Appeals application process.

Application of Jill L. Fisher, owner; Peter Starr, applicant; requesting from Avon Zoning Regulations, Section IV. A.6, a 12-foot variance from the 25-foot required side yard setback to permit a 12' x 16' shed, located at 28 Quail Ridge Drive in an R-40 Zone.

Interim Chair Johnson summarized the following application materials submitted to the Board: The hardship described by the homeowner would be the required removal of trees or the installation of the shed in a less desirable location among an existing landscaping project. The variance would not change the character of the neighborhood because of the small footprint of the shed within a low-lying area on the lot. The proposed location is also far from the neighboring houses. Included in the submittals is a map of the house, a diagram of the proposed shed, pictures of the house and surrounding yard, and a map of the parcels abutting the applicant's property.

John McCahill stated that the proposed shed would be located where a wheel barrel on the backyard is shown in one of the photos. There is another photo that shows the area for the proposed shed at a greater distance and perspective along the property line.

Present on behalf of owner Jill L. Fisher was Peter Starr, applicant, of Starr Contracting LLC, whose firm will be constructing the hardscaping and landscaping in the backyard.

Mr. Starr stated that the existing pool comprises the majority of the backyard. There will be a patio around the pool and then a small yard space will remain. Ideally, the owner did not want to face a shed directly from the rear of the house, and therefore the location for the proposed shed would be in the back corner. A new landscaping project has been planned for the central part of the backyard. It would be difficult to get around the shed or grade the land below the pool if the shed were not in the far corner. The siding of the shed will be the same color and material as that of the existing house. The owner had contacted five of the six abutting property owners to let them know of the proposed shed; and the five indicated their non-objections to the proposed shed. The resident signatures from the abutting properties are the following: Kwame Amankwah and Allison Wadsworth at 24 Quail Ridge Road; Gia Oei and Brian Theriault at 32 Quail Ridge Road; Susan and John Urankar at 33 Quail Ridge Road; Vincent and Giuliana Nolan at 25 Quail Ridge Road; and Ramla and Naseem Shaikh at 52 Bridgewater Drive. The owner of the sixth neighboring parcel, located at 44 Bridgewater Drive, could not be reached. That property abuts the rear yard of 28 Quail Ridge Drive.

Board member Bukoswki stated that the abutting property owner who could not be reached, at 44 Bridgewater Drive, might be the most impacted by the requested variance.

Mr. Starr responded that there is a substantial amount of trees between the backyards of 44 Bridgewater Drive and the subject property of 28 Quail Ridge Drive, which would likely limit the visibility substantially. The backyard of the neighbor at 32 Quail Ridge Drive would be the closest to the proximity of the proposed shed.

Board member Carroll asked for the distance from the proposed shed to the property line.

Mr. Starr responded that it would be 13 feet away from the property line; an encroachment of 12 feet into the 25-foot side yard setback. The owner visited every neighbor's house and also left the notification letter at each house. The letter was dated December 6, 2019.

Mr. Starr provided copies of the abutters' letters of non-objection for the record.

No members of the public were present to speak about the application for 28 Quail Ridge Drive.

Interim Chair Johnson closed the public hearing for the application of 28 Quail Ridge Drive.

Application of Jesse M. Gomes and Elizabeth A. Gomes (Bowman), owners/applicants; requesting from Avon Zoning Regulations, Section IV. A.2, an additional 1,920 square foot variance and eight additional garage spaces (previous variance granted for existing garage and shed) to permit a 48' x 40' detached garage/enclosed storage for antique and classic cars, located at 20 Tanglewood Drive in an R-40 Zone.

Present on behalf of the variance application at 20 Tanglewood Drive were owners/applicants Jesse M. Gomes and Elizabeth A. Gomes (Bowman); and present was their attorney Robert J. Kor.

Interim Chair Johnson stated that the Board received a letter from Mr. Kor, dated November 25, 2019. The letter explained the variance request, the nature of the proposed structure, and the

owners' hardships. The proposed detached structure would be utilized to store antiques and eight classic cars in order to preserve their integrity and value. The installation of the structure would also include proposed surrounding landscaping to fit in with the existing characteristics of the neighborhood. The structure would provide secure storage space otherwise not existing on the property. Vehicles on the property had been vandalized previously. The structure would be built with materials of the same look and quality as the main residence. The property is located at the end of a cul-de-sac. Several samples of the aesthetics of the garage are included in the submitted materials, along with several maps which include the following information: the property lines with abutting parcels; the proposed evergreens to be placed around the proposed garage; and the location for the proposed garage. Several of the photographs include an overhead of the property and various angles of the yard, as well as images of a property in town with a similar garage built as a result of an approved variance. Also included are letters from several of the abutting property owners who expressed their non-objection to the variance.

Attorney Kor stated that a detailed application was submitted to the Board and he restated the contents of the letter dated November 25, 2019. The variance requested is in relation to the size of the garage, as well as the number of garage bay spaces allowed per the household's number of bedrooms, according to the Town of Avon Zoning Regulations. The abutting neighbors who have expressed their non-objection reside at 4 Tanglewood Drive, 15 Tanglewood Drive, 539 Country Club Road, 60 Old Mill Road, and 68 Old Mill Road. He stated that the neighbors at 15 Tanglewood Drive and 60 Old Mill Road are the two closest to the subject property and the owner has received letters of support from those neighbors. Judging from the various color photographs submitted with the application, the subject property is very wooded; few neighbors will be able to view the proposed structure because of the surrounding woods.

Alternate member Smalley inquired if the owners had received objections to the proposed project from any of the neighbors.

Attorney Kor stated that one neighbor submitted a letter of support and later that neighbor contacted the Town to withdraw the support. The reason is unknown.

Alternate member Smalley inquired about whether or not an additional home could be developed on a lot at the end of the cul-de-sac.

John McCahill responded in the negative regarding this particular neighborhood. The subject property is shaped like a large triangle. The road ends at this property and there is no concept for future development.

Alternate member Smalley inquired if there would be any adverse impact on the value or use of the cul-de-sac.

Mr. Kor responded in the negative. The homeowners did seek the advice of a real estate agent who indicated that the proposed project would only increase the value of the property, due to the general public's interest in keeping cars or boats. The proposed project is in keeping with a similar variance granted at a different owner's property in Town. The proposed garage would be in addition to an already existing 26 x 26-foot detached structure that had been approved through a previous variance on the subject property.

Alternate member Smalley stated that the proposed structure would be a great amount of storage, with its space measuring almost as large as that of the house. She stated that the existing shed is very big. She questioned, with the amount of antique cars to be stored, if the owners plan to run a business from the home, as that would be a concern.

Mr. Gomes responded in the negative.

Attorney Kor stated that the proposed accessory building would be utilized only as a storage facility for the classic or antique cars, and for purposes of the owners' hobby.

Alternate member McNeill inquired about the height of the proposed structure after building completion. Various members inquired if the total height would measure 23.7 feet, as indicated on the plan, and whether the upper level would function as a loft.

Mr. Gomes responded that there would not be a loft in the proposed structure; the upper space would remain open. He confirmed that the 23.7 feet height seemed correct.

Board member Bukowski inquired about the map which shows the locations of the abutting properties. He asked which of the neighbors have expressed their non-objection and which have objected to the proposed project.

Attorney Kor indicated the locations of the abutting neighbors on the map who expressed their non-objection: 3 Tanglewood, 4 Tanglewood, 15 Tanglewood Road, 60 Old Mill Road, 68 Old Mill Road, and 539 Country Club Road. A detailed letter with a full explanation was sent to the abutting neighbors, and that letter is part of the application record.

Board member Bukowski inquired if the Gomes had received an objection from 52 Old Mill Road.

Alternate member Smalley inquired who the neighbor was that responded with a non-objection and then withdrew their support for the project.

Mr. Gomes responded that the neighbor who objected was not an abutter, and their property is located at the corner of Tanglewood Drive and Country Club Road, with an address of 3 Tanglewood Drive. The property is several houses away.

Board member Carroll inquired about the number of houses between 3 Tanglewood Drive and 20 Tanglewood Drive. She confirmed that the house is two houses away from 20 Tanglewood Drive.

Mr. Gomes responded in the affirmative.

Board member Bukowski repeated his question regarding any objection from 52 Old Mill Road and also inquired about 16 Tanglewood Drive.

Mr. Gomes responded that he made several attempts at dropping notes in the mailboxes at both properties and he had not received a response from either homeowner.

Interim Chair Johnson inquired about a response from the abutter at 36 Old Mill Road. Mr. Gomes responded that he did not receive a response from the abutter at 36 Old Mill Road; several letters were also left in the mailbox at that property.

Alternate member Smalley inquired when the construction of the proposed structure would begin and how long the construction would last; she also inquired about the plan for landscaping and its timing.

Mr. Gomes responded that the construction of the proposed garage would begin when the ground thaws and planting would coincide with the completion of the construction. The contractor indicated that construction would take less than two weeks. Concrete will be poured first. Members of the Amish community will build the structure.

Board member Bukowski inquired about whether or not Mr. Gomes had reached out to the neighbors at 4 Tanglewood Drive, 10 Tanglewood Drive, and 11 Tanglewood Drive.

Mr. Gomes responded that he had reached out to those neighbors, although he did not receive a response even though self-addressed stamped envelopes were included with his letter. The attempted contact was over a period of two weeks. The neighbors did not appear to be away for an extended period at that time.

John McCahill stated that the meeting date and application descriptions are published in the newspaper, as well as posted on the Town website, so that other neighbors beyond those with abutting properties have the opportunity to make public commentary for the record or to submit commentary in writing. The applicant and/or owner is not obligated to obtain the support of neighbors, but it is something that has always been encouraged; nor is the Town obligated to send notices to the abutting neighbors of the subject property, but it is something that has been done by the Town in order to be proactive and achieve a fair process.

Susan Presutti, of 52 Old Mill Road in Avon, and Margaret and Ken Bratton, of 15 Old Mill Road in Avon, spoke together as a group before the Board. Ms. Presutti and Ms. Bratton are the daughters of Barbara Presutti, who resides at 52 Old Mill Road; Ms. Susan Presutti owns the house. The property at 52 Old Mill Road is located to the northwest of the subject property.

Mr. Bratton stated that while his family loves antique cars, and can sympathize with wanting more garage space, their main concern is the size of the proposed garage. At 1920 square feet (sf), it is a large structure; it is the equivalent to an above-average sized ranch house. From 52 Old Mill Road, the family would be able to see the garage from the back of the family's house, even if the proposed structure were placed closer to Tanglewood Drive. From the back of 52 Old Mill Road, the family can see the existing house to the left and the existing two-story accessory structure, which was previously granted a variance. The aesthetics of the proposed garage are also of concern, including the siding, the roof materials, and the color. The property at 52 Old Mill Road sits lower than the lot at 20 Tanglewood Drive, so there is greater visibility of the subject property as it is at eye level and below the coverage of the lower tree branches. Regarding the perspective of looking from the back of 52 Old Mill Road, the house at 20 Tanglewood Drive appears lower while the existing accessory structure, previously granted by a variance, is more visible.

Alternate member Smalley inquired if Mr. Bratton had contacted a real estate professional to see if the property values at 52 Old Mill Road would be affected.

Mr. Bratton responded that property value was one of their concerns, related to the possibility that the family might need to sell their property in the near future. He inquired regarding the square footage of the existing accessory structure on the property.

John McCahill stated that the existing accessory structure is 2,098 sf.

Ms. Presutti stated her concern that the size of the proposed structure would be approximately the equivalent size and footprint of another house placed on the property at 20 Tanglewood Drive. It would appear to look crowded and commercial-looking.

Board member Bukowski inquired whether or not the proposed garage location would violate any of the setback regulations.

Attorney Kor responded that the setback requirements were not an issue given the proposed placement of the structure.

John McCahill confirmed Attorney Kor's response.

Board member Carroll asked the applicant to describe the proposed landscaping.

Attorney Kor pointed out to the Board the aerial photography of the subject lot, in proximity to the cul-de-sac, and how heavily wooded he believed the lot to be.

Alternate member Smalley stated that the trees would look different in the fall and winter.

Mr. Gomes stated that the proposed new landscaping would be consistent with that which already exists on the property, including the installation of evergreens that would look appropriate. The architecture of the proposed structure would appear like the house, which is a Dutch colonial style. The proposed siding would be made of wood and the proposed roof would be made of metal. The doors will be made of insulated fiberglass. The rendering shows a brown color siding; however, the actual color will match the gray of the house.

Ms. Presutti stated that there are no windows shown on the rendering and that the look of the proposed building is very commercial.

Mr. Bratton showed the Board a photograph from his cell phone depicting the existing accessory structures on the subject property; the photographs were taken from the back patio at 52 Old Mill Road. He pointed out the various existing structures to the Board.

Mr. Gomes stated that the view from the cell phone is skewed, and reiterated that the proposed garage would be more toward the existing driveway and closer to the cul-de-sac. He did not believe that much of the proposed structure would be visible from the point of view as depicted on the cell phone. He continued by stating that the family has had sudden losses and will be

inheriting vehicles that will need storage. The vehicles are currently in probate. The existing accessory structure already contains a lawn tractor and additional vehicles.

Ms. Bratton inquired if the window design shown in the submitted rendering for the proposed structure is accurate.

Mr. Gomes stated that the design is accurate. He felt the need to be cautious with regard to the number and placement of windows due to vandalism that has previously occurred on his property.

Attorney Kor stated that the owners had received a letter of support from David Romani, a homeowner at 55 West Avon Road. Mr. Romani previously received a variance to build a fairly large structure for similar reasons. That letter was submitted to the Board as part of the application documents. It is the goal of the homeowners at 20 Tanglewood Drive to create an attractive site where they live. It is a large property and the amount of building coverage is well within the regulations. The owners have a real need to store their antique cars.

Interim Chair Johnson stated that in the past there was an application from an owner that wanted a shed on the bend of their driveway that looked out of place to the rest of the property. The solution was to establish the landscaping plan in order to incorporate the structure into the existing property. He inquired of Ms. Presutti and the Brattons if the visibility was the same in the summer.

Mr. Bratton responded that the visibility is less due to increase of foliage during the summer. Ms. Bratton responded that even in the summertime the foliage does not block the visibility at the lower level.

Attorney Kor stated that his clients would be happy to add more landscaping on their side of the proposed structure.

Mr. Gomes stated that his family would welcome that kind of buffer due to the attractive nature of landscaping, and it would be consistent with the property as it is already wooded.

The Board members agreed among themselves that a landscaping stipulation included in the granting of a variance approval could not be required of the applicant.

Alternate member Smalley inquired if the Board could request to see an actual design of the proposed landscaping.

John McCahill responded that the Board could make that request if it were to continue the public hearing to another meeting.

Alternate member Smalley stated that five-gallon bucket trees and shrubs, that would take a long time to grow, would not provide appropriate coverage for a while. She inquired about the specific type of landscaping that would be installed.

Ms. Gomes (Bowman) stated that she would want to see the proposed structure built in place first in order to determine what type of landscaping would be needed.

Mr. Gomes stated that a backhoe could be hired to dig the soil and to plant the landscaping.

Interim Chair Johnson stated that the Board was expressing the need to know of a general plan, at a minimum, for landscaping; as having a plan might alleviate many of the concerns.

Mr. Gomes responded in the affirmative.

John McCahill inquired if fencing would be a viable alternative solution to a plan for landscaping with trees or shrubs.

Ms. Presutti stated that she was unsure if fencing would solve the visibility problems.

John McCahill requested that the applicant include a new rendering of the proposed landscaping plan. The owners would need to clearly state for the record what planting plan they would commit to, since the Board is not able to condition the variance. The planting plan should include a minimum quantity and size of evergreens that the owners are willing to plant. The recommendation would be to start with six to seven-foot evergreens for an immediate impact. He stated that by submitting such a planting plan, it would not mean that an approval of the requested variance would necessarily follow.

Attorney Kor requested a five-minute recess to discuss the options with his clients.

Alternate member McNeill inquired if some of the trees were moved to the north side of the property, whether or not it would contribute toward a solution. He inquired if the current landscaping placement was to screen the view from other houses.

Mr. Gomes responded in the affirmative, and that the property is narrow at the cul-de-sac and gets wider as it deepens toward the back.

Alternate member Smalley inquired if there was the possibility of constructing a smaller garage.

Mr. Gomes responded in the negative and restated his hardship of receiving rare antique cars in the near future. He stated that the family does not have a plan for resale of the cars.

Interim Chair Johnson called for a five-minute recess.

Interim Chair Johnson brought the meeting back to order.

Attorney Kor stated that the homeowners are willing to plant seven evergreens, between five to six feet in height, toward the back area and to the northwest of the garage.

John McCahill requested that the landscaping plan, which the homeowner has committed to, be submitted for the record. He restated that the submission of a landscaping plan does not mean an approval of the variance.



Attorney Kor submitted a rendering of the landscaping plan created during the five-minute recess. He stated that common sense would prevail during the summer when the existing landscape is in its growing season.

John McCahill stated for the record that the Board has received a sketch map showing seven evergreens, of an initial height between five to six feet, which would be installed. The trees should be of nursery stock and not transplanted from the forested area on the lot. From the Town staff perspective, if the variance were to be approved, it is suggested for the record that the trees should be in place prior to Town staff sign-off on the Certificate of Occupancy for the proposed structure.

Alternate member Smalley inquired if the members of the public that were present had any additional concerns and comments.

Ms. Bratton responded in the negative regarding additional concerns.

Ms. Presutti stated that as long as the evergreens, of five to six feet in height, would be adequate to obscure the view of the structure from her property, her concerns would be satisfied.

Interim Chair Johnson closed the public hearing.

The Board discussed first the variance request at 28 Quail Ridge Road.

Alternate member McNeill motioned to accept and approve the variance as requested by the applicant at 28 Quail Ridge Road. Board member Carroll seconded the motion. All were in favor, with none opposed, and the variance was approved.

Interim Chair Johnson stated the following from the Town's regulations: That the granting of the variance will be in harmony with the purposes and intent of these regulations; will accomplish substantial justice; and will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, and welfare.

Board member Carroll motioned to accept and approve the variance as requested by the applicant at 20 Tanglewood Drive. Alternate member McNeill seconded the motion. Interim Chair Johnson, Board member Carroll, and Alternate member McNeill were in favor of the motion; Board member Bukowski and Alternate member Smalley were against the motion; the variance was denied.

John McCahill explained that four votes at a minimum are required in order to approve a variance, and therefore the application for 20 Tanglewood Drive is denied. He stated that it would be appropriate for the members voting against the variance to state their reasons of concern with the application.

Alternate member Smalley indicated that the variance, as requested, is extremely large in this case. She did not believe the variance would be in keeping with what she would expect in a residential neighborhood.

Board member Bukowski stated that he echoed the same concerns as Alternate member Smalley.

The next regularly scheduled meeting is January 16, 2020.

Alternate member Smalley motioned to adjourn the meeting. Alternate member McNeill seconded the motion. All were in favor, with none opposed.

There being no further business, the meeting adjourned at 8:20 p.m.

Susan Guimaraes, Clerk  
Zoning Board of Appeals  
Town of Avon Planning and Community Development