

THE ZONING BOARD OF APPEALS OF THE TOWN OF AVON HELD A REGULAR MEETING FOR A PUBLIC HEARING ON THURSDAY, FEBRUARY 20, 2020, AT THE AVON TOWN HALL, BUILDING #1 (LOWER LEVEL).

Present were Chair Shea and Board members Chet Bukowski, Eileen Carroll, Christy Yaros, and Eileen Reilly; and Alternate member James Williams. Also present was John McCahill, Planning and Community Development Specialist.

Chair Shea called the meeting to order at 7:00 p.m.

PUBLIC HEARING

Chair Shea 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.

Chair Shea welcomed new Board members Christy Yaros and Eileen Reilly, and new Alternate member James Williams.

John McCahill stated that the agenda had been revised, in time, for the Town to publish legal notices in accordance with the Connecticut General Statutes. Staff notified abutters to the subject property of each application, as part of the Zoning Board of Appeals application process.

Chair Shea stated that the Board would hear the applications in the reverse order on the agenda.

Application of Brian T. and Kristin Pollack, owners; Dana Hinman, applicant; requesting from Avon Zoning Regulations, Section IV. A.6, a 10-foot variance from the 25-foot required side yard setback and a 2-foot variance from the 40-foot required front yard setback to permit a third garage space/bay 14 x 24 feet wide, located at 35 Vermillion Drive in an RU-2A Zone.

Chair Shea read from the application which stated that the strict adherence to the regulations would produce undue hardship for the owners since they are, "...utilizing the existing foundation of the house that had burned down and seek to incorporate a three-car garage." The hardship is unique to the premises in the neighborhood because of, "The depth of the existing foundation to make the project feasible." The variance will not change the character of the neighborhood because, "Most homes have three-car garages very tight to side yards in [the] neighborhood." She summarized the following application materials submitted to the Board: the site map, a drawing of the proposed third garage bay, different views of the site with various elevations, photographs taken by John McCahill, and the plot map that shows the abutting properties with indications as to which properties were notified of the public hearing by Town staff.

Present on behalf of the application were owner Brian T. Pollack and building project engineer Joe Green, of Robert Green Associates.

Mr. Green stated that the owner is looking to add a garage to the right side of the house for a total of three garage spaces. A 10-foot variance is requested because the third garage space will

extend slightly into a corner of the side yard setback. Also, a two-foot variance for the front yard setback has been requested.

Board member Bukowski inquired regarding the current status of the project.

Mr. Green stated that the house is under construction.

John McCahill stated that the photographs taken of the house, which were submitted by staff, are current.

Chair Shea inquired about the number of bedrooms that the home will have.

Mr. Green responded that there will be four bedrooms.

Chair Shea asked if there were any members of the public present who wished to speak either in support or opposition of the application for 35 Vermillion Drive. No members of the public were present to speak about this application. She stated that the Town's practice has been to send public hearing notification letters to properties abutting the subject property of an application.

John McCahill stated that the Town did not receive any response communication, e.g. postal letters, e-mails, or telephone calls from the public regarding the variance request of 35 Vermillion Drive.

Board member Carroll sought confirmation that the property lot at 43 Vermillion Drive was undeveloped.

John McCahill responded in the affirmative.

Mr. Green stated that applicant Dana Hinman had spoken to the neighbor to the left of 35 Vermillion Drive who was in support of the variance request.

John McCahill stated that Town staff had worked with Mr. Green and Mr. Hinman for a period of time, especially due to the issue that there remains a Town drainage easement running along the north property line, which encumbers 35 Vermillion Drive and the adjacent property. If a variance were to be granted at 35 Vermillion Drive, the next step in the process would be for the owner to work with the Town Engineering Department to release the drainage easement. The issue of the release of the easement would then go to the Town Council for its approval. The request for a building variance is the appropriate first step in the course of seeking approvals.

Application of Jesse M. Gomes and Elizabeth A. Gomes (Bowman), owners/applicants; requesting from Avon Zoning Regulations, Section IV. A.2, an additional 1,600 square foot variance and six additional garage spaces (previous variance granted for existing garage and shed) to permit a 40' x 40' detached garage/enclosed storage for antique and classic cars, located at 20 Tanglewood Drive in an R-40 Zone.

Chair Shea read from the Gomes' application the reasons for the requested variance, including: the description of undue hardship, "The 40' x 40' three-bay garage will be used to house and secure classic/antique cars as well as family heirlooms. The building will protect them from the

harsh elements and to preserve their integrity and value;" the uniqueness of the hardship not shared by other premises in the neighborhood, "The number of cars requiring secure storage exceeds the current available storage space on the property. Our daily driving vehicles are currently kept outside in efforts to store and protect the classic/antique cars. Vehicles on the property have previously been vandalized. Investigating police officers have recommended storing in a secure area. We also are in possession of family heirlooms which require secure storage;" and why the proposed garage would not change the character of the neighborhood, "We carefully selected quality craftsmen and designers who will construct the garage in a classic New England style. The builders will keep the design consistent with the shape and character of the main residence and existing structures. The property is at the end of a cul-de-sac, and thus the building will only be visible from the end of the cul-de-sac and not the main road. Currently, the automobiles are stored outside in various locations on pavement and lawn areas, which is unsightly. A quality building with appropriate storage would add appeal to the property and neighborhood, while accommodating the vehicles and heirlooms. We understand and take into consideration the topography of the property and the sightline from the surrounding properties. Careful landscaping planning will include the planting of a least seven four-foot evergreens to help blend the natural foliage and new structure. The addition of the new, strategically planted landscaping along the existing natural tree lines will mimic the foliage of the neighborhood and property." Chair Shea stated that attached to the application were the following documents: a letter from Mr. and Mrs. Gomes describing the existing property and the proposal; a sight map reflecting the location of the proposed garage, the size of the structure, and the setbacks; a plot plan with a drawing of the proposed garage not drawn to scale, as noted on the plan; photographs of the types of trees that will be used for landscaping; a rendering of the proposed structure and the interior; a framing plan; drawings of the proposed building, an example of a similar structure; two aerial photos; sides and rear of the property photographs, and street-side photographs taken by the applicant. Two letters of support were included with the application documents, from residents of 15 Tanglewood Drive and 52 Old Mill Road. A plot map that shows the abutting properties, with indications as to which properties were notified of the public hearing, was provided by Town staff. Additional documents by Town staff, provided to the Board tonight, included recently received e-mail communications expressing opposition to this application. Those communications were from Silvia Santos at 10 Tanglewood Drive, Bob Rossini at 16 Tanglewood Drive, and Joe Caruso at 4 Tanglewood Drive. A similar application for this property was submitted and heard by this Board in December of 2019. Changes have been made to the plan for the proposed structure in order to submit the current application. The prior application requested a variance for a 1,920 square foot structure, and the square footage has been reduced to a 1,600 square foot structure; and the footprint size has been reduced from 48' x 40,' to 40' x 40;' and the number of garage bays was reduced from eight to six.

Mr. and Mrs. Gomes presented their application to the Board. Due to losses in the family, heirlooms and items will be inherited that need appropriate storage. The size was reduced and the proposed structure was planned to be more appealing. After the previous application, tradespeople and builders had visited the property to find alternative locations for the proposed structure. Those possible solutions were not suitable because trees would need to be removed, and the driveway would need to be re-installed to accommodate a different location for the proposed structure. Without a great deal of construction, the consensus was to keep the proposed structure in the current location as is seen on the plans in this application; however, the proposed structure is closer to the driveway and also closer to the existing garage to alleviate some of the sight lines that were an issue discussed in the previous application. One of the concerns which

arose since submitting the last application was the possibility of increased traffic, and with only two people in the house, only two cars can be driven at one time. The cars to be inherited are antiques and not daily driving cars. There were also concerns that a commercial business would be run from the property; however, the cars are for collecting and not for buying-and-selling. Another issue was the property values. A real estate valuation was conducted which compared the current property to the future property including the proposed structure. Their property values would increase significantly.

Chair Shea asked if any member of the public wished to speak about the proposed variance.

Mr. Joe Gaudiana, of 3 Tanglewood Drive, at the corner of Tanglewood Drive and Country Club Road, sent in an e-mail expressing concerns and questions on the application. One concern was that the property owners already have a five-car garage and now were seeking to increase the number of spaces to accommodate 11 cars. He stated the alternative would be to rent a space to take care of the heirlooms. His own home has four people in it and the property has a two-car garage. He would not burden the neighbors if he were the one proposing 11 cars on a property of a residential street. He stated that his opposition was not personal in regard to the owners/applicants.

Mr. David Breitsprecher, of 11 Tanglewood Drive, had submitted an e-mail in opposition to the previous Gomes' application heard at the December 2019 board meeting. He also was strongly in opposition to this current proposal. He described his viewpoint toward the Gomes' front door, while standing at his garage, and believed that he would be able to see the proposed structure from his front yard. He agreed with Mr. Gaudiana, that there should not be 11-car storage on the property. He felt previously misled by a letter from the owners in December 2019, which described the first proposed structure as a four-bay garage; but the owners applied to the Town for an eight-bay garage. He would remain uncertain as to what the owners would do with the storage space if a variance were granted. He stated that since one of the owners is a funeral director, possibly a hearse would come and go from the property. He agreed with Mr. Guadiana that there are other alternatives to building an additional structure, including rental of storage space. He was also concerned with his property value, if the variance were to be approved, since he was considering putting his house on the market soon.

Ms. Silvia Santos, of 10 Tanglewood Drive, stated that the nature of the Tanglewood Drive cul-de-sac is quiet and small, and the neighborhood only has seven homes. The residents have voiced their opposition to the requested variance. She stated that her opposition to the variance was not personal in regard to the owners/applicants. She was concerned with such a large structure proposed within the small residential neighborhood. Such a large structure will reduce the surrounding property values. She stated that the proposed size and scope were not in keeping with the characteristics of the neighborhood, and again stated her opposition to the application.

Mr. Guadiana stated that he submitted an e-mail to the Town and was unaware of whether or not it was received.

Chair Shea stated that due to the two applications that have been presented for 20 Tanglewood Drive, and the fact that there are new Zoning Board of Appeals members, she believed that Mr. Guadiana's correspondence was a part of the record.

Mr. Joe Gomes, father of owner/applicant Jesse Gomes, stated that his son and daughter-in-law moved to Avon for such reasons including nearby family, neighborhoods, and schools, etc. The car business has been his lifetime career. He stated that he had bought and worked on most of the cars in the family possession and they were in need of storage. He has heard resident concerns regarding traffic and property valuation; however, people are complaining about the proposed structure while they would not be able to see it from their properties. He thought that Avon would provide for what his family needed.

Mr. Gomes confirmed that he is a funeral director. He stated that the ethics and integrity of being a funeral director guide the principal that hearses do not leave the funeral home unless there is a funeral. He stated that a funeral is a dignified and solemn event for an individual and hearses are not paraded around town.

Mr. Breitsprecher stated that he was referring to the storage of a hearse.

Mr. Gomes stated that a hearse is a commercial vehicle and would not be stored on the property; and the proposed structure would not be a commercial garage.

John McCahill stated that he was not advocating for the application either way; however, he wanted to review how similar applications have been dealt with in the past. He noted the Gomes' letter addressed to the Board, included with the application, which stated a paragraph regarding this process: "The proposed building as shown on the map (for 20 Tanglewood Drive, Avon, Connecticut 06001) and presented to the Avon Zoning Board of Appeals shall be used only as an accessory building and shall be limited to the use as a storage facility for the following: antique/classic cars and family heirlooms kept as a hobby by the owners of the dwelling located on the premises or the immediate family of the owners. Any change from such use shall be prohibited unless approval of such change is given by the Avon Zoning Board of Appeals upon application duly submitted." Town staff provided this language to Mr. Gomes considering there was a similar situation like this in Town, on the corner of West Avon Road and Avalon. The same issue was a concern at that property and the solution was to create a legal document and file it in the Town of Avon land records.

Mrs. Gomes stated that photographs of the actual vehicles, to be stored in the proposed garage, were physically present and available for viewing by the Board and public.

Mr. Joe Gomes stated that the cars would not frequently leave the storage facility.

Mr. Gomes stated that he is currently renting space on the property of Ms. Gomes' grandfather, while the estate is in probate. He stated that the two abutting property owners to 20 Tanglewood Drive, who would be most directly affected by the proposed structure, supported the variance request.

Mr. Breitsprecher sought confirmation that Old Mill Road was behind Tanglewood Drive. He stated that the proposed garage was planned for the front of the yard, and therefore, a resident on Tanglewood Drive would not be one of those most impacted.

Mr. Gomes stated that the abutting neighbor most impacted would be Janusz Paszkowski, of 15 Tanglewood Drive.

Mrs. Gomes said that they had spoken at length in-person with Mr. Paszkowski and received support for both the December and current applications. She stated that it was important to note that from the viewpoint of looking down the street of the cul-de-sac and into their yard, only the new proposed garage would be visible since it would be located in front of the existing accessory garage.

Mr. Joe Gomes stated that evergreen trees would be planted to impact the viewpoint from the Rossini's house.

Chair Shea stated for clarification that the owners/applicants' real estate property valuation, including the proposed garage, could be a part of the record. She noted for the record that she was not making a judgement one way or the other at the moment, and that she had read the minutes from the December 2019 Zoning Board of Appeals hearing. She stated, however, that the property value concerns of the neighboring residents were related to their own property values. Their fears were that an additional accessory structure of similar size, to the existing accessory structure located on the property of 20 Tanglewood Drive, would affect the character of the neighborhood and reduce their home values. It would be difficult to alleviate those concerns without presenting valuations, including post-construction, of the neighboring properties. The valuation of 20 Tanglewood Drive, as a comparison, lacks relevancy.

Mr. Breitsprecher stated that all of the homes in the neighborhood, other than 20 Tanglewood Drive, have two-car garages.

Mr. Gomes stated that every home on that street does not have 2.3 acres of parcel.

Chair Shea called for Board member questions.

Board member Bukowski stated that in order for the Board to grant the variance, the owners/applicants would have to convince the members that the failure to grant the variance would create an undue hardship on their property. He inquired about the undue hardship that was being claimed. He stated that the zoning law was clear in that the total of all accessory structures is limited in size to 1,000 square feet. He stated that a variance for an additional accessory structure on 20 Tanglewood Drive has been requested, and since a variance was previously granted for the existing accessory structure, he inquired what the undue hardship would be if the Board were to deny this variance request. He asked if the undue hardship was that the cars, which were soon to be in their possession, would not be able to be stored on the property.

Mr. Gomes responded in the affirmative. He stated that the antique cars currently on the property are being stored in the existing garage, and the daily driving cars are currently parked outside on the property. He stated he was currently paying out-of-state rent for the vehicles and for their boat. The rental money would be best utilized spent on their Avon property. Their opportunity for the current rental space will be ending soon and they will need to move the vehicles to Connecticut.

Board member Carroll referenced the letter which Mr. Rossini had submitted, and stated that he was concerned that the Gomes' property would be turned into a backyard business. She inquired if Mr. and Mrs. Gomes had any intention of running a business for auto restoration or repair.

Mr. Gomes responded in the negative. The purpose of the proposed storage would be only to contain the heirlooms.

Board member Carroll inquired about the owners' discussion of vandalism on the property, mentioned at both the December 2019 public hearing and tonight's hearing. She asked if the cars were vandalized and inquired about the nature of the vandalism.

Mr. Gomes responded in the affirmative regarding vandalism to the cars. He indicated that some of the cars were scratched and keyed. The threat of damage is ongoing.

Chair Shea inquired of John McCahill regarding the regulations for vehicles on residential properties in Avon.

John McCahill responded that there is no Avon regulation about the number of vehicles that a resident can keep on a property, as long as the vehicles are operational and properly registered.

Chair Shea inquired of Mr. and Mrs. Gomes whether the cars were operational and properly registered.

Mr. Gomes responded in the affirmative.

Board member Bukowski inquired of John McCahill whether or not the Board could put a restriction on the grant of a variance on the land record stating that no commercial use of the structure would be allowed on the property, if the variance were granted.

John McCahill responded that it would be appropriate to include the language of the paragraph, read aloud for the application file record earlier in the meeting, in a legal document that would be incorporated into the land record and stand in perpetuity for the property.

Chair Shea stated it was important to note that if the application were approved it would be a granting of a variance to the zoning regulations and not an approval of a change to the zoning regulations.

Ms. Santos stated that she has lived in her house at 10 Tanglewood Drive for 26 years. Within this small neighborhood, out of the seven houses in this small cul-de-sac, there are residents from three of the houses at this meeting in opposition to this variance; and residents from two other houses on this street, who could not attend tonight, have expressed their opposition to the variance to the Board.

Board member Yaros asked if the neighbors can see the cars that are currently parked outside on the property at 20 Tanglewood Drive. She also inquired where the cars, soon to be inherited, would be parked on the property.

Ms. Santos responded in the affirmative regarding visibility of the vehicles from her property.

Board member Yaros inquired where the inherited cars would be parked if no additional structure on the property could store them.

Mrs. Gomes responded that they would be parked on the grass of the property, closer to the street.

Mr. Breitsprecher inquired when the need for further additional structures would end.

Mr. Gomes responded that he did not plan on purchasing any additional vehicles, and made the distinction that the cars related to this variance request were to be inherited.

Mrs. Gomes stated that their hope was to keep the daily driving cars in the two-bay attached garage and keep the antique cars in the new proposed garage. A lawn tractor would remain in the existing detached accessory garage. The prior owners of 20 Tanglewood Drive had received the variance approval for the existing detached accessory garage.

A member of the public inquired whether or not there exists a Town of Avon regulation to control unsightly property elements.

John McCahill responded that the Town of Avon does not have regulations for unsightly residential property elements.

Chair Shea reminded those present at the hearing about the duty of the Zoning Board of Appeals: The Board grants variances in accordance with specific reasons when interpreting the regulations.

Mr. Guadiana stated again that they were all neighbors, and inquired if the neighbors would want another structure for the 11 cars on the property.

Board member Carroll inquired about how many cars would be owned if the variance were granted for the structure to enable 11 cars on the property. She inquired about the number of cars that would ultimately be kept on the property and stored in the structures.

Mr. and Mrs. Gomes responded that there would be a total of ten cars and one lawn tractor kept in the following structures: the new proposed garage, the existing detached garage, and the attached garage at 20 Tanglewood Drive.

Chair Shea thanked all owners and applicants for their presentations and the public for their commentary. She closed the public hearing for the applications of 35 Vermillion Drive and 20 Tanglewood Drive.

## REGULAR MEETING

Application of 35 Vermillion Drive: Chair Shea called for a discussion. She stated that the requested variance related to a portion of the structure with regard to the whole house that had previously burned down. No Board member raised discussion or concerns regarding the variance application for 35 Vermillion Drive.

Board member Carroll motioned to grant the application of Brian T. and Kristin Pollack, owners; Dana Hinman, applicant; requesting from Avon Zoning Regulations, Section IV. A.6, a 10-foot variance from the 25-foot required side yard setback and a 2-foot variance from the 40-foot



required front yard setback to permit a third garage space/bay 14 x 24 feet wide, located at 35 Vermillion Drive in an RU-2A Zone. Board member Bukowski seconded the motion. All five Board members were in favor and the variance was granted.

Chair Shea stated the following: Reason – The granting of the variance will be in harmony with the purpose 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.

Application of 20 Tanglewood Drive: Chair Shea called for a discussion. Board member Carroll stated that all discussion points seemed covered over the course of the two public hearings related to the applications for this property. She was gratified that more neighbors attended this meeting compared to those present at the December 2019 public hearing. Chair Shea stated that if there were any nay votes on this application, it was important for the members to state their reasons for the record.

Board member Carroll motioned to grant the application of Jesse M. Gomes and Elizabeth A. Gomes (Bowman), owners/applicants; requesting from Avon Zoning Regulations, Section IV. A.2, an additional 1,600 square foot variance and six additional garage spaces (previous variance granted for existing garage and shed) to permit a 40' x 40' detached garage/enclosed storage for antique and classic cars, located at 20 Tanglewood Drive in an R-40 Zone. Board member Yaros seconded the motion. Those who voted in favor of granting the variance were the following: Board members Carroll and Yaros. Those who voted nay were the following: Chair Shea, and Board members Bukowski and Reilly. The motion to grant the variance did not carry and the variance was denied.

Chair Shea stated that her reasons for voting to deny the variance were related to the requirements for a strict application of the zoning regulations causing an undue hardship, and how the hardship is unique to the premises, and how the variance would not change the character of the neighborhood. In this particular instance, factors such as the information that the Board had received from the neighbors regarding their neighborhood, have caused her to vote nay. She did not believe that the strict requirements under the zoning regulations were met in order to grant a variance.

Board member Bukowski stated that he voted nay because the evidence presented to the Board did not establish an undue hardship under the law and regulations.

Board member Reilly stated that she voted nay because the hardship was not enough to grant the variance.

### ELECTION OF OFFICERS

Chair Shea called for nominations of Zoning Board of Appeals officers. Board member Reilly nominated Ames Shea for Chair. Board member Yaros nominated Eileen Carroll for Chair. Board member Bukowski seconded the nomination of Eileen Carroll for Chair. A vote was called for the nomination of Eileen Carroll for Chair: members Bukowski, Carroll, and Yaros voted in favor. The motion to elect Eileen Carroll as Chair carried by a majority vote in favor. Board member Carroll nominated Christy Yaros for Vice-chair; Board member Bukowski seconded the nomination. All voted in favor to elect Christy Yaros as Vice-chair.

The next regularly scheduled meeting is March 19, 2020.

Board member Carroll motioned to adjourn the meeting. Board member Yaros seconded the motion. All voted in favor.

There being no further business, the meeting adjourned at 8:04 p.m.

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