

THE ZONING BOARD OF APPEALS OF THE TOWN OF AVON HELD A VIRTUAL REGULAR MEETING FOR A PUBLIC HEARING ON THURSDAY, OCTOBER 15, 2020, AT 7:00 P.M., VIA GOTOMEETING: Join by computer, <https://global.gotomeeting.com/join/212459429>; or dial by phone, 1 (872) 240-3212, Access Code: 212-459-429#.

Present were regular Board members Eileen Carroll (Chair), Christy Yaros (Vice-chair), Chet Bukowski, Ames Shea, Eileen Reilly, and Alternate member James Williams (non-voting). Absent were Alternate members Thomas McNeill and Vi Smalley. Also present was John McCahill, Town of Avon Planning and Community Development Specialist.

Chair Carroll called the meeting to order at 7:08 p.m. John McCahill facilitated the virtual meeting.

Roll call was taken for the Board.

John McCahill read aloud the legal notice for the meeting. He stated that notice was provided in accordance with Town regulations, State Statutes, and recent COVID-19 related Executive Orders; and the Town has notified the abutters to the subject properties as required. 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. The public hearing will be closed after the application review is complete. Voting will follow after the close of the public hearing. He summarized the agenda.

PUBLIC HEARING:

Application of David A. and Jenny L. Gavrillen, applicants/owners; requesting from Avon Zoning Regulations, Section IV. A. 6., a 10-foot variance from the required 25-foot side yard setback to permit a detached shed/barn with loft (18 x 24 feet), on the south side of the property, located at 86 Climax Road in an R-40 zone.

John McCahill summarized the application materials as submitted by the applicants for 86 Climax Road. He summarized the accompanying record materials, including the following: the ZBA public hearing notification sent to abutting property owners via postal mail; the Town of Avon GIS map of abutting properties; the Town GIS aerial view of the subject property; multiple photographic views of the subject property taken by Town staff; the subject property plot plan; and applicants' sketch showing the proposed location for the shed and proposed variance for the side yard setback. He read aloud some excerpts as stated in the application; those included the section on the reason why strict application of the regulations would produce undue hardship, and the section on the reason why the variance would not change the character of the neighborhood. He went on to reference images of a Town GIS map of the subject property and a Town GIS map of the abutting neighboring properties, and photographs taken by Town staff of the subject property. He stated that to the south of the property there is Evergreen Cemetery, and behind the property and across the street there are properties of residential owners. He referenced the area where the proposed shed would be located, which had been staked in the ground by the

applicant, according to the proposed dimensions of the structure. He stated that there is an existing tree line that will remain along the southern area of the property line, which also serves to separate the applicants' property from the cemetery. He referenced the drawing of the proposed shed and the dimensions on the applicants' plot plan. He read aloud a letter of support for the variance from the abutting property owner located at 100 Climax Road. This abutting property is directly north of the subject property. There were also signatures of support from the abutting property owners directly behind the subject property, as well as from Evergreen Cemetery.

Mr. Gavrilien stated that the proposed location for the structure might actually be located a few feet less within the regulated side yard setback. There is an existing shed on the cemetery property which is located approximately a foot from his property line. He was aware of the value of his own property as well as that of his neighbors' properties, and wanted to avoid any negative impact to the neighborhood regarding this variance request.

Chair Carroll asked for any questions from the Board. There were no questions from the Board.

Vice-chair Yaros motioned to close the public hearing. Board member Reilly seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Christy Yaros (Vice-chair), Chet Bukowski, Ames Shea, and Eileen Reilly. The motion carried.

Board member Shea motioned to grant the variance request as submitted in the application. Vice-chair Yaros seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Christy Yaros (Vice-chair), Chet Bukowski, Ames Shea, and Eileen Reilly. The motion carried.

John McCahill stated for the record 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.

OTHER BUSINESS:

John McCahill stated that there were some modifications to the Town of Avon Zoning Regulations that have been approved recently, which were directly related to the routine business of the Zoning Board of Appeals. He stated that historically, there seemed to have been a pattern of reasonable applications that have been presented before the Zoning Board of Appeals, which would result in the appropriate measure to modify some of the Town's zoning regulations. Some of those regulation changes impact Section IV. A. 6, the regulation section that has most often been brought before the Board. One of the modifications was to allow for the increase in size for outbuildings; from the previous regulation of 1,000 square feet in total for an outbuilding or combined outbuildings, to 1,500 square feet in total for an outbuilding or combined outbuildings. This would allow more flexibility in the possibilities for residents. In addition, the previous usage for outbuildings was limited to garage and storage space; the current newly approved provision would allow for other uses of a structure, such as a woodworking space or other personal uses. However, business use of outbuildings in residential zones is still prohibited according to the regulations. Another modification was made to the regulation for a shed under

200 square feet, one with associated small-scale uses such gardening and storage, etc., and the associated required setback. The State of Connecticut-adopted building code does not require a building permit for this type of structure. The pattern of variance request for sheds under 200 square foot has been evidenced historically and repeatedly by the Town's Zoning Board of Appeals. In many instances, it has been difficult for residents to justify the hardship for the location of a small shed. Repeatedly granting these variances was not the appropriate solution to the problem of this occurrence, rather the appropriate solution was to modify the Town's zoning regulations. With this reasoning in mind, the Planning and Zoning Commission modified the regulation to allow for a shed under 200 square feet to comply with a 10-foot side yard setback and a 10-foot rear yard setback. These are different setback requirements than those required of a larger structure.

Vice-chair Yaros inquired of John McCahill, considering the expansion of uses of outbuildings, whether or not an outbuilding could be used as a guest house.

John McCahill stated that there had been discussion among the Planning and Zoning Commission members regarding this issue. The recently adopted regulation allows that a resident would need to apply to the Planning and Zoning Commission for a special exception application if an outbuilding is to be used as a second dwelling. The regulations associated with a special exception approval call for compliance of strict criteria and a strict set of standards.

Board member Shea sought clarification from John McCahill regarding approval of the modified regulations.

John McCahill stated that the zoning regulation changes he just spoke about had been discussed by the Town of Avon Planning and Zoning Commission and were approved as of October 14, 2020. He stated that there is no need for any action to be taken on these regulation changes by the Zoning Board of Appeals.

NEXT REGULARLY SCHEDULED MEETING:

The next regularly scheduled meeting will be November 19, 2020.

Chair Carroll motioned to adjourn the meeting and Board member Reilly seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Christy Yaros (Vice-chair), Chet Bukowski, Ames Shea, and Eileen Reilly. The motion carried and the meeting adjourned at 7:43 p.m.

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