

The Zoning Board of Appeals of the Town of Avon held a meeting on Thursday, January 25, 2018, at the Avon Town Hall. Present were Ames Shea, Vice Chair; Commissioners: Chester Bukowski, Mackenzie Johnson, Andrew Bloom and Eileen Carroll. Absent were Alternates Vi Smalley, Frank Lupis and Thomas McNeill, Jr. Also present was John McCahill, Planning and Community Development Specialist and Christine Campasano, Clerk, ZBA.

PUBLIC HEARING

JANUARY 25, 2018

Ms. Shea, Vice-Chair, called the meeting to order at 7:32 p.m. and noted 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 10-C of the Zoning Regulations of the Town of Avon.

Mr. McCahill stated for the record that the legal notice for this meeting held on January 25, 2018 was published in accordance with the state statutes.

Ms. Shea read the Application of Matthew and Sylvia Shultz; requesting from the Avon Zoning Regulations, Section IV. A.6, a 20-foot variance from the 30-foot rear yard setback to permit a 10-foot by 18-foot shed, located at 81 Haynes Road in an R-30 Zone.

Ms. Shea then read the Application of Scott Hill, requesting from the Avon Zoning Regulations, Section IV. A.6, an 11-foot variance from the 25-foot side yard setback to permit a 14-foot by 17-foot shed, located at 102 Fox Den Road in an R-40 Zone.

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Ms. Shea explained to the audience the meeting procedures for informational purposes.

Ms. Shea's reading of the 81 Haynes Road application stated the variance request is due to the fact that strict application of the zoning regulations would create an undue hardship. The hardship is unique due to the flood zone and wetlands constraints which limit the buildable area of the property. The potential expansion or placement of a new structure on the property is limited. They are adding this shed to the property to help with increased storage needs. The shed will be constructed with adherence to the highest aesthetic considerations. The siding of the shed will match the existing home.

Matthew Shultz, the owner and applicant, stated that the main catalyst for this application is that they are very limited to where they can locate the shed on their property. Mr. Shultz provided a map from the Town of Avon GIS (Geographical Informational System) of the parcel showing neighboring properties. The flood zones and wetland overlays were also depicted on this map. He pointed out that they do not have a lot space in which they can locate the shed. Mr. Shultz said there was concern expressed by the neighbor at 70 Sunrise Drive and they evaluated and looked at the location of the shed and any negative impact the shed may cause.

Mr. Shultz added that he has owned his property for over eleven (11) years, and he has taken on many remodeling projects and maintains a very well-manicured property. The shed will be in keeping with the nature of property.

Ms. Shea noted that included with the application for 81 Haynes Road were a number of attachments: a plot plan showing proposed additions, photos of the existing conditions of the property, and a location map showing the approximate location of the shed. Mr. Shultz submitted the GIS map that he presented for the record. He made it clear the shed location shown on the map is approximate and not to scale.

Mr. Bukowski questioned Mr. Shultz on what the colors on the GIS map depicted. Mr. Shultz responded that cream meant no wetlands, green was wetlands and gray was the flood zone. He also pointed out the pond location on the map. The applicant noted that he pays \$2,600 a year for flood insurance. He explained that the house is also in the floodplain. He again stressed that there is very limited space where no flood plain or wetlands exist.

Mr. Bukowski clarified that the location of the shed was in a cream colored area with no floodplain or wetlands.

Ms. Carroll asked if the shed could be placed in the floodplain. Mr. McCahill responded it could not, a permit would not be issued. Mr. McCahill clarified the flood plain delineation stating the 100 year flood means there is 1% probability of occurrence in any given year. The 500 year floodplain has a .2% chance of occurrence in any given year. Mr. McCahill went on to say the physical constraints of the property, limit where the shed can be located. It is a property that has unique physical characteristic due to the floodplain and wetlands.

Mr. Shultz concluded his presentation adding he maintains his property to the highest aesthetic standards.

Ms. Shea then asked the audience if there was anyone present who would like to speak on behalf of this application.

Mr. Cole, son and executor of the estate of Donald Cole of 70 Sunrise Road addressed the Board. He stated he wrote a letter to the Board, which was included in the information the Board members received. Mr. Cole explained the installation of the shed commenced prior to receiving any zoning approval and the location is not zoning compliant. He said that although it is not a big deal, it is a zoning violation and we all have to comply with zoning regulations. Mr. Cole believes the location of the shed will have a negative economic impact on their property. He went on to say there could be a building lot there someday in the future and this would negatively impact the quality of life for the owner. He believed there are other locations on the property were the shed could be located that are more than 10' from the rear yard.

Mr. Cole said he did not want to adversely affect the neighbor and cause undue hardship. He mentioned it was only natural for someone to place the shed in a corner where you can't see it. He was not saying he would like to see him make it completely zoning compliant but he would like to see less of an encroachment on the setback. Mr. Cole, in his opinion, felt the applicant didn't want to see the shed from the back of their window. He felt Mr. Shultz pushed the shed to the back of property because it was empty land. Mr. Cole stated it is empty land now but in the future it may be a building lot.

Ms. Shea asked Mr. Cole to clarify who he was. He is the son and executor of the trust of Donald Cole. Ms. Shea stated for these proceeding he will be referred to as the owner.

Mr. Cole stated that the property line is not clearly established. He said he realizes fences and playscapes have no required setback and that the shed is not over 200 square feet. He added that there are building materials piled across the rear property line and the stone wall has been touched. Mr. Cole believed that there should be screening or the shed should be moved farther from the property line; whatever the Board saw reasonable. Mr. Cole believed enough was enough with the encroachment and other activities and it has to stop somewhere.

Mr. Shultz acknowledged Mr. Cole's concerns. He wanted to be clear and go on record he is not trashing the adjacent property or dumping on the property. Mr. Shultz went on to say he never had any issues with Mr. Cole's father. He mentioned there was an eleven (11) year precedent of never having issues with Mr. Cole's father, Donald Cole. The applicant disagrees with the notion that it will change property evaluations. He feels there are significant challenges related to the development of the adjacent lot due to the wetland and floodplain restrictions.

Mr. Shultz and Mr. Cole started a discussion between themselves. Ms. Shea redirected both Mr. Shultz and Mr. Cole to address the Board.

Ms. Carroll stated that earlier in the proceedings the possibly of screening the shed was mentioned. She asked Mr. Cole what he meant by that comment. Mr. Cole said he was opening up possibilities for the Board; however, rather than plantings or fencing he would like to see the shed located farther from the rear property line.

Mr. Bloom told Mr. Cole that there was nothing the Board could do or say on the matter of dumping across property lines or storing materials near the shed. He further said that even if the shed was located farther from the property line, one could still see the shed and any building materials from the adjacent property.

Mr. Shultz added it was a matter of pure ignorance on his part that he started building the shed without a permit. Ms. Shea asked when Mr. Shultz started building. Mr. Shultz responded he started building in the fall of 2017 and Mr. Cole brought it to his attention and he ceased the installation. Mr. Shultz felt strongly about the location of the shed and did not want to create a contentious environment. He felt a certain element of frustration since, as homeowners, they are limited on what they can do because of the floodplain and wetlands.

Mr. Butkowski questioned if there was currently a house on the 70 Sunrise Drive property. Mr. Shultz responded there was a house at 70 Sunrise Drive.

Ms. Carroll questioned what the other structure shown as depicted on the map was on the property at 70 Sunrise Drive. Mr. Cole responded that it was a horse barn. Ms. Carroll asked where the front door was on the house at 70 Sunrise Drive. Mr. Cole responded it was toward the front facing the cul-de-sac.

There was discussion on the orientation of the pictures included in the application packet.

Mr. Bloom asked Mr. Shultz if screening were something he would consider. Mr. Shultz agreed he would work with Mr. Cole on mutually agreeable plantings to visibly screen the shed.

Ms. Shea stressed that the Board takes any objection seriously and the Board hopes the property owners can work it out between themselves. Ms. Shea asked if they could work this issue out. Mr. Cole stated he was agreeable to screening and preventing any further encroachment.

Ms. Shea conveyed to the applicant and abutter that the Board has a limited amount of power regarding what they can and cannot do. Mr. McCahill suggested the Board could condition the approval that mutually agreeable plantings would be installed to screen the shed.

Ms. Carroll had one more question for Mr. Shultz regarding the existing deck. Mr. Shultz stated the deck was now existing living space. Ms. Carroll then asked for confirmation that the distance between the end of the house and the shed was approximately 35' diagonally. Mr. Shultz agreed.

Mr. McCahill noted for the record that a letter from Mr. Cole dated January 17, 2018 was received on January 19, 2018 and distributed to the Board and applicant.

There being no further input, the public hearing portion of the meeting was closed.

Ms. Shea read from the 102 Fox Den Road application. She stated the request is due to the fact that strict application of the zoning regulations would create an undue hardship. The placement of the shed in the proposed location is necessary due to the grading of the lot. If the shed were located within the required setback, the shed would land on a very large rock and a number of trees would have to be taken down. Ms. Shea read further from the application stating the hardship was unique to the property due to the fact that there is more space on the west side of the property. This variance would not change the character of the neighborhood because of the distance from the road and the color will match other sheds around the neighborhood and the color of the house.

Ms. Shea stated the Board received the application along with the map of property highlighted where the shed would be, a location map, specifics of the shed to be built, pictures of the property and a map of the property and surrounding properties.

Scott Hill presented his application. He explained he would like to place a shed in the corner of the yard. He spoke with his neighbors and they had no concerns.

Mr. Hill stated the pictures provided with the application appear as though he is in the process of building the shed; this is not the case. The picture shows how the shed was packaged for assembly. Mr. Hill just placed the pieces near the location where the shed would be located.

Ms. Shea inquired if the notice of the public hearing was sent to the abutting neighbors. Mr. McCahill confirmed that they were notified and the office received no responses.

Ms. Shea asked if anyone else was present to speak to the application. No one was present.

Specifications and building details of the shed were included in the application packet, Mr. Bloom referenced the building specs which noted a feed room. Mr. Bloom questioned if the shed would be used for livestock. Mr. Hill clarified that it would not, that those specifications were for informational purposes only.

Ms. Carroll asked for orientation purposes where the shed would be located in the picture. Ms. Carroll then asked where the large rock was located. Mr. Hill confirmed the location and stated the shed would be located on the deepest part of the lot.

There being no further input, the public hearing portion of the meeting was closed.

#### ZONING BOARD OF APPEALS MEETING

JANUARY 25, 2018

Mr. Bloom made a motion to GRANT, seconded by Mr. Johnson, the application of Matthew and Sylvia Shultz; requesting from the Avon Zoning Regulations, Section IV. A.6, a 20-foot variance from the 30-foot rear yard setback to permit a 10-foot by 18-foot shed, located at 81 Haynes Road in an R-30 Zone. The variance was granted with the condition that buffer plants, mutually agreeable to both the applicant and the owner of 70 Sunrise Road, would be planted to visually screen the shed prior to the issuance of a certificate of approval for the structure.

The motion received unanimous approval.

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.

Hardship –To deny would deprive the owner of a reasonable use of the property since there are wetland and floodplain constraints on the property.

Mr. Johnson made a motion to GRANT, seconded by Ms. Carroll, the application of Scott Hill, requesting from the Avon Zoning Regulations, Section IV. A.6, an 11-foot variance from the 25-foot side yard setback to permit a 14-foot by 17-foot shed, located at 102 Fox Den Road in an R-40 Zone.

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.

Hardship –To deny would deprive the owner of a reasonable use of the property since the strict application of the zoning regulations would prohibit the reasonable use of the property.

#### **OTHER BUSINESS:**

The next item on the agenda, Ms. Shea stated was the election of the Zoning Board of Appeals officers for 2018. She noted Mr. Johansen was the previous Chair and he is no longer on the Board. Ms. Shea asked the Board for nominations.

Mr. Bloom made a motion to nominate Ms. Shea as Chair, seconded by Mr. Johnson. The motion was unanimously approved.

Mr. Johnson made a motion to nominate Mr. Bloom as Vice-Chair, seconded by Ms. Shea. The motion was unanimously approved.

There was discussion among the Board members to change the Zoning Board of Appeals (ZBA) meeting schedule to accommodate Mr. Bloom's scheduling conflicts with another Board's monthly meetings. Mr. McCahill requested that Mr. Bloom determine the dates that conflict in order to notify the alternates.

Mr. McCahill addressed changing the start time of the regularly scheduled Zoning Board of Appeals (ZBA) meetings from 7:30 p.m. to 7:00 p.m. This time change was discussed at previous ZBA meetings.

Mr. Johnston made a motion to change the regularly scheduled Zoning Board of Appeals (ZBA) meeting start time from 7:30 p.m. to 7:00 p.m., seconded by Ms. Shea. The Board unanimously approved the change to the meeting time. The 2018 meeting schedule and will be revised to reflect the new start time and will be filed with the Town Clerk.

Mr. Johnston made a motion to adjourn, seconded by Ms. Shea.

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

Next meeting scheduled for February 22, 2018.

Respectfully submitted,

Christine Campasano  
Clerk, Zoning Board of Appeals  
Planning and Community Development