



RECEIVED

# Town of Avon

2021 MAY -6 AM 11: 25

ANN L. DEARSTYNE  
AVON TOWN CLERK

60 West Main Street  
Avon, Connecticut 06001-3719  
(860) 409-4300 • [www.avonct.gov](http://www.avonct.gov)

## LEGAL NOTICE TOWN OF AVON

The Zoning Board of Appeals of the Town of Avon will hold a virtual Public Hearing on May 20, 2021, at 7:00 p.m., **via GoToMeeting:**

**Join by computer/web, <https://global.gotomeeting.com/join/383026981>;**

**Or dial by phone, United States: +1 (224) 501-3412, Access Code: 383-026-981#,** on the following:

Application of Stephen J. and Cheryl A. McGuff, owners/applicants; requesting from Avon Zoning Regulations, Section IV. A. 6., a 20-foot variance to the 25-foot westerly side yard setback for a detached two-car garage, located at 146 Old Mill Road in an R-40 zone.

Application of Gregg Fedus; Roegg, LLC, owner/applicant; requesting from Avon Zoning Regulations, Section IV. A. 6., a variance to allow 16% lot coverage (15% permitted); a 24-foot variance from the required 40-foot front yard setback along the Hillcrest Drive frontage; and a 12-foot variance from the required 40-foot front yard setback at the Mountain Ledge frontage (corner lot/road extension not constructed), located at 22 Hillcrest Drive in an R-15 zone.

All interested persons may join virtually and be heard and written communications will be received. Copy of this notice is on file in the Office of the Town Clerk, Town Hall. Dated at Avon this 6<sup>th</sup> day of May, 2021.

## ZONING BOARD OF APPEALS

Eileen Carroll, Chair  
Christy Yaros, Vice-chair

**TOWN OF AVON  
ZONING BOARD OF APPEALS  
THURSDAY, MAY 20, 2021, 7:00 P.M.**

**VIRTUAL PUBLIC HEARING  
VIA GOTOMEETING**

**Please join by computer, <https://global.gotomeeting.com/join/383026981>;  
or dial by phone, United States: +1 (224) 501-3412, Access Code: 383-026-981#**

**AGENDA  
(scroll downward to see application materials)**

**I. PUBLIC HEARING:**

Application of Stephen J. and Cheryl A. McGuff, owners/applicants; requesting from Avon Zoning Regulations, Section IV. A. 6., a 20-foot variance to the 25-foot westerly side yard setback for a detached two-car garage, located at 146 Old Mill Road in an R-40 zone.

Application of Gregg Fedus; Roegg, LLC, owner/applicant; requesting from Avon Zoning Regulations, Section IV. A. 6., a variance to allow 16% lot coverage (15% permitted); a 24-foot variance from the required 40-foot front yard setback along the Hillcrest Drive frontage; and a 12-foot variance from the required 40-foot front yard setback at the Mountain Ledge frontage (corner lot/road extension not constructed), located at 22 Hillcrest Drive in an R-15 zone.

**II. OTHER BUSINESS:**

**III. NEXT REGULARLY SCHEDULED MEETING: June 17, 2021**



### **ZBA Virtual Public Hearing Process Via GoToMeeting**

Chair calls the public hearing to order.

Town Staff to conduct:

- I. Attendance of ZBA members: regular members; alternates, appoint as needed.
  - Caller identification of application representatives.
  - Caller identification of any interested public.
- II. 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.
- III. 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.  
  
(If only four members of the board are present at a public hearing, and in the absence of the fifth member, a vote in favor of an application would require a unanimous approval. If the application were not approved by a unanimous vote, the application could be refiled to be heard at a future meeting, after a period of six months. Does/do the applicant(s) agree(s) to proceed with the public hearing? Applicant responds.)
- IV. Summary of agenda. All applications will be heard in the order shown on the agenda and the public hearing will be held on each application. The public hearing will be closed after each application review is complete. Voting will follow after the close of the public hearing for each application on the agenda.
- V. Summary of the application and the accompanying materials, and ask the applicant for any additional input.  
\*Please self-identify for the record before any commentary.
  - Input from owner(s)/applicant(s).
  - Board member comments/questions.
  - Public comments/questions.
  - Any objections to the variance request from abutters, neighbors, or the general public.
  - Any support of the variance request from abutters, neighbors, or the general public.
- VI. Close the public hearing and motion to vote. Member identification tally taken. \*Any member who votes against a variance request must state their reason(s) for denial. These statements of denial are required for the record.

If application approval, Town Staff states: 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.

**THE PUBLIC HEARING PROCESS ABOVE WILL REPEAT FOR EACH ADDITIONAL APPLICATION.**

Other Business:

Town staff will present and address any other business.

The next regularly scheduled meeting is June 17, 2021.

Motion to adjourn the meeting. Second the motion.

Chair states the meeting is adjourned.

TOWN OF AVON  
ZONING BOARD OF APPEALS  
THURSDAY, MAY 20, 2021, 7:00 P.M.

**Virtual Public Hearing  
VIA GOTOMEETING**

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or dial by phone, United States: +1 (224) 501-3412, Access Code: 383-026-981#**

**(scroll downward to see application materials)**

Items contained in the agenda packets sent to the Board via electronic submission, and posted on the Town's website [avonct.gov](http://avonct.gov), Boards & Committees, Zoning Board of Appeals:

Application of Stephen J. and Cheryl A. McGuff, owners/applicants; requesting from Avon Zoning Regulations, Section IV. A. 6., a 20-foot variance to the 25-foot westerly side yard setback for a detached two-car garage, located at 146 Old Mill Road in an R-40 zone.

- Town of Avon ZBA application (one page) and applicant/owner application narrative.
- Applicant's survey map, dated November 1991, with Town staff notation.
- Enlarged section of survey map, dated November 1991, showing proposed location of structure with distance details notated by Town staff.
- Photograph of example for proposed garage style.
- Town of Avon Assessor's property card showing number of actual bedrooms at subject property with Town staff notation of garage bays allowed by zoning regulation.
- TOA GIS map of 146 Old Mill Road and wetlands proximity of abutting lot.
- Town of Avon list of abutting property owners who received notice of ZBA public hearing, mailed 5/6/2021, and corresponding locations on TOA GIS map.
- Photographs of subject property taken by Town staff.
- Neighborhood communications, if received by Town of Avon.

A full hardcopy set of the application, with supplemental administrative information, is on file and will be retained in the Department of Planning and Community Development.

RECEIVED

TO THE ZONING BOARD OF APPEALS  
Avon, Connecticut

APR 14 2021

APPLICATION FEE \$160

Planning Department  
Town of Avon

PLEASE PRINT LEGIBLY

Date APRIL 9, 2021

OWNER STEPHEN MCGUFF  
CHERYL MCGUFF

Address 146 OLD MILL RD

APPLICANT STEPHEN MCGUFF

Address AVON, CT. 06001

TELEPHONE NO 860-539-0488

Daytime Phone No 860-539-0488

Email: SMCGUFF@GMAIL.COM

LOCATION OF AFFECTED PREMISES

ON THE SOUTH SIDE OF STREET IN AN R40 ZONE

ASSESSOR'S MAP NO. PARCEL ID. VOLUME PAGE  
3380146

Previous appeals have been made with respect to these premises as follows: Date:

This APPEAL ( ) Use ( ) Area ( ) Yards ( ) Lot Width ( ) Signs  
relates to: ( ☒ ) Building Lines ( ) Lot Area ( ) Other

1. SPECIFIC DESCRIPTION OF VARIANCE REQUEST - (MUST BE SHOWN ON PLOT PLAN)  
2 CAR GARAGE INSIDE WEST SIDE SET-BACK TO 5'-0" OF PROPERTY  
LINE 20-foot var. to 25-foot side yard
2. VARIANCE of the following section(s) of the Zoning Regulations is/are requested) IV-A.6 2M-

- (a) Why will strict application of the regulations produce UNDUE HARDSHIP?  
MAJORITY OF PROPERTY (EAST SIDE) IS WETLANDS & CONSERVATION  
EASEMENT. THIS LOCATION IS ONLY PLACE ON PROPERTY THAT STRUCTURE  
WILL FIT AND STILL PROVIDE 16' ACCESS TO BACK OF PROPERTY.
- b) Why is this hardship UNIQUE to these premises and not shared by other premises in the  
neighborhood?  
CONSERVATION EASEMENT & WETLANDS ON THIS PROPERTY
- c) This variance would not change the CHARACTER OF THE NEIGHBORHOOD because:  
STRUCTURE IS DESIGNED TO MATCH DETAILS OF HOUSE (SIDING,  
TRIM, DOOR, ROOF LINES) & IS SET BACK OFF ROAD

3. I HEREBY APPEAL from the decision of the Building Inspector for (denying/issuing) permit.
4. The undersigned warrants the truth of all statements contained herein and in all supporting documents to the best of his knowledge and belief. Furthermore, the applicant agrees that submission of this application constitutes permission for and consent to Board and Town Staff inspections of the site of proposed activity.

Signatures

Stephen McGuff

Cheryl McGuff

Owners

Cheryl McGuff

Cheryl McGuff

Applicants

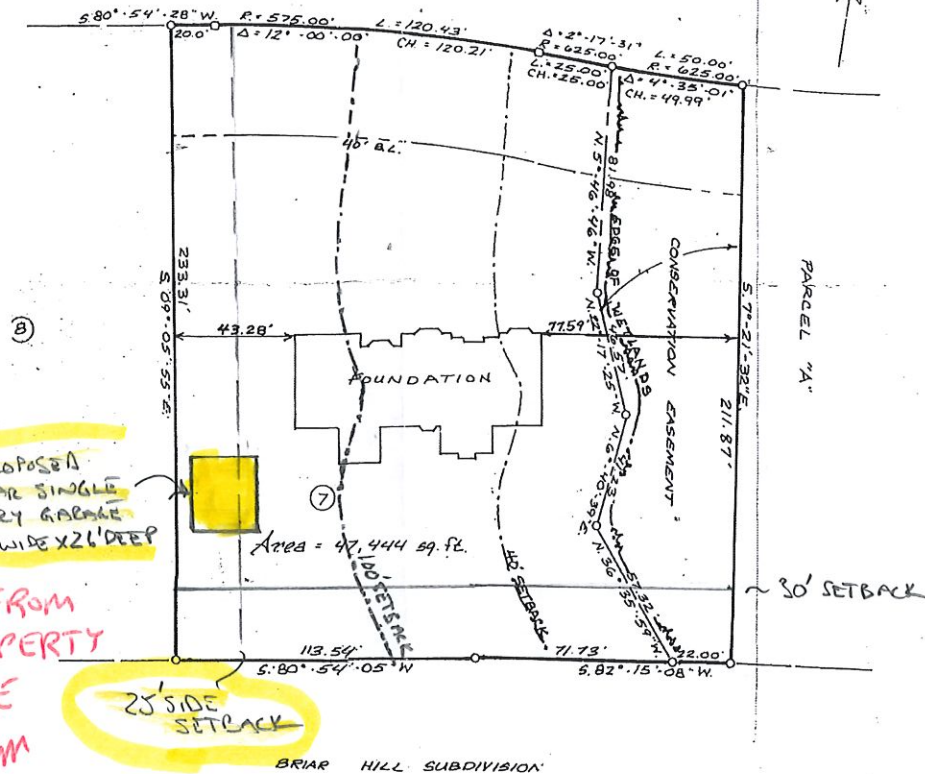
Stephen McGuff

Stephen McGuff



#146

Old Mill Road



NOTE:  
FOR REFERENCE SEE MAP ENTITLED,  
"PLAN OF SUBDIVISION, AVONRIDGE AT OLD  
MILL", TO BE DEVELOPED BY AVONRIDGE,  
INC., OLD MILL ROAD, FOXHOLLOW ROAD, &  
STAGEDACH ROAD, AVON, CONNECTICUT.  
SCALE 1" = 40', MARCH 1986, EDWARD F.  
REUBER, SURVEYOR, HODGE SURVEYING  
ASSOCIATES, P.C.

NOTE:  
FOUNDATION LOCATED AS SHOWN ON  
NOVEMBER 7, 1991. LOCATION DOES  
NOT VIOLATE THE ZONING ORDINANCE  
OF THE TOWN OF AVON.

NOTE:  
WETLANDS COMMISSION APPROVAL GRANTED  
MARCH 19, 1991. APPROVAL PER FOOTPRINT  
CHANGE ISSUED OCTOBER 18, 1991.  
IWC APPLICATION # 312.

MAP OF LOT NO. 7  
OWNED BY

**Avonridge, Inc.**

OLD MILL ROAD AVON, CONNECTICUT

Scale 1" = 40' November 1991

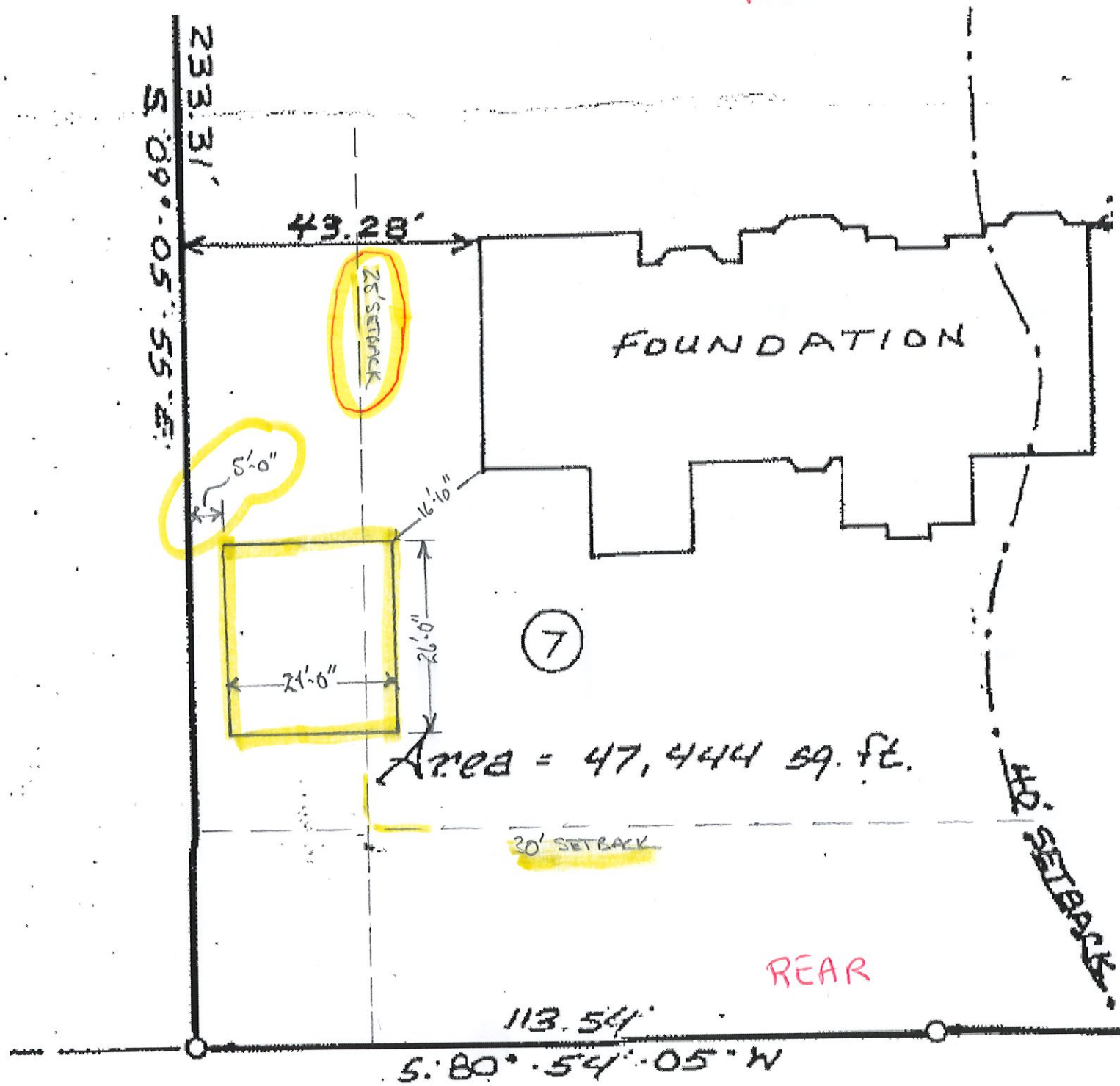
Certified Substantially Correct in  
Accordance With Class A-2 OF THE CODE  
OF Recommended Practice For Accuracy  
Of Surveys And Maps.

*Erin C. Riehl* Surveyor  
Hodge Surveying Associates, P.C.

3380146-AB JOB NO. 85-47 DRN

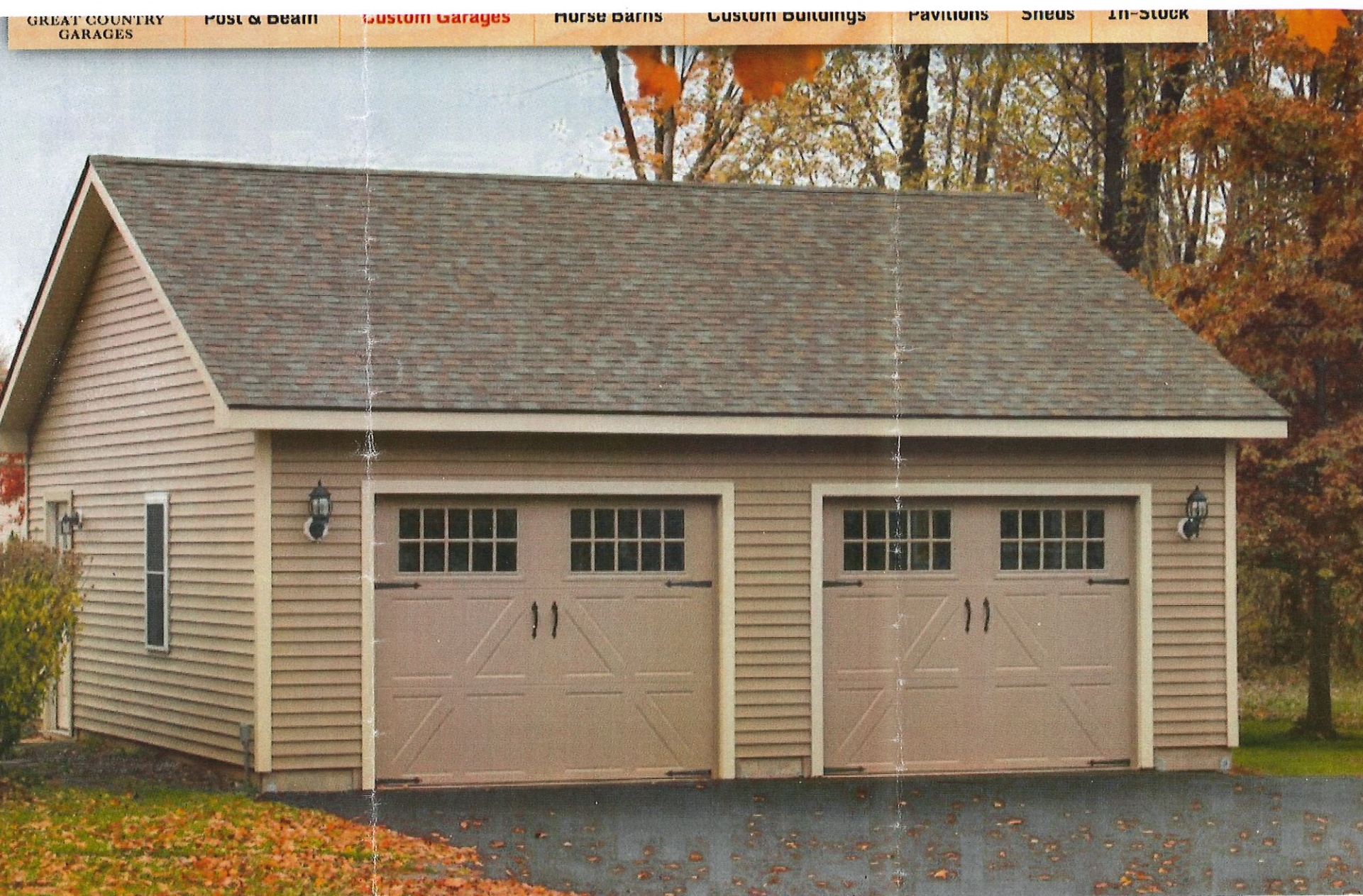
(146) ~~106~~ OLD MILL ROAD

FRONT





EXAMPLE OF STYLE OF  
PROPOSED GARAGE



RE: 146 ~~146~~ OLD MILL ROAD



Card 01 of 01 card

Town of Avon Residential Property Card

Property at 00146 OLD MILL ROAD

Prop ID 3380146

Printed 10-Jul-2019 12:39 PM Design and Layout (C) Right/Angles

Administrative Information

Owner name: MCGUFF STEPHEN J &  
Second name: CHERYL A  
Address: 146 OLD MILL RD  
City/state: AVON CT  
Zip: 06001

Location Information

Map: 018  
Lot: 3380146  
Clerk map:  
Neigh.: AR  
Zone: R40  
Vol: 286  
Page: 300

Assessments

Assmt category	Qty	Amount	Exempt	Cat	Amount
Resident Land	.92	94,500			
Resident Excess	.17	890			
Resident Dwelling	1.00	289,870			
Resident Outbldg	1.00	560			

Sale date: 05-Nov-1993  
Sale price: 501,280  
Sale valid:  
Values  
Mkt value :  
Cost value: 551,171

Summary

Total assessments	385,820	Water	Avon	Cost/sale : 1.0995
Total exemptions		Sewer	Public sewer	Mkt/sale :
Net assessment	385,820	Gas	None	Assmt/sale: .7697

Building Valuation Summary

		Area	
Dwelling	Frame	1 1/2 story w/bsmt	2,092
Basement	Full with walk		305,850
Heating	Yes	A/C Yes	9,270
Plumbing	4 F/B	3 H/B 3 Add'l fix. 1 Wh/p	22,000
Attic	None	Attic size:	
Other Features	WB Stks		77,573
Sub-Total			23,514
Grade	B+	Factor 1.3500	438,207
CDU		C&D Factor 1.00	591,579
Depreciation		30 %	591,579
		Computed cost value @ 70%	414,105
			289,874

Building additions

Category	Type	Area	Value
L Living Area	FRFF Frame first floor	28	2,374
L Living Area	BSMT Basement addition	28	382
L Living Area	FRFF Frame first floor	28	2,374
L Living Area	BSMT Basement addition	28	382
L Living Area	FRFF Frame first floor	12	1,018
L Living Area	BSMT Basement addition	12	164
P Porches, Patios, Decks	POFF Frame open first flo	80	3,610
L Living Area	FRFF Frame first floor	180	15,264
L Living Area	BSMT Basement addition	180	2,457
L Living Area	AIR Air conditioning	180	405
G Garages	FRL Attached frame GT 65	728	24,160
L Living Area	FRFF Frame first floor	168	14,247
L Living Area	BSMT Basement addition	168	2,293
L Living Area	AIR Air conditioning	168	378
P Porches, Patios, Decks	TERR Terrace	274	8,065
Total additions			77,573

Outbuilding Information

Description	Wid	Len	Area	Rate	Year	Cnd	RCN	Depr	Value
RS1 Frame	8	10	80	20.00	1997	C	1,600	50	800
Utility Shed									
Value at 70%			560						800
Value at 100%									

Land Information

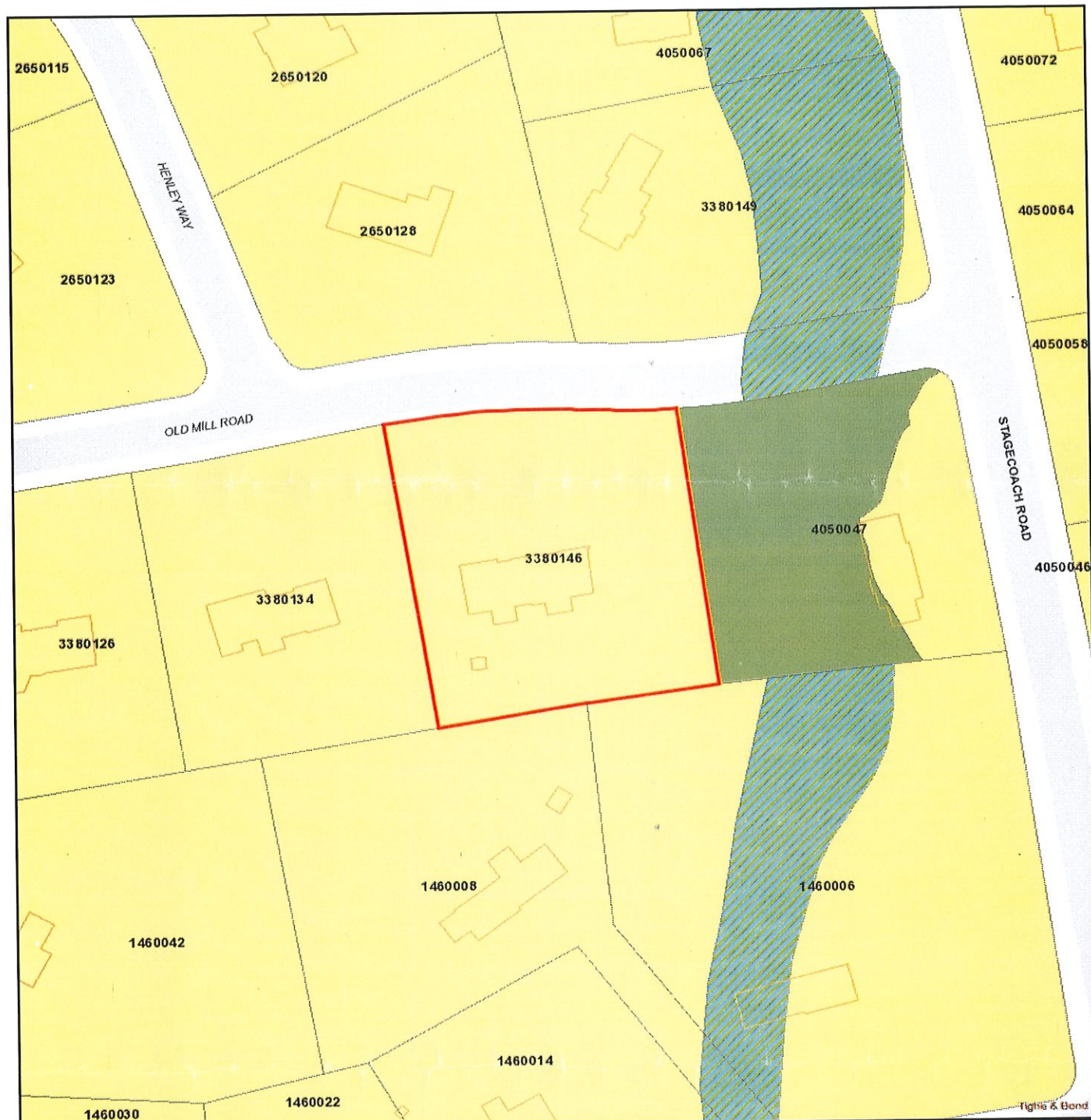
Type	Use	Acres/SqFt	Rate	Total	Infl	Fact	Value	70% Value
PRIM	11	.920	135,000	135,000			135,000	94,500
Primary Site	40,075							
RES	12	.170	7,500	1,275			1,275	893
Residual	7,405							
1.090 acres				Total land value			136,275	95,393

Residential Dwelling Information

Subject	Code	Description	Condominium
Style	02	Cape	
Exterior Walls	01	Clapboards	
Roof Material	01	Asphalt Shingles	
Roof Type	01	Gable	
Foundation	01	Poured Concrete	
Interior Walls	02	Drywall	
Floors	07	Hardwood/Carpet	
Heating System	02	Forced Hot Air	
Fuel	01	Oil	
Attic	99	None	
Grade	43	B+	
Garage	23	Attached 3 car	
Area Over Gar.	99	None	
Basement	04	Full with walk-o	
Basmt Fin Qual	04	Living Area w/o	
Air Condition	01	Central Air	
Interior Cond	05	Good	
Exterior Cond	05	Good	

Actual Year Built: 1992

\* 5 bays allowed



## 146 OLD MILL ROAD

4/5/2021 11:48:29

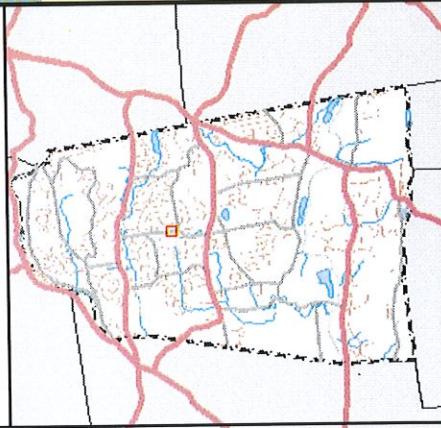
1"=100'

### Property Information

GISPin	3380146
Address	146 OLD MILL ROAD
Sale Price	501280



The information depicted on this map is for planning purposes only.  
It is not adequate for legal boundary definition, regulatory  
interpretation, or parcel-level analyses.



TOWN OF AVON ZBA

Variance Requested:

Application of Stephen J. and Cheryl A. McGuff, owners/applicants; requesting from Avon Zoning Regulations, Section IV, A. 6., a 20-foot variance to the 25-foot westerly side yard setback for a detached two-car garage, located at 146 Old Mill Road in an R-40 zone.

NOTICE TO ABUTTING PROPERTY OWNERS, MAILED MAY 6, 2021:

128 Henley Way

134 Old Mill Road

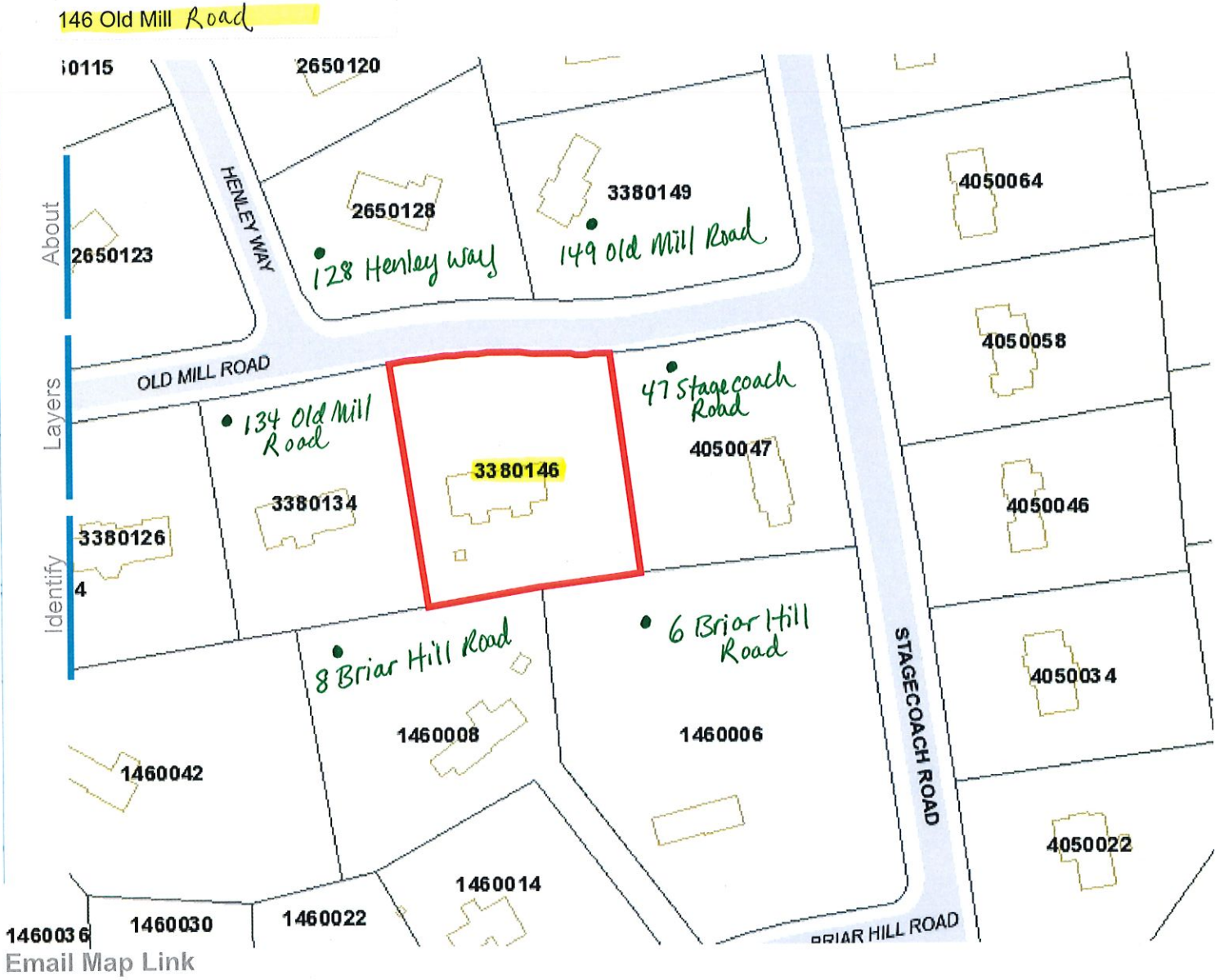
149 Old Mill Road

47 Stagecoach Road

6 Briar Hill Road

8 Briar Hill Road





Copy and paste the following string into an email to link to the current map view:

Print Map

• Abutting property owners who received Town of Avon ZBA public hearing notice.

Size:

Scale: 1" =  ft. Title:

Close

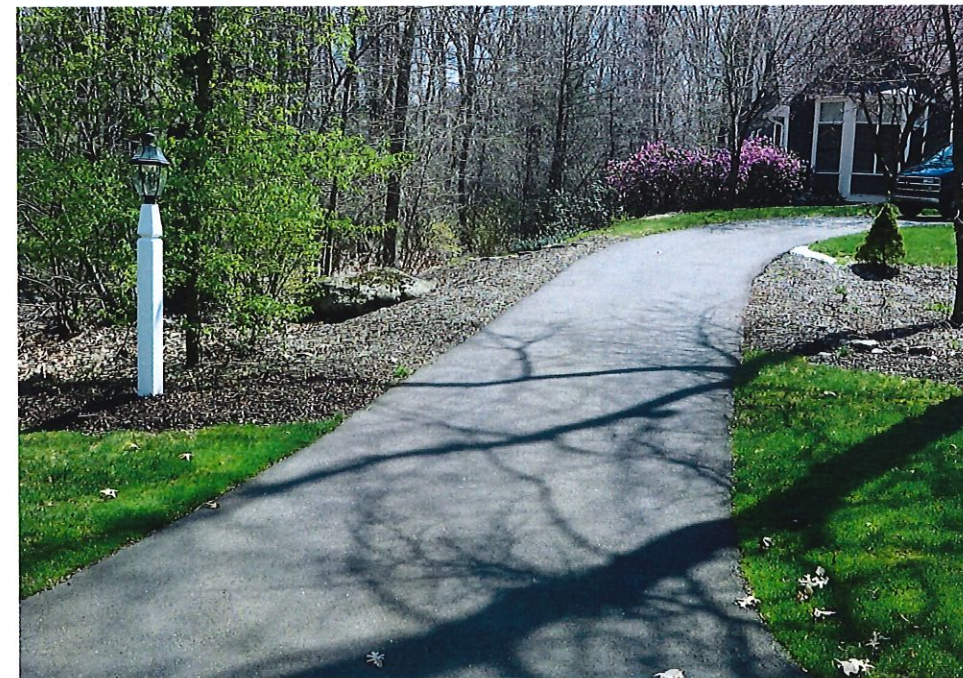
Print

40m

200ft

Close





4/20/21

146 OLD MILL ROAD Lem





4/20/21

146 OLD MILL ROAD JPMC



TOWN OF AVON  
ZONING BOARD OF APPEALS  
THURSDAY, MAY 20, 2021, 7:00 P.M.

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VIA GOTOMEETING**

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- Request of Gregg Fedus, Roegg, LLC, to TOA ZBA for postponement of public hearing to ZBA meeting May 20, 2021, received April 13, 2021.
- Town of Avon ZBA application (one page) dated 3/25/2021, and duplicate copy with Town staff notations.
- Email correspondence from applicant/owner Gregg Fedus, dated 3/29/2021.
- Town of Avon Assessor property card.
- CT State Concord business inquiry confirming entity Roegg, LLC.
- Town of Avon GIS aerial views of subject property.
- Town of Avon GIS base map and list of abutting properties which received ZBA public hearing notification via postal mail; mailed 5/6/2021.
- Multiple views of subject property; photographs taken by Town staff.
- Fedus Engineering, LLC Civil Engineers Elevations Plan, Floor Plans, and Site Plan for 22 Hillcrest Drive.
- Memorandum from John McCahill, dated April 8, 2021; 22 Hillcrest Drive Variance History; 22 Hillcrest Drive Lot History.
- Neighborhood communications received by Town of Avon.

A full hardcopy set of the application, with supplemental administrative information, is on file and will be retained in the Department of Planning and Community Development.

Susan Guimaraes

**From:** Gregg Fedus <gfredus@fedusengineering.com>  
**Sent:** Tuesday, April 13, 2021 4:51 PM  
**To:** John McCahill  
**Cc:** Hiram Peck; Susan Guimaraes; 'Edward M. Cassella'; 'Edward M. Cassella'; kolson@murthalaw.com; jszerejko@murthalaw.com  
**Subject:** [External] 22 Hillcrest Drive, Avon, CT  
**Categories:** Yellow Category, Red Category, Orange Category

Mr. McCahill:

We respectfully request that the zoning board of appeals application for the subject location scheduled for April 15, 2021 be tabled until the May 20, 2021 meeting date.

If you have any questions or require additional information please contact me at your convenience.

Thank you,

Gregg Fedus  
203-410-6097

-----Original Message-----

From: John McCahill [mailto:JMCCA Hill@avonct.gov]  
Sent: Tuesday, April 13, 2021 4:00 PM  
To: Gregg Fedus <gfredus@fedusengineering.com>  
Cc: Hiram Peck <hpeck@avonct.gov>; Susan Guimaraes <sguimaraes@avonct.gov>; 'Edward M. Cassella' <ecassella@saybrooklaw.com>; 'Edward M. Cassella' <ecassella@cclawos.com>; kolson@murthalaw.com; jszerejko@murthalaw.com  
Subject: RE: [External] 22 Hillcrest - ZBA denials May 16,2005, July 28, 2005 and April 27, 2006

Greeting Gregg,

As we just discussed, The Town Staff suggests that you have your Attorney contact the Town's Attorney, Kari Olson (info. below) to discuss the pending ZBA application.

If you do decide to table this application to the May 20, 2021 meeting, please confirm this in writing.

Thanks,  
John McC

KARI L. OLSON | PARTNER  
Direct: 860-240-6085 | Fax: 860-240-5885 | Mobile: 860-808-8267 | kolson@murthalaw.com  
| MURTHACULLINA  
Murtha Cullina LLP | Attorneys at Law |



TO THE ZONING BOARD OF APPEALS  
Avon, Connecticut

PLEASE PRINT LEGIBLY

APPLICATION FEE \$160

Date 3/25/2021

OWNER ROEGG, LLC

Address P.O. Box 1592

APPLICANT ROEGG, LLC

Address FARMINGTON, CT 06034

TELEPHONE NO (203) 410-6097

Daytime Phone No (860) 536-7390

Email: gfredus@fredusengineering.com

LOCATION OF AFFECTED PREMISES  
ON THE West 22 HILLCREST DRIVE SIDE OF STREET IN AN R-15 ZONE

ASSESSOR'S MAP NO. PARCEL ID. 274002 VOLUME 745 PAGE 1240

Previous appeals have been made with respect to these premises as follows: Date: 5/26/2005, 7/28/2005, 4/27/2006

This APPEAL ( ) Use ( ) Area (X) Yard ( ) Lot Width ( ) Signs  
relates to: ( ) Building Lines ( ) Lot Area (X) Other COVERAGE

1. SPECIFIC DESCRIPTION OF VARIANCE REQUEST - (MUST BE SHOWN ON PLOT PLAN)

BOTH STREETS CORNER LOT → IV.A.6 MINIMUM LOT COVERAGE - REQUIRED 15% - PROPOSED 15.4%  
IV.A.6 MINIMUM FRONT YARD (LOCAL STREETS) - REQUIRED 40' - PROPOSED 16.7'

2. VARIANCE of the following section(s) of the Zoning Regulations is/are requested

IV.A.6 MINIMUM LOT COVERAGE, IV.A.6 MINIMUM FRONT YARD 28.5' OF

(a) Why will strict application of the regulations produce UNDUE HARDSHIP?

The building envelope is a triangle with legs measuring 6.5' & 27.5'.  
The existing nonconforming lot size is 5184 SF which allows 777.6 SF of lot coverage.

b) Why is this hardship UNIQUE to these premises and not shared by other premises in the neighborhood? SMALL UNDERSIZED LOT LOCATED ON A CORNER

CORNER OF PROPERTY AT INTERSECTION IS WITHIN R.O.W. BUILDING ENVELOPE IS NON-EXISTANT.

c) This variance would not change the CHARACTER OF THE NEIGHBORHOOD because: THE HOUSE IS MODEST IN SIZE, WELL WITHIN THE HEIGHT REQUIREMENT AND SIMILAR IN LOCATION TO ROAD AS OTHER HOMES.

3. I HEREBY APPEAL from the decision of the Building Inspector for (denying/issuing) permit.

4. The undersigned warrants the truth of all statements contained herein and in all supporting documents to the best of his knowledge and belief. Furthermore, the applicant agrees that submission of this application constitutes permission for and consent to Board and Town Staff inspections of the site of proposed activity.

Signatures

Owners

Applicants

RECEIVED

Gregg Fedus, Member

Gregg Fedus, Member

MAR 25 2021

[Signature]

[Signature]

3/30/21

SEE EOLTS  
NEXT PAGE

JM



TO THE ZONING BOARD OF APPEALS  
Avon, Connecticut

PLEASE PRINT LEGIBLY

APPLICATION FEE \$160

Date 3/25/2021

OWNER ROEGG, LLC

Address P.O. Box 1592

APPLICANT ROEGG, LLC

Address FARMINGTON, CT 06034

TELEPHONE NO (203) 410-6097

Daytime Phone No (860) 536-7390

Email: gfredus@fredusengineering.com

LOCATION OF AFFECTED PREMISES

ON THE West SIDE OF STREET IN AN R-15 ZONE

ASSESSOR'S MAP NO. PARCEL ID. 2740027 VOLUME 745 PAGE 1240

Previous appeals have been made with respect to these premises as follows: Date: 5/26/2005, 7/28/2005, 4/27/2006

This APPEAL ( ) Use ( ) Area (X) Yard ( ) Lot Width ( ) Signs  
relates to: ( ) Building Lines ( ) Lot Area (X) Other

COVERAGE 1% lot cov.

1. SPECIFIC DESCRIPTION OF VARIANCE REQUEST - (MUST BE SHOWN ON PLOT PLAN)

BOTH STREETS CORNER LOT - V.A.6 MINIMUM LOT COVERAGE - REQUIRED 15% - PROPOSED 15.4%  
V.A.6 MINIMUM FRONT YARD (LOCAL STREETS) - REQUIRED 40' - PROPOSED 16.7'

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Signatures

Owners

Gregg Fedus, Member

Applicants

Gregg Fedus, Member

\* 1% VAR. FOR LOT COVERAGE \* HILLCREST FRONTAGE \* MOUNTAIN LODGE FRONTAGE  
16.7' proposed vs. 40' req. 28.5' proposed vs. 40' req.  
= 24' VAR. = 12' VAR. \*

John McCahill

---

**From:** Gregg Fedus <gfedus@fedusengineering.com>  
**Sent:** Monday, March 29, 2021 3:34 PM  
**To:** John McCahill  
**Cc:** Linda Sadlon; Susan Guimaraes; 'Edward M. Cassella'; 'Edward M. Cassella'  
**Subject:** RE: [External] 22 Hillcrest - ZBA denials May 16,2005, July 28, 2005 and April 27, 2006  
**Attachments:** 20-000919 - Avon - 22 Hillcrest Drive - ROEGG, LLC - Site Plan -Site Plan.pdf; 20-000919 - Avon - 22 Hillcrest Drive - ROEGG, LLC - House Plans.pdf; Variance Application 22 Hillcrest Avon - 2021 03-25 signed.pdf  
  
**Follow Up Flag:** Flag for follow up  
**Flag Status:** Completed

Mr. McCahill:

Please see attached application, site plan, and architectural plans as requested. Also, the three variances we are asking for are as follows:

1. Front Yard - Hillcrest Drive - 16.7' where 40' is required - variance of 23.3'
2. Front Yard - Mountain Ledge Road - 28.5' where 40' is required - variance of 11.5' - THIS IS A JUDGEMENT CALL BUT IT LOOKS LIKE IN THE PAST THREE APPLICATIONS THIS IS HOW THE REGULATIONS WERE INTERPRETED. THEREFORE WE ARE ASKING FOR IT.
3. Building Coverage - 15.4% where 15% is required - variance of 0.4%

I have copied our Attorney - Ed Cassella on this e-mail.

Also, please provide us with a draft notice of public hearing for review prior to publishing.

Thank you,

Gregg Fedus  
203-410-6097

-----Original Message-----

From: John McCahill [mailto:JMCCAHILL@avonct.gov]  
Sent: Thursday, March 25, 2021 4:36 PM  
To: gfedus@fedusengineering.com  
Cc: Linda Sadlon <LSADLON@avonct.gov>; Susan Guimaraes <sguimaraes@avonct.gov>  
Subject: RE: 22 Hillcrest - ZBA denials May 16,2005, July 28, 2005 and April 27, 2006

Greg,

Property at 00022 HILLCREST DRIVE Prop ID 2740022

+-----Administrative Information-----+									
Owner name: ROEGG LLC									
Second name:									
Address: PO BOX 1592									
City/state: FARMINGTON CT Zip: 06034									
+-----Location Information-----+									
Map: 037 Clerk map:									
Lot: 2740022 Neigh.: SL Zone: R15 Vol: 745 Page: 1240									
+-----Assessments-----Exemptions-----Last sale-----+									
Assmt category Qty Amount Exempt Cat Amount Sale date: 14-Sep-2020									
Resident Land .12 5,600 Sale price: 10,000									
Sale valid:									
+-----Values-----+									
Mkt value :									
Cost value: 8,000									
+-----Summary-----Utilities-----Sales ratios-----+									
Total assessments 5,600 Water None Cost/sale : .8000									
Total exemptions Sewer None Mkt/sale :									
Net assessment 5,600 Gas None Assmt/sale: .5600									
+-----+									

Card 01 [Street Card](#) [Sales History](#) [Home Page](#)



Property at 00022 HILLCREST DRIVE Prop ID 2740022

+-----Sales History-----+					
Owner	Vol	Page	Date	SalesPr	Valid
ROEGG LLC	745	1240	14-Sep-2020	10,000	
MICHAUD DENNIS L	506	1022	03-Sep-2004		
CLEARY NANCY	055	401	01-Dec-1966		
WILLARD OLIVE T EST OF	055	401	01-Dec-1966		
WILLARD OLIVE T	055	0401	01-Dec-1966		
+-----+					

Card 01 [General](#) [Home Page](#)

Business Inquiry

Business Name:

ROEGG, LLC

Business ID:

1197311

Business Address:

70 ESSEX STREET, UNIT 2C, MYSTIC, CT, 06355, USA

Mailing Address:

35 COPPERMINE RD, FARMINGTON, CT, 06032, USA

Date Inc/Registration:

Feb 10, 2016

Annual Report Due Date:

03/31/2022

NAICS Code:

Real Estate and Rental and Leasing (53 )

Citizenship/State Inc:

Domestic/CT

Last Report Filed Year:

2021

Business Type:

Domestic Limited Liability Company

Business Status:

Active

NAICS Sub Code:

Lessors of Residential Buildings and Dwellings (531110 )

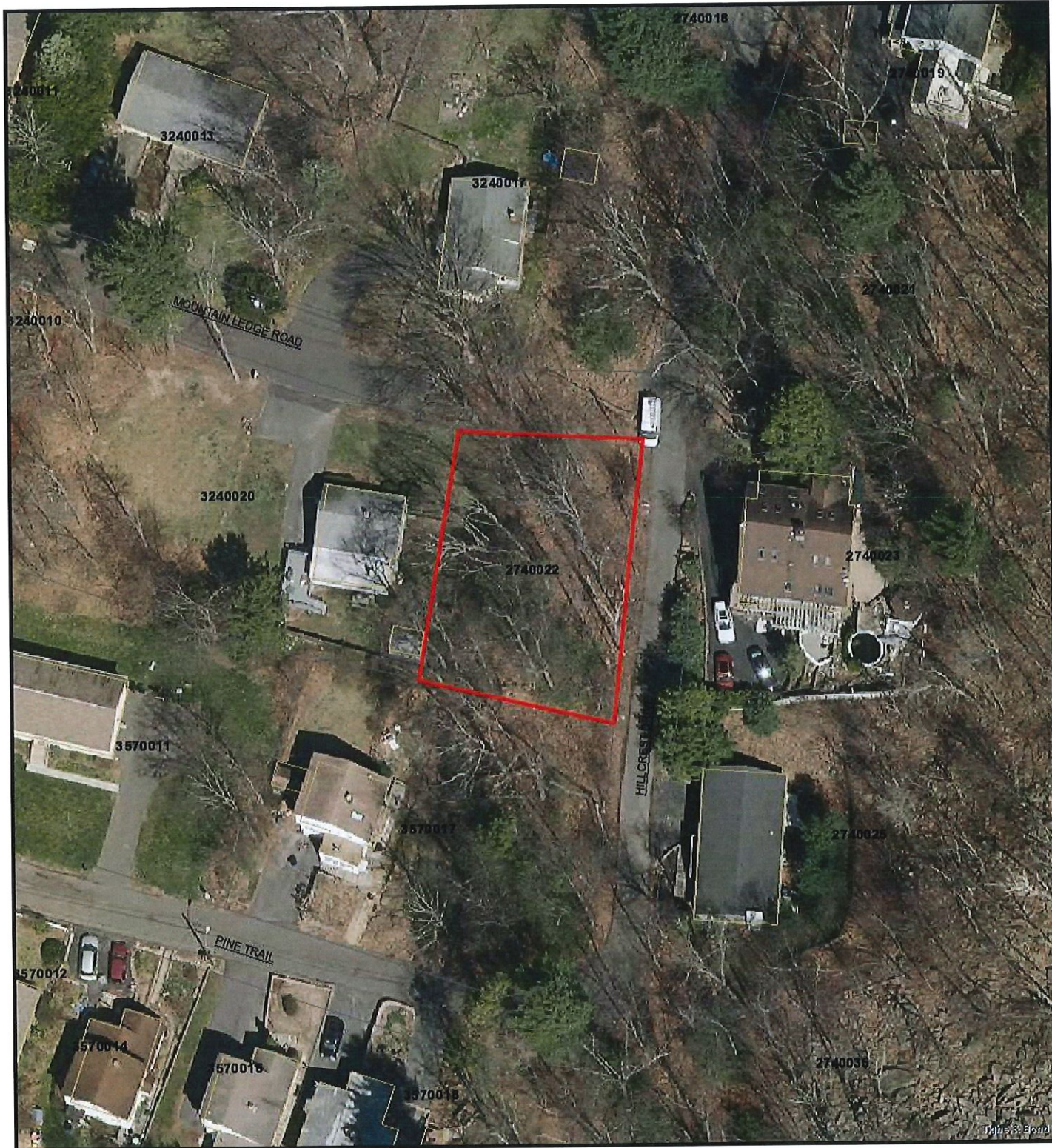
Principals Details

Name/Title	Business Address	Residence Address
GREGG FEDUS MEMBER	70 ESSEX STREET, UNIT 2C, MYSTIC, CT, 06355	38 BEACH ROAD, GROTON, CT, 06340
ROBERT COSENTINO, JR. MEMBER	70 ESSEX STREET, UNIT 2C, MYSTIC, CT, 06355, USA	6 COUNTRY CLUB DRIVE, FARMINGTON, CT, 06032, USA
DAVID C LEONARD MEMBER	35 COPPERMINE RD, FARMINGTON, CT, 06032, USA	35 COPPERMINE RD, FARMINGTON, CT, 06032, USA

Agent Summary

Agent Name PATRICK E SCULLY	
Agent Business Address 79 MAIN STREET, UNIONVILLE, CT, 06085, USA	
Agent Residence Address 11 MICHAEL DRIVE, FARMINGTON, CT, 06032, USA	
Agent Mailing Address 79 MAIN STREET, UNIONVILLE, CT, 06085, USA	





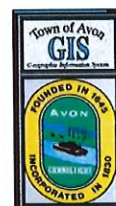
## 22 Hillcrest Drive

3/31/2021 8:57:03 AM

Scale: 1"=50'

Scale is approximate

The information depicted on this map is for planning purposes only.  
It is not adequate for legal boundary definition, regulatory  
interpretation, or parcel-level analyses.





TOWN OF AVON ZBA

Variance Requested:

Application of Gregg Fedus; Roegg, LLC, owner/applicant; requesting from Avon Zoning Regulations, Section IV. A. 6., a variance to allow 16% lot coverage (15% permitted); a 24-foot variance from the required 40-foot front yard setback along the Hillcrest Drive frontage; and a 12-foot variance from the required 40-foot front yard setback at the Mountain Ledge frontage (corner lot/road extension not constructed), located at 22 Hillcrest Drive in an R-15 zone.

NOTICE OF PUBLIC HEARING TO ABUTTING PROPERTY OWNERS, MAILED MAY 6, 2021:

21 Hillcrest Drive: mailed to 23 Hillcrest Drive, Avon, CT 06001

23 Hillcrest Drive, Avon, CT 06001

25 Hillcrest Drive, Avon, CT 06001

17 Mountain Ledge Road, Avon, CT 06001

20 Mountain Ledge Road, Avon, CT 06001

17 Pine Trail, Avon, CT 06001



Email Map Link

• Town of Avon notice of public hearing to abutting property owners.  
Copy and paste the following string into an email to link to the current map view:

Print Map

Size: ▼  
Scale: 1" =  ft. Title:

-->





Lot 2

3/30/21 JLM

22 HILLCREST DRIVE





3/22/21 JMC

22 HILLCREST DRIVE





3/30/21 JMK

22 HILLCREST DRIVE

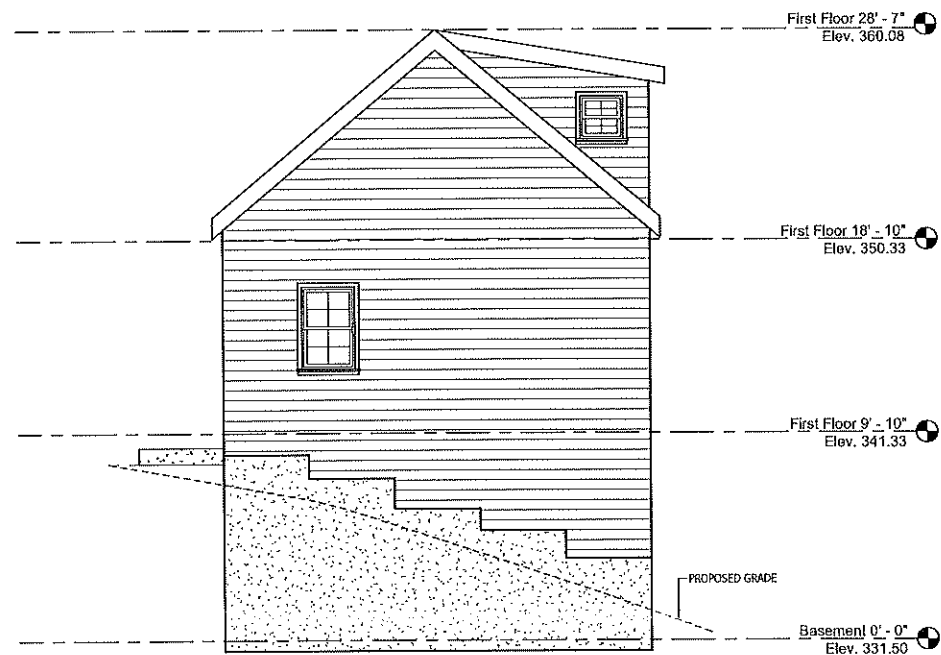




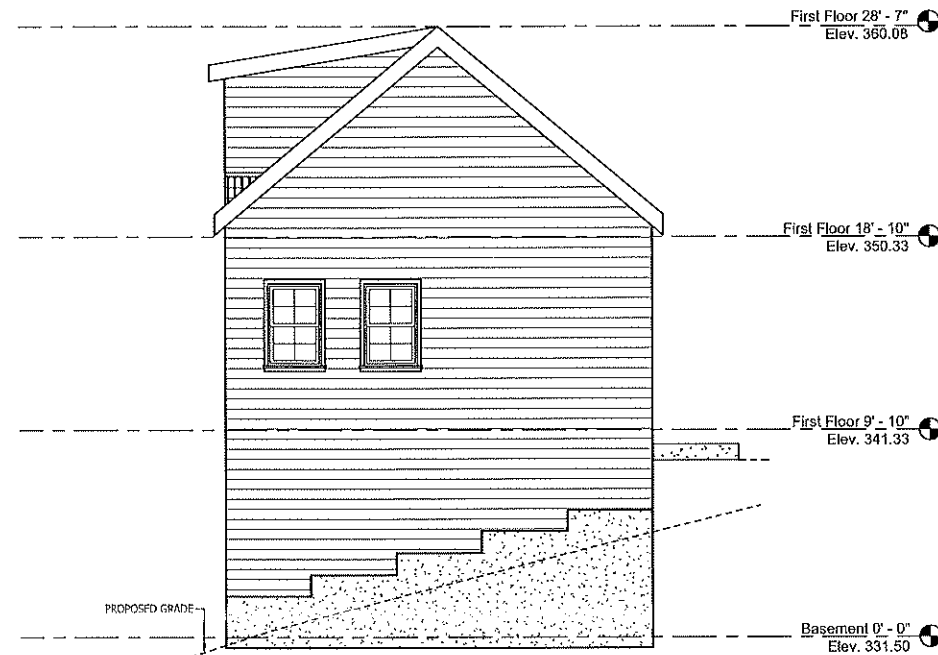
Southeast Elevation



Northwest Elevation



Northeast Elevation



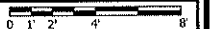
Southwest Elevation

**Subject Parcel Information**  
 OWNER: ROEGG, LLC  
 PARCEL ADDRESS: 22 HILLCREST DRIVE  
 MAILING ADDRESS: 70 ESSEX STREET, UNIT 2C, MYSTIC, CT 06355  
 MBL: 371-72740022  
 DEED: VOLUME 745 PAGE 1240  
 AREA: 5,184 SF = 0.12 AC  
 FLOOD ZONE: ZONE X PER FIRM MAP # 09003C0309F  
 EFFECTIVE DATE: 9/26/2008

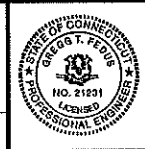
NO.	DATE	REVISIONS

**Elevations**  
 of  
 22 Hillcrest Drive  
 Avon, Connecticut  
 Prepared For:  
 ROEGG, LLC  
 October 5, 2020

DRAWING SCALE: 1/4"=1'



*Gregg T. Fedus*  
 Gregg T. Fedus P.E.  
 CT. License No. 21231



**FEDUS ENGINEERING, LLC**  
 CIVIL ENGINEERS  
 Mailing Address: 70 Essex Street Mystic, Connecticut 06355  
 Office: (860) 536-7390 Fax: (860) 536-1644

SHEET NO. 2 OF 2 JOB NO. 20-000919 DRAWN BY: SPH








## MEMORANDUM

TO: Zoning Board of Appeals (via email)

FROM: John E. McCahill, Planning and Community Development Specialist 

DATE: April 8, 2021

SUBJECT: Application of Gregg Fedus, Roegg, LLC, owner/applicant; requesting from Avon Zoning Regulations, Section IV. A. 6., a variance to allow 16% lot coverage (15% permitted); a 24-foot variance from the required 40-foot front yard setback along the Hillcrest Drive frontage; and a 12-foot variance from the required 40-foot front yard setback at the Mountain Ledge frontage (corner lot/road extension not constructed), located at 22 Hillcrest Drive in an R-15 zone.

The applicant is requesting variances to allow the development of a vacant lot at 22 Hillcrest Drive.

Attached is the following additional information provided by Town staff that may be necessary in the consideration of this application:

1. 22 Hillcrest Drive Variance History
2. 22 Hillcrest Drive Lot History

As Town staff may need to refer to these documents, they are being provided to you in advance. They will also be available as electronic files that can be available and referenced the night of the public hearing (4/15/2021).

copy: Hiram Peck, Director of Planning and Community Development, via email  
Gregg Fedus, owner/applicant at 22 Hillcrest Drive, via email  
Kari Olson, Town Attorney, via email



22 HILLCREST DRIVE – Variance History

- April 27, 2006 denial
- July 28, 2005 denial
- May 26, 2005 denial



TOWN  
OF  
AVON

60 West Main St. Avon, CT 06001-3743  
www.town.avon.ct.us

POLICE, FIRE & MEDICAL  
EMERGENCY - 911

TOWN MANAGER'S OFFICE  
Tel. (860) 409-4360  
Fax (860) 409-4368

ACCOUNTING  
Tel. (860) 409-4339  
Fax (860) 409-4366

ASSESSOR'S OFFICE  
Tel. (860) 409-4335  
Fax (860) 409-4366

BUILDING DEPARTMENT  
Tel. (860) 409-4316  
Fax (860) 409-4321

COLLECTOR OF REVENUE  
Tel. (860) 409-4306  
Fax (860) 677-8428

ENGINEERING DEPARTMENT  
Tel. (860) 409-4322  
Fax (860) 409-4364

FINANCE DEPARTMENT  
Tel. (860) 409-4339  
Fax (860) 409-4366

FIRE MARSHAL  
Tel. (860) 409-4319  
Fax (860) 409-4321

HUMAN RESOURCES  
Tel. (860) 409-4303  
Fax (860) 409-4368

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Kleberry Hill Rd.  
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673-9712  
675-6364

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409-4364

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also it for it  
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409-4348  
409-4368

WORKS  
Road  
673-6151  
673-0338

ATION AND PARKS  
409-4332  
409-4366  
409-4365

AR OF VOTERS  
Tel. (860) 409-4350  
Fax (860) 409-4368

SOCIAL SERVICES  
Tel. (860) 409-4346  
Fax (860) 409-4366

TOWN CLERK  
Tel. (860) 409-4310  
Fax (860) 677-8428

TDD HEARING IMPAIRED  
Tel (860) 409-4361

April 28, 2006

Mr. Dennis Michaud  
48 Davis Road  
Burlington, CT 06013

CERTIFIED MAIL 7004 2890 0001 3323 5021

Dear Mr. Michaud:

At a meeting following the Public Hearing on Thursday, April 27, 2006,  
the Zoning Board of Appeals of the Town of Avon voted as follows:

Application of Dennis Michaud, owner/applicant; requesting from the  
Avon Zoning Regulations, Section IV.A.6., a 24' variance from Hillcrest  
Drive and a 14' variance from Mountain Ledge Road from the 40' front  
building line setback requirement, to permit a two story single family  
dwelling located at 22 Hillcrest Drive in an R-15 zone – DENIED.

Very truly yours,

Shirley C. Kucia, Clerk  
Zoning Board of Appeals





PROPOSED  
WELL

NOTE: ALL DOWNSPOUTS TO BE CONNECTED  
INTO AN UNDERGROUND PIPE SYSTEM THAT  
WILL DISCHARGE STORMWATER TO A SUBSURFACE  
DISPOSAL SYSTEM.

EXCAVATE PIT TO CONTAIN WELL TAILINGS.  
INSTALL HAY BALES

REVISIONS

- 4. APRIL 21, 2006: ADD PROPOSED BUFFER TREES ALONG REAR PROPERTY LINE.
- 3. MARCH 20, 2006: ELIMINATE GRAVEL PATH & RETAINING WALLS, MISC. REVISIONS.
- 2. FEBRUARY 27, 2006: MISC. REVISIONS FOR ZBA RE-APPLICATION.
- 1. JUNE 30, 2005: REDUCE SIZE OF HOUSE FOOTPRINT & MISC. REV. FOR ZBA RE-APPLICATION.

SITE PLAN

FOR:

MR. DENNIS MICHAUD

#22 HILLCREST DRIVE  
AVON, CONNECTICUT

DAVID F. WHITNEY  
CONSULTING ENGINEERS, LLC

21 ARCH ROAD  
P.O. BOX 1605  
AVON, CONNECTICUT 06001  
(860) 673-8412

DATE:  
MAY 20, 2005

SCALE:  
1'=10'

DRAWN BY:  
BJL

CHECKED BY:  
DFW

SHEET NO.  
1 OF 1

PROJECT NO.  
05-32



April 27 2006

218

Mr. Drew said the motion was made that the applicant has satisfied the provisions for appeal. Mr. Beizer seconded the motion for further discussion.

Ms. Coppola questioned if this board has the authority to decide a date as to when the 30 days start and just what we're voting on?

Mr. Drew replied we have in our file the letter dated February 1<sup>st</sup>. Due to the other circumstances that surround this dialogue, should that be effective for starting the period which the counsel says started the 64 days period.

Mr. Rossetti said we have a letter dated today from the town attorney that indicated that the board has the authority if it chooses to determine if it's timely.

Mr. Garfinkel commented said the issue goes back to at least September 1<sup>st</sup>, 2005. The owner of the property appears to have raised the issue of building on an unapproved lot. It's taken quite a period of time for this to get to the point of filling a request for a permit and it got rejected and as long as we keep on talking the clock is on hold. He has a problem with that. He feels the clock has been running all this time.

Mr. Drew said we are all aware there are many statutes that provide for absolute dates. It seem to me that if we get into a process of saying that an absolute date should not be applied in this circumstance, that it's a dangerous precedent.

The vote of the motion to grant was Mr. Rossetti and Mr. Beizer. Opposed were Mr. Drew, Mr. Garfinkel, Ms. Coppola. The motion was denied.

Mr. Drew said based on the fact that the applicant did not make the thirty day statue we will not hear the application tonight.

There was no one else present. The Public Hearing closed at 8:10 p.m.

Mr. Drew read the Application of Dennis Michaud, owner/applicant; requesting from the Avon Zoning Regulations, Section IV.A.6., a 24' variance from Hillcrest Drive and a 14' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a two story single family dwelling located at 22 Hillcrest Drive in an R-15 zone.

Mr. Christian Hoheb, 5 Brick Walk Lane, Farmington, Dennis Michaud and his family, David Whitney, Harry DerAsadourian, Avon Tax Collector were present.

Mr. Hoheb said this applicant has been before the board twice before resulting in denials. They have made significant improvements to this application. They are seeking only two variances. One is the result of being a corner lot. When you have two roads the setback from both roads is 40'. The setback to Mt. Ledge is

not as significant as the setback to Hillcrest. The improvements to this application include improvements to the drainage. Mr. Whitney has worked very hard with the town staff on this. There is additional screening to the neighbor and it's a more modest application. This is a classic hardship based on the size of the lot. He pointed out a tiny triangle on the map as the area where a house could be built without relief.

Mr. David Whitney, Professional Engineer in Avon. The land slopes down in a westerly direction from Hillcrest with an average grade of 27 per cent. It's presently a wooded lot. The area of the lot is 5,184 sq.ft. for 0.12 acres, a very small lot. Rain water goes down Hillcrest Drive and makes an 8' wide rip rap swale which goes to end of pavement on Mt. Ledge Road then to a set of catch basins. There is public sanitary sewer located in the rip rap swale with an existing Y installed for this existing property. The proposal is to construct one single family house, 20' wide by 39' long with a 1' jog. The total footprint is 767 sq.ft. which is 14.8% of the lot, R-15 zone maximum footprint is 15%. A previous application showed a house that was 28% larger and had requested a variance for the 15% coverage but the house has been reduced in size so that request is no longer necessary. The house will have two floors, total living area on first floor must be over 800 sq.ft. The proposed is 817 sq.ft. on first floor. They eliminated the garage on a previous application. They revised the house so they only need two variances. They comply with the 15' side yards. Drainage flows down Mt. Ledge Road, along Hillcrest to catch basins. The proposed house will have roof leaders and surface water leading to a subsurface system with five 4x4x4 galleys. The perk test showed the soil to be well drained. There will be an increase run off into the ground, not off site. There will be fill involved on site along Hillcrest Drive. They propose to install curbs along the site so water will flow along gutters. The water going into the system will decrease downhill water. The proposal was submitted to the town engineer.

Mr. Belzer questioned if the drainage had been approved by the Secret Lake Association as per the direction from the engineering department? Mr. Whitney said he doesn't know if they've taken a formal vote to approve it. There is a letter in the file from the Secret Lake Assoc.

Mr. Drew read the letter from the Secret Lake Assoc. They represent all residents of Secret Lake and will not take a position in favor or in opposition to this application. The assoc relies on the town departments to enforce all safety and health regulations such as streets and drainage. The concerns are Hillcrest Drive is extremely narrow, curb cut for driveway, construction of retaining wall, drainage, infiltration boxes buried sufficient depth, soil erosion along steep southerly side of property, sewer line installation after three days of dry weather.

Mr. Whitney said, 1. making Hillcrest one way traffic makes sense. The board is requesting to eliminate one of the driveway curb cuts. He will have a further discussion with SLA. He thought it was a good solution as the road is narrow,



you could drive in and drive out. That is not a ZBA issue. 2. The previous plan did show a very steep retaining wall in the front. That wall has been eliminated so that is not an issue. 3. The galley system should be buried to a significant depth so they concur. 4. Prior to any building permit being issued there has to be a soil erosion plan. Some sites in town have more stricter requirements which require more inspections and he suspects this will one of those lots. 5. Sewer connection during 3 days of dry weather is also acceptable.

Mr. Hoheb presented a scale model of the house showing the slope of the lot with the proposed shrubs.

Mr. Beizer asked if there were other comparable parcels of undeveloped land in Secret Lake area that have characteristics similar to this parcel? How much opportunity is there in the future for other property owners with undeveloped lots to come in with similar situations? He then asked if he could relate the size of this building to existing houses in the neighborhood.

Mr. Whitney replied he has not done a study on that. He showed a town assessors map with a lot across the street, 21 Hillcrest. These lots, while they appear to be larger in size, are actually quite steep in the back and that's the reason both houses across the street from the applicant were built closer to the road so he would suggest this lot has an identical situation. He thinks there are similar lots in the area. This house would be equal in size to some of the houses in the area and smaller than others. After the rains this weekend there was no sign of intermittent water courses or any formal channels coming down. The majority of the water came down the gutter of the road. As he drove around the entire neighborhood he observed all the roads are in relatively poor shape with many issues all around the neighborhood. Again the retaining wall is not part of the new application. The previous application had a garage underneath but that was eliminated too.

Harry DerAsadourian, Assessor for the Town of Avon was present to clarify some information. The lot was created in 1929. The configuration of the lot today is the same as it was in 1929. It hasn't changed in size, shape, etc. In addition the town over the years has viewed it as a building lot, has treated it in a similar fashion as other surrounding properties that have since been developed. For example across the street, 21 Hillcrest Drive which has an opposite effect, instead of going down, it rises. In the past both lots were treated as building lots, both receiving the same type of adjustment for topography, #21 receiving slightly more adjustment for topography than #22. The owner of #22 has pretty much been the same since it was originally created. Mr. Willard acquired it, then his widow, and then it went to the estate, until Mr. Michaud acquired it recently. In terms of size, shape and ownership, it's been fairly consistent since creation. The recognition as a building lot has been pretty much consistent. We don't make that determination, it's done by other boards and commissions. The prior assessor, Mr. Clark, also recognized it as a building lot when doing the

assessments over the years. There are about three or four other lots in the area that could be built upon. We're at the tail end of the development curve there.

Dennis Michaud said he used the prints to make the model to-scale. The cantilever in the back is where they're picking up the 817 sq.ft., it does not impose on any of the side yards. He stayed up many nights trying to get the 800 sq.ft. on the first floor and the 200 sq.ft. per bedroom needed for the regulations. The reason he's building this is for his daughter. She is a candidate for a job at Cherry Brook School in Canton and this is a nice commuting distance to there. He would like her to be in Avon, he lives in Burlington.

Margaret Rattigan attorney, representing neighbors Tarlowski, 23 Hillcrest, Heath, 13 Mountain Ledge Road, Dubay, 25 Mountain Ledge Road, and 17 Pine Trail. They are opposed to the application. She has a town of Avon property card. There was a question on the last two applications about the actual sq.ft. of the lot. The town lists it as 4,300 sq.ft. Also the value of the lot was listed as \$3,000. What is the typical value of a building lot in Avon with this same sq.ft.

Mr. DerAsadourian replied that if you're familiar with the land records and the map on file dated 1928, this is a paper map. Currently maps are filed on mylars. There were no measurements such as sq.ft. or land area. It was manually calculated in the past. A survey map was put on file recently done by Nasclmbeni & Jahne indicating it was roughly .12 acres. Our records have been revised. He provided an updated street card. The land area has been adjusted as well as the availability of sewer, it was felt the land assessment should be adjusted for the current grand list. A typical lot in the area would be \$60,000. Mr. Michaud purchased this lot for \$2,000 plus back taxes and whatever else went into that. He doesn't know what the specific number is. He considers it a building lot unless notified by another department such as zoning board or health district or some other regulatory agency.

Susan Anderson, 17 Mountain Ledge Road directly across from this lot. She questioned the amount of assessment on the lot.

Ms. Rattigan said the people she represents are opposed to this application for many reasons. The negative impact this tall structure will have on the surrounding areas in respect to the safety, health and welfare. They're concerned with the drainage despite the fact the drainage has been worked on. The lot itself is 1/3 of the required minimum lot size. Their position is they need 3 or 4 variances. It will also decrease property values. This board has twice determined the application is inappropriate. The lot is too small for a house this large. She requested the two previous hearings, May and July 2006 be incorporated into this public hearing. She quoted Mr. Garfinkel from the minutes of the May meeting as saying even if a lot is listed as a building lot, it doesn't mean you can build on it including the topography. Mr. Garfinkel replied that doesn't mean this lot can't be built on. Sometimes he says things for effect.



Ms. Rattigan continued. She quoted Mr. Drew from the May minutes saying this lot was part of the lots laid out in 1928 for summer cottages, not for year round residences. He agreed this board is not required to grant variances just to permit someone to build on a lot. He questioned whether people buying lots like this knowing there are zoning limitations can actually expect to build on them and there are other lots in Secret Lake that could not be built on. That is what is called the prior knowledge rule. She further stated Mr. Drew said the board is responsible for protecting abutting property owners. We're not required to grant a variance just so they can use their land. Any building on this lot would have a negative impact on the abutting property owners. This lot is a third the size of zoning required in this district.

Ms. Rattigan then quoted Mr. Belzer from the minutes saying the applicant has not met his burden for hardship. Mr. Garfinkel was quoted saying based on the impact of the neighbors and the size of the lot, the building of this structure would be unreasonable on this lot. The board by a unanimous vote denied the application because building on this lot would be injurious and detrimental to this neighborhood and would not be in harmony with the zoning regulations.

Ms. Rattigan said the applicant came back with a second application, shrunk the house from 46' in length down to 39'. That is what you're seeing today, the same size house as on the second application. They created more room on the second floor with the overhang. In July Mr. Garfinkel changed his mind and voted to grant the application. Quoting Mr. Belzer that anyone buying this lot after the zoning regulations were adopted would have to know how difficult it would be to build on. The only other factor in denying the second application was Mr. Michaud's failure to prove a hardship. This third application is not much different from the second one. There should be a substantial change. This house is too big for this lot. The neighbors concerns, the negative impact on this neighborhood, still remain. The board is prohibited from reversing its previous decisions, denying this applicant's request for a variance and legally may not grant this application unless the facts and circumstances concerning the proposed building itself have substantially changed. That is not the case here.

Mr. Garfinkel stated the last application requested at least 3 or 4 variances and this current application is requesting only two. Two is at least 50% of 4 and that represents a significant change to the application as far as our authority to hear it.

Ms. Rattigan said the CT supreme court has stated, "the fact that one or more variances have been granted to landowners near the site of the proposed variance, does not constitute proof of undue hardship. Each case must be decided on its own merits and it follows that a variance may not be justified on the grounds that variances have been previously issued in the immediate area." She stated one of her clients researched the town records and there was not a

single one that looks like this in Secret Lake. The supreme court has said "don't grant variances unless you absolutely have to." Ms. Rattigan cited two cases, Abel and Stember. These cases are fairly current, 1994 and 1997.

Ms. Rattigan continued. Mr. Michaud she read in the record is a self described developer and builder. Clearly he bought this property knowing its limitations. He only paid \$2,000 for the lot. If it was truly a building lot, it would have cost significantly more. Mr. Michaud is a purchaser with knowledge. She thinks there are more than two variances needed. The minimum lot area for R-15 is 15,000 sq.ft., this is a 5,000 sq.ft. lot. The minimum lot width is 100', this lot is 81.2'. The maximum lot coverage needs a variance. The house area is 767 sq.ft. plus a 50' overhang making it 870' sq.ft. That is over the lot coverage. The definition in the regulations is the percentage of roof area of all buildings on the lot. Roof overhang is not calculated as lot coverage unless they project more than 18" from the exterior foundation wall. This extends more than 18". The applicant did not calculate the lot coverage correctly. She thought he needed a rear yard variance not realizing it was a side yard on a corner lot.

In conclusion, the reason the board denied the past two applications is that it's unreasonable to build a house of this size on this small lot, the impact on the neighborhood, particularly the abutters, would be great. It is not significantly different from the second application to warrant a reversal of this board's prior decision. The 'purchaser with knowledge rule' applies to these circumstances and bars the granting of this variance and should be denied.

Mr. Hoheb said the two variances requested are because these are both treated as front yards because it's a corner lot. Requested are 14' from Mountain Ledge, 24' from Hillcrest. He submitted a document which shows actual front yard variances in the area that have been granted since 1983. There is a history for granting.

Mr. McCahill said this is a preexisting lot of record, it's not subject to regulations that were adopted in 1957, you'll probably have to get a legal opinion on that. He thought the overhang was less than 18" when he submitted the application.

Mr. Whitney replied the plan does show an overhang of 2'x25'. He was under the impression that 2' was the maximum overhang permitted, maybe he was confusing commercial zones with residential. He will check on that. If they reduce the overhang to 18" we'd be reducing the square footage by 12.5' and that would make the first floor area 804.5. If they are incorrect, it could be revised to 18". The minimum requirement on the first floor is 800 sq.ft.

Mr. Rossetti said the Able case had notes on the actual subdivision plan, "this area is not to be constituted as a building lot but to be used as a park reserve for sisters of Saint Thomas of Villanova across the street". Here we have a lot which the town assessor has said has always been treated as a building lot. This is not



the same as the case before us. Able is a case where the actual subdivision plan said this is not a building lot. By definition anyone who purchases a lot after zoning codes have been enacted, is ineligible on your meaning of the prior knowledge act because everyone knows, who buys a lot that doesn't conform, will need a variance.

Joan Dubay, 20 Mt. Ledge Rd. said she lives below this property. She has dealt with a lot of issues with the drainage and Mr. Whitney says he has some resolutions to some drainage problems. She presented pictures of her property before the rip rap was installed. He is planning to build up to the road. She asked if they knew what would happen if the road crumbles, where everything is going to end up. She is begging the board, this is not right. She is going to be the one suffering. She asked if the client gets his way and her property gets destroyed, whether it is her foundation, her cellar, or he drops a tree on her property, who does she sue; the town for letting him build or the client?

Tim Cronin, 11 Pine Trail adjacent to the lot. If they cut down the trees, Hillcrest Road is eventually going to collapse because it's the roots of the trees that hold up that tiny little street. The road failure is inevitable. He asked if Mr. Michaud was willing to put up a million dollars to give to the association to replace the road after he knocks it down. This is not a corner lot. That street that he's using for his front yard hasn't existed since the 1950's or 1940's. When he built his own house, he needed two lots put together to build a house about the same size as this proposed one. Even before those two lots were combined, there were two separate houses on the lots. He was told he could only build one house. Water doesn't run up hill, it runs down hill and the water is going to go and wipe out the trees and the dirt and the stone wall. He also wants to know where the well will be located. You can't legally put a well on that property. What this guy does is go around to other towns in the area buying up these little post card stamp places claiming that he's going to build a little house for his daughter. Other towns have turned him down. The only structure he wouldn't object to is a storage building inside the triangle only if they promise not to cut down the trees holding up the road.

Jacek Tarlowski, 23 Hillcrest Drive across the street. His lot is 6 times bigger than this lot. His house is going to be 14' from the street, the street is about 14' wide, very close. From the street the ground goes down. If you remove the trees, nothing holds the road. There's an erosion problem. The value of the land is going to drop down the area.

Mr. Drew read the letters opposed from Gerald J. Oumette, 16 Pine Trail and Michael & Aleksandra Parady, 35 Cliff Drive.

Trish Rioux on the board of Secret Lake Assoc. said per their charter they can not say yes or no to any building on any lot in Secret Lake. We are ruled by the regulations of the town of Avon. That's why the home owners are presenting

their concerns to you tonight. Our concern is to the community as a whole. Hillcrest is a very narrow road, the lot is very steep off of it. They are currently working with the town to decide whether Hillcrest should remain a two way road or go to a one way and also on a drainage project to be done over the next three years. They are working with the town to improve Secret Lake as a community. There's a lot of water coming off the cliff. There's curbing that goes completely in front of that property which diverts water run off. They have not seen the new plan so they cannot comment on it. Their letter was addressing the previous plan.

Mr. Whitney said there is no curbing in front of this lot. The pavement ends, leaves and sand have built up to create a path so water will flow down in this direction but there is no typical 6" bituminous concrete curbing. The curbing starts around the corner at Pine Trail. They are proposing to install curbing along the front of the site with a 1" lip at the two driveway entrances to maintain the gutter flow goes in the right direction. They will be filling the site and the driveway will be graded down to Hillcrest. If there were a 1 1/2" rain storm, it would not go to the lot and the driveway is going down to the road. There is a walk out of the cellar floor, no fill need in the back or the side.

There was no one else present. The public hearing closed at 10:02 p.m.

Mr. Drew read the Application of Anthony & Gail Galazan owners, Anthony Galazon applicant; requesting from the Avon Zoning Regulations Section IV.A.2., a 1,413 sq.ft. variance from the 600 sq.ft. in floor area allowed for out buildings, to permit a 480 sq.ft. (12'x40') accessory building (1,533 sq.ft. existing barn) to be used as a "peanut gallery" with a bathroom, dressing room and kitchen, located at 125 Vermillion Drive in an RU-2A zone

David Whitney said the site is 15 1/2 acres. The existing house is over 10,000 sq.ft. in size. The proposal is for a peanut gallery which is a small structure adjacent to a sports court in the rear yard with a viewing area, a locker room, changing area with a bathroom and a small kitchen. There are retaining walls that are to be constructed in the back yard. The distance is about 218' from the front property line. In addition there is a considerable change in grade and considerable vegetation along the street. He would submit that anyone driving by would not glimpse this peanut gallery. Previously there was an application to construct a barn so we are here tonight because the total outbuildings are considerably over the 600 sq.ft. minimum requirement. The sports court consists of multi purpose tennis court, ice skating rink, badminton court.

Mr. Drew said we have a proposed 480 sq.ft. accessory building in addition to an existing accessory building consisting of 1,533 sq.ft. so we need now a variance of 1,413 sq.ft.



Mr. Rossetti said the motion has been made, the application is as it appears, they will remove the shed.

The vote was unanimous by Messrs. Drew, Garfinkel, Belzer, Rossetti, Ms. Coppola.

Reason – Granting the variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – Denying would deprive the owner of a reasonable use of the property.

Mr. Belzer made a motion to GRANT, seconded by Mr. Garfinkel the Application of Juan Aguilar owner, Elizabeth Aguilar applicant; requesting from the Avon Zoning Regulations, Section IV.A.2., a 1,784 sq.ft. variance which exceeds the 600 sq.ft. in floor area allowed for outbuildings to permit a three stall two story (36'x36' with 8' overhang) detached horse barn, located at 11 Bishop Lane in an RU 2A zone.

Mr. Belzer noted it did present the issue of an applicant coming back after being denied. For the record they have met the burden of a substantial change in circumstances and conditions which is why he moved to endorse this application.

Mr. Drew stated most critically they have now gone to the neighbors and the neighbors have all written to say they applaud this new application.

The vote was unanimous by Messrs. Drew, Garfinkel, Belzer, Rossetti, Ms. Coppola.

Reason - To grant variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – To deny would deprive the owner of a reasonable use of the property.

Mr. Belzer made a motion to DENY, seconded by Ms. Coppola the Application of Dennis Michaud, owner/applicant; requesting from the Avon Zoning Regulations, Section IV.A.6., a 24' variance from Hillcrest Drive and a 14' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a two story single family dwelling located at 22 Hillcrest Drive in an R-15 zone. Discussion followed.

Mr. Belzer said just as the Aguilar application demonstrated a substantial change in circumstances and conditions, this one failed to meet the burden of proof in that regard. There were some changes to it, maybe a reduction of one requested variance. Basically the application is substantially similar to what occurred at the second time around in July 2005. Once again the burden is on the applicant to make a case. He does not think there was substantial hardship that was not

apparent before they acquired the property. He is sympathetic to the fact they have spent a lot of time and money on their application but that's a gamble we all take when we buy on the cheap. He feels the application should be denied but does not preclude them from coming back another time but with an application that would be consistent with what would be appropriate with that area.

Mr. Garfinkel commented said he didn't want this substantial test to become outrageous. He believes we see a number of variances, like 50%, is a substantial change. He feels very strongly about that.

Mr. Drew said he looked at the application and noticed there were two variances before plus a variance for the 800 sq.ft. area. He only saw three variances requested.

Mr. Garfinkel replied 25% is still significant. He recalls one of the discussions where a homeowner went into great detail of all the variances that were being requested. There have been significant enough changes and that alone he would not deny on that. He has the ability to come back and be heard again. One of the hardships we talked about was that if this is a reasonable use of this property and putting up a building, and if there was a suitable house that could be put on there, that was a reasonable use of the property and the hardship was that property is small. Our logic previously was most of the properties in Secret Lake are small and that's why compromises have been made over the years to allow many neighbors to obtain variances. He is more moved by the safety issue then he was previously. He was more moved by the more objective commentary that came out from the abutting property owners. The approach he heard last time to a large degree was no matter what you want to put on - not in my back yard. This time he heard more persuasive arguments saying that the effect of this building would have serious impact, not on just one property owner but several property owners. On that basis he would go along with denying the application.

Mr. Rossetti said his impression from the testimony he heard at the public hearing was that all of the drainage issues had been resolved through engineering. In fact there would be less drainage off that parcel not directed through existing storm sewage drains than presently. He was not present for the prior two hearings but did review the minutes. It is a fact in other instances, particularly in Secret Lake properties where all the lots are postage stamp size by comparison to our current zoning ordinances. We have exercised some leniency with respect to minimum lot size. This particular parcel was a building lot like the others that each of the homeowners here who owns a home in Secret Lake and testified in opposition to this, their lots are all below the standard the town requires today for a single family residence. This lot was late to be developed but it was really no different than any of the other lots other than it was a smaller lot. There are small lots and two story houses in Secret Lake. There isn't anything really unique about what the applicant is proposing here other than by



our current standards it requires certain side yard variances. The lot itself, although it predates zoning, is a substandard lot. He is sensitive to what the abutters have to say but he thinks a case where the topographical hardship is well demonstrated and the applicant cannot make a reasonable use of that property for a residential dwelling construction. It's possible they could further reduce the size of the house but we have other conflicting town ordinances that mandate minimum size of the structure. The applicant is left in an awkward situation where he has this piece of land which is a town building lot but can't develop a residence plan that will satisfy the abutting neighbors and the town. This is a true topographical hardship and hope the abutters could work with their neighbor to come up with a feasible solution.

Mr. Drew asked what wait if any would you give to the capable presentation by their attorney who pointed out he bought this property knowing that this was a questionable lot. Mr. Rossetti replied there was one supreme court case which Atty. Rattigan provided us, although he didn't have as much time to study it as she did, he doesn't see that case as being applicable to this situation. In the Able case, the lot the ZBA granted the applicant permission to erect a dwelling on, was shown on the subdivision plan as open space. He wants to go on record that it should be possible to erect something there.

Mr. Drew said you were focusing on the facts of the case rather than the point she was trying to make. Mr. Rossetti replied she was not citing the case properly. In that case there was a clear legal notice that a use was prohibited and the applicant knew that particular use on that parcel was not permitted. Here there is no such thing. Here we have the town assessor testifying this was a building lot and assessed as such by his predecessor in office. He did not say it was assessed as a lot on which a structure could be built. The previous assessor, assessed it well below what a building lot in Avon was assessed at. They were taking into consideration some of the deficiencies the lot had. The law is it was assessed as a building lot. His question is whether this applicant can ever put together a set of plans which we know must require some relief from this board. The abutters should understand that.

Mr. Drew said what was testified to was the applicant paid two thousand dollars, in that circumstance, paying that price, buying it with the thought it could be a building lot or may not. The magnitude of his investment and the impact of what he would like to do to the neighbors, don't you think there's a disconnect there? When you talk about a building lot in Avon on a map in 1928 of 5,000 sq.ft. in a town that does not have zoning for a lot less than 15,000 sq.ft. We had a neighbor who testified he put two lots together to build his house.

Mr. Garlinkel remembers many years ago applications from Secret Lake where someone wanted to join two lots to build a bigger house and the neighborhood objected violently to a larger house going in. That was the not in my backyard attitude that he was concerned about here. At that time any improvement over

what was the norm with that neighborhood was unacceptable to the association. There were 2 or 3 where that was the approach taken, you cannot combine these lots to put in bigger homes than what we have now. Fortunately we granted variances to all that and we helped Secret Lake grow. He's not saying this is not a developable lot. What bothered him tonight was the drainage problem.

Ms. Coppola said she took a look at the property as she was concerned about the grade of the land. It's a steep property, it will be more injurious than in accordance with the rest of the community. She has to say that because the slope of the land is very steep, quite a drop off from where the house will be to everything behind it. The road itself is only about 14', very narrow, you can have only one car at a time per the sign there. I do believe if you have a building lot, you should be able to build on it. It should not be seen as confiscatory. After having seen the property, she has doubts it being the appropriate building for the lot.

Mr. Drew said if you go back to 1928 and you're in a summer community and a building lot for a summer cottage in 1928 was a big difference than building the structure we saw today. This is not a cottage.

The vote to deny the application was Messrs. Drew, Garlinkel, Belzer, Ms. Coppola. Opposed was Mr. Rossetti.

Reason - The applicant did not satisfy the provision or the hardship and the concern the development of the property as proposed by the application could be injurious to the neighborhood and not in compliance with the intention of the zoning regulations of the town of Avon for purposes of granting variances.

There being no further business, the meeting was adjourned at 11:10 p.m.

Respectfully submitted,  
*Shirley Kucia*  
 Shirley Kucia, Clerk





TOWN  
OF  
AVON

60 West Main St. Avon, CT 06001-3743  
www.town.avon.ct.us

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TDD HEARING IMPAIRED  
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July 29, 2005

Mr. Dennis Michaud  
48 Davis Road  
Burlington, Connecticut 06013

CERTIFIED MAIL 7004 2890 0001 3323 6202

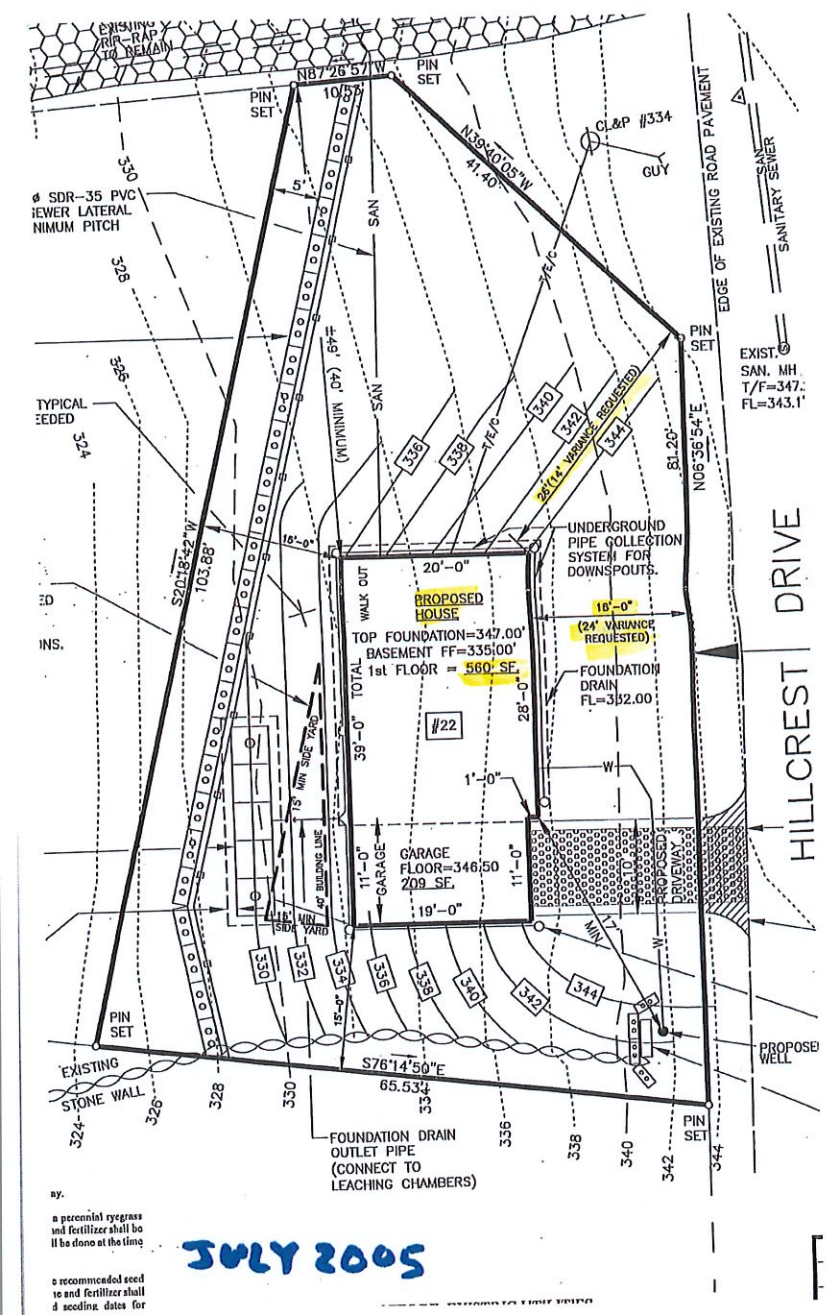
Dear Mr. Michaud:

At a meeting following the Public Hearing on Thursday, July 28, 2005, the  
Zoning Board of Appeals of the Town of Avon voted as follows:

Application of Dennis Michaud, owner/applicant; requesting from the Avon  
Zoning Regulations, Sections IV.A.6. & IV.A.7.b., a 14' variance from  
Mountain Ledge Road and a 24' variance from Hillcrest Drive from the 40'  
front building line setback requirements; a 240 sq.ft. variance from the 800  
sq.ft. minimum living area required on the first floor; to permit a two story  
single family dwelling located at 22 Hillcrest Drive in an R-15 zone –  
DENIED.

Very truly yours,

Shirley C. Kucia, Clerk  
Zoning Board of Appeals





WILL DISCHARGE STORMWATER TO A SUBSURFACE DISPOSAL SYSTEM.

EXCAVATE PIT TO CONTAIN WELL TAILINGS  
INSTALL HAY BALES

REVISIONS

1. JUNE 30, 2005: REDUCE SIZE OF HOUSE FOOTPRINT & MISC. REVISIONS. FOR ZBA RE-APPLICATION.

SITE PLAN

FOR:

MR. DENNIS MICHAUD

#22 HILLCREST DRIVE  
AVON, CONNECTICUT

DAVID F. WHITNEY  
CONSULTING ENGINEERS, LLC

21 ARCH ROAD  
P.O. BOX 1605  
AVON, CONNECTICUT 06001  
(860) 673-8412

DATE: MAY 20, 2005	SCALE: 1"=10'	DRAWN BY: BJL	CHECKED BY: DFW	SHEET NO. 1 OF 1	PROJECT NO. 05-32
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The Zoning Board of Appeals of the Town of Avon held a meeting on Thursday, July 28, 2005 at the Avon Town Hall. Present were Messrs. Drew, Garfinkel, Belzer, Brooks, Ms. Clark and Mr. McCahill, Deputy Zoning Enforcement Officer. Mr. Drew called the meeting to order at 7:30 p.m.

PUBLIC HEARING

July 28, 2005

The Clerk read the call to meeting.

Mr. Drew announced that the applicants Tony Cashman and E. T. Andrews, III have requested to hold over their applications until the September 15<sup>th</sup> meeting so these applications will not be heard tonight.

Mr. Drew read the Application of Dennis Michaud, owner/applicant; requesting from the Avon Zoning Regulations, Sections IV.A.6. & IV.A.7.b., a 14' variance from Mountain Ledge Road and a 24' variance from Hillcrest Drive from the 40' front building line setback requirements; a 240 sq.ft. variance from the 800 sq.ft. minimum living area required on the first floor; to permit a two story single family dwelling located at 22 Hillcrest Drive in an R-15 zone.

Dennis Michaud was present. He resubmitted another application from the May hearing which is 100% changed around which gives him the right to submit another application. He showed what was requested at the May meeting. He has shrunk the size of the house. He meets the zoning requirement of 15% coverage of the lot at 14.8%. The square footage of the lot is 5,184, 15% would be 777 sq.ft. Minimum sq.ft. required by zoning regulations on the first floor is 800 sq.ft. He is proposing a smaller house, rather than make it all living space because it is a two story dwelling, he chose to make a one car garage which he feels is an enhancement in that area. He did research of the area. He showed a map with the proposed house and the variances he is seeking. In the immediate area, Pine Trail, Mountain Ledge and Sunset Trail he spotted the lots that are less than 1200 sq.ft. and are two story with less than 600 sq.ft. on the first floor. Number 18 Pine Trail had a total sq.ft. of 893 sq.ft., 16 Pine Trail – 1,052 total, 576 first floor. 10 Pine Trail – 804 sq.ft., 8 Pine Trail – 620 sq.ft., 23 Sunset Trail – 720 sq.ft., 21 Sunset Trail – 858 sq.ft., 2 Sunset Trail – 672 sq.ft. first floor. His proposed house is a total of 1120 sq.ft. on both floors, 560 sq.ft. per floor of living area, garage 209 sq.ft. There is an 800 sq.ft. requirement on the first floor with each additional bedroom has to meet 200 sq.ft. His bedrooms are 240 and 210 sq.ft. which exceeds the requirement. There is 17' allowed from the site line to the proposed foundation, they chose to go with 16' that give it a 1' variable either way to aid the surveyor when marking the foundation. The distance to the actual road is 22' because the property line is set back because Hillcrest Drive drops off 2 ½' and has a slight grade going down the side. The property has been assessed and taxed as a building lot. The drainage issue has come up in the past and has been designed by David Whitney, consulting engineers.

James Grappone, registered professional engineer, works with David F. Whitney Consulting Engineers in Avon. They have prepared a detailed site plan, it's all set to go.



It's the type of plan they'd submit to the building department for obtaining a building permit. Prior to last month's hearing, they submitted the drainage report to the town engineer. It's their assumption that the report has been accepted. They have not received any comments from the town engineer as of this date. They have provided a subsurface, a galley system underground to accommodate the roof drainage and any impervious area from the roofs and the paved portion will drain along with any subsurface drainage for a footing drain into a 4x4 galley system, 6 units 20 lineal feet. That will accommodate a 10 year storm which is the regulations set by the town engineer. This is for the roof drainage connection and any subsurface footing drain that's necessary. Any impervious area would drain to that subsurface storm water system underground.

The next house, 25 Mountain Ledge, is about 35' to the property line. If this house were built it would not increase the water runoff, it would be zero increase and that's what they've submitted to the town for review.

Mr. Michaud said other houses over the years have had different additions which brings their sq.ft. up to exceed the 15% lot coverage. 4 Pine Trail – 19.4%, 12 Pine Trail – 16%, 14 Pine Trail – 1200'. All the lots on Pine Trail are smaller than his. Most of the houses in the neighborhood are smaller but have been added onto. He assumes they obtained variances to do the work. His goal when he started in May was to have a house for his daughter who is present here tonight and not to upset the neighbors.

Mr. Drew said we have three requests for variances; 24' from Hillcrest and 14' from Mountain Ledge because it's a corner lot and lot is pie shaped; 240 sq.ft. variance of the minimum living area from the 800 required.

Mr. Michaud said with the two floors totaling 1120 sq.ft., it will be small but still a comfortable home. The first plan he presented in May has an 809 sq.ft. living space on the first floor with a two car garage.

Dan Corjulo, 19 Hillcrest Drive said he heard conflicting stories of whether this property had been taxed. Secret Lake Assoc. has taxed this property according to the association tax. He doesn't know about the town tax.

Mr. Michaud said it is presently assessed at \$22,000 value the same as the other properties in the area.

Miss Tarlowski, representing 23 Hillcrest Drive which is across from this property. There are other small lots in the area but most were developed around 50 years ago before the present zoning regulations were put in place to stop such development. She has a copy of the property card that shows the primary site is 4,357 sq.ft. If what the town hall has on record is correct, then the present footage doesn't comply with the regulation for maximum lot coverage.

Mr. McCahill said he would guess that the A-2 survey would be the more accurate representation of the square footage. He is sure the Assessor would define his numbers given the accurate survey that is provided. It wouldn't be unusual for the assessor's numbers to be off slightly on these properties. As you know many of them are subject to inconclusive surveys. They're not based on A-2 surveys.

Mr. Jim Grappone said he has an A-2 survey that was prepared by Nasclmbeni & Jahno Surveyors, dated March 2005 which shows lot area 5,184 sq.ft. or 0.12 acres.

Mrs. Tartowski said from the map obtained from the town, if you take the front building line and the back building line you have no area to build a home. She showed pictures of the lot showing how small it is and the hill. No matter how small a house you put on that lot, it still is 1/3 of a buildable lot in R-15 zone. It won't make the area better, it's beautiful green trees right now and will be a huge building that takes up the entire space.

Rosalyn Dischiavo, 17 Pine Trail said she agrees with everything Ms. Tartowski said. She feels it will be an eyesore. The lot is too small for anything to look good on it. It would ruin her view. We would have a house looming over us in our back yard where now we have nice trees.

Joan Dubay, 25 Mountain Ledge. Her big concern is drainage. She has lived there for 18 years and been through the drainage situation. What happens if the town grants them a variance and she gets flooded out and her home gets ruined because of it? Does she go to the town or to him? Last time she was here she showed picture of what came down that hill. It's a very steep hill. She doesn't know how they'll cut down trees without landing on her property.

Mr. Jervis, 25 Mountain Ledge Road said she's right. They are on record with the Avon Fire Department of having their basement pumped out from water running down that hill. A couple years ago we had a couple hurricanes hit, one right after the other. They had 12" of rain. They got buried. Can they stop that from happening? He questioned if this is a hardship case.

Mr. Drew said without the house you got buried, you'll get buried again without the house, 12" is extraordinary.

Jean Margenial, representing the executive board of Secret Lake Association. This property lies within the boundaries of the association and all the folks you heard from are members of the association. The charter provides that the purpose for it is to provide for the improvement of land, and for the health, comfort, protection and convenience of its members. It was a lot easier to do that back in the 1930's than it is today. The board feels it cannot take a position in favor or in opposition of this application. Over the years when a variance has been granted or new development or for home improvement, there emerges sort of a black hole. That exists because there are construction issues that the association is confronted with that the town isn't



comfortable dealing with. They are trying to fill the hole. In a situation such as this, the board is asking that if a variance is granted, that certain conditions be placed on that variance. The conditions are the applicant be required to insure the right to pass and repass on Hillcrest Drive during construction and to avoid any obstructions that may interfere with emergency services; the rip rap on Mt. Ledge Road be protected at all times for the run off of excess water and any damage be repaired immediately; create attractive fence or shrubbery buffer to adjoining property owner; storm water runoff engineered to be certain there's no increase in impact on adjoining property.

Ms. Dischiavo questioned if the town engineer didn't answer about the drainage does that assume the drainage issues are okay? Mr. McCahill replied he was unaware of the transmittal that went to the town engineers. Typically they would review that at the time the building permit was issued. Normally we don't have correspondence with the town engineer for this meeting.

Jim Grappone said there is a high point up the road on Hillcrest Drive and a large drainage area leading to the rip rap on Mt. Ledge. To the north it goes up hill, all the land on the east side goes up hill and all that water drains down to the rip rap. That is what the town established. It's been that way for years. He believes all the water coming down is from that hillside area and has to run about 200' before you have a set of basins. That's what they are experiencing now. The driveway doesn't have much of a lip on it. You have this large amount of water that's flowing down to this leak off, runs down this rip rap area, goes down this town road 200' before it hits a set of catch basins. Mr. Jarvis stated the lip on the driveway wore out because of the water flow. Mr. Grappone continued. The water comes down, hits the path of least resistance at the driveway and ends up in their house. This is toward the end of the water shed. The town engineers regulation says normal storm drainage design is for a 10 year event which is 3.7 inches of rain in a 24 hours period. It was pointed out that trees will be removed. They are not developing the whole inch of the property. There will still be trees on this lot based on the grading plan. His comments are about the current situation there. They are making provisions to send the water underground.

Mr. Corjulo said he probably knows more about the drainage on the road than anyone else here because he was road commissioner on the Secret Lake Association. They went up the street and created curbing. The real problem with Secret Lake is the association doesn't have the resources to put in the drainage system. The curbs have created the river. This house should not have any effect on the drainage. His concern is if the house turned into a rental property. He's not opposed if it's just a family coming in based on the fact that we taxed it.

Ms. Dubay said a lot of questions have not been answered whether the town engineer said yes this will be okay and also the town has agreed there is a certain amount for the 10 year event and whether this will be enough as it's on a cliff. There's an enormous cliff behind Hillcrest Drive, tons of rocks for about ¼ mile. Will a 10 year event be enough? Has this been taxed as a building lot?

Mr. Drew commented he has heard tonight the lot is assessed at 2,100 and 22,000. Mr. Michaud replied it was upgraded when the square footage of the A-2 survey went into effect. 5184 on the square footage, that was upgraded in the middle of July when they upgrade their website.

Ms. Tarlowski said there are 7 zoning requirements. He doesn't pass 5 of them. The minimum lot area is too small, the minimum lot width is too narrow, the minimum front yardage is too small, the minimum side yard on the corner is too small and the minimum rear yard is too small. Out of the 7 requirements, he only has 2 of them.

Mr. Brooks asked Mr. Grappone if the town engineers report should come back and indicate an inadequacy, can you increase the capacity of that galley? Mr. Grappone replied, yes it will handle a 10 year storm, 3.7 inches in a 24 hour period. That's a 4" rain storm over the whole perimeter over the impervious area. Right now they show five units which go from the corner of the house to about the middle of the house. They have the rest of the area to work with and could be expanded.

Mr. Michaud said the original design of the galley system was set up for the larger home he previously presented. This house is a third less in roof area as the house has been downsized. The original house was almost 1,800 sq.ft. The elevation of the foundation will be a foot above Hillcrest Drive. The front lawn will be dead level allowing for no run off.

There was no one else present. The Public Hearing closed at 8:17 p.m.

Mr. Drew read the Application of Howard Plude, owner/applicant; requesting from the Avon Zoning Regulations, Sections IV.A.2. & IV.A.4.p.(2), an 808 sq.ft. variance from the 600 sq.ft. allowed for outbuildings and a 53' variance from the 80' front building line to permit a 32'x44' car barn/garage located at 456 Lovely Street in an R-30 zone.

Howard Plude, owner/applicant. He gave a handout to the board showing the design of the proposed building. It will be stained natural to blend into the woods. It will be 3 car width wise but is not putting the right hand door in, just two garage doors, then a walk in door in the front, and possible change of the windows. The picture marks the proposed location facing due west showing property in front on him where he's asking for the front yard setback. The picture was taken in late fall when there were no leaves, you can barely see the neighbors house through the woods. He talked to most of the neighbors who abut his property, 7 property owners. One is the town of Avon, way back in the wetlands up by Roaring Brook; on the east side way in back of his property on the other side of Roaring Brook is a neighbor who he tried for three weeks to catch up with to explain but couldn't get a signed letter. The other letters are from Michael Donahue and Laura Dambler on Lovely Street, west of him and in front of him.

Mr. Drew read the letters in favor of application from Michael Donahue, 450 Lovely St; Laura Dambler, 460 Lovely St; Daniel Hudson, 466 Lovely St; Pamela MacFarlane, 22 Midlands Drive.



ZONING BOARD OF APPEALS MEETING July 28, 2005

A Zoning Board of Appeals meeting was held following the Public Hearing.

Mr. Belzer made a motion to GRANT, seconded by Ms. Clark the Application of Chris & Carol Donahue, owners/applicants; requesting from the Avon Zoning Regulations, Section IV.A.6., a 12' variance from the 15' side yard setback requirement, to permit an attached 12'x40' two car garage, located at 85 Secret Lake Road in an R-15 zone. The vote was unanimous by Messrs. Drew, Garfinkel, Belzer, Brooks and Ms. Clark.

Reason – to grant variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – to deny would deprive the owner of a reasonable use of the property.

Mr. Garfinkel made a motion to GRANT, seconded by Ms. Clark the Application of Chris & Carol Donahue, owners/applicants; requesting from the Avon Zoning Regulations, Section IV.A.6., a 12' variance from the 15' side yard setback requirement, to permit an attached 12'x40' two car garage, located at 85 Secret Lake Road in an R-15 zone.

Mr. Brooks said this is a good plan and the neighbors are not in opposition. We can clearly see the nature of Secret Lake Association. Perhaps in some other neighborhood a garage this close to anybody's plot line would raise havoc. We should keep in mind when zoning came and when Secret Lake evolved because it is very difficult to not allow people to both use their land and improve their land in that area. If we had, over the years, provided strict enforcement of the zoning code a lot of people in that area would find the improvements and the dollar value would not exist if exceptions to zoning weren't allowed. In this case this is quite an exception, but it appears to be a good plan and acceptable to those who surround this particular house.

Mr. Drew said that each application stands on its own merit. One of the circumstances of this application is the lot is small and the houses are close to the line. In this case the houses are staggered so you can see the garage addition will not be put right on top of the next door neighbors house.

The vote to GRANT was unanimous by Messrs. Drew, Garfinkel, Belzer, Brooks and Ms. Clark.

Reason - Granting the variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – Denying would deprive the owner of a reasonable use of the property.

Mr. Garfinkel made a motion to GRANT, seconded by Mr. Belzer (for purposes of discussion) the Application of Dennis Michaud, owner/applicant; requesting from the Avon Zoning Regulations, Sections IV.A.6. & IV.A.7.b., a 14' variance from Mountain

Ledge Road and a 24' variance from Hillcrest Drive from the 40' front building line setback requirements; a 240 sq.ft. variance from the 800 sq.ft. minimum living area required on the first floor; to permit a two story single family dwelling located at 22 Hillcrest Drive in an R-15 zone. Discussion followed.

Mr. Garfinkel said the fundamental problem is it's a small lot. It's not that small compared to other lots in that neighborhood. He thinks part of the issue is it's wooded. It's always nice to have a wooded lot next to you for the isolation and tranquility provided just by the woods. There was a real issue raised last time associated with the drainage. We've received professional evidence and presentation that has been submitted to the town that there would be no change to what the run off would be had the house been put there. Furthermore it would be a condition that the changes would be made if the engineering dept. has issues with the final analysis and changes would be required and the applicant would incorporate those changes. The issue of the amount of variances in relationship to the dead end cul de sac is an important point. The 14' requested variance is a lot but it is alleviated realistically by the location of Hillcrest Drive. Overall the claims that it's not shown as a buildable lot is irrelevant. It is a lot and he has a well laid out plan and the problems of the drainage issue would be best solved with the association.

Mr. McCahill said the drainage plan would be reviewed by the engineering department. We do the association a favor by reviewing the plans and making recommendations but ultimately it's the Secret Lake Association who has the authority over these lots being built on. We have dealt with this issue a number of times. On Cliff Drive we had some issues with drainage which was presented to this board. The engineering department made recommendations. Ultimately it was the association that had to dictate what the property owner needed to do as it related to correcting some drainage problems. Our engineer would offer that expertise. Secret Lake Association would make the final decision.

Mr. Belzer said he seconded this application to allow it to be aired. He is conflicted. He shares some concerns of the board where some one owns property and wants to develop it as long as it's not injurious to the property. His concerns are the small lot. A little over 5,000 sq.ft. is 1/8 of an acre. That's the average size of a lot of lots in the Secret Lake area. He doesn't know if all those lots are very, very steep or all those lots are treed and serving as a buffer to the neighborhood or whether they do have a drainage problem. What does sway him is the size of the variance requested and the nature of the variance. The nature is not building a garage but building a house. A house is very different than a garage, porch or out building. It is using property for a very basic habitable sense. The biggest thing is the application comes after zoning. Secret Lake was developed pre zoning. Everyone, after zoning went in, knew that a small lot would be difficult if not impossible to build on. No one has made an application for this lot in the past 50 years for development. He has sympathy with the owner but cannot vote in favor of this application.



Mr. Garfinkel said the question of variances being applied for after zoning, we've had tons of them. They've been for many reasons, most of them for side and rear yards because the lots are too small. He cannot remember any circumstance we have denied a person for expanding a nonconforming building to the point of being very close to the neighbors because it was an improvement to the neighborhood. Improvement is in the eyes of the neighborhood. What happens here that the lot was undeveloped before and there's nothing nicer than having an undeveloped treed lot next to your house. However he has the same right as anyone else to ask for a variance to come up with a home for his family. Whether it's for profit shouldn't matter, that's a reasonable reason for developing a house. It so happens he's building for his daughter. If she wants to sell it later, that's her business. The question is, would we be taking property rights from that individual by denying this on the basis of, "gee, nobody ever built on this." He doesn't think that's justification.

Mr. Drew said we have dealt with hundreds of applications for variances since zoning came in but we never dealt with any application prior to zoning. We have other situations where there have been lots at Secret Lake where we have determined the lot was too small for us to grant a variance to permit a house. It is not unprecedented.

Mr. Brooks said he doesn't see the water problem as an issue. The galley seems to be able to take up what the roof would produce and would not add to the current water problem. It doesn't seem as if you could build a house on this lot without a variance. It's unbuildable if you are to conform with zoning. We've granted many variances in the area and many have contributed to the value of houses and to the quality of living in Secret Lake because they have the bedrooms for their children, they have the places to remove the cars from the street, etc. The house being for the daughter or for sale is not an issue. He doesn't think everyone in the association would want to pledge they would never sell their house if Mr. Michaud or his daughter pledged to sell their house. When zoning was started all areas had to have zoning. That area didn't match up probably with more than a few houses in the whole area. We have received more applications from that area. It doesn't sound as if anyone wants a house there. It says the neighbors want to benefit from someone else's land at the other persons' cost and perhaps hardship. You like the benefit of the greenery. An important proof that Mr. Michaud didn't provide against the card showing that it was not being taxed as a building lot and then claim that it is a building lot, and yet nothing was brought forward. He is still confused whether or not it was intended that way. There was testimony from a member of the association that dues appeared to be collected as if it's a building lot. This is a very difficult application.

Mr. Drew said this is a small piece of property. One variance requested for the proposed house has been downsized from where it was before where it didn't need it. It had the 800 sq.ft. first floor area to an area less than that to accommodate the other variance request. The question before the board is, "Is it appropriate for a house to be placed on this property or not".

Mr. Garfinkel said when it comes down to, "Is it appropriate to build a house on this lot ever", that's pretty heavy. He will submit, you were referring to extending property lines. If you look at the property lines that exist, on one end there is frontage of 81' on Hillcrest. Most houses in the neighborhood have a 60' frontage. There's a side frontage of 66', and many other properties are a little longer. The other side line is the shape of the property, but if you take into consideration the dead end aspect of it, the property is not much different than others in Secret Lake. The question of saying this is not buildable, then the question is why not and the answers are too small, on a slope and therefore you can't build a house. That doesn't fly with him. He would suggest the condition that if we grant, we hope Mr. Michaud and the association could address what he can and cannot do.

Mr. Drew said the fact that Secret Lake Association was here tonight was very much appreciated. They have some conditions they would like to impose on us if we were to grant the variance.

Mr. McCahill said he is unclear as to how much authority they have or don't have to impose actual conditions. They have to come to some agreement to access their property from secret lakes' road.

The vote to GRANT was Messrs. Drew and Garfinkel. Opposed was Messrs. Belzer, Brooks, Ms. Clark. The motion was defeated. The application was not granted.

Mr. Garfinkel asked for the record why not.

Mr. Drew said we have clearly heard that it will impact the neighborhood. We have the neighbors all here that suggest that it would adversely impact the neighborhood. Another critical factor is the discussion of hardship. You could say hardship is denying the use of the land. On the other hand you could say this is a piece of land that has sat here for 60 years after zoning that to our knowledge has not come before zoning to be built on previously. Whether or not it was taxed as a lot that was supposed to be a building lot, certainly we would have some reason to say it should not be taxed as a building lot because so far it hasn't been able to be built on. When you acquire the property as a lot that could be built on, it's speculative on our part.

Mr. Belzer said several of us expressed views as to what we individually felt. Since it wasn't the granting of an application, it is not beholden on us to collectively agree but the reasons given that four of us expressed what our concerns were. He would say that is sufficient.

There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,  
*Shirley Kuola*  
 Shirley Kuola, Clerk





TOWN  
OF  
AVON

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www.town.avon.ct.us

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May 27, 2005

Mr. Dennis Michaud  
48 Davis Road  
Burlington, Connecticut 06013

CERTIFIED MAIL 7004 2890 0001 3323 6004

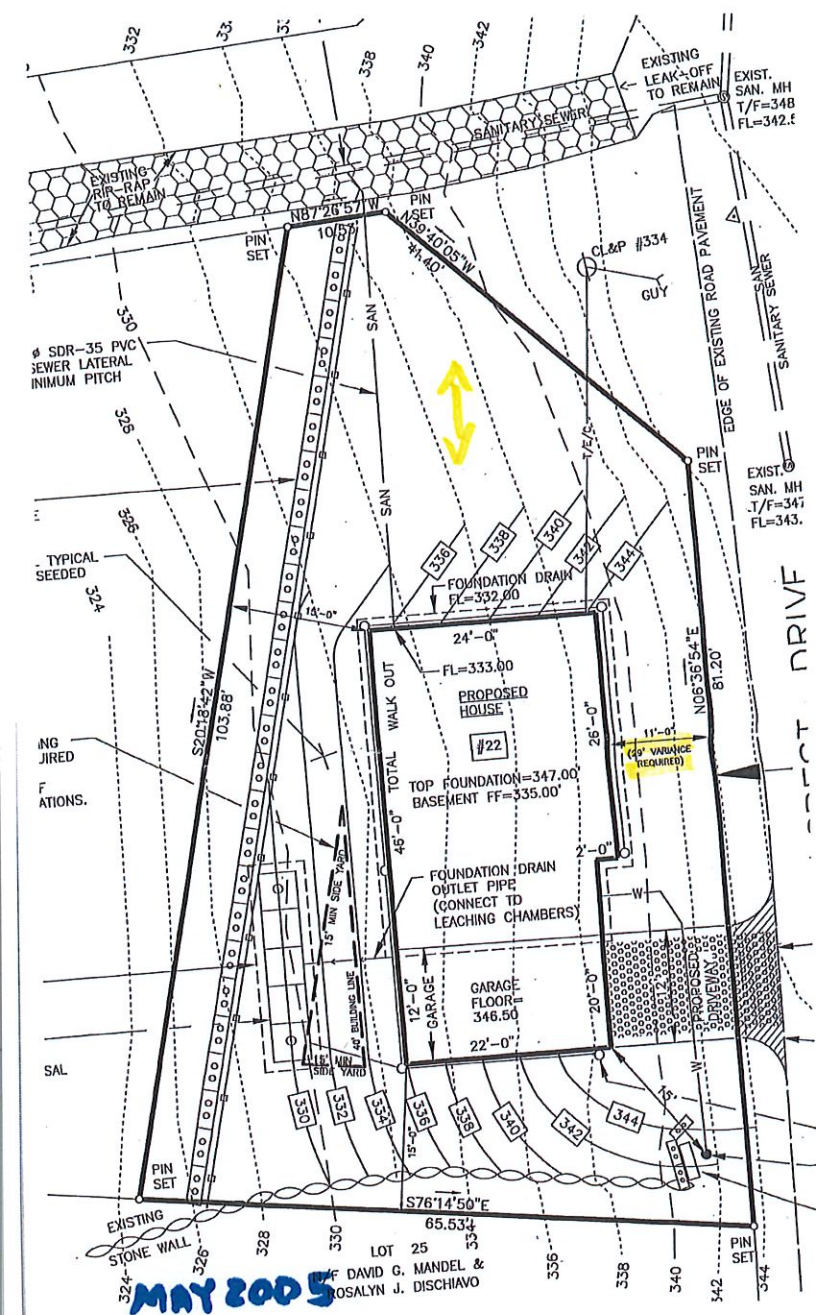
Dear Mr. Michaud:

At a meeting following the Public Hearing on Thursday, May 26, 2005, the Zoning Board of Appeals of the Town of Avon voted as follows:

Application of Dennis Michaud, owner/application; requesting from the Avon Zoning Regulations, Section IV.A.6. a 29' variance from Hillcrest Drive and an 18' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a single family dwelling, located at 22 Hillcrest Drive in an R-15 zone - DENIED.

Very truly yours,

Shirley C. Kucia, Clerk  
Zoning Board of Appeals



PROPOSED  
ELL

PROPOSED DOWNSPOUT TYPICAL  
NOTE: ALL DOWNSPOUTS TO BE CONNECTED  
INTO AN UNDERGROUND PIPE SYSTEM THAT  
WILL DISCHARGE STORMWATER TO A SUBSURFACE  
DISPOSAL SYSTEM.

EXCAVATE PIT TO CONTAIN WELL TAILINGS  
INSTALL HAY BALES

MAY 23 2005

TOWN OF AVON  
INLAND WETLANDS  
ZBA

REVISIONS

SITE PLAN

FOR:

MR. DENNIS MICHAUD

#22 HILLCREST DRIVE  
AVON, CONNECTICUT

**DAVID F. WHITNEY  
CONSULTING ENGINEERS, LLC**

21 ARCH ROAD  
P.O. BOX 1605  
AVON, CONNECTICUT 06001  
(860) 673-8412

DATE:  
MAY 20, 2005

SCALE:  
1"=10'

DRAWN BY:  
BJL

CHECKED BY:  
DFW

SHEET NO.  
1 OF 1

PROJECT NO.  
05-32



The Zoning Board of Appeals of the Town of Avon held a meeting on Thursday, May 26, 2005 at the Avon Town Hall. Present were Messrs. Drew, Garfinkel, Belzer, Ms. Coppola, Ms. Clark and Mr. McCahill, Deputy Zoning Enforcement Officer. Mr. Drew called the meeting to order at 7:30 p.m.

PUBLIC HEARING

May 26, 2005

The clerk read the call to meeting.

Mr. Drew read the Application of Dennis Mchaud, owner/application; requesting from the Avon Zoning Regulations, Section IV.A.6, a 29' variance from Hillcrest Drive and an 18' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a single family dwelling, located at 22 Hillcrest Drive in an R-15 zone.

Dennis Mchaud from Burlington was present. He has been in the valley about 30 years, an educator in Farmington High School for 33 years, and a home builder in the valley for the same amount of time, the number 125<sup>th</sup> registered contractor in the state of CT. He has this piece of property at 22 Hillcrest. He hired Nascimbene & Jahne Surveyors for this A2 survey. They chose to also have an engineering plan drawn up for drainage as he understands Secret Lake has a problem with drainage and water running off the hill and mountains and the streets. He chose Engineer David Whitney to do the plan. He is proposing a location for the house that would not disrupt the rest of the neighbors, it meets the 15' side line requirement. The only buildable space on the lot is a small triangle because of the 40' off sets from both roads which makes it a corner lot. It meets the 40' setback from Mt. Ledge until the turning radius of the original road from 1928 development, now it becomes only 22' to the corner of the house. This is the final plan after going through four different designs. Originally he wanted garages underneath the house with an entrance from Mountain Ledge Road. It would have created too many problems for himself and the neighbors. It would have involved extending the sewer line 250' and repaving the road. This plan enters from Hillcrest Drive. He sacrificed the size of the house and came down to one car garage. It's 1400 sq.ft. with expansion over the garage totaling 1700 sq.ft. He took into consideration building the house not to have a peak facing the high end of a slope. This lot does have a slope. He chose to make the house a foot above Hillcrest Drive which means he'll have to put in fill. There's enough of a topo area that won't increase any water. He submitted the study done for the water by Mr. Whitney.

What he's asking for doesn't appear to be uncommon in the area. He did some research and looked around the area. This lot is one of the bigger lots in the area. It's 5184 sq.ft. Most of the lots around his area are 50'x100'. A lot of them have wetlands on them, which means the total property is not used. There are no wetlands on his property, there are a lot of trees. There is a slope that people think is fairly steep. He has built on property steeper than that.

At 25 Hillcrest Drive across the street, the house is only 18' off the property line. A variance was granted in 1987 after the foundation was poured too close to the road. If you look at the topography of the back yard it's a lot steeper than his lot. 15 Hillcrest has a 6' offset for a garage built in 1993. 139 Secret Lake Road has a 5' front yard as they extended the front porch. 125 Secret Lake Road has a 17' front yard and a 6' side yard. 87 Secret Lake Road has a 3' side yard and a 12.6' front yard. 17 Goodwell has a 6' front yard. Sunset Trail has a 6' front yard with a 31' side yard which is a corner lot. 10 Hillcrest has a 12.7 front yard. His application is requesting 11' from Hillcrest.

The drainage was calculated to keep all the drainage from the gutters and leaders and footing drains on site. There would be a zero increase on water. Mt. Ledge is an unimproved road with rip rap. Mrs. Dubay submitted a letter, which he just received, concerned about the water. They put in all the stone and rip rap to slow down the water. Most of the grade comes from the upper end of Hillcrest, down Mt. Ledge Road, the first catch basin is 250' down the road. He has never been there in the winter or seen the snow melt or a heavy rain storm, he doesn't live in the area. The town helped out Secret Lake Association to put that in. His drainage system will have 5 galleys, is designed to hold a 5" rain storm. He is not going anywhere near the town rip rap.

Mr. Drew read letter from Joan Dubay and Ken Gervols, 20 Mt. Ledge Road with concerns about the water run off.

Tim Cronin, 11 Pine Trail was present. His house is the newest one in the general area built in 2001. When it was built there had been two lots with two houses that were torn down. They were required to build only one house as it was increasing the size of the house. This lot is tiny, less than half of what his lot is and the town made him combine the two lots into one. If he builds there he'll have to cut down all the trees and all the water will wash out the dirt and put it on his property. They're going to cut down 20 trees that hold the soil in place. This is a hill that goes about a 40 degree angle up to get to Hillcrest to where he wants to put this house. This is a tiny lot and he's going to put up a huge house. He has the problem in his back yard being washed out every time the snow melts or it rains heavy because there used to be a stream in his back yard that is now underground.

Mr. McCahill says the issue to combine lots is related to a state statute, which would require that if you own two nonconforming lots that are adjacent to each other, you are forced to combine those nonconforming lots.

Mr. Drew said it wasn't this board that made him combine the lots, it was a state statute.

Dan Corjulo, 19 Hillcrest Drive. The lot immediately behind the one was donated to the Secret Lake Association in 1987. He was on the board at the time and discussed if they even wanted the liability that no one in their right mind would build on that lot. The lot he's building on is smaller. His big concern is the road. It is about as engineered as a child's building blocks. It's barely sort of hanging off the cliff. If you allow major excavation, he's worried the whole road will collapse. It may not, but it may be the

builders responsibility if it does, it's a narrow one lane road. They couldn't even get the postal service to come up there, they had to literally threaten to take them to court to get the postal service to deliver their mail. He had pointed to 25 Hillcrest. It's a disaster that should never have been allowed to happen. It's a house that sits literally right on the street at the end of Hillcrest. It sits there with giant boulders to hold it in place. This house is pushing it to cram something in there.

Mr. McCahill said the lot is 5184 sq.ft. in an R-15 zone, a lot created in 1929 before zoning. There's a number of 5,000 sq.ft. lots out in this area.

Mr. Michaud said that Mr. Cronin is upset about the trees. There are only three trees in there with a diameter that he can't huge. The majority of the trees that are on the back side of his property where there's the stone wall is 15' off the property line. He can't imagine disturbing the trees there. He's not going to clear out the lot, excavating it and watch a mud slide go down the hill into people's property. It's not his style. Technically he's been told he can clear out the lot right now, they're not excavating. But there has been a whole soil erosion setup that's on the engineered map, the hay bales, the silt fence, there's even a hay ball silt fence around the wall. He's trying to make this lot buildable for his daughter. He's not building this as a builder for a quick buck. This lot has been in the family since 1936, he purchased it last year.

Susan Anderson, 17 Mountain Ledge Road said she lives across the street and she has three lots combined into one so it conforms with zoning. He has a tiny lot which was formed for building a cottage when the land was subdivided.

Ms. Tarlowski representing her father at 23 Hillcrest Drive presented a copy of the zoning regulations for the R-15 zone. She said they were shocked when they found out someone was planning to build on this lot. She reviewed the requirements for zoning. She said this is not in character of the Secret Lake area. As you drive down Hillcrest Drive, on the left-hand side they have a lot of land. On the right it's also true except for one lot, so it's not in the character of Hillcrest Drive.

Mr. Jacek Turlowski said he has been a builder in America for 20 years and does not think there should be a building on that lot. If someone is putting a house on that lot you should just throw away the regulations.

Mr. Ken Gervols asked if this was a hardship case or is it self imposed for personal gain?

Mr. Drew replied one of the criteria for us to grant a variance is to determine that there is a hardship on the owner.

Joan Dubay, 20 Mountain Ledge Road said if the property is developed there will be additional water in her yard. She described where her house is located and where he is planning to put his house and the location of the road.



Tim Cronin said he is on the board of directors for the Secret Lake Association and they have talked briefly about this at a meeting and none of the people on the board think this is a good idea.

Mr. Drew said the board has not made a presentation but he appreciates the comments.

Mr. Michaud said the building is 2 ½ stories on one side. He didn't put the gable end on the sides facing the abutting neighbors. The height is about 24 or 27 feet, not as high as the a-frame across the street which has a variance because it was built higher than regulations allowed. This house is 1707 sq.ft. if the whole thing is completed. Everything was changed from the original submitted last month, the entrance from Hillcrest Drive, not disrupting Mt. Ledge or the rip rap. He sympathizes if they have water on their property. He has walked up and down that street, the neighbors property sits back, the grades there can be corrected to get the water off your property. If you have water already, he has no intention of adding to it. It won't be coming off this property because if you look at the topography map of Hillcrest, it shows the water coming off the upper-side of Hillcrest, down and around to the rip rap which was put in to correct your water problem. The water does not come off of Hillcrest and splay across the building site. Some of the new homes in the area are well over 2400 sq.ft., one on Birch just completed. The majority of them are cottages, the Dubay's is a cape, probably about 1200 sq.ft. Mr. Whitney did the drainage report but was unable to be here tonight to explain it. The opposite side of Hillcrest is very steep, it goes straight up.

Susan Anderson questioned if the variance was granted what guarantee would they have he would build the house the size he says and put in the driveway where he says?

Mr. Drew said yes as we would be granting it on the footprint.

Mr. McCahill said that's his job. Anytime a building application is submitted and it's been before the ZBA, it's his job to make sure the plans being submitted are consistent with what has been approved at this meeting and built out in the field. He signs on at the beginning process and the end. We've seen some people come back to the commission because they didn't stick to their plans. That's primarily why he's here other than to answer other technical questions that do come up.

Mr. Cronin said his house is the newest house in the adjacent neighborhood. It was built in 2001 and is 1150 sq.ft. He says he's building a house that is almost twice as big as that. His house is bigger than most houses in the neighborhood.

Mr. Michaud said he would like to put a 650 sq.ft. home on that building lot but zoning does not allow a two story home to be less than 800 sq.ft. on the first floor. This house is exactly 800 sq.ft. on the first floor, second floor is 624, if expanded over the garage it'll make it 1707 sq.ft. His concern would be to just put a two bedroom ranch there and eliminate the garage. But the minimum is 1000 sq.ft. for a ranch. He believes Mr. Cronin's house is a raised ranch so it's at least 1150 sq.ft. on the main level and you're

not counting the basement sq.ft. which he assumes is finished. He's not trying to put in a house that will overpower the neighborhood. This is a modest home.

There was no one else present. The Public Hearing closed at 8:25 p.m.

Mr. Drew read the Application of Susan & Richard Ratzan owners, Jamie Wolf, Wolfworks Inc applicant; requesting from the Avon Zoning Regulations, Section IV.A.2. a use variance for living area in a detached building to permit a 540 sq.ft. research library on the second floor of an existing building, located at 10 Wilcox Road in an RU 2A zone.

Jamie Wolf, Wolfworks Inc. was present. He said he was here in November for another garage which you allowed the use for a workshop. The argument here is that's it's a different type of workshop, the workshop for the mind rather than the hands.

Mr. McCahill said the use is typically for storage and other similar uses like that. What he wants to create is a space that he can use for a study. It has nothing to do with the size of the structure. Back in 1988 the regulations changed. This was built just before the change which allowed the size that it is to be there. So it's not a size issue. It's specifically the use and we've dealt with that before. There was a person who wanted to do a sewing room on the second floor of her garage, he spoke to the application in November the use was for a workshop to be created. Outbuilding are primarily meant to be used for incidental storage. In this case he wants to finish it off, add heat and electricity and use it for something a little different than our regulations allow.

Mr. Wolf said there would be no plumbing. It will not be an apartment. It's being created just for his passion which is reading. He is a doctor. He writes reviews, he writes on topics relevant to his specialty, it's incidental to his profession. It's a personal passion of his, just like someone who plays golf or tennis or has a workshop. He lives to write. He moved from Hartford from a house twice this size. When he bought this property it was his intention to use this space.

Mrs. Susan Ratzan said she is married to him. Her husband is working emergency room and could not be here tonight. She said there was an article in the Hartford Courant about a week ago about people building libraries. They lived in West Hartford for 21 years in a house that had 6,000 sq.ft., he had the third floor. Their 4 children are all gone so wanted a smaller house. With the children and their families there is no space for his library in this house. He needs more than a room. They were looking for a smaller house with a big space for his library and writing. It won't fit into a bedroom and the third floor of the house has sloping ceilings and not good for book shelves and storage. It never occurred to them it wouldn't be allowed.

David Wilcox said he actually built that house and the garage. The structure is not built to carry the load of the books. He is not against their doing it, they're in the woods where nobody can see them. They just need to change the strength of the structure.

Hardship – to deny would deprive the owner of a reasonable use of the property.

Mr. Belzer made a motion to GRANT, seconded by Ms. Clark the Application of Avon Brownstones, LLC owner, Ensign-Bickford Realty Corp applicant; requesting from the Avon Zoning Regulations Section VI.G.4., a 56' variance from the 60' front building line requirement for 5 Ensign Drive; a 6' variance from the 60' front building line requirement for 31 Ensign Drive to permit canopies over the building entrances, (buildings located within 21 Ensign Drive) in an IP zone. The vote was unanimous by Messrs. Drew, Garfinkel, Belzer, Ms. Coppola & Ms. Clark.

Reason – Granting the variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – Denying would deprive the owner of a reasonable use of the property as they had to comply with buildings that were preexisting to the requirements.

Ms. Clark made a motion to GRANT, seconded by Mr. Belzer the Application of Conrad Nurge, Jr. owner, Karen & Brian Tierney applicants; requesting from the Avon Zoning Regulations Section IV.A.8., a 15' variance from the 40' front building line requirement to permit a single family dwelling (existing cottage to be removed), located at 37 & 41 Sepous Road in an R-15 zone. The vote was unanimous by Messrs. Drew, Garfinkel, Belzer, Ms. Coppola & Ms. Clark.

Reason – To grant variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – To deny would deprive the owner of a reasonable use of the property.

Ms. Coppola made a motion to ACCEPT, seconded by Mr. Garfinkel the Application for Dennis Michaud, 22 Hillcrest Drive. Discussion followed.

Ms. Coppola said this is a preexisting lot and it's an extremely small lot. She understands the concerns of the people around them as to the water drainage and other issues which don't really come to us as part of our preview. Being that it's a nonconforming lot, we are not really allowed by state statute to be seen as confiscatory. We have to allow them to utilize their property. Her question to this board is to what extent do we allow that. The state court does allow you to use nonconforming lots.

Mr. Garfinkel said we have in the past concluded that although on a map it's defined as a building lot, we have concluded because of topography and other considerations that it should not be built on. The circumstances of that particular lot, although it's laid out as a lot, circumstances surrounding that lot, it couldn't be built on. For that reason it was denied.

Mr. Drew said in part the circumstances we have is we have property that was laid out in 1928 for cottages and now we have an R-15 zone. Zoning changes things. You



have this lot, but for a practical matter requires variances and we aren't required to grant variances just to permit somebody to build on a lot.

Ms. Coppola said the state doesn't allow you to take the property if we don't allow them to use the property. She needs to know that.

Mr. Belzer said the state would require more than one application. This is the first application to go to a hearing. If it were to be denied, that doesn't disallow the owner of that lot to come back with a second application which is more conservative use of the property requiring less of a variance and perhaps less of a threat to the neighborhood. It only becomes confiscatory when after repeated applications and it's clear that the applicant can not use his property for any gainful purpose. This is the first application. From what he heard, the applicant hasn't met his burden that he has a hardship.

Mr. Garfinkel said the hardship is immense. His problem is the hardship cannot be overcome and the result is the hardship is so immense that it's an unreasonable use of the property and detrimental to the neighborhood. It's as simple as that. That's our role. Our role is to grant all those variances that are not detrimental and consistent with the intent of the regulations. This property, based on the proposed building, is not consistent with the intent of the regulations.

Mr. Drew said it's interesting that you have a piece of property that was considered a building lot in 1928. Here we now are 80 years later, nobody built on that property. In the meantime the property, I'm sure, has been bought and sold a number of times. Do the people who buy it expect to build on it knowing there's all these limitations. There have been situations where lots basically have not been building lot, they cannot tax them as building lots.

Mr. Garfinkel said in the history of Secret Lake these are very small lots, people were putting cottages on them to have access to Secret Lake. They were not intended to be living quarters year round. It's an entirely different circumstance in the development of this property hence the reason for people taking two or three lots and putting them together.

Ms. Coppola questioned if he could build a very small cottage without a variance.

Mr. Drew replied he would need a variance for a small house. We have had another property in Secret Lake where there was a piece of property that couldn't be built on and hasn't gone to court and hasn't been built on yet.

Mr. Garfinkel said this could be a buildable lot, it just depends on the size of the building. It could be a postage stamp or a postage stamp with an envelope.

Mr. McCahill said he would need a variance on his property as there's only one small triangle where he can physically locate anything.

177.

Mr. Garfinkel said we are using the term buildable loosely. Based on what's been presented, the impact on the neighbors, building that building is unreasonable. And for that reason we should deny it.

Mr. Drew said we are charged to protect the property of abutting property owners so that doesn't require that we grant a variance to somebody to use the land if we feel it will have a dramatic impact on the abutting property owners. One of the challenges with this lot is almost anything you put on that is going to have a substantial impact because it's close to abutting property owners. It is a lot that's a third of the size of the zoning required for that area.

The motion to accept the Application of Dennis Michaud, owner/application; requesting from the Avon Zoning Regulations, Section IV.A.6. a 20' variance from Hillcrest Drive and an 18' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a single family dwelling, located at 22 Hillcrest Drive in an R-15 zone – There were no votes in favor. It was unanimous by Messrs Drew, Garfinkel, Belzer, Ms. Coppola, Ms. Clark voting to DENY.

Mr. Drew said the application was denied. It is essentially injurious to the neighborhood and detrimental to the neighborhood and not in harmony with the intention of the regulations.

There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,  
*Shirley Kucla*  
Shirley Kucla, Clerk

22 HILLCREST DRIVE – Lot History



Property at 00022 HILLCREST DRIVE Prop ID 2740022

+-----Sales History-----+					
Owner	Vol	Page	Date	SalesPr	Valid
ROEGG LLC	745	1240	14-Sep-2020	10,000	
MICHAUD DENNIS L	506	1022	03-Sep-2004		
CLEARY NANCY	055	401	01-Dec-1966		
WILLARD OLIVE T EST OF	055	401	01-Dec-1966		
WILLARD OLIVE T	055	0401	01-Dec-1966		
+-----+					

Property at 00022 HILLCREST DRIVE Prop ID 2740022

-----Administrative Information-----									
+-----+-----+-----+-----+-----+-----+-----+-----+-----+-----+									
Owner name: ROEGG LLC									
Second name:									
Address: PO BOX 1592									
City/state: FARMINGTON CT Zip: 06034									
+-----+-----+-----+-----+-----+-----+-----+-----+-----+-----+									
-----Location Information-----									
+-----+-----+-----+-----+-----+-----+-----+-----+-----+-----+									
Map: 037 Clerk map:									
Lot: 2740022 Neigh.: SL Zone: R15 Vol: 745 Page: 1240									
+-----+-----+-----+-----+-----+-----+-----+-----+-----+-----+									
-----Assessments-----			-----Exemptions-----		-----Last sale-----				
+-----+-----+-----+-----+-----+-----+-----+-----+-----+-----+									
Assmt category	Qty	Amount	Exempt	Cat	Amount	Sale date: 14-Sep-2020			
Resident Land	.12	5,600				Sale price: 10,000			
						Sale valid:			
						+-----Values-----+			
						Mkt value :			
						Cost value: 8,000			
						+-----Sales ratios-----+			
+-----+-----+-----+-----+-----+-----+-----+-----+-----+-----+									
-----Summary-----			-----Utilities-----						
+-----+-----+-----+-----+-----+-----+-----+-----+-----+-----+									
Total assessments		5,600	Water	None		Cost/sale : .8000			
Total exemptions			Sewer	None		Mkt/sale :			
Net assessment		5,600	Gas	None		Assmt/sale: .5600			
+-----+-----+-----+-----+-----+-----+-----+-----+-----+-----+									

Card 01 [Street Card](#) [Sales History](#) [Home Page](#)

After Recording Mail to:

Atty. Joseph O'Brien  
433 South Main Street, Ste 226  
West Hartford, CT 06110



### WARRANTY DEED

To all people to whom these presents shall come, greeting:

Know Ye, that **DENNIS L. MICHAUD**, of the Town of Burlington and State of Connecticut, for the consideration of TEN THOUSAND AND 00/100THS (\$10,000.00) DOLLARS paid, grant to **ROEGG, LLC**, with WARRANTY COVENANTS, property commonly known as 22 Hillcrest Drive, Avon, CT and further described as follows:

**A certain piece or parcel of land situated in the Town of Avon, County of Hartford, State of Connecticut, and known and designated as Lot #24, Section B on a map entitled "Secret Lake, Property of J. E. B. Lowell, Subdivision 1 in the Town of Avon and Canton, Conn. 100' - 1" John T. Henderson, Civil Engineer, Hartford, Conn." which map is on file in the offices of the Town Clerks of Avon and Canton, Conn.**

Being the same premises conveyed by Warranty Deed from Nancy Cleary to Dennis L. Michaud dated 9/2/2004 and recorded 9/3/2004 in Volume 506 at Page 1022 of the Avon Land Records.

Said premises are conveyed subject to:

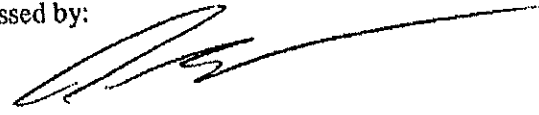
1. Taxes on the current list which the grantees herein hereby assume and agree to pay as part consideration of this deed.
2. Building lines, if established, and all provisions of any building zone ordinance enacted by the Town of Avon, and any and all provisions of any ordinance, municipal regulation, or public or private law.

\$ 25.00 State # 75.00  
Conveyance Tax Received  
Ann Deans  
Town Clerk of Avon

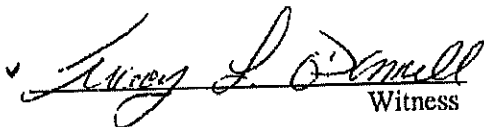


Signed this 10<sup>th</sup> day of September, 2020.

Witnessed by:

✓   
Christopher Chenette      Witness

x   
DENNIS L. MICHAUD

✓   
Lucy L. O'Donnell      Witness

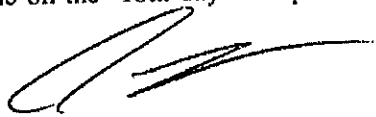
x \_\_\_\_\_

STATE OF CONNECTICUT )  
COUNTY OF HARTFORD ) ss: Southington

September 10, 2020

The foregoing instrument was acknowledged before me on the 10th day of September, 2020 by DENNIS L. MICHAUD.

SEAL

  
\_\_\_\_\_  
Christopher Chenette  
Commissioner of the Superior Court

Received for Record at Avon, CT  
On 09/14/2020 At 11:26:08 am



VOL. 506 PAGE 1022  
STATUTORY FORM WARRANTY DEED

KNOW YE, that Nancy Cleary, of the Town of West Hartford, County of Hartford and State of Connecticut, for the consideration of ONE DOLLAR AND NO/100 DOLLARS (\$1.00), received to her full satisfaction of Dennis L. Michaud, does give grant, bargain, sell and confirm unto the said Grantee with WARRANTY COVENANTS,

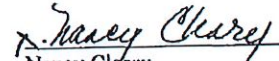
See "Schedule A"

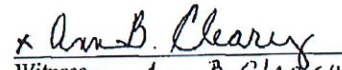
Said premises are subject to any and all provisions of any ordinance, municipal regulation or public or private law; declarations, restrictions, covenants, and easements of records; any state of facts an accurate survey or personal inspection of the property might reveal; provided that none of the above interfere with the present location of any building now located on the property, prevent the use of the property as a residence, or render Title to the property unmarketable and taxes to the Town of Avon on the list of October 1, 2003, and hereafter, which taxes the Grantee herein assumes and agrees to pay as part consideration for this deed.

Witnesses:

Signed this 2nd day of September, 2004

Witness 

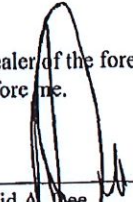
  
Nancy Cleary.

  
Witness - Ann B. Cleary

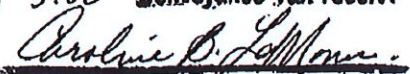
STATE OF CONNECTICUT  
ss. Hartford  
COUNTY OF HARTFORD

September 2004

Personally appeared, Nancy Cleary, signer and sealer of the foregoing Instrument, and acknowledged the same to be their free act and deed, before me.

  
David A. Lee  
Commissioner of Superior Court

Grantee's Mailing Address  
22 Hillcrest Drive  
Avon, CT 06001

\$ 5.00 # 10.00 STATE  
Conveyance Tax receipt  
  
Town Clerk of Avon

VOL. 506 PAGE 1023

**SCHEDULE A**

A certain piece or parcel of land situated in the Town of Avon, County of Hartford, State of Connecticut, and known and designated as Lot #24, Section B on a map entitled "Secret Lake, Property of J. E. B. Lowell, Subdivision 1 in the Town of Avon and Canton, Conn. 100' - 1" John T. Henderson, Civil Engineer, Hartford, Conn." which map is on file in the offices of the Town Clerks of Avon and Canton, Conn.

Said piece or parcel is known as 22 Hillcrest Drive, Avon, Connecticut.

Received September 3, 2004 At 11:57 AM  
Received in TOWN OF AVON  
*Robert J. Johnson* Town Clerk

RECEIVED  
TOWN OF AVON  
SEP 3 2004  
11:57 AM  
TOWN CLERK



State of Connecticut  
Probate District of Hartford.

VOL. 55 PAGE 401

I, JAMES T. OANIVAN, Clerk of the Court of Probate for the District of Hartford, in said State, and keeper of the seal thereof, do certify that it appears from the records and files of this Court that Edward Abbott Willard or Edward A. Willard

did a resident of Bloomfield in said District on the 31st day of December 1965, intestate, that on the 20th day of January 1966 administration on the estate of said decedent was granted to Olive T. Willard of Bloomfield on the 24th day of January 1966 by decree of said Court limited and allowed six months thereafter for the presentation of all claims against said decedent to the administrator of said estate and directed that public notice of said limitation be given as by Statute required; that after the expiration of said six months said administrator filed in Court an administration account and other returns which have been accepted by the Court from which it appears that public notice of said limitation was given as directed in said order and that all claims against said decedent presented to said administrator within said time limited have either been paid, settled, or barred by law.

I further certify, that the sole heir-at-law and distributee of said estate has been ascertained by this Court to be Olive T. Willard of Bloomfield, wife of said decedent, who took by inheritance all such right, title and interest as said decedent had at the time of his decease, in and to a certain piece or parcel of land, situated at Secret Lake, Town of Avon, County of Hartford and also known as No. 22 Hillcrest Drive, 82' front, 57' deep, Lot No. 24, Section B, on a map entitled "Secret Lake, Property of J. E. B. Lowell, Subdivision 1 in the Towns of Avon and Canton, Conn. 100' - 1", John T. Henderson, Civil Engineer, Hartford, Conn.", which map is on file in the offices of the Town Clerks of Avon and Canton.

Being the same premises described in deed recorded in Avon Land Records, Volume 16, Page 488.

IN TESTIMONY WHEREOF I have hereunto affixed the seal of said Court and subscribed my name at Hartford, this 16th day of November,

A. D. 1966

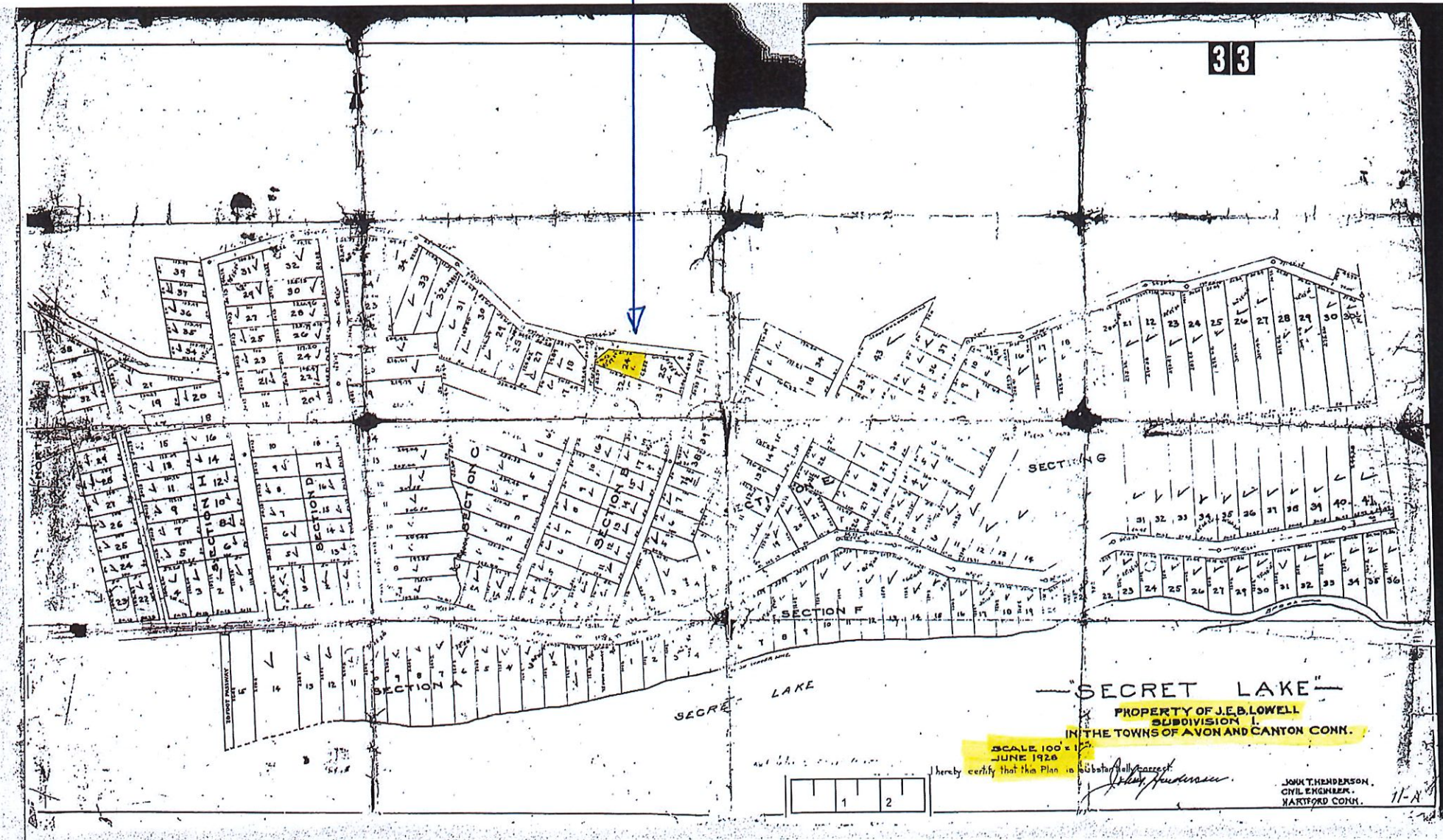
Received Dec 1, 1966  
9 AM P. H. H. H.  
Tom Clark

James T. Oanivan  
CLERK



REFERENCE (CURRENTLY 22 HILLCREST DRIVE) *lan*

33



SECRET LAKE  
PROPERTY OF J.E.B. LOWELL  
SUBDIVISION I  
IN THE TOWNS OF AVON AND CANTON CONN.

SCALE 100' = 1" JUNE 1926

1 2

I hereby certify that this Plan is a true and correct copy of the original as filed in my office.

JOHN THOMPSON  
CIVIL ENGINEER  
HARTFORD CONN.

11-A

**Susan Guimaraes**

---

**From:** ED RYAN <edwardmryan@comcast.net>  
**Sent:** Thursday, May 13, 2021 9:17 AM  
**To:** Susan Guimaraes  
**Subject:** [External] Zoning Variance - 146 Old Mill Road

I live at 128 Henley Way, directly across the street and in full view of 146 Old Mill Drive.  
I am in favor of the application. Everything the owner does is first class and always observant of the character of the neighborhood. This addition will enhance the value of the property and more than likely increase the value of the surrounding properties with its higher valuation.  
I would be happy to answer questions or offer additional comments if needed.

Ed Ryan  
860-690-0546



SARAH SANCHEZ  
20 Mountain Ledge Road  
Avon, CT 06001

April 13, 2021

Town of Avon  
Zoning Board of Appeals  
60 West Main Street  
Avon, CT 06001

Re: 22 Hillcrest Drive, Avon

Ladies and Gentlemen of the Board:

I am writing to voice my opposition to the pending application for multiple variances requested to construct a dwelling at 22 Hillcrest Drive in Avon. I reside at the property directly west of the lot in question and I have a number of concerns regarding the lot size and the drainage.

The construction of a single-family home on this lot would not be consistent with the character of the surrounding properties. The property is only a 5,184 square foot lot, while the majority of the surrounding properties consist of multiple lots.

In addition to this manner, I have a number of concerns regarding the drainage of this property, being that my property and residence is directly downhill from this property. When I purchased this home, I was informed that the basement had to be drained on multiple occasions as a result of water draining down the adjacent hill. The then owner's complaints about this issue to the Secret Lake Association, are a matter of public record. I am concerned that the development of this lot will only worsen the water runoff from the north side of the lot and undermaintained drainage installations (adjacent to both properties) onto my property. I note that the proposal shows some attention to the drainage issue, but my concern is that these solutions have limited horizons if not maintained or replaced, frequently in the case of silt fencing.

Finally, I would like to comment on the assessor's lot card and the overhead image provided with the application. I am aware that the boundaries shown come from the town and are not meant to determine actual property lines; however, I feel that given the small size of the lot referenced in the application, it is important to note where they deviate. The visuals provided with the application show the boundary going to the edge of my toolshed, when in reality there is 6' from the east side of the structure to my fence, as can be seen in the photos provided with the application, and approximately another 8' to the iron pin. I created a visual aide (see attached) to


RECEIVED

APR 13 2021

Planning Department  
Town of Avon

better represent this, using an image in which the topography is not as obscured by the tree cover.

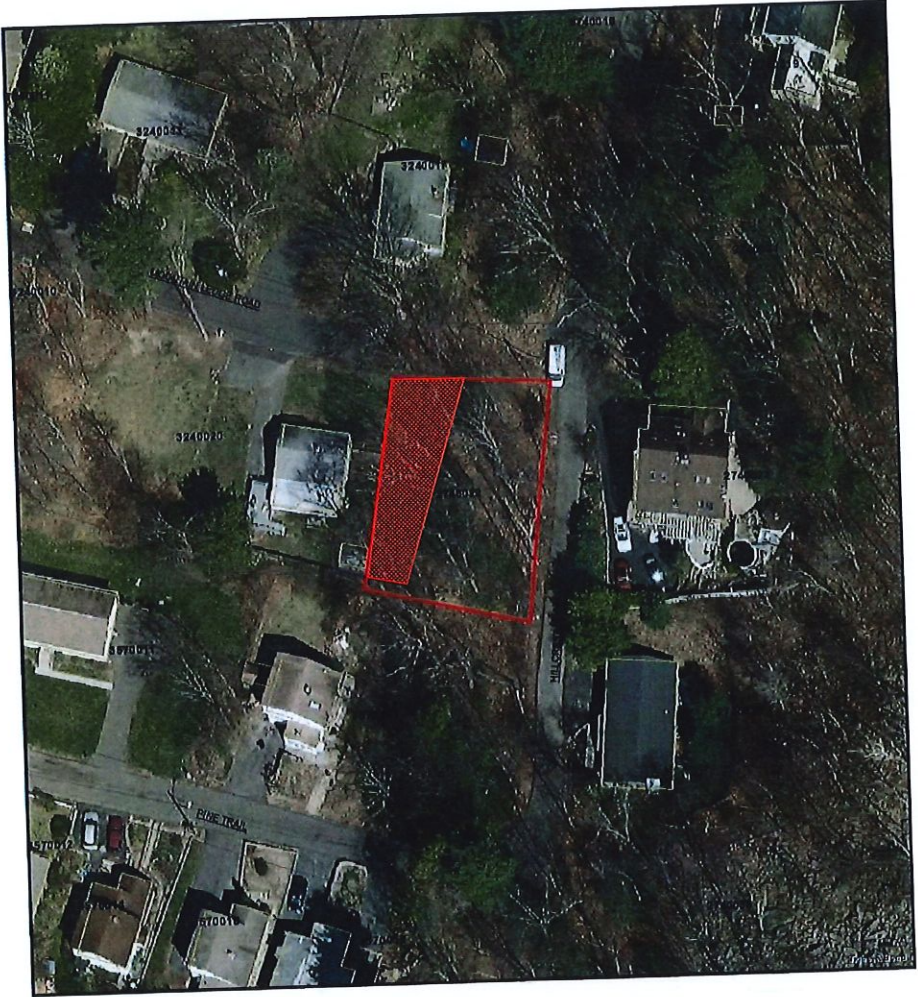
Thank you for your consideration in this matter.

Sincerely,  
  
Sarah Sanchez









SUSAN ANDERSON  
17 Mountain Ledge Road  
Avon, CT 06001

April 9, 2021

RECEIVED

APR 12 2021

Planning Department  
Town of Avon

Town of Avon  
Zoning Board of Appeals  
60 West Main Street  
Avon, CT 06001

Re: 22 Hillcrest Drive, Avon

Ladies/Gentlemen:

I am writing in opposition to the pending application for multiple variances to construct a single family home on the referenced property. This is at least the fourth application to come before this Board, with all the prior ones being denied for good reason. There is nothing in this application that varies significantly from the prior applications that were already denied.

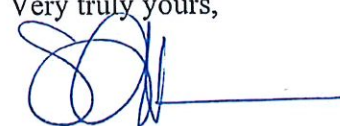
The property is still only a 5,184 square foot lot which is not in keeping with the character of the neighborhood. The majority of the properties in the area consist of multiple lots shown on the Secret Lake map and are much larger in size than this parcel.

Besides being extremely small, the topography of the lot does not lend itself to development. The lot is on a steep incline coming off of Hillcrest Drive. When calculating developable land, the zoning regulations exclude any land with slope in excess of 25%. If I'm interpreting the plan correctly the slope off of Hillcrest is in excess of 35% and the area where the house is shown is at a slope of 30%. Land having more than a 25% slope is not meant to be developed.

Additionally, this area of Hillcrest Drive and Mountain Ledge Road has had a lot of drainage issues. The town has addressed some of the issues with curbing and rip rap, but issues still remain. Prior to this work, the property at 20 Mountain Ledge Road had to have the basement pumped on numerous occasions after heavy rain fall as a result of the run off from Hillcrest Drive. I know that Secret Lake Association has made requests to public works to go back and address the matter over the last couple of years, (see attached e-mails). Construction on this parcel will only exacerbate the issue.

Thank you for your consideration to this matter.

Very truly yours,



Susan Anderson

Hillcrest - Mountain Ledge water run off

From: Susan Anderson (sueander35@sbcglobal.net)  
To: pwelsh@avonct.gov  
Date: Monday, April 22, 2019, 08:28 AM EDT

Hi Paul:

I understand you spoke to my neighbor Betty about the drainage off of Hillcrest towards Mountain Ledge. The rip rap that was installed there to form a swale and divert the water to the roadway versus the properties was done before I moved to Secret Lake (18 years ago), so I didn't know who did the work. I asked Kevin Gaucher since he was in the neighborhood and on the board at the time. He tells me it was the town that did that work.

From what I can see (and trust me, I am no expert) the rocks have moved/shifted over the years so the swale down the middle isn't as prominent as it used to be - the rocks on the sides have fallen into the swale area making it more of a level surface. Additionally, vegetation has grown up and also at the terminus of Mountain Ledge, debris that has been pushed up through the years by the plow driver has accumulated and is preventing the water from running down to Mountain Ledge Road and then to the catch basins. Instead the flow of water is going to the sides.

Please let me know if the town can address the situation.

Thanks, Sue Anderson  
Secret Lake Association



RE: [External] Re: Hillcrest - Mountain Ledge water run off

From: Paul Welsh (pwelsh@avonct.gov)

To: sueander35@sbcglobal.net

Date: Friday, August 23, 2019, 07:20 AM EDT

Will see what we can do

**From:** Susan Anderson [mailto:sueander35@sbcglobal.net]  
**Sent:** Wednesday, August 21, 2019 1:38 PM  
**To:** Paul Welsh <PWelsh@avonct.gov>  
**Subject:** [External] Re: Hillcrest - Mountain Ledge water run off

Hi Paul:

I'm following up on this issue again.

Also - a lot of the road signs are getting overgrown with plant growth and not very visible. On Pine Trail where the school bus turns around there is a bush/shrub very overgrown into the street. Can you take care of trimming back?

Thanks, Sue

On Friday, May 31, 2019, 01:10:03 PM EDT, Paul Welsh <PWelsh@avonct.gov> wrote:

I have not asked him about it. Will try next week

**From:** sueander35@sbcglobal.net [mailto:sueander35@sbcglobal.net]  
**Sent:** Friday, May 31, 2019 12:36 PM  
**To:** Paul Welsh <PWelsh@avonct.gov>  
**Subject:** Re: Hillcrest - Mountain Ledge water run off

Hi Paul:

Just circling back on this issue.

Thanks, Sue

On Tuesday, April 23, 2019, 9:27:16 AM EDT, Paul Welsh <[PWelsh@avonct.gov](mailto:PWelsh@avonct.gov)> wrote:

Let me talk to Bruce and see if we can fix it.

-----Original Message-----

From: Susan Anderson [mailto:[sueander35@sbcglobal.net](mailto:sueander35@sbcglobal.net)]

Sent: Monday, April 22, 2019 8:28 AM

To: Paul Welsh <[PWelsh@avonct.gov](mailto:PWelsh@avonct.gov)>

Subject: Hillcrest - Mountain Ledge water run off

Hi Paul:

I understand you spoke to my neighbor Betty about the drainage off of Hillcrest towards Mountain Ledge. The rip rap that was installed there to form a swale and divert the water to the roadway versus the properties was done before I moved to Secret Lake (18 years ago), so I didn't know who did the work. I asked Kevin Gaucher since he was in the neighborhood and on the board at the time. He tells me it was the town that did that work.

From what I can see (and trust me, I am no expert) the rocks have moved/shifted over the years so the swale down the middle isn't as prominent as it used to be - the rocks on the sides have fallen into the swale area making it more of a level surface. Additionally, vegetation has grown up and also at the terminus of Mountain Ledge, debris that has been pushed up through the years by the plow driver has accumulated and is preventing the water from running down to Mountain Ledge Road and then to the catch basins. Instead the flow of water is going to the sides.

Please let me know if the town can address the situation.

Thanks, Sue Anderson  
Secret Lake Association

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Secret Lake

From: Susan Anderson (sueander35@sbcglobal.net)  
To: pwelsh@avonct.gov  
Date: Monday, October 5, 2020, 04:56 PM EDT

Hi Paul:  
  
Hope you have been well.

Couple of things to touch base on for Secret Lake:

- 1. Our speed humps/stop sign lines need to be repainted which is part of our budget with the town.
- 2. Can we circle back to the drainage issue from Hillcrest to Mountain Ledge at some point (with the current drought it's kind of dropped off my radar but will need to be addressed at some point).

Thanks,  
  
Sue Anderson  
Secret Lake Association



**Susan Guimaraes**

**From:** Aldona Tarlowski <jaconstructs@gmail.com>  
**Sent:** Tuesday, April 13, 2021 8:59 PM  
**To:** Susan Guimaraes  
**Subject:** [External] 04/15/2021 hearing on Roegg, LLC application for 22 Hillcrest Dr.

Dear Ms. Guimaraes,  
Attached is my letter as well as meeting minutes from hearings dated 05/26/05, 07/28/05 & 04/27/06.  
Please kindly add them to the agenda for 4/15/21 hearing regarding the Roegg, LLC variance application for 22 Hillcrest Dr.. I am opposed to the request and would like my objections to be heard at the hearing.  
Also, please confirm the receipt of this email along with all its contents.  
Sincerely,  
Jacek Tarlowski  
23 Hillcrest Dr.  
Avon, CT 06001

 [04-27-2006 meeting minutes.pdf](#) 

 [05-26-2005 meeting minutes.pdf](#) 

 [07-28-2005 meeting minutes.pdf](#) 

 [Tarlowski ltr.pdf](#) 

**J. Tarlowski**  
J&A Construction LLC  
Avon - Hamden, CT  
Tel 860-675-4344 & 203-772-7995

RECEIVED

APR 13 2021

Planning Department  
Town of Avon

April 13, 2021

Jacek & Mariola Tarlowski  
23 Hillcrest Dr.  
Avon, CT 06001

Chair of the Zoning Board of Appeals  
c/o Avon Town Hall  
60 West Main St.  
Avon, CT 06001

Re: ROEGG, LLC application for zoning variance of IV.A.6 of the Avon Zoning Regulations  
Property: 22 Hillcrest Dr., Avon CT  
Hearing date: 04/15/2021

Chair of the Zoning Board of Appeals:

I am the home owner and 30 year resident of 23 Hillcrest Dr., Avon CT which lies directly across the street from 22 Hillcrest Dr. I would like to express my opposition to the zoning variance request submitted by Mr. Gregg Fedus of Roegg, LLC. I regret that I am unable to be at the hearing as I learned of it a few short days ago. I would, however, humbly ask that my letter and the accompanied documents be incorporated into the 04/15/2021 hearing.

I would like to point out that this board has already previously reviewed and denied very similar applications to build on this lot on three separate occasions:

05/26/2005

07/28/2005

04/27/2006

Since the configuration & size of the lot as well as the zoning regulations have not changed, I ask that the objections listed in meeting minutes from hearings dated 05/26/2005, 07/28/2005 & 04/27/2006 be entered on the record at this hearing as well. All of the objections are as valid and pertinent today as they were then. Scanned copies of the above mentioned meeting minutes accompany this letter.

I reviewed the application and related documents and would like to bring to the board's attention a few misrepresentations:

1. The submitted 3/31/21 aerial view misrepresents the lot as a larger rectangle. In actuality it is smaller in size and more triangular in shape. Please compare to the site plan.
2. The 4/1/21 Avon CT Web Gis map also misrepresents the lot as a rectangular in shape.
3. The lot width of 104' listed on the R-15 Zoning requirement table on the site plan is not the width of the property but the rear property line. The frontage along Hillcrest Dr. has a width of 81.2'.

This petitioner is requesting that the ZBA forgo zone R-15 requirements of:

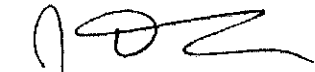
Minimum lot area 15,000sf	-22 Hillcrest has only 5,184sf
Minimum lot with 100'	-22 Hillcrest has only 81' frontage
Maximum lot coverage 15%	-22 Hillcrest proposal has 16%
Minimum front yard set back from Hillcrest 40'	-22 Hillcrest proposal has 24'
Minimum front yard set back from Mountain Ledge 40'	-22 Hillcrest proposal has 12'

This is not a case of asking for a slight variance, but a case of asking to practically disregard zoning requirements altogether in order to develop this property. Please refer to the tiny little triangle shown in the rear left corner of the house on the site plan labeled "existing building setback". This tiny little section is the only area suitable for development on this lot under the currently applicable R-15 zoning regulations.

Mr. Fedus purchased the property for \$10,000 on 09/14/2020 with the knowledge that it is assessed at \$5,600 (well below current market value) and the knowledge of previous unsuccessful attempts to develop this property (he lists them on the zoning board of appeals application). As a member of Fedus Engineering, civil engineering services, Mr. Fedus possesses the expertise to realize that he is purchasing a property that is not valued as a building lot and it has considerable limitations. The "purchaser with knowledge rule" applies in this circumstance and should bar the granting of these variances.

It is my earnest hope and request that the board acts upon its responsibility to uphold the zoning regulations, as it did on three prior occasions, instituted to protect the character of the neighborhood, its residents and properties. Also, to further protect the abutting property owners from the negative impacts of this project such as the drainage problems, soil erosion, increased density and decreased value of adjacent properties.

Very Respectfully,



Jacek Tarlowski



Mr. Drew said the motion was made that the applicant has satisfied the provisions for appeal. Mr. Beizer seconded the motion for further discussion.

Ms. Coppola questioned if this board has the authority to decide a date as to when the 30 days start and just what we're voting on?

Mr. Drew replied we have in our file the letter dated February 1<sup>st</sup>. Due to the other circumstances that surround this dialogue, should that be effective for starting the period which the counsel says started the 64 days period.

Mr. Rossetti said we have a letter dated today from the town attorney that indicated that the board has the authority if it chooses to determine if it's timely.

Mr. Garfinkel commented said the issue goes back to at least September 1<sup>st</sup>, 2005. The owner of the property appears to have raised the issue of building on an unapproved lot. It's taken quite a period of time for this to get to the point of filing a request for a permit and it got rejected and as long as we keep on talking the clock is on hold. He has a problem with that. He feels the clock has been running all this time.

Mr. Drew said we are all aware there are many statutes that provide for absolute dates. It seem to me that if we get into a process of saying that an absolute date should not be applied in this circumstance, that it's a dangerous precedent.

The vote of the motion to grant was Mr. Rossetti and Mr. Beizer. Opposed were Mr. Drew, Mr. Garfinkel, Ms. Coppola. The motion was denied.

Mr. Drew said based on the fact that the applicant did not make the thirty day statue we will not hear the application tonight.

There was no one else present. The Public Hearing closed at 8:10 p.m.

Mr. Drew read the Application of Dennis Michaud, owner/applicant; requesting from the Avon Zoning Regulations, Section IV.A.6., a 24' variance from Hillcrest Drive and a 14' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a two story single family dwelling located at 22 Hillcrest Drive in an R-15 zone.

Mr. Christian Hoheb, 5 Brick Walk Lane, Farmington, Dennis Michaud and his family, David Whitney, Harry DerAsadourian, Avon Tax Collector were present.

Mr. Hoheb said this applicant has been before the board twice before resulting in denials. They have made significant improvements to this application. They are seeking only two variances. One is the result of being a corner lot. When you have two roads the setback from both roads is 40'. The setback to Mt. Ledge is



not as significant as the setback to Hillcrest. The improvements to this application include improvements to the drainage. Mr. Whitney has worked very hard with the town staff on this. There is additional screening to the neighbor and it's a more modest application. This is a classic hardship based on the size of the lot. He pointed out a tiny triangle on the map as the area where a house could be built without relief.

Mr. David Whitney, Professional Engineer in Avon. The land slopes down in a westerly direction from Hillcrest with an average grade of 27 per cent. It's presently a wooded lot. The area of the lot is 5,184 sq.ft. for 0.12 acres, a very small lot. Rain water goes down Hillcrest Drive and makes an 8' wide rip rap swale which goes to end of pavement on Mt. Ledge Road then to a set of catch basins. There is public sanitary sewer located in the rip rap swale with an existing Y installed for this existing property. The proposal is to construct one single family house, 20' wide by 39' long with a 1' jog. The total footprint is 767 sq.ft. which is 14.8% of the lot, R-15 zone maximum footprint is 15%. A previous application showed a house that was 28% larger and had requested a variance for the 15% coverage but the house has been reduced in size so that request is no longer necessary. The house will have two floors, total living area on first floor must be over 800 sq.ft. The proposed is 817 sq.ft. on first floor. They eliminated the garage on a previous application. They revised the house so they only need two variances. They comply with the 15' side yards. Drainage flows down Mt. Ledge Road, along Hillcrest to catch basins. The proposed house will have roof leaders and surface water leading to a subsurface system with five 4x4x4 galleys. The perk test showed the soil to be well drained. There will be an increase run off into the ground, not off site. There will be fill involved on site along Hillcrest Drive. They propose to install curbs along the site so water will flow along gutters. The water going into the system will decrease downhill water. The proposal was submitted to the town engineer.

Mr. Beizer questioned if the drainage had been approved by the Secret Lake Association as per the direction from the engineering department? Mr. Whitney said he doesn't know if they've taken a formal vote to approve it. There is a letter in the file from the Secret Lake Assoc.

Mr. Drew read the letter from the Secret Lake Assoc. They represent all residents of Secret Lake and will not take a position in favor or in opposition to this application. The assoc relies on the town departments to enforce all safety and health regulations such as streets and drainage. The concerns are Hillcrest Drive is extremely narrow, curb cut for driveway, construction of retaining wall, drainage, infiltration boxes buried sufficient depth, soil erosion along steep southerly side of property, sewer line installation after three days of dry weather.

Mr. Whitney said, 1. making Hillcrest one way traffic makes sense. The board is requesting to eliminate one of the driveway curb cuts. He will have a further discussion with SLA. He thought it was a good solution as the road is narrow,



you could drive in and drive out. That is not a ZBA issue. 2. The previous plan did show a very steep retaining wall in the front. That wall has been eliminated so that is not an issue. 3. The galley system should be buried to a significant depth so they concur. 4. Prior to any building permit being issued there has to be a soil erosion plan. Some sites in town have more stricter requirements which require more inspections and he suspects this will one of those lots. 5. Sewer connection during 3 days of dry weather is also acceptable.

Mr. Hoheb presented a scale model of the house showing the slope of the lot with the proposed shrubs.

Mr. Beizer asked if there were other comparable parcels of undeveloped land in Secret Lake area that have characteristics similar to this parcel? How much opportunity is there in the future for other property owners with undeveloped lots to come in with similar situations? He then asked if he could relate the size of this building to existing houses in the neighborhood.

Mr. Whitney replied he has not done a study on that. He showed a town assessors map with a lot across the street, 21 Hillcrest. These lots, while they appear to be larger in size, are actually quite steep in the back and that's the reason both houses across the street from the applicant were built closer to the road so he would suggest this lot has an identical situation. He thinks there are similar lots in the area. This house would be equal in size to some of the houses in the area and smaller than others. After the rains this weekend there was no sign of intermittent water courses or any formal channels coming down. The majority of the water came down the gutter of the road. As he drove around the entire neighborhood he observed all the roads are in relatively poor shape with many issues all around the neighborhood. Again the retaining wall is not part of the new application. The previous application had a garage underneath but that was eliminated too.

Harry DerAsadourian, Assessor for the Town of Avon was present to clarify some information. The lot was created in 1929. The configuration of the lot today is the same as it was in 1929. It hasn't changed in size, shape, etc. In addition the town over the years has viewed it as a building lot, has treated it in a similar fashion as other surrounding properties that have since been developed. For example across the street, 21 Hillcrest Drive which has an opposite effect, instead of going down, it rises. In the past both lots were treated as building lots, both receiving the same type of adjustment for topography, #21 receiving slightly more adjustment for topography than #22. The owner of #22 has pretty much been the same since it was originally created. Mr. Willard acquired it, then his widow, and then it went to the estate, until Mr. Michaud acquired it recently. In terms of size, shape and ownership, it's been fairly consistent since creation. The recognition as a building lot has been pretty much consistent. We don't make that determination, it's done by other boards and commissions. The prior assessor, Mr. Clark, also recognized it as a building lot when doing the



assessments over the years. There are about three or four other lots in the area that could be built upon. We're at the tale end of the development curve there.

Dennis Michaud said he used the prints to make the model to-scale. The cantilever in the back is where their picking up the 817 sq.ft., it does not impose on any of the side yards. He stayed up many nights trying to get the 800 sq.ft. on the first floor and the 200 sq.ft. per bedroom needed for the regulations. The reason he's building this is for his daughter. She is a candidate for a job at Cherry Brook School in Canton and this is a nice commuting distance to there. He would like her to be in Avon, he lives in Burlington.

Margaret Rattigan attorney, representing neighbors Tarlowski, 23 Hillcrest, Heath, 13 Mountain Ledge Road, Dubay, 25 Mountain Ledge Road, and 17 Pine Trail. They are opposed to the application. She has a town of Avon property card. There was a question on the last two applications about the actual sq.ft. of the lot. The town lists it as 4,300 sq.ft. Also the value of the lot was listed as \$3,000. What is the typical value of a building lot in Avon with this same sq.ft.

Mr. DerAsadourian replied that if you're familiar with the land records and the map on file dated 1928, this is a paper map. Currently maps are filed on mylars. There were no measurements such as sq.ft. or land area. It was manually calculated in the past. A survey map was put on file recently done by Nascimbeni & Jahne indicating it was roughly .12 acres. Our records have been revised. He provided an updated street card. The land area has been adjusted as well as the availability of sewer, it was felt the land assessment should be adjusted for the current grand list. A typical lot in the area would be \$60,000. Mr. Michaud purchased this lot for \$2,000 plus back taxes and whatever else went into that. He doesn't know what the specific number is. He considers it a building lot unless notified by another department such as zoning board or health district or some other regulatory agency.

Susan Anderson, 17 Mountain Ledge Road directly across from this lot. She questioned the amount of assessment on the lot.

Ms. Rattigan said the people she represents are opposed to this application for many reasons. The negative impact this tall structure will have on the surrounding areas in respect to the safety, health and welfare. Their concerned with the drainage despite the fact the drainage has been worked on. The lot itself is 1/3 of the required minimum lot size. Their position is they need 3 or 4 variances. It will also decrease property values. This board has twice determined the application is inappropriate. The lot is to small for a house this large. She requested the two previous hearing, May and July 2005 be incorporated into this public hearing. She quoted Mr. Garfinkel from the minutes of the May meeting as saying even if a lot is listed as a building lot, it doesn't mean you can build on it including the topography. Mr. Garfinkel replied that doesn't mean this lot can't be built on. Sometimes he says thing for effect.



single one that looks like this in Secret Lake. The supreme court has said "don't grant variances unless you absolutely have to." Ms. Rattigan cited two cases, Abel and Stember. These cases are fairly current, 1994 and 1997.

Ms. Rattigan continued. Mr. Michaud she read in the record is a self described developer and builder. Clearly he bought this property knowing its limitations. He only paid \$2,000 for the lot. If it was truly a building lot, it would have cost significantly more. Mr. Michaud is a purchaser with knowledge. She thinks there are more than two variances needed. The minimum lot area for R-15 is 15,000 sq.ft., this is a 5,000 sq.ft. lot. The minimum lot width is 100', this lot is 81.2'. The maximum lot coverage needs a variance. The house area is 767 sq.ft. plus a 50' overhang making it 870' sq.ft. That is over the lot coverage. The definition in the regulations is the percentage of roof area of all buildings on the lot. Roof overhang is not calculated as lot coverage unless they project more than 18" from the exterior foundation wall. This extends more than 18". The applicant did not calculate the lot coverage correctly. She thought he needed a rear yard variance not realizing it was a side yard on a corner lot.

In conclusion, the reason the board denied the past two applications is that it's unreasonable to build a house of this size on this small lot, the impact on the neighborhood, particularly the abutters, would be great. It is not significantly different from the second application to warrant a reversal of this board's prior decision. The 'purchaser with knowledge rule' applies to these circumstances and bars the granting of this variance and should be denied.

Mr. Hoheb said the two variances requested are because these are both treated as front yards because it's a corner lot. Requested are 14' from Mountain Ledge, 24' from Hillcrest. He submitted a document which shows actual front yard variances in the area that have been granted since 1983. There is a history for granting.

Mr. McCahill said this is a preexisting lot of record, it's not subject to regulations that were adopted in 1957, you'll probably have to get a legal opinion on that. He thought the overhang was less than 18" when he submitted the application.

Mr. Whitney replied the plan does show an overhang of 2'x25'. He was under the impression that 2' was the maximum overhang permitted, maybe he was confusing commercial zones with residential. He will check on that. If they reduce the overhang to 18" we'd be reducing the square footage by 12.5' and that would make the first floor area 804.5. If they are incorrect, it could be revised to 18". The minimum requirement on the first floor is 800 sq.ft.

Mr. Rossetti said the Able case had notes on the actual subdivision plan, "this area is not to be constituted as a building lot but to be used as a park reserve for sisters of Saint Thomas of Villanova across the street". Here we have a lot which the town assessor has said has always been treated as a building lot. This is not



Ms. Rattigan continued. She quoted Mr. Drew from the May minutes saying this lot was part of the lots laid out in 1928 for summer cottages, not for year round residences. He agreed this board is not required to grant variances just to permit someone to build on a lot. He questioned whether people buying lots like this knowing there are zoning limitations can actually expect to built on them and there are other lots in Secret Lake that could not be built on. That is what is called the prior knowledge rule. She further stated Mr. Drew said the board is responsible for protecting abutting property owners. We're not required to grant a variance just so they can use their land. Any building on this lot would have a negative impact on the abutting property owners. This lot is a third the size of zoning required in this district.

Ms. Rattigan then quoted Mr. Beizer from the minutes saying the applicant has not met his burden for hardship. Mr. Garfinkel was quoted saying based on the impact of the neighbors and the size of the lot, the building of this structure would be unreasonable on this lot. The board by a unanimous vote denied the application because building on this lot would be injurious and detrimental to this neighborhood and would not be in harmony with the zoning regulations.

Ms. Rattigan said the applicant came back with a second application, shrunk the house from 46' in length down to 39'. That is what you're seeing today, the same size house as on the second application. They created more room on the second floor with the overhang. In July Mr. Garfinkel changed his mind and voted to grant the application. Quoting Mr. Beizer that anyone buying this lot after the zoning regulations were adopted would have to know how difficult it would be to build on. The only other factor in denying the second application was Mr. Michaud's failure to prove a hardship. This third application is not much different from the second one. There should be a substantial change. This house is too big for this lot. The neighbors concerns, the negative impact on this neighborhood, still remain. The board is prohibited from reversing its previous decisions, denying this applicant's request for a variance and legally may not grant this application unless the facts and circumstances concerning the proposed building itself have substantially changed. That is not the case here.

Mr. Garfinkel stated the last application requested at least 3 or 4 variances and this current application is requesting only two. Two is at least 50% of 4 and that represents a significant change to the application as far as our authority to hear it.

Ms. Rattigan said the CT supreme court has stated, "the fact that one or more variances have been granted to landowners near the site of the proposed variance, does not constitute proof of undo hardship. Each case must be decided on it's own merits and it follows that a variance may not be justified on the grounds that variances have been previously issued in the immediate area." She stated one of her clients researched the town records and there was not a



the same as the case before us. Able is a case where the actual subdivision plan said this is not a building lot. By definition anyone who purchases a lot after zoning codes have been enacted, is ineligible on your meaning of the prior knowledge act because everyone knows, who buys a lot that doesn't conform, will need a variance.

Joan Dubay, 20 Mt. Ledge Rd. said she lives below this property. She has dealt with a lot of issues with the drainage and Mr. Whitney says he has some resolutions to some drainage problems. She presented pictures of her property before the rip rap was installed. He is planning to build up to the road. She asked if they knew what would happen if the road crumbles, where everything is going to end up. She is begging the board, this is not right. She is going to be the one suffering. She asked if the client gets his way and her property gets destroyed, whether it is her foundation, her cellar, or he drops a tree on her property, who does she sue; the town for letting him build or the client?

Tim Cronin, 11 Pine Trail adjacent to the lot. If they cut down the trees, Hillcrest Road is eventually going to collapse because it's the roots of the trees that hold up that tiny little street. The road failure is inevitable. He asked if Mr. Michaud was willing to put up a million dollars to give to the association to replace the road after he knocks it down. This is not a corner lot. That street that he's using for his front yard hasn't existed since the 1950's or 1940's. When he built his own house, he needed two lots put together to build a house about the same size as this proposed one. Even before those two lots were combined, there were two separate houses on the lots. He was told he could only build one house. Water doesn't run up hill, it runs down hill and the water is going to go and wipe out the trees and the dirt and the stone wall. He also wants to know where the well will be located. You can't legally put a well on that property. What this guy does is go around to other towns in the area buying up these little post card stamp places claiming that he's going to build a little house for his daughter. Other towns have turned him down. The only structure he wouldn't object to is a storage building inside the triangle only if they promise not to cut down the trees holding up the road.

Jacek Tarlowski, 23 Hillcrest Drive across the street. His lot is 6 times bigger than this lot. His house is going to be 14' from the street, the street is about 14' wide, very close. From the street the ground goes down. If you remove the trees, nothing holds the road. There's an erosion problem. The value of the land is going to drop down the area.

Mr. Drew read the letters opposed from Gerald J. Oumette, 16 Pine Trail and Michael & Aleksandra Parady, 35 Cliff Drive.

Trish Rioux on the board of Secret Lake Assoc. said per their charter they can not say yes or no to any building on any lot in Secret Lake. We are ruled by the regulations of the town of Avon. That's why the home owners are presenting



their concerns to you tonight. Our concern is to the community as a whole. Hillcrest is a very narrow road, the lot is very steep off of it. They are currently working with the town to decide whether Hillcrest should remain a two way road or go to a one way and also on a drainage project to be done over the next three years. They are working with the town to improve Secret Lake as a community. There's a lot of water coming off the cliff. There's curbing that goes completely in front of that property which diverts water run off. They have not seen the new plan so they cannot comment on it. Their letter was addressing the previous plan.

Mr. Whitney said there is no curbing in front of this lot. The pavement ends, leaves and sand have built up to create a path so water will flow down in this direction but there is no typical 6" bituminous concrete curbing. The curbing starts around the corner at Pine Trail. They are proposing to install curbing along the front of the site with a 1" lip at the two driveway entrances to maintain the gutter flow goes in the right direction. They will be filling the site and the driveway will be graded down to Hillcrest. If there were a 1 1/2" rain storm, it would not go to the lot and the driveway is going down to the road. There is a walk out of the cellar floor, no fill need in the back or the side.

There was no one else present. The public hearing closed at 10:02 p.m.

Mr. Drew read the Application of Anthony & Gail Galazan owners, Anthony Galazon applicant; requesting from the Ayon Zoning Regulations Section IV.A.2., a 1,413 sq.ft. variance from the 600 sq.ft. in floor area allowed for out buildings, to permit a 480 sq.ft. (12'x40') accessory building (1,533 sq.ft. existing barn) to be used as a "peanut gallery" with a bathroom, dressing room and kitchen, located at 125 Vermillion Drive in an RU-2A zone

David Whitney said the site is 15 1/2 acres. The existing house is over 10,000 sq.ft. in size. The proposal is for a peanut gallery which is a small structure adjacent to a sports court in the rear yard with a viewing area, a locker room, changing area with a bathroom and a small kitchen. There are retaining walls that are to be constructed in the back yard. The distance is about 218' from the front property line. In addition there is a considerable change in grade and considerable vegetation along the street. He would submit that anyone driving by would not glimpse this peanut gallery. Previously there was an application to construct a barn so we are here tonight because the total outbuildings are considerably over the 600 sq.ft. minimum requirement. The sports court consists of multi purpose tennis court, ice skating rink, badminton court.

Mr. Drew said we have a proposed 480 sq.ft. accessory building in addition to an existing accessory building consisting of 1,533 sq.ft. so we need now a variance of 1,413 sq.ft.



19  
Mr. Rossetti said the motion has been made, the application is as it appears, they will remove the shed.

The vote was unanimous by Messrs. Drew, Garfinkel, Beizer, Rossetti, Ms. Coppola.

Reason – Granting the variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – Denying would deprive the owner of a reasonable use of the property.

Mr. Beizer made a motion to GRANT, seconded by Mr. Garfinkel the Application of Juan Aguilar owner, Elizabeth Aguilar applicant; requesting from the Avon Zoning Regulations, Section IV.A.2., a 1,784 sq.ft. variance which exceeds the 600 sq.ft. in floor area allowed for outbuildings to permit a three stall two story (36'x36' with 8' overhang) detached horse barn, located at 11 Bishop Lane in an RU 2A zone.

Mr. Beizer noted it did present the issue of an applicant coming back after being denied. For the record they have met the burden of a substantial change in circumstances and conditions which is why he moved to endorse this application.

Mr. Drew stated most critically they have now gone to the neighbors and the neighbors have all written to say they applaud this new application.

The vote was unanimous by Messrs. Drew, Garfinkel, Beizer, Rossetti, Ms. Coppola.

Reason - To grant variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – To deny would deprive the owner of a reasonable use of the property.

Mr. Beizer made a motion to DENY, seconded by Ms. Coppola the Application of Dennis Michaud, owner/applicant; requesting from the Avon Zoning Regulations, Section IV.A.6., a 24' variance from Hillcrest Drive and a 14' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a two story single family dwelling located at 22 Hillcrest Drive in an R-15 zone. Discussion followed.

Mr. Beizer said just as the Aguilar application demonstrated a substantial change in circumstances and conditions, this one failed to meet the burden of proof in that regard. There were some changes to it, maybe a reduction of one requested variance. Basically the application is substantially similar to what occurred at the second time around in July 2005. Once again the burden is on the applicant to make a case. He does not think there was substantial hardship that was not



apparent before they acquired the property. He is sympathetic to the fact they have spent a lot of time and money on their application but that's a gamble we all take when we buy on the cheap. He feels the application should be denied but does not preclude them from coming back another time but with an application that would be consistent with what would be appropriate with that area.

Mr. Garfinkel commented said he didn't want this substantial test to become outrageous. He believes we see a number of variances, like 50%, is a substantial change. He feels very strongly about that.

Mr. Drew said he looked at the application and noticed there were two variances before plus a variance for the 800 sq.ft. area. He only saw three variances requested.

Mr. Garfinkel replied 25% is still significant. He recalls one of the discussions where a homeowner went into great detail of all the variances that were being requested. There have been significant enough changes and that alone he would not deny on that. He has the ability to come back and be heard again. One of the hardships we talked about was that if this is a reasonable use of this property and putting up a building, and if there was a suitable house that could be put on there, that was a reasonable use of the property and the hardship was that property is small. Our logic previously was most of the properties in Secret Lake are small and that's why compromises have been made over the years to allow many neighbors to obtain variances. He is more moved by the safety issue then he was previously. He was more moved by the more objective commentary that came out from the abutting property owners. The approach he heard last time to a large degree was no matter what you want to put on - not in my back yard. This time he heard more persuasive arguments saying that the effect of this building would have serious impact, not on just one property owner but several property owners. On that basis he would go along with denying the application.

Mr. Rossetti said his impression from the testimony he heard at the public hearing was that all of the drainage issues had been resolved through engineering. In fact there would be less drainage off that parcel not directed through existing storm sewage drains then presently. He was not present for the prior two hearings but did review the minutes. It is a fact in other instances, particularly in Secret Lake properties where all the lots are postage stamp size by comparison to our current zoning ordinances. We have exercised some leniency with respect to minimum lot size. This particular parcel was a building lot like the others that each of the homeowners here who owns a home in Secret Lake and testified in opposition to this, their lots are all below the standard the town requires today for a single family residence. This lot was late to be developed but it was really no different than any of the other lots other than it was a smaller lot. There are small lots and two story houses in Secret Lake. There isn't anything really unique about what the applicant is proposing here other than by



our current standards it requires certain side yard variances. The lot itself, although it predates zoning, is a substandard lot. He is sensitive to what the abutters have to say but he thinks a case where the topographical hardship is well demonstrated and the applicant cannot make a reasonable use of that property for a residential dwelling construction. It's possible they could further reduce the size of the house but we have other conflicting town ordinances that mandate minimum size of the structure. The applicant is left in an awkward situation where he has this piece of land which is a town building lot but can't develop a residence plan that will satisfy the abutting neighbors and the town. This is a true topographical hardship and hope the abutters could work with their neighbor to come up with a feasible solution.

Mr. Drew asked what wait if any would you give to the capable presentation by their attorney who pointed out he bought this property knowing that this was a questionable lot. Mr. Rossetti replied there was one supreme court case which Atty. Rattigan provided us, although he didn't have as much time to study it as she did, he doesn't see that case as being applicable to this situation. In the Able case, the lot the ZBA granted the applicant permission to erect a dwelling on, was shown on the subdivision plan as open space. He wants to go on record that it should be possible to erect something there.

Mr. Drew said you were focusing on the facts of the case rather than the point she was trying to make. Mr. Rossetti replied she was not citing the case properly. In that case there was a clear legal notice that a use was prohibited and the applicant knew that particular use on that parcel was not permitted. Here there is no such thing. Here we have the town assessor testifying this was a building lot and assessed as such by his predecessor in office. He did not say it was assessed as a lot on which a structure could be built. The previous assessor, assessed it well below what a building lot in Avon was assessed at. They were taking into consideration some of the deficiencies the lot had. The law is it was assessed as a building lot. His question is whether this applicant can ever put together a set of plans which we know must require some relief from this board. The abutters should understand that.

Mr. Drew said what was testified to was the applicant paid two thousand dollars. In that circumstance, paying that price, buying it with the thought it could be a building lot or may not. The magnitude of his investment and the impact of what he would like to do to the neighbors, don't you think there's a disconnect there? When you talk about a building lot in Avon on a map in 1928 of 5,000 sq.ft. in a town that does not have zoning for a lot less than 15,000 sq.ft. We had a neighbor who testified he put two lots together to build his house.

Mr. Garfinkel remembers many years ago applications from Secret Lake where someone wanted to join two lots to build a bigger house and the neighborhood objected violently to a larger house going in. That was the not in my backyard attitude that he was concerned about here. At that time any improvement over



what was the norm with that neighborhood was unacceptable to the association. There were 2 or 3 where that was the approach taken, you cannot combine these lots to put in bigger homes than what we have now. Fortunately we granted variances to all that and we helped Secret Lake grow. He's not saying this is not a developable lot. What bothered him tonight was the drainage problem.

Ms. Coppola said she took a look at the property as she was concerned about the grade of the land. It's a steep property, it will be more injurious than in accordance with the rest of the community. She has to say that because the slope of the land is very steep, quite a drop off from where the house will be to everything behind it. The road itself is only about 14', very narrow, you can have only one car at a time per the sign there. I do believe if you have a building lot, you should be able to build on it. It should not be seen as confiscatory. After having seen the property, she has doubts it being the appropriate building for the lot.

Mr. Drew said if you go back to 1928 and you're in a summer community and a building lot for a summer cottage in 1928 was a big difference than building the structure we saw today. This is not a cottage.

The vote to deny the application was Messrs. Drew, Garfinkel, Beizer, Ms. Coppola. Opposed was Mr. Rossetti.

Reason – The applicant did not satisfy the provision or the hardship and the concern the development of the property as proposed by the application could be injurious to the neighborhood and not in compliance with the intention of the zoning regulations of the town of Avon for purposes of granting variances.

There being no further business, the meeting was adjourned at 11:10 p.m.

Respectfully submitted,

*Shirley Kucia*  
Shirley Kucia, Clerk



The Zoning Board of Appeals of the Town of Avon held a meeting on Thursday, May 26, 2005 at the Avon Town Hall. Present were Messrs. Drew, Garfinkel, Beizer, Ms. Coppola, Ms. Clark and Mr. McCahill, Deputy Zoning Enforcement Officer. Mr. Drew called the meeting to order at 7:30 p.m.

# PUBLIC HEARING

May 26, 2005  
minutes

The clerk read the call to meeting.

Mr. Drew read the Application of Dennis Michaud, owner/application; requesting from the Avon Zoning Regulations, Section IV.A.6. a 29' variance from Hillcrest Drive and an 18' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a single family dwelling, located at 22 Hillcrest Drive in an R-15 zone.

Dennis Michaud from Burlington was present. He has been in the valley about 30 years, an educator in Farmington High School for 33 years, and a home builder in the valley for the same amount of time, the number 125<sup>th</sup> registered contractor in the state of CT. He has this piece of property at 22 Hillcrest. He hired Nascimbeni & Jahne Surveyors for this A2 survey. They chose to also have an engineering plan drawn up for drainage as he understands Secret Lake has a problem with drainage and water running off the hill and mountains and the streets. He chose Engineer David Whitney to do the plan. He is proposing a location for the house that would not disrupt the rest of the neighbors, it meets the 15' side line requirement. The only buildable space on the lot is a small triangle because of the 40' off sets from both roads which makes it a corner lot. It meets the 40' setback from Mt. Ledge until the turning radius of the original road from 1928 development, now it becomes only 22' to the corner of the house. This is the final plan after going through four different designs. Originally he wanted garages underneath the house with an entrance from Mountain Ledge Road. It would have created too many problems for himself and the neighbors. It would have involved extending the sewer line 250' and repaving the road. This plan enters from Hillcrest Drive. He sacrificed the size of the house and came down to one car garage. It's 1400 sq.ft. with expansion over the garage totaling 1700 sq.ft. He took into consideration building the house not to have a peak facing the high end of a slope. This lot does have a slope. He chose to make the house a foot above Hillcrest Drive which means he'll have to put in fill. There's enough of a topo area that won't increase any water. He submitted the study done for the water by Mr. Whitney.

What he's asking for doesn't appear to be uncommon in the area. He did some research and looked around the area. This lot is one of the bigger lots in the area. It's 5184 sq.ft. Most of the lots around his area are 50'x100'. A lot of them have wetlands on them, which means the total property is not used. There are no wetlands on his property, there are a lot of trees. There is a slope that people think is fairly steep. He has built on property steeper than that.



At 25 Hillcrest Drive across the street, the house is only 18' off the property line. A variance was granted in 1987 after the foundation was poured too close to the road. If you look at the topography of the back yard it's a lot steeper than his lot. 15 Hillcrest has a 5' offset for a garage built in 1993. 139 Secret Lake Road has a 5' front yard as they extended the front porch. 125 Secret Lake Road has a 17' front yard and a 5' side yard. 87 Secret Lake Road has a 3' side yard and a 12.5' front yard. 17 Goodwell has a 6' front yard. Sunset Trail has a 6' front yard with a 31' side yard which is a corner lot. 10 Hillcrest has a 12.7 front yard. His application is requesting 11' from Hillcrest.

The drainage was calculated to keep all the drainage from the gutters and leaders and footing drains on site. There would be a zero increase on water. Mt. Ledge is an unimproved road with rip rap. Mrs. Dubay submitted a letter, which he just received, concerned about the water. They put in all the stone and rip rap to slow down the water. Most of the grade comes from the upper end of Hillcrest, down Mt. Ledge Road, the first catch basin is 250' down the road. He has never been there in the winter or seen the snow melt or a heavy rain storm, he doesn't live in the area. The town helped out Secret Lake Association to put that in. His drainage system will have 5 galleys, is designed to hold a 5" rain storm. He is not going anywhere near the town rip rap.

Mr. Drew read letter from Joan Dubay and Ken Gervois, 20 Mt. Ledge Road with concerns about the water run off.

Tim Cronin, 11 Pine Trail was present. His house is the newest one in the general area built in 2001. When it was built there had been two lots with two houses that were torn down. They were required to build only one house as it was increasing the size of the house. This lot is tiny, less than half of what his lot is and the town made him combine the two lots into one. If he builds there he'll have to cut down all the trees and all the water will wash out the dirt and put it on his property. They're going to cut down 20 trees that hold the soil in place. This is a hill that goes about a 40 degree angle up to get to Hillcrest to where he wants to put this house. This is a tiny lot and he's going to put up a huge house. He has the problem in his back yard being washed out every time the snow melts or it rains heavy because there used to be a stream in his back yard that is now underground.

Mr. McCahill says the issue to combine lots is related to a state statute, which would require that if you own two nonconforming lots that are adjacent to each other, you are forced to combine those nonconforming lots.

Mr. Drew said it wasn't this board that made him combine the lots, it was a state statute.

Dan Corjulo, 19 Hillcrest Drive. The lot immediately behind the one was donated to the Secret Lake Association in 1997. He was on the board at the time and discussed if they even wanted the liability that no one in their right mind would build on that lot. The lot he's building on is smaller. His big concern is the road. It is about as engineered as a child's building blocks. It's barely sort of hanging off the cliff. If you allow major excavation, he's worried the whole road will collapse. It may not, but it may be the



builders responsibility if it does, it's a narrow one lane road. They couldn't even get the postal service to come up there, they had to literally threaten to take them to court to get the postal service to deliver their mail. He had pointed to 25 Hillcrest. It's a disaster that should never have been allowed to happen. It's a house that sits literally right on the street at the end of Hillcrest. It sits there with giant boulders to hold it in place. This house is pushing it to cram something in there.

Mr. McCahill said the lot is 5184 sq.ft. in an R-15 zone, a lot created in 1929 before zoning. There's a number of 5,000 sq.ft. lots out in this area.

Mr. Michaud said that Mr. Cronin is upset about the trees. There are only three trees in there with a diameter that he can't hug. The majority of the trees that are on the back side of his property where there's the stone wall is 15' off the property line. He can't imagine disturbing the trees there. He's not going to clear cut the lot, excavating it and watch a mud slide go down the hill into people's property. It's not his style. Technically he's been told he can clear cut the lot right now, they're not excavating. But there has been a whole soil erosion setup that's on the engineered map, the hay bales, the silt fence, there's even a hay ball silt fence around the well. He's trying to make this lot buildable for his daughter. He's not building this as a builder for a quick buck. This lot has been in the family since 1936, he purchased it last year.

Susan Anderson, 17 Mountain Ledge Road said she lives across the street and she has three lots combined into one so it conforms with zoning. He has a tiny lot which was formed for building a cottage when the land was subdivided.

Ms. Tarlowski representing her father at 23 Hillcrest Drive presented a copy of the zoning regulations for the R-15 zone. She said they were shocked when they found out someone was planning to build on this lot. She reviewed the requirements for zoning. She said this is not in character of the Secret Lake area. As you drive down Hillcrest Drive, on the left-hand side they have a lot of land. On the right it's also true except for one lot, so it's not in the character of Hillcrest Drive.

Mr. Jacek Turlowski said he has been a builder in America for 20 years and does not think there should be a building on that lot. If someone is putting a house on that lot you should just throw away the regulations.

Mr. Ken Gervois asked if this was a hardship case or is it self imposed for personal gain?

Mr. Drew replied one of the criteria for us to grant a variance is to determine that there is a hardship on the owner.

Joan Dubay, 20 Mountain Ledge Road said if the property is developed there will be additional water in her yard. She described where her house is located and where he is planning to put his house and the location of the road.



Tim Cronin said he is on the board of directors for the Secret Lake Association and they have talked briefly about this at a meeting and none of the people on the board think this is a good idea.

Mr. Drew said the board has not made a presentation but he appreciates the comments.

Mr. Michaud said the building is 2 ½ stories on one side. He didn't put the gable end on the sides facing the abutting neighbors. The height is about 24 or 27 feet, not as high as the a-frame across the street which has a variance because it was built higher than regulations allowed. This house is 1707 sq.ft. if the whole thing is completed. Everything was changed from the original submitted last month, the entrance from Hillcrest Drive, not disrupting Mt. Ledge or the rip rap. He sympathizes if they have water on their property. He has walked up and down that street, the neighbors property sits back, the grades there can be corrected to get the water off your property. If you have water already, he has no intention of adding to it. It won't be coming off this property because if you look at the topography map of Hillcrest, it shows the water coming off the upper-side of Hillcrest, down and around to the rip rap which was put in to correct your water problem. The water does not come off of Hillcrest and splay across the building site. Some of the new homes in the area are well over 2400 sq.ft., one on Birch just completed. The majority of them are cottages, the Dubay's is a cape, probably about 1200 sq.ft. Mr. Whitney did the drainage report but was unable to be here tonight to explain it. The opposite side of Hillcrest is very steep, it goes straight up.

Susan Anderson questioned if the variance was granted what guarantee would they have he would build the house the size he says and put in the driveway where he says?

Mr. Drew said yes as we would be granting it on the footprint.

Mr. McCahill said that's his job. Anytime a building application is submitted and it's been before the ZBA, it's his job to make sure the plans being submitted are consistent with what has been approved at this meeting and built out in the field. He signs on at the beginning process and the end. We've seen some people come back to the commission because they didn't stick to their plans. That's primarily why he's here other than to answer other technical questions that do come up.

Mr. Cronin said his house is the newest house in the adjacent neighborhood. It was built in 2001 and is 1150 sq.ft. He says he's building a house that is almost twice as big as that. His house is bigger than most houses in the neighborhood.

Mr. Michaud said he would like to put a 650 sq.ft. home on that building lot but zoning does not allow a two story home to be less than 800 sq.ft. on the first floor. This house is exactly 800 sq.ft. on the first floor, second floor is 624, if expanded over the garage it'll make it 1707 sq.ft. His concern would be to just put a two bedroom ranch there and eliminate the garage. But the minimum is 1000 sq.ft. for a ranch. He believes Mr. Cronin's house is a raised ranch so it's at least 1150 sq.ft. on the main level and you're



not counting the basement sq.ft. which he assumes is finished. He's not trying to put in a house that will overpower the neighborhood. This is a modest home.

There was no one else present. The Public Hearing closed at 8:25 p.m.

Mr. Drew read the Application of Susan & Richard Ratzan owners, Jamie Wolf, Wolfworks Inc applicant; requesting from the Avon Zoning Regulations, Section IV.A.2. a use variance for living area in a detached building to permit a 540 sq.ft. research library on the second floor of an existing building, located at 10 Wilcox Road in an RU 2A zone.

Jamie Wolf, Wolfworks Inc. was present. He said he was here in November for another garage which you allowed the use for a workshop. The argument here is that it's a different type of workshop, the workshop for the mind rather than the hands.

Mr. McCahill said the use is typically for storage and other similar uses like that. What he wants to create is a space that he can use for a study. It has nothing to do with the size of the structure. Back in 1988 the regulations changed. This was built just before the change which allowed the size that it is to be there. So it's not a size issue. It's specifically the use and we've dealt with that before. There was a person who wanted to do a sewing room on the second floor of her garage, he spoke to the application in November the use was for a workshop to be created. Outbuilding are primarily meant to be used for incidental storage. In this case he wants to finish it off, add heat and electricity and use it for something a little different than our regulations allow.

Mr. Wolf said there would be no plumbing. It will not be an apartment. It's being created just for his passion which is reading. He is a doctor. He writes reviews, he writes on topics relevant to his specialty, it's incidental to his profession. It's a personal passion of his, just like someone who plays golf or tennis or has a workshop. He lives to write. He moved from Hartford from a house twice this size. When he bought this property it was his intention to use this space.

Mrs. Susan Ratzan said she is married to him. Her husband is working emergency room and could not be here tonight. She said there was an article in the Hartford Courant about a week ago about people building libraries. They lived in West Hartford for 21 years in a house that had 6,000 sq.ft., he had the third floor. Their 4 children are all gone so wanted a smaller house. With the children and their families there is no space for his library in this house. He needs more than a room. They were looking for a smaller house with a big space for his library and writing. It won't fit into a bedroom and the third floor of the house has sloping ceilings and not good for book shelves and storage. It never occurred to them it wouldn't be allowed.

David Wilcox said he actually built that house and the garage. The structure is not built to carry the load of the books. He is not against their doing it, they're in the woods where nobody can see them. They just need to change the strength of the structure.



There was no one else present. The Public Hearing closed at 8:35 p.m.

Mr. Drew read the Application of Avon Brownstones, LLC owner, Ensign-Bickford Realty Corp applicant; requesting from the Avon Zoning Regulations Section VI.G.4., a 56' variance from the 60' front building line requirement for 5 Ensign Drive; a 6' variance from the 60' front building line requirement for 31 Ensign Drive to permit canopies over the building entrances, (buildings located within 21 Ensign Drive) in an IP zone.

Gus Jasminski, works for Ensign-Bickford Realty. On commercial buildings at the front door you have to provide on-grade access for handicap accessibility and the building codes require you cover the door so in case of snow or ice you can get out the door in an emergency situation. This is on one application. Actually Avon Park North is on one site, it's not a subdivided site although they do have two addresses for each of the buildings. On 31 Ensign Drive, the 60' setback is right on the corner of the building so most of the canopy would be in the setback. He showed picture of existing building. It's a small canopy, 5'x8' where it just covers the door. 5 Ensign Drive is the little building on the corner, part of the building is within 10' of the property line. There is a trellis there now that will be removed to make room for the new canopy. They want a larger canopy on this one as the building is 1,000 sq.ft. When people walk into the building, one of the complaints of the tenants in inclement weather, is when you open the door, because the building is so small, it cools right down. On this building it's a 8'x7' wind break and then you have to cover the outside door beyond that. These buildings were here long before Ensign Drive was built in the early 1980's. The buildings were built a 100 years ago. The road was placed where it was for access to the town and the business park. It wasn't moved any further away from the buildings to provide a town green. When you get to the other side of Ensign Drive it drops off steeply to the wetlands. When the Americans for Disabilities Act came along it says you can't have a step at the front door. So they have complied with that. Now the building code says you have to cover the door during inclement weather, if the snow builds up a 1/2" or an inch, you can't get out in an emergency situation. They still have to go back to Planning & Zoning for their approval.

There being no one else present. The Public Hearing closed at 8:40 p.m.

Mr. Drew read the Application of Conrad Nurge, Jr. owner, Karen & Brian Tierney applicants; requesting from the Avon Zoning Regulations Section IV.A.6., a 15' variance from the 40' front building line requirement to permit a single family dwelling (existing cottage to be removed), located at 37 & 41 Sepous Road in an R-15 zone.

Conrad Nurge, owner for the part few years was present. Tunxis Reservation subdivision was approved back in 1931. At that time there were five building lots here which went down to the river. It's a private road. Sometime in the 70's or 80's they turned it into two building lots. He and his partners have owned it since 1999. The existing house is a cabin, built sometime in the 40's. People lived there all year round until the late 90's. After he purchased the lots, the people to the south side had a hardship. They have two lots, 100' wide. Their septic system down by the Farmington



River failed. They were granted a variance in 2003 from the FVHD & the state to place it in the front yard. He now can't place a well within 75' from a septic system. About a year ago the neighbor to the north placed their well in the front yard. He cannot place his septic close to their well either. This gave them a smaller area to work with even though he has a 250' frontage on the Farmington River, it shortened his available lot. He has a steep slope to the river. He has an interested party who has put together a set of plans to build a house.

Brian Tierney, lives at 78 Juniper Drive. He showed the original footprint the architect prepared. It overlapped the existing cabin by about 8'. The garage was detached with a covered walkway and was at a 45 degree angle. Because of what Conrad just discussed, the architect called to say they need to move the house 10' south or put a crawl space under a section of the house. They had a meeting with Jim Thompson. The galleys for the septic wouldn't work because of the steep slope. He was concerned about leak out. They ended up with two long galley trenches which forced the house to be moved 10' south and they still end up with a crawl space under the master bedroom. This is the new plan with the modifications. The existing cabin has an existing variance of 17' beyond the 40' building line. They are requesting a lesser variance of 15'. They had to realign the garage as it would have needed a side line variance. It is no longer detached and not at an angle. The existing cottage will be taken down.

Jim Thompson, engineer. This whole project is driven by wells and septic systems. What they do is stretch the available area to build on the lot. All they have is a small area in the middle. The well has to be 25' from the house and 75' from a sanitary system. If they reversed it, the sanitary system would be uphill from the house. This is the most efficient for this house.

Gary Waltman, 27 Sepous Road said he is in favor.

There was no one else present. The Public Hearing closed at 8:55 p.m.

#### ZONING BOARD OF APPEALS MEETING

May 26, 2005

A Zoning Board of Appeals meeting was held following the Public Hearing.

Mr. Beizer made a motion to GRANT, seconded by Ms. Coppola the Application of Susan & Richard Ratzan owners, Jamie Wolf, Wolfworks Inc applicant; requesting from the Avon Zoning Regulations, Section IV.A.2. a use variance for living area in a detached building to permit a 540 sq.ft. research library on the second floor of an existing building, located at 10 Wilcox Road in an RU 2A zone. The vote was unanimous by Messrs. Drew, Garfinkel, Beizer, Ms. Coppola & Ms. Clark.

Reason – To grant variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.



Hardship – to deny would deprive the owner of a reasonable use of the property.

Mr. Beizer made a motion to GRANT, seconded by Ms. Clark the Application of Avon Brownstones, LLC owner, Ensign-Bickford Realty Corp applicant; requesting from the Avon Zoning Regulations Section VI.G.4., a 56' variance from the 60' front building line requirement for 5 Ensign Drive; a 6' variance from the 60' front building line requirement for 31 Ensign Drive to permit canopies over the building entrances, (buildings located within 21 Ensign Drive) in an IP zone. The vote was unanimous by Messrs. Drew, Garfinkel, Beizer, Ms. Coppola & Ms. Clark.

Reason – Granting the variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – Denying would deprive the owner of a reasonable use of the property as they had to comply with buildings that were preexisting to the requirements.

Ms. Clark made a motion to GRANT, seconded by Mr. Beizer the Application of Conrad Nurge, Jr. owner, Karen & Brian Tierney applicants; requesting from the Avon Zoning Regulations Section IV.A.6., a 15' variance from the 40' front building line requirement to permit a single family dwelling (existing cottage to be removed), located at 37 & 41 Sepous Road in an R-15 zone. The vote was unanimous by Messrs. Drew, Garfinkel, Beizer, Ms. Coppola & Ms. Clark.

Reason – To grant variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – To deny would deprive the owner of a reasonable use of the property.

Ms. Coppola made a motion to ACCEPT, seconded by Mr. Garfinkel the Application for Dennis Michaud, 22 Hillcrest Drive. Discussion followed.

Ms. Coppola said this is a preexisting lot and it's an extremely small lot. She understands the concerns of the people around them as to the water drainage and other issues which don't really come to us as part of our preview. Being that it's a nonconforming lot, we are not really allowed by state statute to be seen as confiscatory. We have to allow them to utilize their property. Her question to this board is to what extent do we allow that. The state court does allow you to use nonconforming lots.

Mr. Garfinkel said we have in the past concluded that although on a map it's defined as a building lot, we have concluded because of topography and other considerations that it should not be built on. The circumstances of that particular lot, although it's laid out as a lot, circumstances surrounding that lot, it couldn't be built on. For that reason it was denied.

Mr. Drew said in part the circumstances we have is we have property that was laid out in 1928 for cottages and now we have an R-15 zone. Zoning changes things. You



have this lot, but for a practical matter requires variances and we aren't required to grant variances just to permit somebody to build on a lot.

Ms. Coppola said the state doesn't allow you to take the property if we don't allow them to use the property. She needs to know that.

Mr. Beizer said the state would require more than one application. This is the first application to go to a hearing. If it were to be denied, that doesn't disallow the owner of that lot to come back with a second application which is more conservative use of the property requiring less of a variance and perhaps less of a threat to the neighborhood. It only becomes confiscatory when after repeated applications and it's clear that the applicant can not use his property for any gainful purpose. This is the first application. From what he heard, the applicant hasn't met his burden that he has a hardship.

Mr. Garfinkel said the hardship is immense. His problem is the hardship cannot be overcome and the result is the hardship is so immense that it's an unreasonable use of the property and detrimental to the neighborhood. It's as simple as that. That's our role. Our role is to grant all those variances that are not detrimental and consistent with the intent of the regulations. This property, based on the proposed building, is not consistent with the intent of the regulations.

Mr. Drew said it's interesting that you have a piece of property that was considered a building lot in 1928. Here we now are 80 years later, nobody built on that property. In the meantime the property, I'm sure, has been bought and sold a number of times. Do the people who buy it expect to build on it knowing there's all these limitations. There have been situations where lots basically have not been building lot, they cannot tax them as building lots.

Mr. Garfinkel said in the history of Secret Lake these are very small lots, people were putting cottages on them to have access to Secret Lake. They were not intended to be living quarters year round. It's an entirely different circumstance in the development of this property hence the reason for people taking two or three lots and putting them together.

Ms. Coppola questioned if he could build a very small cottage without a variance.

Mr. Drew replied he would need a variance for a small house. We have had another property in Secret Lake where there was a piece of property that couldn't be built on and hasn't gone to court and hasn't been built on yet.

Mr. Garfinkel said this could be a buildable lot, it just depends on the size of the building. It could be a postage stamp or a postage stamp with an envelope.

Mr. McCahill said he would need a variance on his property as there's only one small triangle where he can physically locate anything.

Mr. Garfinkel said we are using the term buildable loosely. Based on what's been presented, the impact on the neighbors, building that building is unreasonable. And for that reason we should deny it.

Mr. Drew said we are charged to protect the property of abutting property owners so that doesn't require that we grant a variance to somebody to use the land if we feel it will have a dramatic impact on the abutting property owners. One of the challenges with this lot is almost anything you put on that is going to have a substantial impact because it's close to abutting property owners. It is a lot that's a third of the size of the zoning required for that area.

The motion to accept the Application of Dennis Michaud, owner/application; requesting from the Avon Zoning Regulations, Section IV.A.6. a 29' variance from Hillcrest Drive and an 18' variance from Mountain Ledge Road from the 40' front building line setback requirement, to permit a single family dwelling, located at 22 Hillcrest Drive in an R-15 zone – There were no votes in favor. It was unanimous by Messrs Drew, Garfinkel, Beizer, Ms. Coppola, Ms. Clark voting to DENY.

Mr. Drew said the application was denied. It is essentially injurious to the neighborhood and detrimental to the neighborhood and not in harmony with the intention of the regulations.

There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

*Shirley Kucia*  
Shirley Kucia, Clerk



The Zoning Board of Appeals of the Town of Avon held a meeting on Thursday, July 28, 2005 at the Avon Town Hall. Present were Messrs. Drew, Garfinkel, Beizer, Brooks, Ms. Clark and Mr. McCahill, Deputy Zoning Enforcement Officer. Mr. Drew called the meeting to order at 7:30 p.m.

# PUBLIC HEARING

July 28, 2005

Minutes

The Clerk read the call to meeting.

Mr. Drew announced that the applicants Tony Cashman and E. T. Andrews, III have requested to hold over their applications until the September 15<sup>th</sup> meeting so these applications will not be heard tonight.

Mr. Drew read the Application of Dennis Michaud, owner/applicant; requesting from the Avon Zoning Regulations, Sections IV.A.6. & IV.A.7.b., a 14' variance from Mountain Ledge Road and a 24' variance from Hillcrest Drive from the 40' front building line setback requirements; a 240 sq.ft. variance from the 800 sq.ft. minimum living area required on the first floor; to permit a two story single family dwelling located at 22 Hillcrest Drive in an R-15 zone.

Dennis Michaud was present. He resubmitted another application from the May hearing which is 100% changed around which gives him the right to submit another application. He showed what was requested at the May meeting. He has shrunk the size of the house. He meets the zoning requirement of 15% coverage of the lot at 14.8%. The square footage of the lot is 5,184, 15% would be 777 sq.ft. Minimum sq.ft. required by zoning regulations on the first floor is 800 sq.ft. He is proposing a smaller house, rather than make it all living space because it is a two story dwelling, he chose to make a one car garage which he feels is an enhancement in that area. He did research of the area. He showed a map with the proposed house and the variances he is seeking. In the immediate area, Pine Trail, Mountain Ledge and Sunset Trail he spotted the lots that are less than 1200 sq.ft. and are two story with less than 600 sq.ft. on the first floor. Number 18 Pine Trail had a total sq.ft. of 893 sq.ft., 16 Pine Trail – 1,052 total, 576 first floor. 10 Pine Trail – 804 sq.ft., 8 Pine Trail – 620 sq.ft., 23 Sunset Trail – 720 sq.ft., 21 Sunset Trail – 858 sq.ft., 2 Sunset Trail – 572 sq.ft. first floor. His proposed house is a total of 1120 sq.ft. on both floors, 560 sq.ft. per floor of living area, garage 209 sq.ft. There is an 800 sq.ft. requirement on the first floor with each additional bedroom has to meet 200 sq.ft. His bedrooms are 240 and 210 sq.ft. which exceeds the requirement. There is 17' allowed from the site line to the proposed foundation, they chose to go with 16' that give it a 1' variable either way to aid the surveyor when marking the foundation. The distance to the actual road is 22' because the property line is set back because Hillcrest Drive drops off 2 ½' and has a slight grade going down the side. The property has been assessed and taxed as a building lot. The drainage issue has come up in the past and has been designed by David Whitney, consulting engineers.

James Grappone, registered professional engineer, works with David F. Whitney Consulting Engineers in Avon. They have prepared a detailed site plan, it's all set to go.



It's the type of plan they'd submit to the building department for obtaining a building permit. Prior to last months hearing, they submitted the drainage report to the town engineer. It's their assumption that the report has been accepted. They have not received any comments from the town engineer as of this date. They have provided a subsurface, a galley system underground to accommodate the roof drainage and any impervious area from the roofs and the paved portion will drain along with any subsurface drainage for a footing drain into a 4x4 galley system, 5 units 20 lineal feet. That will accommodate a 10 year storm which is the regulations set by the town engineer. This is for the roof drainage connection and any subsurface footing drain that's necessary. Any impervious area would drain to that subsurface storm water system underground.

The next house, 25 Mountain Ledge, is about 35' to the property line. If this house were built it would not increase the water runoff, it would be zero increase and that's what they've submitted to the town for review.

Mr. Michaud said other houses over the years have had different additions which brings their sq.ft. up to exceed the 15% lot coverage. 4 Pine Trail – 19.4%, 12 Pine Trail – 16%, 14 Pine Trail – 1200'. All the lots on Pine Trail are smaller then his. Most of the houses in the neighborhood are smaller but have been added onto. He assumes they obtained variances to do the work. His goal when he started in May was to have a house for his daughter who is present here tonight and not to upset the neighbors.

Mr. Drew said we have three requests for variances; 24' from Hillcrest and 14' from Mountain Ledge because it's a corner lot and lot is pie shaped; 240 sq.ft. variance of the minimum living area from the 800 required.

Mr. Michaud said with the two floors totaling 1120 sq.ft., it will be small but still a comfortable home. The first plan he presented in May has an 809 sq.ft. living space on the first floor with a two car garage.

Dan Corjulo, 19 Hillcrest Drive said he heard conflicting stories of whether this property had been taxed. Secret Lake Assoc. has taxed this property according to the association tax. He doesn't know about the town tax.

Mr. Michaud said it is presently assessed at \$22,000 value the same as the other properties in the area.

Miss Tarlowski, representing 23 Hillcrest Drive which is across from this property. There are other small lots in the area but most were developed around 50 years ago before the present zoning regulations were put in place to stop such development. She has a copy of the property card that shows the primary site is 4,357 sq.ft. If what the town hall has on record is correct, then the present footage doesn't comply with the regulation for maximum lot coverage.



Mr. McGee said he would guess that the A-2 survey would be the more accurate representation of the square footage. He is sure the Assessor would define his numbers with the accurate survey that is provided. It wouldn't be unusual for the assessor's numbers to be off slightly on these properties. As you know many of them are subject to inconclusive surveys. They're not based on A-2 surveys.

Mr. Jim G... said he has an A-2 survey that was prepared by Nascimbeni & Jahne Surveyors, dated March 2005 which shows lot area 5,184 sq.ft. or 0.12 acres.

Miss Tarlow said from the map obtained from the town, if you take the front building line and the building line you have no area to build a home. She showed pictures of the lot showing how small it is and the hill. No matter how small a house you put on that lot, it still is not a buildable lot in R-15 zone. It won't make the area better, it's beautiful green space right now and will be a huge building that takes up the entire space.

Rosalyn Diehl, 17 Pine Trail said she agrees with everything Ms. Tarlow said. She feels it will be an eyesore. The lot is too small for anything to look good on it. It would ruin her view. We would have a house looming over us in our back yard where now we have trees.

Joan Dubay, 25 Mountain Ledge. Her big concern is drainage. She has lived there for 18 years and been through the drainage situation. What happens if the town grants them a variance and she gets flooded out and her home gets ruined because of it? Does she go to the town or to him? Last time she was here she showed picture of what came down that hill. It's a very steep hill. She doesn't know how they'll cut down trees without landing on her property.

Mr. Jervis, 25 Mountain Ledge Road said she's right. They are on record with the Avon Fire Department of having their basement pumped out from water running down that hill. A couple years ago we had a couple hurricanes hit, one right after the other. They had 12" of rain. They got buried. Can they stop that from happening? He questioned if this is a hardship case.

Mr. Drew said without the house you got buried, you'll get buried again without the house, 12" is extraordinary.

Jean Margenial, representing the executive board of Secret Lake Association. This property lies within the boundaries of the association and all the folks you heard from are members of the association. The charter provides that the purpose for it is to provide for the improvement of land, and for the health, comfort, protection and convenience of its members. It was a lot easier to do that back in the 1930's than it is today. The board feels it cannot take a position in favor or in opposition of this application. Over the years when a variance has been granted or new development or for home improvement, there emerges sort of a black hole. That exists because there are construction issues that the association is confronted with that the town isn't



comfortable dealing with. They are trying to fill the hole. In a situation such as this, the board is asking that if a variance is granted, that certain conditions be placed on that variance. The conditions are the applicant be required to insure the right to pass and repass on Hillcrest Drive during construction and to avoid any obstructions that may interfere with emergency services; the rip rap on Mt. Ledge Road be protected at all times for the run off of excess water and any damage be repaired immediately; create attractive fence or shrubbery buffer to adjoining property owner; storm water runoff engineered to be certain there's no increase in impact on adjoining property.

Ms. Dischiavo questioned if the town engineer didn't answer about the drainage does that assume the drainage issues are okay? Mr. McCahill replied he was unaware of the transmittal that went to the town engineers. Typically they would review that at the time the building permit was issued. Normally we don't have correspondence with the town engineer for this meeting.

Jim Grappone said there is a high point up the road on Hillcrest Drive and a large drainage area leading to the rip rap on Mt. Ledge. To the north it goes up hill, all the land on the east side goes up hill and all that water drains down to the rip rap. That is what the town established. It's been that way for years. He believes all the water coming down is from that hillside area and has to run about 200' before you have a set of basins. That's what they are experiencing now. The driveway doesn't have much of a lip on it. You have this large amount of water that's flowing down to this leak off, runs down this rip rap area, goes down this town road 200' before it hits a set of catch basins. Mr. Jervis stated the lip on the driveway wore out because of the water flow. Mr. Grappone continued. The water comes down, hits the path of least resistance at the driveway and ends up in their house. This is toward the end of the water shed. The town engineers regulation says normal storm drainage design is for a 10 year event which is 3.7 inches of rain in a 24 hours period. It was pointed out that trees will be removed. They are not developing the whole inch of the property. There will still be trees on this lot based on the grading plan. His comments are about the current situation there. They are making provisions to send the water underground.

Mr. Corjulo said he probably knows more about the drainage on the road than anyone else here because he was road commissioner on the Secret Lake Association. They went up the street and created curbing. The real problem with Secret Lake is the association doesn't have the resources to put in the drainage system. The curbs have created the river. This house should not have any effect on the drainage. His concern is if the house turned into a rental property. He's not opposed if its just a family coming in based on the fact that we taxed it.

Ms. Dubay said a lot of questions have not been answered whether the town engineer said yes this will be okay and also the town has agreed there is a certain amount for the 10 year event and whether this will be enough as it's on a cliff. There's an enormous cliff behind Hillcrest Drive, tons of rocks for about 1/4 mile. Will a 10 year event be enough? Has this been taxed as a building lot?



Mr. Drew commented he has heard tonight the lot is assessed at 2,100 and 22,000. Mr. Michaud replied it was upgraded when the square footage of the A-2 survey went into effect. 5184 on the square footage, that was upgraded in the middle of July when they upgrade their website.

Ms. Tarlowski said there are 7 zoning requirements. He doesn't pass 5 of them. The minimum lot area is too small, the minimum lot width is too narrow, the minimum front yardage is too small, the minimum side yard on the corner is too small and the minimum rear yard is too small. Out of the 7 requirements, he only has 2 of them.

Mr. Brooks asked Mr. Grappone if the town engineers report should come back and indicate an inadequacy, can you increase the capacity of that galley? Mr. Grappone replied, yes it will handle a 10 year storm, 3.7 inches in a 24 hour period. That's a 4" rain storm over the whole perimeter over the impervious area. Right now they show five units which go from the corner of the house to about the middle of the house. They have the rest of the area to work with and could be expanded.

Mr. Michaud said the original design of the galley system was set up for the larger home he previously presented. This house is a third less in roof area as the house has been downsized. The original house was almost 1,800 sq.ft. The elevation of the foundation will be a foot above Hillcrest Drive. The front lawn will be dead level allowing for no run off.

There was no one else present. The Public Hearing closed at 8:17 p.m.

Mr. Drew read the Application of Howard Plude, owner/applicant; requesting from the Avon Zoning Regulations, Sections IV.A.2. & IV.A.4.p.(2), an 808 sq.ft. variance from the 600 sq.ft. allowed for outbuildings and a 53' variance from the 80' front building line to permit a 32'x44' car barn/garage located at 456 Lovely Street in an R-30 zone.

Howard Plude, owner/applicant. He gave a handout to the board showing the design of the proposed building. It will be stained natural to blend into the woods. It will be 3 car width wise but is not putting the right hand door in, just two garage doors, then a walk in door in the front, and possible change of the windows. The picture marks the proposed location facing due west showing property in front on him where he's asking for the front yard setback. The picture was taken in late fall when there were no leaves, you can barely see the neighbors house through the woods. He talked to most of the neighbors who abut his property, 7 property owners. One is the town of Avon, way back in the wetlands up by Roaring Brook; on the east side way in back of his property on the other side of Roaring Brook is a neighbor who he tried for three weeks to catch up with to explain but couldn't get a signed letter. The other letters are from Michael Donahue and Laura Dambler on Lovely Street, west of him and in front of him.

Mr. Drew read the letters in favor of application from Michael Donahue, 450 Lovely St; Laura Dambler, 460 Lovely St; Daniel Hudson, 466 Lovely St; Pamela MacFarlane, 22 Midlands Drive.



Mr. McCahill said this is a rear lot. Per zoning regulations the front yard setback is 40', on a rear lot it's doubled to 80'. When you stack houses one in front and one behind each other, we like to increase the distance from one home to the next. This home is quite some distance from the front house which is about 30' from Lovely Street.

Mr. Plude said the side yard requirement is 20'. He has added some extra space trying to get the building as far into his property line as he can. His driveway will swing toward the proposed garage. The building is larger to store the boat with the motor and trailer at 28' in depth. The other vehicle he plans to store there has a plow on it during the wintertime. There's a workbench in front. The right hand side will be for his table saws and drill presses that are right now stacked up and unusable in his crowded garage.

There was no one else present. The Public Hearing closed at 8:29 p.m.

Mr. Drew read the Application of Chris & Carol Donahue, owners/applicants; requesting from the Avon Zoning Regulations, Section IV.A.6., a 12' variance from the 15' side yard setback requirement, to permit an attached 12'x40' two car garage, located at 85 Secret Lake Road in an R-15 zone.

Carol & Chris Donahue were present. Ms. Donahue gave picture of proposed garage and letters from abutters. They are in favor of the garage so they don't have to look at cars.

Mr. Donahue said it will be only 36' long, not 40'. Originally they planned to attached it but now it will be detached, one of those portable garages. It will be sided to match the house.

Ms. Donahue said to preserve the windows of the house it will be recessed. They will rip up the driveway and have it redone. The building has a 50 year warrantee. They thought about a car port but didn't like the looks of it. The neighbor who will be 3' away has signed the letter in favor. Their house is closer to the road, her house is closer to the lake, they are staggered. She showed pictures of house before previous renovations.

Mr. Drew read the letter in favor from Alyssa Hockstetter & Brian Young, 83 Secret Lake Road, a letter in approval from Mark Buciak, 87 Secret Lake Road and Allyson Mulligan, 82 Secret Lake Road.

Mr. McCahill clarified that the building will be detached instead of attached but there is still 432 sq.ft. which is below the 600 sq.ft. requirement.

No one else was present. The public hearing closed at 8:37 p.m.



## ZONING BOARD OF APPEALS MEETING

July 28, 2005

A Zoning Board of Appeals meeting was held following the Public Hearing.

Mr. Beizer made a motion to **GRANT**, seconded by Ms. Clark the Application of Chris & Carol Donahue, owners/applicants, requesting from the Avon Zoning Regulations, Section IV.A.6., a 12' variance from the 15' side yard setback requirement, to permit an attached 12'x40' two car garage, located at 85 Secret Lake Road in an R-15 zone. The vote was unanimous by Messrs. Drew, Garfinkel, Beizer, Brooks and Ms. Clark.

Reason – to grant variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – to deny would deprive the owner of a reasonable use of the property.

Mr. Garfinkel made a motion to **GRANT**, seconded by Ms. Clark the Application of Chris & Carol Donahue, owners/applicants, requesting from the Avon Zoning Regulations, Section IV.A.6., a 12' variance from the 15' side yard setback requirement, to permit an attached 12'x40' two car garage, located at 85 Secret Lake Road in an R-15 zone.

Mr. Brooks said this is a good plan and the neighbors are not in opposition. We can clearly see the nature of Secret Lake Association. Perhaps in some other neighborhood a garage this close to anybody's plot line would raise havoc. We should keep in mind when zoning came and when Secret Lake evolved because it is very difficult to not allow people to both use their land and improve their land in that area. If we had, over the years, provided strict enforcement of the zoning code a lot of people in that area would find the improvements and the dollar value would not exist if exceptions to zoning weren't allowed. In this case this is quite an exception, but it appears to be a good plan and acceptable to those who surround this particular house.

Mr. Drew said that each application stands on its own merit. One of the circumstances of this application is the lot is small and the houses are close to the line. In this case the houses are staggered so you can see the garage addition will not be put right on top of the next door neighbors house.

The vote to GRANT was unanimous by Messrs. Drew, Garfinkel, Beizer, Brooks and Ms. Clark.

Reason - Granting the variance is in harmony and keeping with the purpose and intent of the regulations and would not be injurious to the neighborhood.

Hardship – Denying would deprive the owner of a reasonable use of the property.

Mr. Garfinkel made a motion to GRANT, seconded by Mr. Beizer (for purposes of discussion) the Application of Dennis Michaud, owner/applicant, requesting from the Avon Zoning Regulations, Sections IV.A.6. & IV.A.7.b., a 14' variance from Mountain



Ledge Road and a 24' variance from Hillcrest Drive from the 40' front building line setback requirements; a 240 sq.ft. variance from the 800 sq.ft. minimum living area required on the first floor; to permit a two story single family dwelling located at 22 Hillcrest Drive in an R-15 zone. Discussion followed.

Mr. Garfinkel said the fundamental problem is it's a small lot. It's not that small compared to other lots in that neighborhood. He thinks part of the issue is it's wooded. It's always nice to have a wooded lot next to you for the isolation and tranquility provided just by the woods. There was a real issue raised last time associated with the drainage. We've received professional evidence and presentation that has been submitted to the town that there would be no change to what the run off would be had the house been put there. Furthermore it would be a condition that the changes would be made if the engineering dept. has issues with the final analysis and changes would be required and the applicant would incorporate those changes. The issue of the amount of variances in relationship to the dead end cul de sac is an important point. The 14' requested variance is a lot but it is alleviated realistically by the location of Hillcrest Drive. Overall the claims that it's not shown as a buildable lot is irrelevant. It is a lot and he has a well laid out plan and the problems of the drainage issue would be best solved with the association.

Mr. McCahill said the drainage plan would be reviewed by the engineering department. We do the association a favor by reviewing the plans and making recommendations but ultimately it's the Secret Lake Association who has the authority over these lots being built on. We have dealt with this issue a number of times. On Cliff Drive we had some issues with drainage which was presented to this board. The engineering department made recommendations. Ultimately it was the association that had to dictate what the property owner needed to do as it related to correcting some drainage problems. Our engineer would offer that expertise. Secret Lake Association would make the final decision.

Mr. Beizer said he seconded this application to allow it to be aired. He is conflicted. He shares some concerns of the board where some one owns property and wants to develop it as long as it's not injurious to the property. His concerns are the small lot. A little over 5,000 sq.ft. is 1/8 of an acre. That's the average size of a lot of lots in the Secret Lake area. He doesn't know if all those lots are very, very steep or all those lots are treed and serving as a buffer to the neighborhood or whether they do have a drainage problem. What does sway him is the size of the variance requested and the nature of the variance. The nature is not building a garage but building a house. A house is very different than a garage, porch or out building. It is using property for a very basic habitable sense. The biggest thing is the application comes after zoning. Secret Lake was developed pre zoning. Everyone, after zoning went in, knew that a small lot would be difficult if not impossible to build on. No one has made an application for this lot in the past 50 years for development. He has sympathy with the owner but cannot vote in favor of this application.



Mr. Garfinkel said the question of variances being applied for after zoning, we've had tons of them. They've been for many reasons, most of them for side and rear yards because the lots are too small. He cannot remember any circumstance we have denied a person for expanding a nonconforming building to the point of being very close to the neighbors because it was an improvement to the neighborhood. Improvement is in the eyes of the neighborhood. What happens here that the lot was undeveloped before and there's nothing nicer than having an undeveloped treed lot next to your house. However he has the same right as anyone else to ask for a variance to come up with a home for his family. Whether it's for profit shouldn't matter, that's a reasonable reason for developing a house. It so happens he's building for his daughter. If she wants to sell it later, that's her business. The question is, would we be taking property rights from that individual by denying this on the basis of, "gee, nobody ever built on this." He doesn't think that's justification.

Mr. Drew said we have dealt with hundreds of applications for variances since zoning came in but we never dealt with any application prior to zoning. We have other situations where there have been lots at Secret Lake where we have determined the lot was too small for us to grant a variance to permit a house. It is not unprecedented.

Mr. Brooks said he doesn't see the water problem as an issue. The galley seems to be able to take up what the roof would produce and would not add to the current water problem. It doesn't seem as if you could build a house on this lot without a variance. It's unbuildable if you are to conform with zoning. We've granted many variances in the area and many have contributed to the value of houses and to the quality of living in Secret Lake because they have the bedrooms for their children, they have the places to remove the cars from the street, etc. The house being for the daughter or for sale is not an issue. He doesn't think everyone in the association would want to pledge they would never sell their house if Mr. Michaud or his daughter pledged to sell their house. When zoning was started all areas had to have zoning. That area didn't match up probably with more than a few houses in the whole area. We have received more applications from that area. It doesn't sound as if anyone wants a house there. It says the neighbors want to benefit from someone else's land at the other persons' cost and perhaps hardship. You like the benefit of the greenery. An important proof that Mr. Michaud didn't provide against the card showing that it was not being taxed as a building lot and then claim that it is a building lot, and yet nothing was brought forward. He is still confused whether or not it was intended that way. There was testimony from a member of the association that dues appeared to be collected as if it's a building lot. This is a very difficult application.

Mr. Drew said this is a small piece of property. One variance requested for the proposed house has been downsized from where it was before where it didn't need it. It had the 800 sq.ft. first floor area to an area less than that to accommodate the other variance request. The question before the board is, "Is it appropriate for a house to be placed on this property or not".



Mr. Garfinkel said when it comes down to, "Is it appropriate to build a house on this lot ever", that's pretty heavy. He will submit, you were referring to extending property lines. If you look at the property lines that exist, on one end there is frontage of 81' on Hillcrest. Most houses in the neighborhood have a 50' frontage. There's a side frontage of 65', and many other properties are a little longer. The other side line is the shape of the property, but if you take into consideration the dead end aspect of it, the property is not much different than others in Secret Lake. The question of saying this is not buildable, then the question is why not and the answers are too small, on a slope and therefore you can't build a house. That doesn't fly with him. He would suggest the condition that if we grant, we hope Mr. Michaud and the association could address what he can and cannot do.

Mr. Drew said the fact that Secret Lake Association was here tonight was very much appreciated. They have some conditions they would like to impose on us if we were to grant the variance.

Mr. McCahill said he is unclear as to how much authority they have or don't have to impose actual conditions. They have to come to some agreement to access their property from secret lakes' road.

The vote to GRANT was Messrs. Drew and Garfinkel. Opposed was Messrs. Beizer, Brooks, Ms. Clark. The motion was defeated. The application was not granted.

Mr. Garfinkel asked for the record why not.

Mr. Drew said we have clearly heard that it will impact the neighborhood. We have the neighbors all here that suggest that it would adversely impact the neighborhood. Another critical factor is the discussion of hardship. You could say hardship is denying the use of the land. On the other hand you could say this is a piece of land that has sat here for 50 years after zoning that to our knowledge has not come before zoning to be built on previously. Whether or not it was taxed as a lot that was supposed to be a building lot, certainly we would have some reason to say it should not be taxed as a building lot because so far it hasn't been able to be built on. When you acquire the property as a lot that could be built on, it's speculative on our part.

Mr. Beizer said several of us expressed views as to what we individually felt. Since it wasn't the granting of an application, it is not beholden on us to collectively agree but the reasons given that four of us expressed what our concerns were. He would say that is sufficient.

There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

*Shirley Kucia*  
Shirley Kucia, Clerk