

ZBA Minutes MAY 23 2013

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The Zoning Board of Appeals of the Town of Avon held a meeting on Thursday, May 23, 2013 at the Avon Town Hall. Present were Messrs. Ladouceur, Johansen, Ryan, McNeill, Ms. Aube & Mr. McCahill, Planning & Community Development Specialist. Mr. Ladouceur called the meeting to order at 7:30 p.m.

PUBLIC HEARING May 23, 2013

The Clerk read the call to meeting.

Mr. Ladouceur explained the procedure of the meeting.

Mr. Ladouceur read the Application of 308 Arch Rd. LLC owner, Capri Frank applicant; requesting from the Avon Zoning Regulations Sections III. & IV.A.2., a change of use for the interior of the existing storage and maintenance garage to permit a freeze-drying facility for Miller Foods, Inc., located at 308 Arch Road in an R-40 zone.

Ms. Capri Frank was present representing Miller Foods, Inc. She said as a basic background, their family has been in town since the early 1950's and operated their farm with chickens and eggs which has evolved over time. It is zoned R-40 and over the times has received several variances. Until the last decade they have been in the people food business and now they have been into processing natural pet food. In addition to that about 7 years ago they have been manufacturing freeze dried food. In order to do that they take their raw product and ship it out to Wisconsin. It's difficult to find freeze dried products in this area. They take their raw product, ship it out to Wisconsin, ship it back and package it and distribute it; it's a very challenging process. It's a great line and they believe in it. It adds a lot to our product line. We would like to keep it in-house.

The garage, now unused, was originally housing a fleet of about 20 vehicles and the fleet of about 15 Miller transportation vehicles. It's currently used for lawn mowers and storage. There's about 1800 sq.ft. which is sufficient for what they need. It allows us to stay in this type of business without it being so costly to us. There would be very little renovations with less than 15 employees. It will look the same from the outside. They have applied for a state grant and would be able to bring some jobs back to Avon and CT. It's a family business and we keep trying to keep evolving and keep things working. This location is a four car garage, it's off to itself in the back of the property.

Mr. Sam Stevens, uncle, 310 Arch Road, said the process itself is they start with frozen food, put it in a vacuum chamber, and the frozen moisture product goes from a frozen state to a vapor state so it never goes to a liquid state as it's under vacuum. When it comes out, it's a dry product. It takes about 20 to 30 hours depending on the product. It doesn't make a lot of noise. He has been out to Wisconsin where we have it done and watched the process which seems like a very simply process. It doesn't emit any odors.

Mr. McCahill said he wants everyone to understand the aspect of the variance requested. Capri came in and met with Steve Kushner and himself about 4 months ago. They have received many variances in the past. The issue here is this property is in an R-40 zone. We have an outbuilding that would typically be allowed only for storage and a garage purpose. This is a site that has been in operation since 1950 that is not consistent with our regulations. That is the context of the use variance request. Mr. Kushner was the zoning enforcement officer in 1991 and had the challenge of issuing a cease and desist order at the direction of the Planning and Zoning Chairman and that was met by a lot of support by the community so he was overturned in his attempts. There has been a lot of support for the Miller family. Mr. Ladouceur said he had read off the different uses earlier in the meeting.

There was no one else present. The Public Hearing closed at 7:50 p.m.

Mr. Ladouceur read the Application of Neal & Joanne Garvin owners/applicants; requesting from the Avon Zoning Regulations, Section IV.A.6., a 12' variance from the 15' side yard setback requirement

and a 27' variance from the 30' rear yard setback requirement to permit a 12' x 20' storage shed, located at 20 Arbor Road in an R-15 zone. He also referenced a 5 page letter with 13 photographs from Carol Stefanik Andrews, Richard Robert Reid, Stephen Collins Andrews, Jr., Nicholas Duffy Reid. There then read another letter from Michael S. Anderson, P.E. opposed to this application.

Mr. Neal Garvin was present. He said he just received the package from Ms. Andrews & Mr. Anderson. The back yard has a chain link fence about a foot on his side of the property and a 7 ½' cedar fence with a toppler, very decreptive. It will be replace from the snow storm this year. There is currently a high wall fence across most of the property except the last 30 feet. That area was overgrown with brush and trees, some 20' tall. They wanted to put a shed there so they cleared that area. It was his intention to put a fence there on his property with a shed three feet from the fence which doesn't change the property. He didn't know there would be an objection. He would like to check with his neighbors before going forward. Another point he made was his property is probably one of the nicest properties in the neighborhood. Very well maintained, very well manicured, always up to date and clean. Most of the others around the area are not. He wants his shed to fit with the neighborhood, he has no intention of his shed not fitting. He has concerns as well. The pile of dirt in the pictures is where the trees were located. He had the dirt spread out to even the area. As he faced his house from the road, those trees were on the left side of the property.

Mr. McCahill stated the existing house looks like three sections, they are all one. The house had one structure, they obtained a variance to build the detached garage to the west on the property, then filled in the center with an addition on to the house with a deck in the back. It shows the infill on the plot plan. At one time there was a gazebo in the back.

Ms. Andrews said she would summarize her letter as each member has a copy. Rick and she, who reside in the house at 17 Birchwood Road, have been living in the area all their lives. In the last three years they have downsized their larger house and they liked the lake area only a block away. She loves her yard even though he has the tall fence there. It afforded a lot of privacy. There was one spot that didn't have a fence and it was a green area. They had to do their landscaping different from the fence as grass wouldn't grow there. She placed her vegetable garden there where the sun could reach the garden. Primarily she has a very small lot, even smaller than Mr. Garvin's. Mr. Garvin's house is longated which spans the whole length of her back yard. His 30' back yard was the only spot not covered by his house. Now he is encroaching into that 30', all the way up to the rear fence. The Secret Lake area is thickly populated and there is already a high density of existing structures.

She has a small back yard. When we have company in our back yard, we will be right there right where the structure is planned. The planned structure is 12' x 20' and probably 12' tall, big enough for a garage and he already has a garage. Her primary concern is property devaluation. By placing this structure broadside along the back line flat up against the fence it's highly objectionable. Secondly they bought that house in very poor condition in 2009. They have invested a lot of money and heart fixing the inside of the house. This year they plan to work on the outside. It's for their retirement years. One purpose for a setback requirement is to allow natural light into building lots. Her garden is just feet away and will be shaded by the shed. The shed will impact her garden.

He said he has too many vehicles, recreational vehicles, motorized lawn equipment in his garage and he plans, I imagine, on putting them back there. He would have to come down his driveway, past his house, to the far corner of his lot with motorcycles and other mechanical items. He never used that area before. That is why the town has a setback. There will be lights on his garage which will shine into her yard. There will be increased foot traffic, people noise, vehicle traffic noise including motorcycles and artificial lights. It's outrages that someone not just asked for a foot or two from a 30' setback but to go for it all, 27'. is an unreasonable request and one she cannot agree to.

She has no control over this building. There's no guarantees that over time a new owner could possibly allow it to fall into disrepair and result into safety issues and a nuisance issue just because of the close proximity to her house. It does not meet the hardship criteria. Neither of his issues meet them.

The proposed location is self serving. Most homeowners will select an area of their lot for utilitarian purposes where they put their trash cans, their propane tanks, it's not bad, but they purposely keep those areas out of site of the main areas that they themselves use for recreation, rest and enjoyment. He's putting this shed in an area he can't see as his deck is on the other side, not in his line of site, but directly in hers. She believes there are other options for the shed location.

Mr. Ladouceur questioned the fence and how far it went. Mr. Garvin replied there is 30' of fence that was knocked down by the storm that he plans to replace and another 40' beyond that had no fence. The height of the fence is about 7 ½'. There is no maximum height in town codes.

Mr. Ladouceur continued. Ms. Andrews was objecting to the shed going the long way along her property line and the roof line. Her objection was how close it was to her line. He questioned if we changed the location of the shed still using the 27' and 3' variance by twisting the building if that was a possibility.

Mr. McCahill replied they could not do that as it would affect other neighbors. It would have to be advertised again with a new notice to the abutters.

Mr. Ladouceur said keeping in mind there could be a fence built all along the property line at any height that would certainly impact the sunlight and visibility, is there a placement of the shed in that corner that would be satisfactory to Ms. Andrews that would either change it's orientation so you didn't have to view as much of it, or move it farther from the line and more toward his garage?

Ms. Andrews replied thirty feet from the line.

Mr. Garvin said he would be willing to work with all the neighbors and Ms. Andrews about the size, height and placement of the shed. The original intention was to extend the fence all the way across. If she doesn't want that, he doesn't have to do that. He put that fence up 20 years ago for privacy.

Mr. McCahill said we have the opportunity to keep this public hearing open if we choose. He normally interacts with applicants when they come to the counter. He didn't have that with Mr. Garvin as he assembled a pretty accurate application and delivered it. He always encourages applicants to interact with neighbors and didn't have the opportunity with this application. We can keep this application open until the next meeting on June 27th.

Mr. Ladouceur has been sitting on this Board for several years and knows that the Secret Lake area is always an area that presents a lot of applications because of the size of the lots and the proximity of the homes and the people over the years have converted them from summer cottages to homes and started to make them broader. The prevalence of sheds and outbuildings along property lines are pretty frequent in that part of town. When we look at the side yard and rear yard setbacks generally they encompass the entire house, and most people are putting stuff in the front yard and most people don't want to see structures in their front yards. He would encourage the applicant and the neighbors to try to work out something. Looking at orientation of the shed, alternative placement of the shed, keeping in mind, fencing or no fencing is really something we can't control unless it becomes part of the application as a condition. He gave an example we had an application where someone wanted to put a deck on the back of his home, the adjoining neighbor objected to it because they didn't want the deck coming so close to the property line because their kitchen window was in close proximity to that property line. When that individual found that the applicant could put a patio all the way up to the property line without coming to this Board and he would have to see people barbecuing right outside their window, they were able to work out something with respect to landscaping and structure. Here one of the concerns is light and gardens and there is no restriction on the fence height that could be placed there. He thinks something could be worked out there with the applicant and the neighbors which would make it beneficial to all parties and continue this application until the June 27th meeting. Mr. McCahill said if you can't work things out with the neighbors before the next meeting, rather than getting a denial from this Board, you could withdraw this application and reapply at a later date.

There was no one else present. The Public Hearing closed at 8:30 p.m.

ZONING BOARD OF APPEALS MEETING May 23, 2013

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

Mr. Ladouceur made a motion to GRANT, seconded by Ms. Aube the Application of 308 Arch Rd. LLC owner, Capri Frank applicant; requesting from the Avon Zoning Regulations Sections III. & IV.A.2., a change of use for the interior of the existing storage and maintenance garage to permit a freeze-drying facility for Miller Foods, Inc., located at 308 Arch Road in an R-40 zone. Discussion followed

Mr. Ryan said that's good stuff. He is a business owner in town too so he likes to see things like this. Mr. Ladouceur said he is in support of the motion. It's not changing the outside structure, it's all interior. We're looking at an operation that doesn't have any of the typical byproducts one would expect; noise, odor, things of that nature. In terms of effect to the neighborhood, they're nonexistent. The abutting land owners are largely the State of CT who are giving the grant. The Town has a large file showing the history of variances for this property. It's an on going business that employs 20 something people in an old farm house that has been built on over the years. It's reconverting the use of an existing structure that is not getting it's full use and putting in some equipment, adding a benefit, adding some employees to the economy and probably some tax revenue to the town. That's an excellent application.

The vote to GRANT was unanimous by Messrs. Ladouceur, Johansen, Ryan, McNeill, Ms. Aube. Reason – The granting of this 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.

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

There being no further business the meeting was adjourned at 8:35 p.m.

Respectively submitted,

Shirley C. Kucia, Clerk