

THE ZONING BOARD OF APPEALS OF THE TOWN OF AVON HELD A VIRTUAL REGULAR MEETING FOR A PUBLIC HEARING ON THURSDAY, SEPTEMBER 15, 2022, AT 7:00 P.M., VIA GOTOMEETING: By web, <https://global.gotomeeting.com/join/392835269>; or by phone: [+1 \(646\) 749-3129](tel:+16467493129), Access Code: [392835269#](https://global.gotomeeting.com/join/392835269).

Present were regular Board members Chair Eileen Carroll, Vice Chair Christy Yaros, Jaime Polhamus, and Michele O'Connor, and Alternate Member James Williams. Absent were Eileen Reilly, and Alternate members Thomas McNeill and Vi Smalley. Also present was Planning and Community Development Specialist Emily Kyle.

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

E. Kyle took roll call for the Board. J. Williams will be seated tonight as a regular member so we have a quorum of 5.

I. PUBLIC HEARING:

Application of Dariusz and Basia Nartowicz, Owners and Applicants; requesting from Avon Zoning Regulations, Section IV. A. 6., a 16-foot variance from the required 20-foot side yard setback for a shed, located at 57 High Ridge Hollow in an R30 Zone.

E. Kyle explained the procedure of the meeting and the public hearing tonight. The only item on the Agenda is the Application of Dariusz and Basia Nartowicz (the "Owners" or "Applicants"), requesting from Avon Zoning Regulations, Section IV. A. 6., a 16 foot variance from the required 20 foot side yard setback for a shed, located at 57 High Ridge Hollow which is in an R30 zone. She then read the Legal Notice and Numbers II. and III. of the ZBA Virtual Public Hearing Process via GoToMeeting into the record. E. Kyle summarized the Application: the Applicant is requesting a 16 foot variance from Section IV. A. 6. for the construction of a shed in the rear of a triangular lot. Because of the shape of the lot, there is a front yard setback and two side yards. A classic rectangular lot has a front yard, two side yards, and a rear yard. The side yard setbacks in this zone are 20 feet on each side. The shed is not visible from the road but it is visible from at least one neighbor and probably more because of its proximity to the property lines. The hardships indicated by the Applicants and observed by staff via photographs include the existing inground pool, the retaining wall, and the existing non-conforming shed structure. The Applicants on their Application also note rocks on the property and a sprinkler system. The construction of the shed began prior to a permit being obtained. After the Town of Avon Assistant Building Official visited the site and E. Kyle reviewed the proposal, she advised the Owners to let them know that they needed a permit for the shed and due to the location it needs a variance. So the shed appears half-constructed in the photographs. The Building Official instructed the Owners to stop construction but the owners were allowed to weatherize the shed by putting a tarp on it. If the ZBA approved this variance, the Owners would then need to apply for a building permit.

The Owners are applying for this variance because the shape of the lot makes it difficult to put a shed anywhere else. As shown in some of the photographs, there is an old shed right on the property line that is rotting, is falling apart, and is a hazard. They are proposing build a bigger

shed and clean up that area. They are also in the process of installing a newer white fence in the same spot as the current fence. There is a sprinkler system in the front and back yards so they believe that the only place they could locate a shed is in the same spot.

Chair Carroll asked what the blue circles on the map are. D. Nartowicz answered that they were trees. Chair Carroll asked if the original shed was permitted. The Owners answered that it was there when they bought the property so they do not know. Chair Carroll asked why this is the only spot that they can put the shed. D. Nartowicz said that there are trees about 2' on the side of the shed and there are bigger rocks in front of the shed. B. Nartowicz described the rocks as massive boulders so you cannot move the shed more forward on the lot. Vice Chair Carroll asked E. Kyle if the sprinkler system is considered a hardship. E. Kyle answered that a hardship is something that is unique to the property that cannot be changed like a wetland system that the Avon regulations prohibit you from filling, ledge that would require blasting or significant earthwork, or possibly boulders (depending on size). A sprinkler system in theory can be rerouted and moved elsewhere throughout the yard.

Vice Chair Yaros asked about the work done after the Town required the Owners to stop work. D. Nartowicz said that he had to secure the shed because of safety with children in his yard. He covered it to prevent the rotting of the wood. Vice Chair Yaros asked what would happen if the variance was denied given that the shed is half-built. E. Kyle said that the Owners would have the opportunity to propose to put the shed somewhere else on their lot or they could appeal the ZBA's decision.

J. Polhamus asked what would be the rear yard setback if this was a regular rectangular lot. E. Kyle said that it would be 30'. Chair Carroll asked to confirm that because it was a pie shaped lot the setback was 20'. E. Kyle agreed and said that this shed was approximately 288 square feet but if it was under 200 square feet, the side yard setback would be 10'. If the shed was smaller, the requested variance would be about 5'.

E. Kyle said that the Town did receive one email in opposition to this variance Application. Mike Lloyd is the owner of 105 Chevas Road and he pointed out where his property is on the map. He said that the current structure sits about 45" off the fence line and his property. It is an extensive shed. He put a shed on his property approximately 15 years ago and he had to remove trees, remove boulders, establish a platform, get a permit, have the Town inspector come to ensure that the setbacks were followed. The new shed is in direct view and sightline from his back deck which is the area of his property where he spends most of his time when outside. Nine feet is the height to the second level of the structure and that does not include the roof which he assumes will be pitched and will extend another 6-7' taller. E. Kyle showed the photographs from M. Lloyd. He explained what each photograph was including a photograph showing the view of the shed from M. Lloyd's deck and a photograph showing how close the shed is to the fence. E. Kyle asked if he had concerns that the Application does not reflect the distance he has observed. He agreed and indicated that he was concerned about his property value.

James Moyer of 51 High Ridge Hollow is the property owner on the side of 57 High Ridge Hollow. He is familiar with the ongoing work and structure and can observe it from the rear of his house. He does not have any objection to this project and thinks it is an improvement

considering the condition of the current shed and fence. Sminkal Kacha of 60 High Ridge Hollow, across the street from 57 High Ridge Hollow, does not have any concerns or problems with the proposed shed.

B. Nartowicz said that the white fence that is being put up will add value to M. Lloyd's house because the fence will look nicer and improve his view. B. Nartowicz replied to E. Kyle and said that the existing fence is about 4' and the new fence will be 6' and more decorative. E. Kyle said that the six foot fence will hide more of the shed but it will not cover the top of the structure. E. Kyle asked if the current shed will be removed and B. Nartowicz agreed that it would be.

Chair Carroll asked about where M. Lloyd's lot was. E. Kyle pointed out the location on the map. Chair Carroll asked why the shed could not be located on the other side of the yard and what the hardship is in moving it. The standard for a hardship means that there is not another place that you could locate the shed. She asked if you remove the shed that is there now, could you put the new shed closer to the pool. B. Nartowicz said that if you moved the new shed where the old was, then the entire shed would be closer to M. Lloyd's property. B. Nartowicz said that there are trees as well as boulders in front of the shed. The only spot in the middle of the yard is where they have grass with more boulders to the right of the grass. There is a ridge of boulders about 6' from M. Lloyd's property line where the Owners have cleaned out the leaves and debris that were there. There is not really another spot to shift the shed. There is also a sprinkler system in front of the shed and it would be expensive to move or replace the sprinkler system.

Vice Chair Yaros thinks that she is missing information such as how the shed will look when it is completed. E. Kyle said that this is not a pre-fabricated shed – the Owners are building it themselves. The Owners said that the shed will be 12' x 24' and there will be two windows on the side of J. Moyer's property, a garage door in the front of the shed, and only siding on the side of M. Lloyd's property. The ceiling will be 8' and the roof will be pitched. E. Kyle said that it would be helpful to have drawings of the proposed shed. Vice Chair Yaros asked about the usage of the shed and E. Kyle said that she believes it is for regular shed purposes. The Owners said that there is no electricity to it – it is just for personal storage.

M. Lloyd said that his concern is that he had encountered those same hardships (removing rocks and trees, and abiding by setbacks) to install his shed. The proposed shed violates four property lines. His biggest concern is that the angle of the shed, the sheer size of the shed, and soon the height of the shed is in his direct view. He thought that R30 lots were prohibited from having structures of that size. E. Kyle asked the Owners what the roof height will be, however the Town of Avon does not measure building height by the peak of the roof. The roof height is measured halfway up the peak. B. Nartowicz said halfway would be about 11'. She said that because of the triangular lot and the boulders, the proposed spot is the only place to put a shed. M. Lloyd said that we are entering into fall and winter when the leaves will not be present. Other neighbors will also have a lot of visibility of the shed, as well as being very visible from Chevas Road.

E. Kyle asked the Owners what the base of the shed was and they answered that it was gravel. E. Kyle clarified to the ZBA that the cost and expense of things is not considered a hardship under Avon Zoning Regulations. Cost may play a role toward other hardships but it cannot be a sole hardship. She asked if it would help the ZBA if we received and evaluated photographs of the

items that are described as hardships. Chair Carroll and M. O'Connor agreed that would be helpful. It will be the last chance for the public to speak, to provide input, and to ask questions if the ZBA is ready to close the public hearing. Another option is for the ZBA to keep the public hearing open, receive additional information, , and continue decision making until next month's meeting. Chair Carroll asked if the Owners can ask that the ZBA not make a decision yet and E. Kyle explained that it is the ZBA's decision. J. Williams added that it is necessary for him to get additional information such as pictures of the hardship and the type of shed that is going to be built - both of which are items that the ZBA normally sees. E. Kyle agrees and the ZBA needs to decide if it wants to keep the public hearing open. Chair Carroll agrees that it can be left open. E. Kyle asked the Owners if they understood that the application will be continued to the next ZBA regularly scheduled meeting on October 20 and they would provide additional information. Chair Carroll would like to see more photographs and more details about the structure including the height and the plan for what the roof will look like, especially from the neighbors' points of view. Vice Chair Yaros asked if the structure would be safe for a month and the Applicants answered that it is secure.

Chair Carroll made a Motion to Continue the Public Hearing for 57 High Ridge Hollow to the October 20, 2022 ZBA meeting. M. O'Connor seconded. The Motion passed unanimously. Chair Carroll made a Motion to Continue the Public Hearing action for the variance application of 57 High Ridge Hollow to the October 20, 2022 ZBA meeting. Vice Chair Yaros seconded. The Motion passed unanimously.

II. OTHER BUSINESS:

The 2023 Meeting Calendar was sent to the ZBA before this meeting. M. O'Connor read the proposed meeting dates into the record. Chair Carroll made a Motion to Accept the 2023 Meeting Calendar. J. Williams seconded. The Motion passed unanimously.

III. NEXT REGULARLY SCHEDULED MEETING: October 20, 2022

The meeting was adjourned at 7:56 p.m.

Janet Stokesbury, Clerk
Zoning Board of Appeals
Town of Avon Planning and Community Development