

THE ZONING BOARD OF APPEALS OF THE TOWN OF AVON HELD A VIRTUAL SPECIAL MEETING FOR A PUBLIC HEARING ON THURSDAY, JANUARY 7, 2021, AT 7:00 P.M., VIA GOTOMEETING: Join by web: <https://global.gotomeeting.com/join/118428877>; or dial by phone, +1 (786) 535-3211 Access Code: 118-428-877#.

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

Chair Carroll called the meeting to order at 7:00 p.m. John McCahill facilitated the virtual meeting.

Roll call was taken for the Board.

John McCahill read aloud the legal notice for the meeting. He stated that notice was provided in accordance with Town regulations, State Statutes, and recent COVID-19 related Executive Orders; and the Town has notified the abutters to the subject properties as required. The Avon Zoning Board of Appeals was created as required by Section 8-6 of the Connecticut General Statutes, and functions in accordance with the powers and duties of Section X – Administration and Enforcement, C., of the Town of Avon Zoning Regulations. The public hearing will be closed after the application review is complete. Voting will follow after the close of the public hearing. He summarized the agenda. He stated that this special meeting had been scheduled since the last regular meeting had been cancelled due to a snow storm.

Chair Carroll called the public hearing to order.

PUBLIC HEARING:

Application of Avon Park South Office Center Associates, LLC, owners; and Bruce Shein, applicant; requesting from Avon Zoning Regulations, Section VII. C. 4. b. (2), a variance to use One (1) Darling Drive on a new sign, the number as assigned by the Avon Tax Assessor is required, located at 15 Darling Drive in an IP Zone.

Present on behalf of the application were applicant/owner Bruce Shein, and other owner of 15 Darling Drive Jerome Cohen.

John McCahill summarized the application materials and Town staff supplemental documents: a letter from the applicant explaining his request; a letter from Town Assessor Harry DerAsadourian to the Town of Avon Director of Planning and Community Development; images of proposed/similar sign- sides A and B; image of existing sign; photographic images taken by Town staff; Town GIS map of abutting properties; ZBA public hearing notification sent to abutting owners via postal mail; Town GIS aerial view of subject property; multiple views of subject property; and a subject property plot plan. There were no neighborhood communications

received by Town of Avon as of this meeting date. There was a memorandum with attached documents from John McCahill which was distributed to the Board. A letter from Town Attorney Kari Olson and additional letter from the Town Assessor were also distributed to the Board. He stated from the application that the property is known as 15 Darling Drive, and the request is to use "One" Darling Drive for the address, instead of 15 Darling Drive, and to use the word "One" spelled out instead of using the numeric 1 on the address sign. He read aloud the application's request and the hardship, as unique to the property, specifically that Mr. Shein and the building's tenants have been using the address of One Darling Drive for 33 years. The tenants of the building wanted adequate space on the address sign to include a full company name listing. The Planning and Zoning Commission had granted a special exception permit to the owner of the property, in 1987, to use the "One Darling Drive" address on the sign. He also read the applicant's letter explaining the application request. It was stated in the letter that emergency services personnel know this property to be "One" Darling Drive. A letter from the Town of Avon Director of Planning and Community Development explained the parameters of the recent decision of the current Planning and Zoning Commission with respect to the marketing hardship created by the owners.

In response to Board member Smalley's questions, John McCahill responded that a small sliver of vacant land, approximately 40 feet wide and 60 feet long, that the Town acquired in approximately 1995, at the time the Town constructed the Rails-to-Trails project has the number "1" associated with it. There had been a special exception granted for the sign on the applicant/owner's property, by the Planning and Zoning Commission, which is required for any free-standing sign. He stated that an excerpt from the Town of Avon Zoning Regulations, related to this application, had been included in the Board's agenda packet, due to the unique nature of this application proposal. This regulation change was adopted in 2003, and the existing sign was installed 33 years ago. The current regulation excerpt included in the agenda packet states the requirement for a free-standing sign that the number assigned by the Town Assessor is indicated at the top of the sign. The purpose for this regulation was to improve the ability for first responders to identify a property. Related to his December 2020 memorandum, he clarified for the Board that based upon the applicant's special exception application before the Town of Avon Planning and Zoning Commission, a compromise was reached, based upon a recommendation by the Town's Director of Planning and Community Development, to include both the number "1" and "15" on a new free-standing sign for the subject property. In 1987 there was a special exception sign application for this property, which had been known as "15" Darling Drive and a.k.a. "One" Darling Drive; the application was for the sign to read as "One," therefore spelled out in as a word rather than a numeric figure. The small sliver of Town property in front of 15 Darling Drive was acquired from Tower Lane Associates, in order for the Town land to use underground tunnel reaching across Route 44, related to the trail construction in 1995. This small sliver of Town property was recently assigned the number "1" by the Town Assessor. He summarized that the requirement as stated in the Town's zoning regulations for a free-standing property sign, amended as of 2003, allows for either a 12 square-foot or 24 square-foot, where the street number is incorporated at the top of the sign, in an area no larger than 12" x 24;" that top area would not be included in the remaining area requirements of either a 12 or 24 square-foot dimension. John McCahill explained his sketch diagrams to the Board that were drawn as proposals for the applicant, based upon the current Town regulations. He summarized the memorandum from Town Attorney Kari Olson, which described the Board's powers and duties.

It also raised concerns that for the applicant to use the number “One” instead of “15,” it would be a de facto assignment of the address.

Mr. Shein stated that he recognized the number “15” Darling Drive would be used if someone were to buy or sell the land; however, officially he has used “One Darling Drive, a.k.a, 15 Darling Drive,” for the past 33 years. Every tenant in the building knows this. The Town of Avon Fire Department is the adjoining property, and the department is aware of One Darling Drive. As a result of the Planning and Zoning Commission’s decision on his special exception sign application, he did not feel it was appropriate for the Town to now require him to change the address on the sign after all of the years his property was allowed to use “One” Darling Drive. He stated that this would be a hardship for all of his tenants, the Town of Avon Post Office, and the first responders who already know the address as One Darling Drive. He stated that the very small piece of land owned by the Town, in front of his property, which was just recently assigned the number “1” Darling Drive by the Town Assessor, is not a buildable lot. His lot is the first building lot on the street. He stated the hardship issue of needing to fit as many tenant names onto the sign, and leaving out the least amount of names as possible, to maximize tenant visibility for marketing purposes. He stated that there is no street sign on Darling Drive, and his sign is an important marker for drivers to know where they are in town; the only other sign that drivers see is for Avon Park South.

Chair Carroll asked the Board if there were any further questions.

Board member Shea inquired about the timing of the Town Assessor’s assignment of the number for the small Town-owned parcel of land. John McCahill responded that the number “1” Darling Drive was assigned in December 2020. Board member Shea made the determination that the assignment of the number for the Town-owned property was made after the application submission to the Zoning Board of Appeals. She inquired who the Town Assessor was in 1987. She noted the distinction that the applicant was requesting a variance to the sign requirement, and not requesting the Board to change the legal address. She confirmed her belief that the Board would not be attempting to change the legal address, and that they would only address the sign issue.

Mr. Shein responded to Board member Shea’s inquiry in that the Town of Avon mails his tax bill to [One or 1] Darling Drive, and that somewhere on the bill 15 Darling Drive is also stated, as had been the practice for 33 years. He stated that construction of the building began in 1986, and finished in 1987, his application for the sign at that time requested the use of “One” to reflect the location of the building on the street. His request was approved by the Commission as long as the Town of Avon Post Office agreed; and the Town of Avon Fire Police Departments had been notified, and there were no objections.

In response to Board member Shea’s question, John McCahill responded that no other business owner, that he could recall, objected to the requirement of including the address number on top of their free-standing business signs.

In response to Board member Shea’s question, Mr. Shein stated that the new sign application came about as a result of his tenants wanting their business names on the sign. It was his

understanding that the regulations required the address on the sign or the tenants on the sign, however, not both listed.

John McCahill explained his two design sketches to be used as either of the options for the proposed sign.

Mr. Shein would be fine with using either of John McCahill's designs for the proposed sign.

Chair Carroll confirmed with John McCahill that any approval of Mr. Shein's application would not set a precedent for other business signs. John McCahill responded in the affirmative.

Mr. Shein stated that the compromise given by the Town's Planning and Zoning Commission was confusing to him and to others.

Chair Carroll did not feel that "1-15" Darling Drive, as recommended by the Town's Planning and Zoning Commission, would solve the problem, and it would likely create new problems; especially since the Town-owned parcel in front of the subject property is now assigned "1" Darling Drive.

Board member Smalley clarified, based upon her legal background, that if the owners of 15 Darling Drive were to sell the property, it would be sold as "15 Darling Drive, a.k.a. One Darling Drive."

Board member Bukowski confirmed that Mr. Shein sought to remove the need for "1-15" Darling Drive. Mr. Shein confirmed this intention.

John McCahill confirmed the Mr. Shein was seeking a variance from the Town's zoning regulations, and not from the special exception issued by the Planning and Zoning Commission. He clarified that the Zoning Board of Appeals would be modifying the special exception that had been granted by the Commission. He also stated that the Board should consider the application before it, absent considerations from the Planning and Zoning Commission, and focus on the language of the zoning regulations.

Jerry Cohen, the other owner of 15 Darling Drive, stated that the Town's Fire Department sometimes uses their parking lot for events.

Chair Carroll confirmed that the Board did not have further questions on this application at this time.

Mark Fishbein, a tenant at 15 Darling Drive, currently and for the past several years, stated that his mail has always been and is currently addressed as [One] Darling Drive, and that it would be a major hardship to change the address for his hundreds of financial industry clients.

Board member Shea motioned to close the public hearing, and Board member Smalley seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Chet Bukowski and Ames Shea; and Alternate members Vi Smalley and James Williams. The motion carried.

Chair Carroll stated that she did not want the Board to establish a precedent in changing number/verbiage of signs throughout the town. In response, Board member Shea stated that the Board should include more specific details in a motion or approval, regarding the unique nature of the application.

Board member Shea motioned to approve the application for the variance of Bruce Shein to allow the use of "One Darling Drive," and no other numeric indication, most notably not to include "15" on the sign; and as in 1987 Bruce Shein was granted the special exception to utilize the "One Darling Drive" sign verbiage, and has done so for 33 years; and arguably the undue hardship would be undoing 33 years of the use of "One Darling Drive;" and it is unique to the premissis as the only property in town to receive the exception 33 years ago; and it will not change the character of the neighborhood; and as seen in the documents attached to the application, there is a Town-owned property that has already been assigned the number "1" Darling Drive; and the Zoning Board of Appeals is only being asked to approve the variance to the signage and the Board is not forming an opinion on the legal address of the subject property in the application. Chair Carroll seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Chet Bukowski and Ames Shea; and Alternate members Vi Smalley and James Williams. The motion carried.

John McCahill stated for the record that the granting of the variance will be in harmony with the purposes and intent of these regulations; will accomplish substantial justice; and will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, and welfare.

Application of Judith A. Clements and Christina Racine, owners/applicants; requesting from Avon Zoning Regulations, Section IV. A. 2. e, a 3-foot variance from the required 25-foot side yard setback to permit the placement of a generator, located at 94 Lofgren Road in an R-40 Zone.

Christina Racine was present on behalf of her application for 94 Lofgren Road.

John McCahill summarized the application materials and Town staff supplemental documents, including the following: image of the proposed/similar structures and function plans, Town GIS map of abutting properties; ZBA public hearing notification sent to abutting owners via postal mail; Town GIS aerial view of subject property; multiple views of subject property; photographs by Town staff; subject property plot plan showing proposed structure, proposed location, and the proposed variance of yard setbacks; and subject property survey, dated 3/2/2011. There were no neighborhood communications received by Town of Avon as of this meeting. He summarized the answers from the application related to hardship, specifically the location of the side of the house for the proposed generator related to the close proximity of the 25-foot side yard setback distance. He reviewed the photographs of the subject property and the aerial view of the abutting properties.

Alternate member Smalley sought confirmation from Ms. Racine that she proposed to place the generator close to her house, and in doing so would automatically encroach in the side yard setback. Ms. Racine confirmed the close proximity of the side yard setback line to the side of her house. The generator would be located 22 feet from the property line.

Henry Racine, of 94 Lofgren Road, affirmed the statements of his spouse Ms. Racine. There were no members of the public who wished to comment on the application for 94 Lofgren Road.

Alternate member Smalley motioned to close the public hearing, and Chair Carroll seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Chet Bukowski and Ames Shea; and Alternate members Vi Smalley and James Williams. The motion carried.

Alternate member Smalley motioned to grant the variance as submitted in the application. Chair Carroll seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Chet Bukowski and Ames Shea; and Alternate members Vi Smalley and James Williams. The motion carried.

John McCahill stated for the record that the granting of the variance will be in harmony with the purposes and intent of these regulations; will accomplish substantial justice; and will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, and welfare.

Application of Andrew M. Willauer, owner/applicant; requesting from Avon Zoning Regulations, Section IV. A. 6., an 11-foot variance from the required 15-foot side yard setback and a 28-foot variance from the required 40-foot front yard setback for a 10' x 20' shed with dormer, located at 1 Mountain Ledge in an R-15 Zone.

Andrew M. Willauer was present on behalf of his application.

John McCahill summarized the application materials and Town staff supplemental documents: image of proposed/similar structures to build; Town GIS map of abutting properties; ZBA public hearing notification sent to abutting owners via postal mail; 2016 Town GIS aerial view of subject property; multiple views of subject property; photographs by Town staff; subject property site development plan; subject property plot plan showing proposed structure, proposed location, and proposed variance of yard setbacks; and subject property survey, dated 9/24/1987. There were no neighborhood communications received by Town of Avon as of this meeting. He read from the portion on the application regarding the undue hardship related to the home daycare business run from the property and the location of the structure cannot be located in the rear area as it limits the area for child-monitoring purposes. He also reviewed the rendering included in the application. He introduced the applicant's photographs of other properties in the neighborhood with variances that were granted in the neighborhood.

Mr. Willauer stated that he had spoken with his abutting neighbors, who did not object to his proposed variance, and the neighbor at 94 Secret Lake Road whose variance for a shed very close to the property line had been approved, approximately in 2017 or 2018.

Alternate member Smalley stated that Mr. Willauer's proposal did not appear to be out of the character of the Secret Lake neighborhood.

There were no further comments or questions for the applicant.

Alternate member Smalley motioned to close the public hearing, and Chair Carroll seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Chet Bukowski and Ames Shea; and Alternate members Vi Smalley and James Williams. The motion carried.

Alternate member Smalley motioned to grant the variance as submitted in the application. Board member Shea seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Chet Bukowski and Ames Shea; and Alternate members Vi Smalley and James Williams. The motion carried.

John McCahill stated for the record that the granting of the variance will be in harmony with the purposes and intent of these regulations; will accomplish substantial justice; and will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, and welfare.

OTHER BUSINESS:

There was no other business.

NEXT REGULARLY SCHEDULED MEETING:

The next regularly scheduled virtual meeting will be January 21, 2021, at 7:00 p.m.

Board member Shea motioned to adjourn the meeting and Alternate member Smalley seconded the motion. All present voting members voted in favor: Eileen Carroll (Chair), Board members Chet Bukowski and Ames Shea, and Alternate members Vi Smalley and James Williams. The motion carried and the meeting adjourned at 8:27 p.m.

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