

ZONING BOARD OF APPEALS

Mallory Town Hall
9 Route 39 North
Sherman, Connecticut 06784-0039

ZONING BOARD OF APPEALS MEETING MINUTES NOVEMBER 2, 2009

Chairman Baird called the meeting to order at 7:01 p.m. at Mallory Town Hall. Commissioners present: Chairman Dale Baird, Joseph Chiaramonte, John O'Connor, Lucy Pollack, Alternate Samantha Addonizio, Alternate Helen Bray, Alternate Gary Smolen and Michele Battaglia, Clerk. There was no audience member recording or video taping the meeting.

Public Hearing

Case #601: Judith W. Fenton – 37 Deer Run Trail – requesting variances of Section 332.5 “Minimum Setback Requirements” and Section 384 “Non-Conformity, Other Than Use of the Zoning Regulations” to allow construction of a house addition, as shown on the plan submitted and entitled “Existing Conditions Map with Proposed House Addition prepared for Judith W. Fenton, Lot 28 Deer Run Shores, 37 Deer Run Trail, Town of Sherman, County of Fairfield, State of Connecticut dated August 20, 2009, revised September 25, 2009”.

John O'Connor recused himself from the case and Alternates Addonizio and Bray were seated based on the fact that Alternate Smolen sat on appeals at the last meeting. Michael Robbins was in attendance representing the applicant, Judy Fenton. Mr. Robbins submitted a letter of hardship, which he read for the record and further explained. The hardship letter stated the following as to why the addition has to be where it is proposed:

- Dwelling is too close to the 440 line of Candlewood Lake
- On the driveway side, the property is occupied by the septic tank and fields
- On the screened porch side, this property is the reserve area for future septic

A question was posed regarding the future septic location and whether it could be located elsewhere. According to the applicant, the health department had been out to the site, and this area is the only area that qualified for the reserve area due to rock on the site. Joe Chiaramonte asked if the applicant looked at the other areas around the house for the kitchen addition (screened porch area, left hand corner of house on driveway side). Mr. Robbins stated that these areas are not conducive for the proposed kitchen due to the screened porch being on the lake front of the house, and the left hand corner of the house is the master bedroom area.

Chairman Baird asked if the applicant had any history of the 440' contour. The applicant said that he did not know the history other than his exposure to the area over the past few decades. Chairman Baird shared that she had a call from Ron Cooper, Zoning Enforcement Officer. Mr. Cooper stated that Brian Wood of First Light came to the Town hall with a map showing that the 440' line had been changed due to fill and that First Light is trying to determine who has jurisdiction of the property. At

this point, First Light may have complete jurisdiction over the property, and further information needs to be gathered. Mr. Cooper asked the Board via Chairman Baird to allow for some investigation into this issue.

Commissioner Chiaramonte motioned to continue the Public Hearing until next month (December 7, 2009). Alternate Addonizio seconded the motion. Motion carried unanimously with Commissioners Baird, Chiaramonte, O'Connor, Pollack, Addonizio, and Bray in favor and with none opposed.

Additional Business

I. Lucy Pollack's Appointment to the Board

A letter was sent to the Board of Selectmen in October regarding Lucy's unique situation and how she came to be on the Board, and how her name was left off the ballot. A response letter from Andrea O'Connor dated October 29, 2009 was read into record. The letter stated that this issue should be addressed by the Democratic Town Committee, and that it was not a Board of Selectman issue. A response letter from the Republican Town Committee was also read into record. A discussion ensued whether the commission should petition the Board of Selectman to change the rules, or not. It was decided that this was an unfortunate error, that the Democratic Town Committee is aware of what transpired, and that the Commission will not petition the process.

II. By-Laws

There was a question regarding Article VI, Section 6 "In the event that a regular member or alternate member finds he will not be able to attend a hearing and/or meeting, he shall notify the chairman or his designee in advance of the hearing and/or meeting". It was decided that the "designee" be the ZBA clerk, and as such, members are to contact Michele Battaglia.

Before the by-laws can be finalized, a discussion regarding what evening the meetings will be held in 2010 took place. Michele is to check the Town of Sherman's meeting schedule, and come up with a different night (if available). Once this night is approved, the by-laws can then be finalized.

III. Miscellaneous

- Chairman Baird had a discussion with Attorney Fuller regarding the issue of hardship based on health, safety and welfare. A letter will be requested from Attorney Fuller to detail his advice.
- In regard to meeting minutes, Attorney Fuller stated that the recording is the legal documentation and that the minutes should give enough detail to guide the reader through the meeting and supplement the recording should it be inaudible. The Commission discussed the issue of posting the minutes on the Town's website.
- There was discussion of when the last update was for zoning regulations and perhaps a meeting can be scheduled with the Planning and Zoning Commission to discuss.

Commissioner O'Connor motioned for adjournment. Commissioner Pollack seconded the motion and all voted in favor. Meeting was adjourned at 8:20 p.m.