

## ZONING BOARD OF APPEALS

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

### ZONING BOARD OF APPEALS MEETING MINUTES DECEMBER 7, 2009

Chairman Baird called the meeting to order at Mallory Town Hall. Commissioners present: Chairman Dale Baird, Joseph Chiaramonte, Lucy Pollack, Alternate Samantha Addonizio, Alternate Helen Bray, Alternate Gary Smolen. Not present: Vice Chairman William Jones, John O'Connor and Clerk Michele Battaglia. There was no audience member recording or video taping the meeting.

#### Public Hearing

**Case #601 Continuation:** 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”.

Alternates Addonizio and Bray were seated. Michael Robbins was in attendance representing the applicant, Judy Fenton. Mr. Robbins submitted a letter to the Board stating that he is waiting for a letter from First Light. Mr. Robbins signed a waiver to waive the 65 day rule regarding the closing of a public hearing so that more information may be gathered for the January 5, 2010 meeting.

**Case #602:** Fred Sannicandro – 79 Route 39 South – requesting variance for Section 332.3 “Minimum Lot Area” for relief of the minimum lot area from 80,000 sf to 26,637 sf within Zone B.

Alternates Smolen and Bray were seated. Attorney Edward Hannafin was in attendance representing the applicant, Fred Sannicandro. Mr. Hannafin reviewed the history of the property, stating that at the time the lot was created, it was in conformance with the regulations at the time. The question raised by the Commission was whether or not the property was part of a Town approved subdivision. Mr. Hannafin stated that no, it was “free cut” from the other parcels and the property was left standing alone. The other parcels that were cut off from the original large parcel of land were sold off in pieces. Mr. Hannafin classified this as a “creeping subdivision”. He had spoken to Ron Cooper, Zoning Enforcement Officer to determine if this was an approved building lot. According to Mr. Cooper, it was not approved by the planning commission, and therefore it is not an approved lot. No stamped maps were found regarding these lots.

The meeting was opened for public comment:

- Mr. Timothy Agnifilo, 77 Route 39 South: Mr. Agnifilo expressed his concern with this case. He gave the board members a list of key points regarding these concerns. He stated that the property in question was cut out of the property he currently owns and does not wish to see it developed. He pointed out that

the current regulations for Zone B were established in 1987 and that in June of 1988, Mr. Sannicandro purchased the lot. He also noted that the plans show setbacks for the proposed well and septic, but does not show the setbacks for his own well, or his neighbors and is concerned about this. He stated that if there was a variance granted, the rural character of the Town would not be met. Another concern was the fact that the proposed house would only be 65 feet away from his residence.

- Elizabeth England, 81 Route 39 South: Ms. England stated that she bought her house 4 or 5 years ago, and that her septic tank sits right beside the lot being proposed. She would not like to see Sherman overdeveloped, and felt strongly that Sherman should stay the way it is.
- Edward Molito, 92 Route 39 South: Mr. Molito lives across the street from the property. He expressed his concern with the location of the proposed septic fields and how they are to be located at the front of the property, where it would run downhill onto his property. His well is also along the road front.
- Craig Cook, 94 Route 39 South: Mr. Cook's lot is directly across from the proposed lot and is also concerned about the proposed septic area due to his well being even closer than the neighbors. He was in agreement with everyone that had spoken.
- Dawn Agnifilo, 77 Route 39 South: Mrs. Agnifilo expressed that Sherman has such a quaintness and warmth to it and that everyone would be affected by this decision. She stated that zoning regulations have been put in place to protect the Town and to keep it as it is.

It was discussed that tax-wise, the Town has treated the lot as a lot. However, there is no difference in the taxing of a lot whether the lot is a building lot or not. There is no deed stating that this lot is a building lot.

Commissioner Chiamonte motioned to go into the business session. Commissioner Pollack seconded. Motioned carried unanimously.

The discussion focused around the fact of whether or not the lot was a part of an approved subdivision. At this time, there is no evidence stating that it was. The Board decided to contact Planning and Zoning and then follow up with the Town attorney.

Commissioner Smolen motioned to continue deliberation to the next meeting. Commissioner Addonizio seconded. Motion carried unanimously.

#### **Additional Business**

- Commissioner Chiamonte motioned to accept the 2010 ZBA Meeting Schedule with the intent that as the time gets closer, the November 2, 2010 date will have to be changed due to Election Day. Commissioner Pollack seconded. Motion carried unanimously.
- Commissioner Baird and Bob Fuller have been playing phone tag regarding the issue of health, welfare and safety as it pertains to hardship. Mr. Fuller will be summarizing this issue for the Board.
- Commissioner Addonizio will be finalizing the by-laws and will submit to all Board members.
- The draft minutes of the meeting should be sent to Board members only for their review. At the following meeting, the draft minutes can be commented on, voted on, and the final minutes can then be posted on line.

Commissioner Chiamonte motioned for adjournment. Commissioner Smolen seconded the motion and all voted in favor.