

ZONING BOARD OF APPEALS

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

**ZONING BOARD OF APPEALS MEETING MINUTES
APRIL 6, 2010**

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

Public Hearing

Case #605: Donald Heald – 1 Old Greenwoods Road Extension – requesting variances of Section 331.5 “Minimum Setback Requirements” and Section 322.9 “Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment” to allow the installation of air conditioner units; and also requesting a variance of Section 331.5 “Minimum Setback Requirements” to allow the enclosure of an existing lean-to attached to the existing garage, as shown on the plan submitted and entitled “Partial Survey/Zoning Location Survey prepared for Arbor Vitae, LLC, 1 Old Greenwoods Road Ext. & Route 37 & Route 39, Sherman, Connecticut dated March 1, 2010”.

Alternate Bray was seated for this case. Jeff Lescynski was in attendance representing the applicant. The applicant wants to install five air conditioning units in the proposed area due to the location being away from the surrounding neighbors and also it is an area where the units will be screened from the road. Chairman Baird inquired as to the reason for the unit position. Mr. Lescynski stated that around the house is a stone patio, a slate patio, mature trees, and a hand dug well, and that there is no way to get lines through them and into the house, so this placing was best. He also stated that the units are only good for 100 feet from the house because the units can only push so much air through the pipes into the house. Commissioner Smolen stated that the hardship seems to be from previous construction, not the hardship of the land. Joann Jannicky, 31 Route 37 South, lives parallel to the property. She expressed her concern about the noise that these generators may cause and since the applicant has 53 acres, why can't they be put elsewhere. Mr. Lescynski responded by saying that the main concern for the variance is to reduce the noise to the surrounding areas by placing it in this area. He also said that if the variance was denied, the units would still be installed as long as the required setbacks would be met. There was also a request for a variance to enclose the existing lean-to attached to the existing garage. Mr. Lescynski stated that there is an existing roof and lattice-work and all they want to do is enclose it and that the existing footprint would not be expanded.

Commissioner Chiaramonte motioned to go into the business session. Commissioner Jones seconded. Motioned carried unanimously.

Deliberations

Case #605: Donald Heald – In regard to the air conditioning units, Commissioner Jones discussed the fact that the applicant had “bought into the problem” and that there was no hardship of the land. Commissioner Chiaramonte agreed and thought that there were other locations that could be utilized due to the size of the property. In regard to the enclosing of the lean-to, the Commission discussed that the lean-to already existed and that the footprint would not be increased if the structure were to be enclosed.

Commissioner Chiaramonte motioned to grant the variance of Section 331.5 “Minimum Setback Requirements” and Section 322.9 “Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment” to allow the installation of air conditioner units. Commissioner Pollock seconded the motion. All were opposed (0-5). Variances were denied. Commissioners Chiaramonte, Baird, Jones, Pollack and Bray all voted.

Commissioner Jones motioned to grant the variance of Section 331.5 “Minimum Setback Requirements” to allow the enclosure of an existing lean-to attached to the existing garage. Commissioner Chiaramonte seconded the motion. All voted in favor (5-0). Variance was granted. Commissioners Chiaramonte, Baird, Jones, Pollack and Bray all voted.

Additional Business

Commissioner Jones motioned to accept the minutes of July 6, 2009, September 14, 2009, October 5, 2009, and November 2, 2009. Commissioner Smolen seconded. Motion carried unanimously.

Commissioner Smolen motioned for adjournment. Commissioner Jones seconded the motion and all voted in favor. Meeting was adjourned at 7:58 p.m.