

Planning and Zoning Commission  
Town of Sherman  
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**REGULAR MONTHLY MEETING**

January 3, 2013  
7:00 pm  
Mallory Town Hall

**Commissioners in Attendance:** Barbara Ackerman, Monty Clark, Mary Lee, Paul Voorhees, Jeannene Burruano, Ted Hollander, and Neil Volkmar and Jan Desiato

**Commissioners Absent:** Jill Finch

Also in attendance, Ron Cooper, Land Use Enforcement Officer and Christine Branson, P&Z Administrative Clerk.

No audience member audio or video-taping the meeting.

**Chairman Barbara Ackerman called the meeting to Order** at 7:05 p.m.

**Commissioner Hollander Made a Motion** to Amend the Agenda to include Appointment of Officers. **Seconded by:** Commissioner Volkmar. **Vote: For: Unanimous**

Commissioner Voorhees nominated Barbara Ackerman to continue as Chairman, Ted Hollander as Vice President, and Neil Volkmar as Secretary.

Jan Desiato, Alternate, entered the meeting at 7:10PM.

**Commissioner Vorhees Made a Motion** to Appoint Barbara Ackerman Chairman, Ted Hollander as Vice President, and Neil Volkmar as Secretary of the Sherman Planning and Zoning Commission. **Seconded by** Commissioner Lee. **Vote: For: Unanimous**

**1.) Public Hearing**

**Chairman Ackerman opened the Public Hearing section of the Meeting**

- Sherman Library Association – Unit 1 Route 37 East: Application for a Special Permit to temporarily occupy space at 1 Route 37 East, Building 1, Unit 1

Mason Lord spoke on behalf of the Library. The library wishes to occupy space at Unit 1 Route 37 while the Library building is under renovations. Hours of operation would be Tuesday through Friday, 11:00 a.m. to 6:00 p.m., and Saturday 10:00 a.m. to 4:00 p.m. There will be a maximum of 1 to 2 Staff members and 3 to 6 patrons at any given time. Chairman Ackerman reported there were approximately 18 spaces available behind the Main building as well as 13 in an alternate area which includes one handicap accessible space.

**Commissioner Hollander made a motion** to close the public Hearing.  
**Seconded by:** Commissioner Volkmar. **Vote: For: Unanimous**

**Commissioner Hollander made a motion** to amend the Agenda to allow Board action to be taken directly following each public hearing.  
**Seconded by:** Commissioner Lee **Vote: For: Unanimous**

**Commissioner Hollander Made a Motion** to approve the Application for a Special Permit of the Sherman Library Association to occupy space at Unit 1 Rt. 37 as presented with no more than 2 staff members and 6 patrons using the premises at one time, with the provision to provide a handicap accessible parking space in the front of the building.  
**Seconded by** Commissioner Lee. **Vote: For: Unanimous**

- Arena – 70 Wakeman Hill Road: Application for a Special Permit to allow the installation of a ½ bathroom in a new 105’, 1 7/8” x 90’, 8 11/16” (total) accessory building.

Applicant, Gary Wengowski submitted a new plan showing the bathroom in the garage, the plan was received 12/26/2012. The bathroom is shown to have access doors in the garage and accessory building. The Commission asked about the use of the garage, how many cars were being garaged, and expressed concerns over the size of the garage. Discussion followed regarding the lot size, (5.6 acres) residence and the location of the residence Zone (A). Chairman Ackerman read into record email correspondence from the Town’s Attorney which referenced Section 324.3A of the Planning and Zoning Regulations “a building subordinate to the principal building on a lot and used for purposes customarily incidental to that of said principal building...” The applicant indicated he was unsure of how many cars would be housed in the garage. It would not be used for agricultural purposes. Part of the garage would be used for work space and hobby. The accessory building has two floors and partially would be used as a family room and office space. Correspondence from the Town Attorney stated, “based on the definition of a garage in our regulations, the size of the proposed garage plan doesn’t appear to meet the definition under the P&Z Regulations.” In addition, the Attorney wrote “In general, this means that the use must not be the primary use of the property but one which is subordinate and minor and it must have a reasonable relationship to the principal use. [*Lawrence v. Zoning Board of Appeals 158 Conn. 509 (1969)*]. “*Customarily incidental uses require additional factors to be considered such as the size of the lot, the nature of the primary use, the use of the neighborhood lots and the economic structure of the area*”]. Discussion followed.

**Commissioner Burruolo Made a Motion** to close the Public Hearing.  
**Seconded by:** Commissioner Lee. **Vote: For: Unanimous**

The Commission discussed the size of the proposed accessory building and use. After discussion, the Commission found the proposed garage does not meet the general definition of a garage, nor does it match the general character of the other area accessory buildings.

**Commissioner Hollander Made a Motion** to deny Arena, 70 Wakeman Hill Road application for Special Permit. **Seconded by:** Commissioner Lee. **Vote: For: 4 (Ackerman, Lee, Burruolo, Hollander) Against: 3 (Clark, Voorhees, and Volkmar)**

- Naromi Land Trust – Wimisink Preserve - Intersection of Route 55 and Route 39 North: Application to revise the railing conditions of the existing Special Permit that was issued for construction of a Boardwalk.

Marge Josephson from Naromi Land Trust and Peter Jensen, a Trail Builder for Northeast Boardwalks and Trails, appeared before the Commission to request a modification to the special permit. Peter Jensen spoke to the Commission concerning the necessity of the railings from the perspective of safety and what the ADA allow for boardwalks. Jensen has been involved in the construction of several ADA compliant boardwalk structures as well as discussions with ADA regulation Boards. Where the structure reaches above 30 inches elevation, railings are required. There will be a 3 inch curb running the entire expansion. There will be railings along the bump-out and at the turn around. The boardwalk will have a ramp at no greater than an 8% grade. Jensen also stated the boardwalk would be near water but not in standing water, and will allow a continuous 14 inch clearance for wildlife access under the structure. Public Comments: Melinda Albert stated she is in a wheelchair, and believes railings should be useful whenever possible to assist stability. Abutting neighbor Pat Sylvester stated she was opposed to the boardwalk and she felt it would be unattractive. Gary Albert stated “handicap accessible” can be interpreted many different ways, depending on an individual’s needs.

**Commissioner Volkmar Made a Motion to close the Public Hearing.**  
**Seconded by: Commissioner Clark, Vote: For: Unanimous**

**Commissioner Volkmar made a Motion** to Approve the Modification of Special Permit for Naomi Land Trust – Wimisink Preserve Boardwalk, with amendment to require guardrails in areas where the elevation is greater than 30 inches to the ground, on the turn around and the bump out, and 3 inch curbing throughout the full structure. Wherever feasible the boardwalk shall be as low to the ground as possible.  
**Seconded by: Commissioner Lee. Vote: For Unanimous**

**Chairman Ackerman adjourned the Meeting at 9:00 p.m. for recess.**  
**The Meeting reconvened at 9:15 p.m.**

- Judd - 23 Route 39 North: Application for a Special Permit for a change of use to include an automotive repair and an auto body repair shop.

Joel Judd presented the application for a Special Permit. Judd thanked the Commission for the Site walk which took place December 8<sup>th</sup>, 2012. Judd addressed the public and Commission, stating that he had no intention of upsetting his friends and neighbors by proposing use of his barn to become an auto repair shop. Judd provided a new A2 survey of 23 Route 39 North, dated December 21, 2012 conducted by C. James Osborne. This new survey reflects a property line running directly through the center of the five bay garage. Judd said he was unaware of the division line when he originally applied for the Special Permit. Judd stated the proposed tenant has since withdrawn use of the barn. Judd asked the Commission to advise what type of business could be conducted on the property. Chairman Ackerman stated the Commission can not address any issues other than those specified on the Special Permit Application. Chairman Ackerman read into record correspondence from the Town’s Attorney, “Based upon the materials and the circumstances involved.....the only Town Authority that can act on this application is the Zoning Board of Appeals.” The Attorney referenced Connecticut State Statute 14-54-B:

***“Connecticut General Statutes , Title 14 , Chapter 246, § 14-54 - Location to be approved by local authority*** Current as of: 2009 ***(b) Any person who desires to obtain a license for dealing in or repairing motor vehicles in a municipality with a population of less than twenty thousand shall first obtain and present to the commissioner a certificate of approval of the location for which such license is desired from the board or authority designated by local charter, regulation or ordinance of the town, city or borough wherein the business is located or is proposed to be located, except that in any town or city having a zoning commission, combined planning and zoning commission and a board of appeals, such certificate shall be approved by the board of appeals..”***

Chairman Ackerman suggested Mr. Judd withdraw his application before Planning and Zoning and bring it before the ZBA. Commissioner Ackerman advised Judd no action could be taken by this Board on this Application. Chairman Ackerman further suggested Mr. Judd speak to ZEO, Ron Cooper regarding any other use of the garage. Krystal Judd, (daughter of Joel Judd) requested a continuance of this case. Chairman Ackerman reminded the Commission it was determined that this case could not be heard by Planning and Zoning Commission, therefore it would not make sense to continue the hearing. Gary Albert stated he was ashamed Sherman residents would fight over such a matter. Alex Thompson demonstrated how private homeowners could use much more environmentally harmful products than the proposed Auto Repair shop would be allowed to use, if this had passed.

**Commissioner Clark Made a Motion** to close the Public Hearing.  
**Seconded by:** Lee. **Vote: For: Unanimous**

**Chairman Ackerman adjourned the Meeting at 9:35 p.m. for recess.**  
**The Meeting reconvened at 9:50 p.m.**

The application was returned to Mr. Judd. The new A2 survey submitted this evening made the previous plan invalid. The Planning and Zoning Commission is not the correct Board to act upon this Special Permit Application.

## **2.) Approval of Minutes:**

**Commissioner Lee Made a Motion** to approve the Revised Minutes of Special Meeting of December 8<sup>th</sup>, 2012. **Seconded by:** Commissioner Hollander. **Vote: For: Unanimous**

**Commissioner Voorhees Made a Motion** to approve revised Minutes of December 6<sup>th</sup>, 2012 Regular Monthly Meeting. **Seconded by:** Commissioner Clark. **Vote: For: Unanimous**

## **3.) Zoning Enforcement Officer’s Report:**

Ron Cooper submitted a report for October, November and December combined. The number of permits approved was 56. There are 4 applications pending, and 1 denied. In the past three months several stand-by generators were installed. Mr. Cooper explained a few cases in detail that were still pending.

## **4.) Chairman’s Report:**

Chairman Ackerman wished the Commissioners a Happy New Year. She reminded the Commissioners with the new and continuing matters at hand, it reminds us of how important our positions on the Planning and Zoning Commission are. Ackerman is hopeful this coming year the Commission is able to

review the existing Regulations and consider needed updates. Ackerman commended the Commission for being able to set aside personal feelings and deal with tasks collectively in a positive manner for the Town of Sherman.

**5.) Plan of Conservation and Development**

The Commission discussed several new revisions and corrections.

**6.) Adjournment**

**Commissioner Lee Adjourned the Meeting** at 11:10 p.m.

Respectfully submitted by:

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Christine Branson  
January 9, 2013

\*P&Z Commission Approved 2/7/2013