



ZONING BOARD OF APPEALS
Regular Monthly Meeting Minutes
March 4, 2014
7:00 pm
Mallory Town Hall

FINAL

Commissioners present: Dale Baird, Joseph Chiamonte, Kathy Fazzone, Alternates: Lucy Pollock, Gary Smolen, and Rick Hudson
Absent: Will Jones, and Samantha Addonizio

Also in Attendance: Ron Cooper, ZEO & Christine I. Branson, ZBA Administrative Clerk

Call to Order:

Chairman D. Baird Called the Meeting to Order at 7:07p.m.

Case # 644: Flatau, David Estate of, 24 Fox Run Road, Sherman CT (Map: 14, Lot: 6) Zone A
Request for Variance of Section: 324: Accessory Uses, Buildings, and Structures; to allow an accessory apartment. Variance of Section 324.1 A: Accessory Apartments, Sub-Section c: to allow the accessory apartment to exceed 750 square feet. Variance of Section 324.3 A: Septic Systems for Accessory Buildings; Sub-section a: to allow an accessory building to contain a kitchen and sleeping facilities for an accessory apartment.

Acting Agent, Celeste Pearce spoke on behalf of the Estate. The variances being requested are an attempt to follow the proper permitting process for a post facto apartment located within an accessory building that is hooked to the main septic system. Ms. Pearce provided photographs of the interior and exterior of the accessory building. The photos show there are not garage doors on the structure. The Board noted there was an appropriate Zoning application dated 5/26/1987 for a 24' x 36' pole structure garage work shop which was approved on 5/27/1897. A Certificate of Occupancy issued 3/22/1987, the conditions state "garage with private studio above, no plumbing in building, studio not for living quarters". A notice of violation was issued by ZEO Ernie Winkler dated July 30, 1997 where the following violations were noted: "Section 321.7, a special permit is required to attach a septic system to an accessory building. Section 331.2 a business located in Zone A requires a special permit. And violation to section 410, the construction which has taken place in the storage area of the garage required a Zoning, health and Building permits". Regardless of the receipt of Notice, it seems the home owner continued to convert the upper portion to a finished apartment with a full bathroom and removed the garage style doors in order to finish the lower portion of the structure to create an office for a home occupation with a half bath. The Regulations do not allow an accessory apartment to exist in an accessory structure, nor would a septic system have been allowed to be attached to this structure since the garage doors were removed. The apartment exceeds the 750' square foot maximum for an apartment as well.

Business:

Case # 644: Flatau, David Estate of, 24 Fox Run Road, Sherman CT (Map: 14, Lot: 6)

The Board discussed the case at length, and had difficulty finding hardship for any of the requested variances. The lot size is 26+ acres in the Farm Residential Zone. The Regulations do not allow an accessory apartment in an accessory building. The regulations would allow a septic hook-up to an accessory building if in fact it is a garage. In this case, the garage doors have been removed from the structure to create an office on the ground floor. There was not a physical land based hardship present to justify granting any of the variances.

R. Hudson Moved to Grant Case 644the Estate of David Flatau, 24 Fox Run Road, Sherman CT (Map: 14, Lot: 6) Zone A Request for Variance of Section: 324: Accessory Uses, Buildings, and Structures; to allow an accessory apartment. Variance of Section 324.1 A: Accessory Apartments, Sub-Section c: to allow the accessory apartment to exceed 750 square feet. Variance of Section 324.3 A: Septic Systems for Accessory Buildings; Sub-section a: to allow an accessory building to contain a kitchen and sleeping facilities for an accessory apartment.
Seconded by: L. Pollack **Vote:** For: 0; **Against:** 4

Approval of Minutes:

Regular Monthly Meeting of February 4, 2014

R. Hudson Moved to Approve the Minutes of Regular Monthly Meeting of February 4, 2014 as amended.
Seconded by: K. Fazzone **Vote:** For: Unanimous

Correspondence:

Dahl, Nils dated 12/13/14 challenging the validity of the westerly property line according to an A-2 survey provided with the ZBA application # 640 DiResta, Peter, referencing a Superior Court Decision, Dahl vs. Banks Docket # CV 89 0300202S, Honorable Judge Moraghan

FY 2014-15 Budget:

Following a brief discussion the proposed FY 2014-15 ZBA Budget was approved to submit to the BoS for consideration.

L. Pollack Moved to Approve the FY 2014-15 ZBA Budget as presented.
Seconded by: J. Chiaramonte **Vote:** For: Unanimous

Adjournment:

R. Hudson Adjourned the Meeting at 8:55 p.m.

Respectfully submitted by:



Christine Branson, Clerk
March 11, 2014

Approved as Final at May 6, 2014 Regular Monthly Meeting