



TOWN OF SHERMAN
Planning & Zoning Commission
REGULAR MONTHLY MEETING MINUTES

Thursday, March 3, 2016
7:00 pm, Mallory Town Hall

FINAL

Members Present: J. Burruano, N. Volkmar, T. Hollander, M. Lee, J. Finch P. Voorhees and Alternates
W. Knaak A. Muoio and R. Peaburn

Absent: M. Sichel

Audience: None

Also Present: ZEO R. Cooper and Administrative Clerk C. Branson

Call to Order: Chair, J. Burruano Called the Meeting to Order at 7:00pm.

Commissioner T. Hollander recused himself from the Public Hearing, citing a possible conflict of interest.

Alternate Ann Muoio was elevated to Voting status for the duration of the Meeting.

Alternate Ryan Peaburn was elevated to Voting status.

Public Hearing:

Special Permit: Warner, Christina B. - 23 Mauweehoo Hill (M- 56, L- 20) For consideration to allow an Accessory Apartment within the footprint of the existing dwelling, all in accordance with Regulations, Section 340 Special Permit, Section 324.1. A .2 Accessory Apartments, and Section 371.2 Off -Street Parking, as indicated on Floor Plan submitted and the marked- up A-2 Survey plan entitled "Plot Plan of Property of Walter A. & Carey M. Stevens to be conveyed to C. Allen Ellis, Mauweehoo Hill, Sherman, Connecticut", Dated October 1980, Prepared by F. W. Rogers, R.L.S. Zone A

Commission Chair, J. Burruano Opened the Public Hearing. Secretary M. Lee read the Legal Warning into record. This warning was published in the Citizen News on February 17, 2016 and again on February 24, 2016. Certified letters were mailed to 17 neighbors within 500 feet of the property. Health approval was granted January 12, 2016. The application is for a Special Permit to allow an Accessory Apartment within the existing footprint of the 2,173 square foot dwelling. As indicated on a revised floor plan (dated 3/2/16) and a marked up A-2 survey plan entitled "Plot Plan of Property of Walter A. & Carey M. Stevens to be conveyed to C. Allen Ellis, Mauweehoo Hill, Sherman, Connecticut", Dated October 1980, Prepared by F. W. Rogers, R.L.S. Ms. Warner's letter of intent was read into record. Also provided was a parking plan showing one additional curb cut for better access to the front entrance of the property. Chair, J. Burruano requested any proponents for this application to speak. Ms. Warner spoke on behalf of her own application. When she purchased the house several months ago the property was deemed uninhabitable. She began full renovations of the home to improve the overall condition. In the process of obtaining permits for various aspects of the renovations, it came to light that there was an unapproved stove in the lower portion of the dwelling, which her mortgage company advised, could be considered an apartment. Ms. Warner stated she is attempting to bring the pre-existing stove into compliance. Reflected in the renovation plans, she stated she is reducing the total number of bedrooms, and bathrooms to open up the common living area. Ms. Warner intends to use the apartment for her adult daughter to allow each other privacy when desired. She has no desire to rent the apartment to non-family members. Chair, J. Burruano requested if there was correspondence received in opposition of this application. Correspondence was read into record from Craig and Susan Stein, stating the objection was in direct conflict with the Mauweehoo Hill Home Owners Association Covenants. From the audience, Mr. Edward Rizzi former Chair of the HOA, explained the Covenant with accompanying deed restriction. The Mauweehoo Hill Home Owners Association Covenant restricts all of the homes within the Association to Single Family Dwellings. Mr. Rizzi does not object to the extra curb cut, renovations, or allowing a second kitchen within the dwelling. Mr. Joe Carlucci spoke from the audience stating he has objections only to the Accessory Apartment aspect of this application. Mr. Carlucci stated that this approval would run with the land, and if Ms. Warner were to sell her home he is concerned how the apartment could affect the neighborhood. Mr. Rizzi added he believes the second kitchen was built sometime in the 1960's. ZEO Ron Cooper referenced an Accessory Apartment Application from 1994 within the Mauweehoo Hill Association, the Application

was ultimately forfeited . Ms. Warner stated she was pursuing the Special Permit for an Accessory Apartment in order to make the second kitchen legal, not necessarily to have an Apartment. When Ms. Warner began the application process, the ZEO recommended adding a door to separate the apartment so it would meet the criteria for an Accessory Apartment. Without the door there was a perception that the occupant of the apartment would have access to the whole bottom floor, which would far exceed the 750 square foot restriction. Ms. Warner stated she was attempting to satisfy stipulations set forth by her Mortgage Company, which perceived the second kitchen as an apartment. There was no previous approval of an apartment, Ms. Warner felt applying for a Special Permit would satisfy what the Mortgage Company was requiring. Discussion followed regarding second kitchens in a home. Ms. Warner requested the Commission consider continuing the Hearing in order to explore alternative options.

Commissioner N. Volkmar Moved to Continue the Public Hearing for Special Permit for an Accessory Apartment: Warner, Christina B. - 23 Mauweehoo Hill (M- 56, L- 20) until April 7, 2016.

Secinded by: M. Lee

Vote: For: Unanimous

Old Business: None

New Business: None

Approval of Minutes:

Commissioner P. Voorhees Moved to Approve the Minutes of Regular Monthly Meeting of February 4, 2016 as written.

Secinded by: M. Lee

Vote: For: Unanimous

Correspondence:

Connecticut Siting Council - dated March 4th, 2016 abutting town letter in reference to the Long Mountain Road transmission station in New Milford.

Zoning Enforcement Officer's Report February 2016:

ZEO R. Cooper reported a total of 4 Zoning Applications were approved, 3 Statements of Intent were approved, 0 were withdrawn, 0 were denied and 5 remain under review. Several ongoing cases were updated and reported resolved.

Commissioner N. Volkmar Moved to Approve the ZEO's report of February 2016 as presented.

Secinded by: M. Lee

Vote: For: Unanimous

Public Comment: None.

Amendments to the Planning & Zoning Commission By-Laws:

Commissioner N. Volkmar Moved to Approve Amendment to the Planning & Zoning Commission By-Laws as proposed at the Annual Organizational Meeting of January 21, 2016. Amendment to page 8, Chapter XI, Committees, Section 1, add the phrase "AS NEEDED" to the following:

The Commission shall have the following committees *as needed*:

- a. Plan of Conservation and Development
- b. Regulations Review
- c. Litigation
- d. Site Visitation
- e. Nominating

Secinded by: M. Lee

Vote: For: Unanimous

Committee Reports: None

Chairman Report:

Chair, J. Burruano reminded the Commission of upcoming Land Use Workshops. The Town of New Milford is hosting a free two part workshop at New Milford Town Hall, March 30th and April 6th, RSVP by March 25th. There is also an advanced Land Use Workshop in Haddam CT, Saturday, March 26th there is a fee of \$ 45.00. There has been discussion of both Happy Acres and Strawberry Fields advertising events, no Statements of Intent have been received to the P&Z Office. Discussion continued regarding a 5K Race planned for Earth Day weekend at Happy Acres Farm. A letter was sent to the BoS from J. Wozniak- Brown on behalf of the Friends of Happy Acres informing the BoS of the event.

Regulation Review:

Section 322 Building Projections: Discussion and Possible Action

Commissioner N. Volkmar Moved to Accept the proposed Amendment to the Zoning Regulations, Section 322 Building Projections 322.1 B, Fences and Walls and bring to a Public Hearing on May5th, 2016. The Amendments are attached herewith.

Seconded by: M. Lee

Vote: Unanimous

AMEND TABLE OF CONTENTS: ARTICLE III GENERAL REGULATIONS

Section 320 GENERAL REGULATIONS

AMEND 322 Building Projections

AMEND 322.1 Obstructions in Lot Area

AMEND 322.1 A Architectural Features

AMEND & ADD 322.1 B Fences and Walls

ADD 322.1 C Commercial or Temporary Construction Fencing

ADD 322.1 D Fencing Used for Agricultural Purposes

AMEND Section 322 Building Projections

322.1 Obstructions in Lot Area

322.1 A Architectural Features

ADD 322.1 B Fences and Walls

These Regulations apply to fences or walls or modified construction (horizontal or vertical) of legal non-conforming fences after the adoption of the following Regulations. (date of adoption)

- i Fences and walls less than 2 feet in height: Shall be approved by the Commission by site plan review for construction in front of the Fence Setback Line if safety site lines and pedestrian passage are not compromised.
- ii Fences and walls less than 4 feet in height: Shall be permitted behind the Fence Setback line in the Front Lot.
- iii Fences and Walls Less than 6 feet in height: Shall be permitted in any Front Lot behind the 50 foot Building Setback Line, Side Lot or Rear Lot or any area of an Interior Lot except the Access way.
- iv Fences and walls greater than 6 feet in height : Shall be permitted only if that portion of such fence or wall which exceeds 6 feet in height is not less than $\frac{3}{4}$ open construction, with the following exception: any fence exceeding 6 feet in height can be installed in the side or rear lot within the Building Setback Lines.
- v Measurement of Height: Fence and wall construction or the combination of construction of both, one on top of the other, shall be measured as one. The height will be measured above the adjoining finished grade and no change to the existing grade of the property shall be made prior to the installation of the fence to gain a height advantage in excess of permitted height.
- vi Visibility at Intersections: A residential fence or wall shall not obstruct pedestrian or motor vehicle visibility at an intersection. Refer to Section 322.6 – Visibility at Intersections of these Regulations.
- vii Materials and Construction: A residential fence or wall shall not be electrified, nor can any fence or wall be fitted with barbed wire. Materials such as, but not limited to: scrap lumber, plywood, plastic or fiberglass sheets are not permitted.
- viii Deer Fencing: Open construction deer netting or wood post and wire deer fencing shall be permitted in the Front (behind the Fence Set Back Line) , Side and Rear Lots.
- ix Historic District Requirements: All fences and walls proposed for installation within Sherman’s Historic District shall require a Certificate of Appropriateness from the Historic District Commission before a Zoning Permit can be issued and Site Plan Approval by the Planning and Zoning Commission .
- x Finished Side of Fence: The side of any fence or wall considered to be its “face” (i.e. the finished side) must face the abutting property or Road Right of Way.
- xi Ownership of Parcel: Fences and walls, including footings, shall be located entirely upon the private property on which the fence is proposed to be constructed unless

there is an agreement between the owners of both properties on file in the Sherman Land Records.

xii **Lots with More Than One Frontage:** Lots that abut more than one road have multiple Front Lot Lines and the Regulations and restrictions regarding fences and walls in the Front Lot apply to all areas adjacent to all streets and roads.

xiii **Interior Lots:** Fences and walls are not permitted within the Access way to an Interior Lot

ADD 322.1C **Commercial or Temporary Construction Fencing**
Allowed by "Special Permit" only.

ADD 322.1D **Fencing Used for Agricultural Purposes**
Exempt from these Regulations

AMEND SECTION 610-DEFINITIONS

ADD **Fences and Walls:** An Accessory Structure consisting of a barrier of any man made or natural material or combination of materials other than trees or other plant materials erected to surround, separate, enclose, screen or buffer areas of land.

ADD **Fences and Walls, Residential:** Fences and walls that are Accessory Structures to a Single Family Dwelling.

ADD **Setback Line, Fence:** A line that is set back 15 feet into the lot and is parallel to the travel way of the road.

ADD **Lot, Front:** That Lot area extending across the full width of a Lot and lying between the Front Lot Line and the nearest line of the principal building. In measuring aforesaid setback area, the line of a building shall mean a line parallel to the Front Lot Line, drawn from a point of the building nearest to such Lot Line, and the measure shall be taken at right angles from the line of the building, as defined herein, to the Lot Line.

ADD **Lot, Rear:** That Lot area extending across the full width of a Lot and lying between the Rear Lot line and the nearest line of the principal building. In measuring aforesaid lot area, the line of a building shall mean a line parallel to the Rear Lot Line, drawn from a point of a building nearest to such Lot Line, and the measure shall be taken at right angles from the line of the building, as defined herein, to the Lot Line.

ADD **Lot, Side:** That Lot area between the Side Lot Line(s) and the nearest line of the principal building and extending from the Front Lot to the Rear Lot as defined in these definitions. In measuring aforesaid Lot area, the line of a building shall mean a line parallel to the Lot Line, drawn from a point of a building nearest to such Lot Line, and the measure shall be taken at right angles from the line of the building as defined herein, to the Lot Line.

ADD **Lot, Interior :** A lot which does not meet the minimum requirements of these Regulations for frontage on a road or highway. (See Section 331.4)

ADD **Set Back Line, Building :** A line which is parallel to the property line that delineates the minimum distance requirement from the property line to a structure as defined for each zone elsewhere in these regulations.

AMEND **Structure, Accessory:** A structure which is customarily incidental and subordinate to the principal structure on a lot, and located on the same lot therewith.

ADD **Travel Way:** That portion of the road way for the movement of vehicles exclusive of shoulders.

AMEND **Use, Accessory:** A use which is customarily incidental and subordinate to the principal use on a lot, and located on the same lot therewith.

Section 324.1.A.2 Accessory Apartments: Discussion and Possible Action

Commissioner N. Volkmar Moved to Accept the proposed Amendment to the Zoning Regulations, 324.1A.2 Accessory Apartments and bring to a Public Hearing on May5th, 2016. The Amendments are attached herewith:

Seconded by: M. Lee

Vote: Unanimous

324.1A.2 Accessory Apartments

AMEND: TABLE OF CONTENTS

AMEND: Article III- GENERAL REGULATIONS

AMEND: Section 324 Accessory Uses , Buildings and Structures

- AMEND: 324.1 Accessory Uses
- AMEND: 324.1A Accessory Apartments and Dwellings
- AMEND: 324.1A.2 Accessory Apartments
- AMEND: Section 610 Definitions
- AMEND: Apartment, Accessory
- AMEND: Garage
- AMEND: Building, Accessory

AMEND: Section 324.3 A Septic Systems for Accessory Buildings:

No structure other than the principal building, accessory dwelling, or detached Accessory Apartment, on a lot shall have a septic system, except that the Commission may grant Special Permits to allow septic systems for not more than one Accessory Structure on a Lot, provided that the following conditions are met:

- a. The principal dwelling or Accessory Apartment shall be occupied by the property owner who shall be a natural person or persons.
- b. The Accessory Apartment shall be used for residential purposes only. The Town Sanitarian shall certify that the septic system service for the existing dwelling and proposed Accessory Apartment conform to current requirements of the Public Health Code.
- c. The Accessory Apartment shall have its own entrance from the exterior of the building and shall contain one bathroom and kitchen facilities. The Accessory Apartment shall not exceed 750 square feet in floor area.
- d. Parcels of 4 or more contiguous Zoning acres or 160,000 square feet with a detached garage, accessory to a residential building may contain one Accessory Apartment. This apartment shall not exceed 750 square feet. The total footprint of the garage shall not exceed the square footage required to accommodate said 750 square foot apartment. The apartment shall contain one bathroom and kitchen facilities, provide parking for one car and shall be subject to subsections b and c of Section 324.3A Septic Systems for Accessory Buildings.
- e. Accessory Apartments shall be subject to the Special Permit approval set forth in Section 340 of these Regulations.

AMEND: Section 610 Definitions:

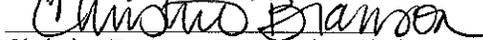
Apartment, Accessory: An accessory dwelling created completely within the area of a single family dwelling or contained above or below a detached garage accessory to the principal dwelling on a lot that has a single family dwelling.

Garage: An Accessory Building used primarily for the housing of no more than three motor vehicles, either attached to the principal structure or unattached. Unattached garages do not have septic or sewer facilities except as permitted by Section 324.3A and 324.1A (b).

Building, Accessory: A building subordinate to the principal building on a lot and used for purposes customarily incidental to that of said principal building and does not have septic or sewer facilities, except as provided in Section 324.3A and Section 324.1A(b).

Adjournment: Chair, J Burruano Adjourned the Meeting at 8:45 pm

Respectfully submitted,



Christine Branson, Commission Clerk

March 17, 2016

***APPROVED AS AMENDED AT THE APRIL 7, 2016 RMM**