ZONING BOARD OF APPEALS
Annual Organizational Meeting & Regular Monthly Meeting Minutes
Tuesday, November 6, 2018
7:00 pm, Mallory Town Hall
9 Route 39 North, Sherman, CT 06784

Members Present: Kenric Gubner, Ann Chiaramonte, Rick Hudson, Kathy Fazzone, and Alternates: V. Gentile and Jared Bonner

Absent: Samantha Addonizio Butts, and William Jones Jr.,

Also in Attendance: Christine I. Branson, ZBA Administrative Clerk


ANNUAL ORGANIZATIONAL MEETING

Call to Order: In the absence of S. Addonizio-Butts, Acting Chair R. Hudson Called the Annual Organizational Meeting to Order at 7:03 p.m.

Purpose: To Nominate and Elect Officers in accordance with By-Laws:

A. Chiaramonte Moved to Nominate Kenric Gubner to act as Board Chair for a two year term, expiring January 1, 2021.

Seconded by: K. Fazzone

Vote: For: 4 (Unanimous Full Members)

A. Chiaramonte Moved to Nominate Kathy Fazzone to act as Board Vice-Chair for a two year term, expiring January 1, 2021.

Seconded by: K. Gubner

Vote: For: 4 (Unanimous Full Members)

Adjournment: R. Hudson Adjourned the Annual Organizational Meeting at 7:09 p.m.

REGULAR MONTHLY MEETING:

Call to Order: Acting Chair R. Hudson Called the Regular Meeting to Order at 7:10 p.m.

Alternate J. Bonner was elevated to Voting status for the duration of the Meeting.

CONTINUATION of Public Hearing I:

ZBA Case 687- Colen, Stephen R., 28 Deer Run Trail, Sherman, CT 06784-(M-69, L-30)- Requesting Variance of Section 332.5 Minimum Setback Requirements, Front Yard- From 50' to 27.7'; Requesting Variance of Section 332.5 Minimum Setback Requirements, Front Yard- From 50' to 38.5'; Requesting Variance of Section 384 Increase of Non-Conformity, Other than Use- to allow construction of an 18’ x 23.7’ addition in the exact proposed location and footprint shown on submitted A-2 Survey entitled: “Zoning Location Survey, Lot 27, Deer Run Shores, Sect. A, N/F Stephen Colen & Helen Colen, 28 Deer Run Trail, Sherman, CT.” Prepared by: Compass Engineering Group, LLC. Dated September 7, 2018. Zone B.

Acting Chair R. Hudson opened the continuation of Case 687- Colen, Stephen R., 28 Deer Run Trail, Sherman, CT. K. Gubner read the Legal Warning into record. The Legal Notice was published in the Town Tribune on September 20th and 27th. The Case was originally opened on October 2nd where the Board reviewed the file contents. During the original presentation, the Land Use Enforcement Officer, R. Cooper stated he was unsure if the 440 line was accurate and provided a packet of documentation showing different measurements along the Southern portion of this property. The Board requested the applicant contact the Surveyor to confirm accuracy of the 440 line and the case was continued. Surveyor, David Rode was present today to speak at this meeting and submitted the updated survey to the Zoning Office on October 30, 2018 for review. Also present was appointed agent, Todd Harrison to speak on behalf of the Colen family. Mr. Harrison gave a summary of the Colen family’s hardship, stating they owned this property for over 30 years. Over time their family has grown with children and grandchildren and the home has become difficult to accommodate their larger numbers. Also Mr. Harrison stated his father in law has been ill and making accessibility accommodations to the home has become a necessity. The configuration of the existing structure has become a hardship to the family’s enjoyment of this home. They would like to renovate the existing
interior and construct an addition to better accommodate their use of the home. The property size is .47 acres the existing home is 1,804 square feet of living space. The proposed one story 18’ x 23.7 addition is shown on the Eastern side of the dwelling. Approximately 50% of the existing dwelling is sits outside of the setbacks. The proposed addition will be 27.7’ in the front yard property line. The Board reviewed the newly submitted survey entitled, “ Zoning Location Survey, Lot 27 Deer Run Shores, Section A, N/F Stephen & Helen, 28 Deer Run Trail, Sherman, CT. Prepared by: Compass Engineering Group, LLC. Last Revised: October 23, 2018. Mr. Rode spoke on behalf of the revised survey, stating he contacted First Light and confirmed the measurements to the 1958 and 1996 deed and added a new reference on the survey. The bold, dashed 440 line is the 1929 measurement, the lighter dashed line was done in 1957 by Arthur Howland. The Board discussed the new information. Acting Chair, R. Hudson stated he understands the difficulty the family is having inside of the house, however the duty of the ZBA Board is to identify the hardships caused by the land. Mr. Harrison stated the location of the home on a small lot leaves little room when you take into consideration the septic fields, well and reserve septic area as well as the driveway. Mr. Harrison also stated there is a drop off on the South western side of the property. There were no additional questions or comments from the Board. There were no questions or comments from the audience.

K. Fazzone Moved to close the Public Hearing on ZBA Case 687- Colen, Stephen R., 28 Deer Run Trail, Sherman, CT 06784-(M-69, L-30) and move to Deliberations.

Seconded by: K. Gubner

Vote: For: Unanimous

Deliberation of Public Hearing I:

ZBA Case 687- Colen, Stephen R., 28 Deer Run Trail, Sherman, CT 06784- (M-69, L-30)

Acting Chair, R. Hudson opened the deliberations to ZBA Case 687- Colen, Stephen R., 28 Deer Run Trail, Sherman, CT 06784- (M-69, L-30). The Board discussed the personal difficulties mentioned, however recognized that the true purpose of the Board is to identify the hardships caused by the land. Discussion followed regarding the reasonable use of the property as the dwelling exists.

K. Gubner Moved to approve ZBA Case 687- Colen, Stephen R., 28 Deer Run Trail, Sherman, CT 06784- (M-69, L-30) - Variance of Section 332.5 Minimum Setback Requirements, Front Yard- From 50’ to 27.7’; Variance of Section 332.5 Minimum Setback Requirements, Front Yard- From 50’ to 38.5’; Variance of Section 384 Increase of Non-Conformity, Other than Use- to allow construction of an 18’ x 23.7’ addition in the exact proposed location and footprint shown on submitted A-2 survey entitled: “Zoning Location Survey, Lot 27, Deer Run Shores, Sect. A, N/F Stephen Colen & Helen Colen, 28 Deer Run Trail, Sherman, CT.” Prepared by: Compass Engineering Group, LLC. Dated September 7, 2018. Zone B.

Seconded by: A. Chiaramonte

Vote: For: 0/ Against: 5

Alternate V. Gentile was Elevated to Voting status for the remainder of the Meeting.

Public Hearing II:

ZBA Case 688: Cleary, Kevin & Meredith- 1 Holiday Point, Sherman, CT 06784. (M-78, L-13)

Requesting a variance of Section 331.5 Front Yard Set-Back, from 75’ to the center line of the roadway to 38.0’ from the centerline of the road for placement of an HVAC unit in a non-conforming area shown in the exact footprint on the submitted survey. All in accordance and in the exact footprint shown on an A-2 Survey submitted entitled "Property Survey prepared for Kevin & Meredith Cleary, 1 Holiday Point Road, Town of Sherman, Fairfield County, CT". Dated May 31, 2017, (Latest Revision dated: September 20, 2018 for update/ as built) prepared by PAH, Inc. Land Surveyors. Zone A.

Acting Chair R. Hudson opened the Public Hearing of Case 688: Cleary, Kevin & Meredith- 1 Holiday Point, Sherman, CT. K. Gubner read the Legal Warning into record. The Legal Notice was published in the Town Tribune on October 18th and 25th. Two abutters were sent notice by certified mail. No correspondence was received. In the application file was a certified A-2 survey entitled "Property Survey prepared for Kevin & Meredith Cleary, 1 Holiday Point Road, Town of Sherman, Fairfield County, CT". Dated May 31, 2017, (Latest Revision dated: September 20, 2018 for update/ as built) prepared by PAH, Inc. Land Surveyors. An agent letter was in the file naming Erich Diller of Evolve Design Group the ability to act on the homeowner’s behalf. A hardship letter was read into record from Erich Diller of Evolve Design Group. Also in the file were a series of photographs showing the previous HVAC units and the new units set in the new location. Also in the file was a copy of the previous variance allowing the placement of a 1,200 sq. ft. single story addition onto the existing home. The applicant, M. Cleary and agent, E. Diller
were invited to speak on behalf of their application. A planting plan was submitted into record showing the D.O.T. approved planting plan which would buffer noise as well as sight of the HVAC units. The units are in place and due to an oversite, were left off of the previously approved ZBA variance. The original portion of the dwelling was built in 1807, predating any setback requirements. When the addition was constructed the original units were removed from their location. New units were placed in a less non-conforming location, tucked within a jog into the property. The applicant explained there was a planting pan approved by the DOT which would provide a sound and visual buffer from neighboring properties. The new proposed location of the HVAC unit will be 38 feet from the centerline of Route 37 East. There were no further questions from the Board. No questions or comments from the audience.

K. Gubner Moved to Close the Public Hearing on ZBA Case 688: Cleary, Kevin & Meredith- 1 Holiday Point, Sherman CT 06784. (M-78, L-13) and move to Deliberations.

Seconded by: A. Chiaramonte

Vote: For: Unanimous

Deliberation of Public Hearing II:

ZBA Case 688: Cleary, Kevin & Meredith- 1 Holiday Point, Sherman, CT 06784. (M-78, L-13)

Acting Chair, R. Hudson opened the deliberations to ZBA Case 688: Cleary, Kevin & Meredith- 1 Holiday Point, Sherman, CT 06784 (M-78, L-13). The Board discussed the hardship caused by the proximity of the dwelling within the front yard setback, thus causing increased non-conformity by the placement of the HVAC unit. The Board recognized the effort made to reduce the non-conformity by tucking the unit into the jog where the new addition was created. The Board discussed the planting plan and agreed it would not be required but would reduce noise and view of the unit. There were no further comments from the Board.

K. Gubner Moved to Approve ZBA Case 688: Cleary, Kevin & Meredith- 1 Holiday Point, Sherman, CT 06784. (M-78, L-13) a variance of Section 331.5 Front Yard Set-Back, from 75’ to the center line of the roadway to 38.0’ from the centerline of the road for placement of an HVAC unit in a non-conforming area shown in the exact footprint on the submitted survey. All in accordance and in the exact footprint shown on an A-2 Survey submitted entitled "Property Survey prepared for Kevin & Meredith Cleary, 1 Holiday Point Road, Town of Sherman, Fairfield County, CT". Dated May 31, 2017, (Latest Revision dated: September 20, 2018 for update/as built) prepared by PAH, Inc. Land Surveyors. Zone A.

Seconded by: A. Chiaramonte

Vote: For: Unanimous

Public Hearing III:

ZBA Case 689: Mendell, Jerome- 34 Smoke Ridge Drive, Sherman CT 06784. (M-34, L-12)


K. Fazzone Recused herself from Case 688 stating a conflict of interest and sat in the Lobby until deliberation was complete.

Acting Chair R. Hudson opened the Public Hearing of Case 689: Mendell, Jerome- 34 Smoke Ridge Drive, Sherman CT 06784. (M-34, L-12). K. Gubner read the Legal Warning into record. The Legal Notice was published in the Town Tribune on October 18th and 25th. Five abutters were sent notice by certified mail. No correspondence was received. An agent letter was read into record appointing Kevin Desharnais of BBD Designs, Inc. to act on behalf of the applicant. The hardship letter was read into record. Photos of the property were provided. This property was granted a Special Permit to allow an accessory apartment within the dwelling, dated October 29, 1994. Also in the file was a copy of a survey submitted entitled " Additions and Renovations for: Mendell Residence, 34 Smoke Ridge Drive, Sherman, CT 06784. Proposed Garage Addition Plan”, Dated: 7/25/2018, last revised on 9/28/18 P&Z Meeting. Mr. Desharnais was invited to speak on behalf of the application. The property is 4.83 acres. There is an existing two car garage. This applicant is requesting a variance of the side-yard setback from 25’ to 19’ to allow construction of a 12’, 6.5” x 24’, 2” addition to the first floor of the garage and exterior stairs to access above. Mr. Desharnais described to the Board the topographical hardships created by the land including wetlands, ledge and slopes. Additionally the septic, well and reserve septic area occupy much of the remaining yard. The addition of the garage would have a stairway along the outer wall to allow access to a deck and an upstairs storage room, which
Currently has no access. Mr. Desharnais stated that the neighbor on the side of the proposed addition would not visually impact the neighbor since their home is hundreds of feet away. There were no additional questions or comments from the Board.

**K. Gubner Moved** to Close the Public Hearing on ZBA Case 689: Mendell, Jerome- 34 Smoke Ridge Drive, Sherman CT 06784. (M-34, L-12) and move to Deliberations.

*Seconded by: A. Chiaramonte*  
*Vote: For: Unanimous*

**Deliberation of Public Hearing III:**

**ZBA Case 689: Mendell, Jerome- 34 Smoke Ridge Drive, Sherman CT 06784. (M-34, L-12)**

Acting Chair, R. Hudson opened the deliberations to ZBA Case 689: Mendell, Jerome- 34 Smoke Ridge Drive, Sherman, CT 06784. (M-34, L-12). The Board discussed the hardship caused by the proximity of the existing garage to the side yard setback. Adding a bay to the garage will cause increased non-conformity. The Board expressed difficulty finding the hardship where there seem to be alternate locations available. The Board recognized the effort to reduce non-conformity by running the stairway parallel with the proposed garage addition. The consensus of the Board was they did not see the hardship as being caused by the land. There were no further comments from the Board.

**K. Gubner Moved** to Approve ZBA Case 689: Mendell, Jerome- 34 Smoke Ridge Drive, Sherman CT 06784. (M-34, L-12) Requesting variance of Section 331.5 Minimum Setback Requirements, Side Yard setback from 25’ to 19’ for construction of a 12’ x 6.5” x 24’ 2’ addition to the first floor of the garage and stairs to access above, all in the exact footprint shown on an A-2 survey submitted entitled, “Survey of Property Prepared for Bruen, Situate in the Town of Sherman, Fairfield County, Connecticut.” Prepared by Richard W. Dibble, Dated: June 1, 1994 & Submitted Building Plans entitled, “Additions & Renovations for Mendell Residence, 34 Smoke Ridge Drive, Sherman CT. Proposed Garage Addition Plan”. Designed by: BBD Designs, Inc.

*Dated: 7-25-18. Zone A.  
Seconded by: J. Bonner  
Vote: For: 0 / Against: 5*

**Public Hearing IV:**

**ZBA Case 691- Reinhold, Victoria S, Wozniak, Ronald, & Wozniak- Brown, Joanna- 14 Chapel Hill Road, Sherman, CT 06784- (M-7, L- 45). Requesting variance of Section 324.3B Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment- from within 50’ of the principal building while maintaining the required 100’ setback from the nearest property line to allow proposed placement of a generator in the exact footprint shown on an A-2 survey submitted entitled, “Property Survey Prepared for Victoria Reinhold, Et Al, Parcel ‘B’- Town Clerk Map No. 2001, 14 Chapel Hill Road, Town of Sherman, Fairfield County, Connecticut.” Prepared by Paul A. Hiro, P.C., Dated: October 18, 2012. Zone A.

**K. Gubner Recused himself from Case 691 stating a conflict of interest and sat in the Lobby until deliberation was complete.**

Acting Chair R. Hudson opened the Public Hearing of Case 691: Reinhold, Victoria S, Wozniak, Ronald, & Wozniak- Brown, Joanna- 14 Chapel Hill Road, Sherman, CT 06784- (M-7, L- 45). K. Gubner read the Legal Warning into record. The Legal Notice was published in the Town Tribune on October 18th and 25th. Five abutters were sent notice by certified mail. No correspondence was received. R. Hudson read the hardship letter into record. Applicants Victoria Reinhold and Joanna Wozniak- Brown were invited to speak. In the application file was an A-2 survey showing the proposed generator location 100’ feet from the principal dwelling and 158’ feet to the side yard property line. The electric service pedestal exists nearby and will allow use of the underground wiring pipes that already exist to bring the electricity from the generator to the home. This property is 6.8 acres. Several photographs were submitted showing various steps of the pouring of the foundation. In these photos one can see numerous exposed boulders and rocks underground. Another photograph shows when the original trench was dug to bring the electricity from the pedestal to the dwelling. This trench required blasting due to the amount of underground ledge and rocks. Four additional photographs showed existing conditions where the pedestal is today and the trench filled in. The difficult topography of the land was a factor in why the electric was brought to the dwelling by Autumn Drive instead of the main road on Chapel Hill. Mrs. Reinhold stated during the last bad weather event, they suffered several days longer without power than her neighbors because of the difficulties the power company has getting equipment to this property. Mrs. Reinhold also stated the proposed location of the generator is hundreds of feet away from her neighbor’s dwellings with thick forest between. Mrs. Wozniak- Brown stated that an additional trench will need to be excavated in order to bring fuel to the generator. Mrs. Wozniak-Brown stated they exhausted all possible
options before coming to this location. There are wetlands throughout most of this property as well as the septic field and reserve and well location, further limiting the usable land near the dwelling. There were no further comments from the applicants or the Board.

V. Gentile Moved to Close the Public Hearing to ZBA Case 691- Reinhold, Victoria S, Wozniak, Ronald, & Wozniak- Brown, Joanna- 14 Chapel Hill Road, Sherman, CT 06784- (M-7, L- 45) and move to Deliberations.

Seconded by: A. Chiaramonte  Vote: For: Unanimous

Deliberation of Public Hearing IV:
ZBA Case 691: Reinhold, Victoria S, Wozniak, Ronald, & Wozniak- Brown, Joanna- 14 Chapel Hill Road, Sherman, CT 06784- (M-7, L- 45):

Acting Chair, R. Hudson opened the deliberations to ZBA Case 691: Reinhold, Victoria S, Wozniak, Ronald, & Wozniak- Brown, Joanna- 14 Chapel Hill Road, Sherman, CT 06784- (M-7, L- 45). The Board discussed the hardship caused by the difficult terrane and ledge. The Board recognized the size of the lot and proposed generator location being a great distance from property lines and agreed they did not feel any noise would negatively impact the neighboring properties. The surrounding properties’ dwellings are several hundred feet from the proposed location of the generator. There were no further comments from the Board.

R. Hudson Moved to Approve ZBA Case 691- Reinhold, Victoria S, Wozniak, Ronald, & Wozniak- Brown, Joanna- 14 Chapel Hill Road, Sherman, CT 06784- (M-7, L- 45). Requesting variance of Section 324. 3B Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment- from within 50’ of the principal building while maintaining the required 100’ setback from the nearest property line to allow proposed placement of a generator in the exact footprint shown on an A-2 survey submitted entitled, “Property Survey Prepared for Victoria Reinhold, Et Al, Parcel ‘B’- Town Clerk Map No. 2001, 14 Chapel Hill Road, Town of Sherman, Fairfield County, Connecticut.” Prepared by Paul A. Hiro, P.C., Dated: October 18, 2012. Zone A.

Seconded by: J. Bonner  Vote: For: 4 / Against: 1 (K. Fazzone)

Approval of Minutes:  Regular Monthly Meeting of October 2, 2018

K. Gubner Moved to Approve the Minutes of ZBA Regular Monthly Meeting of October 2, 2018 as written.

Seconded by: J. Bonner  Vote: For: Unanimous

Approval of the Zoning Board of Appeals Schedule of Meetings 2019:

K. Gubner Moved to Approve the ZBA Schedule of Meetings 2019 as Amended: Dates changed due to proximity to holidays July 9, 2019 and September 10, 2019.

Seconded by: A. Chiaramonte  Vote: For: Unanimous

Correspondence:

First Selectman, D. Lowe- recommendation of for the Board to watch a movie “Aging in America”, feels it is relevant to the future planning of the Town.

Conservation Commission Chair, B. McCann- submitting a copy of the new Natural Resource Inventory Report and Recommendations, Sherman Connecticut 2018

Adjournment:

J. Bonner Moved to Adjourn the Meeting at 9:27pm.

Respectfully submitted:

Christine Branson, Administrative Clerk
November 20, 2018