Members Present: K. Gubner, A. Chiaramonte, K. Fazzone, and Alternate: D. Raines

Members Absent: J. Bonner, W. Jones, and Alternate V. Gentile


Other: C. Branson, Administrative Clerk

Call to Order: K. Gubner Called the Meeting to Order at 7:04pm.

Alternate D. Raines was elevated to Voting Status in the absence of J. Bonner

Public Hearing I:
ZBA Case 698- O’Brien, Mary 140 Green Pond Road (M-68, L-71) - Requesting Variance of Section 332.5 Minimum Setback Requirements, Front Yard Setback from 50’ to 40.6’ for construction of a three sided 40’ (across) x 11.3’ (South side) x 4’ (North side) storage enclosure beneath an existing addition. Requesting Variance of Section 332.5 Minimum Setback Requirements, Front Yard Setback from 50’ to 35.1’ for placement of HVAC equipment pad as shown on a 2.5’ x 2.5’ footprint on the submitted A-2 survey. Requesting Variance of Section 332.5 Minimum Setback Requirements, Front Yard Setback from 50’ to 48.5’ for placement of a generator equipment pad as shown on a 2’ x 4’ footprint on the submitted A-2 survey. Requesting a Variance of Section 384, Increase of Non-conformity, Other than Use; to construct an enclosed storage space beneath the existing non-conforming dwelling footprint; all in accordance with submitted building plans and submitted A-2 survey entitled “Property Survey Prepared for Mary Beth O’Brien, 140 Green Pond Road, Sherman, CT”. Dated: 03/21/19, Last revised: 05/03/19 (Proposed A/C & Generator Added). Prepared by: CCA, LLC Engineering. Zone B.

Chair, K. Gubner opened the Public Hearing and stated the file contents. Clerk, C. Branson read the Legal warning into Record. The Legal warning was published in the Town Tribune on May 23rd and again on May 30th, 2019. Five property abutters were sent certified notice on 5/21/2019. No correspondence was received. Appointed Agent for the applicant, E. Diamentini, was present to speak on behalf of the application. The file contained an application, an Agent Letter, and a hardship letter. Several photographs were submitted showing the topographical difficulties of the property. An A-2 survey was submitted showing the measurements of the proposed basement level rear enclosure, HVAC and generator pad footprints in relation to the front yard setback, and building plans were submitted. The Agent was invited to come forward to speak. Mr. Diamentini stated the entire dwelling is in a non-conforming location, being approximately 21’ off of the front property line. This is a modest 1,160 square foot dwelling, built in 1960 set on 0.50 acres. The proposed modification is to enclose space beneath an existing cantilevered addition to create an area for storage. This property has been granted four previous variances; the first granted 6/19/90 for placement of a deck, the second granted in 12/11/90 for a gazebo, the third granted 9/10/91 for an addition on the rear of the house and the fourth granted 10/8/91 for an increase of non-conformity for a 483 square foot addition to the rear of the dwelling. The Agent provided photographs of the rear of the property showing the property has an abundance of rocky ledge outcroppings and dramatically drops at the rear just beyond the house. The homeowner’s intention for this modification is to create storage space for lawn furniture and equipment. This modification will not be noticeable from the front of the house. Originally the applicant wanted to place a small storage shed somewhere on the property but was told there were no compliant locations where he was proposing. The applicant chose the proposed location of the storage enclosure because it seemed to have the least impact. The lot size and topography of this property create a unique hardship since the only level area is where the dwelling currently exists. There were no further questions or comments from the Board or applicant.
K. Fazzzone Moved to close the Public Hearing for Case ZBA Case 698-O’Brien, Mary 140 Green Pond Road (M-68, L-71).
Seconded by: D. Raines  Vote: For: Unanimous

Deliberation of Public Hearing I:
ZBA Case 698- O’Brien, Mary 140 Green Pond Road (M-68, L-71)
The Board discussed the proposed storage enclosure beneath the existing dwelling. Several members had visited the property and agreed the lot size and topography create a unique hardship. The Board discussed the creative use of the space below the addition and agreed that they were not opposed to the increase of non-conformity. The Board agreed that they didn’t feel this space could at a later time become habitable. The lot size and topography of this property create a unique hardship since the only level area is where the dwelling currently exists.

A. Chiaramonte Moved to Approve ZBA Case 698- O’Brien, Mary 140 Green Pond Road (M-68, L-71) - Variance of Section 332.5 Minimum Setback Requirements, Front Yard Setback from 50’ to 40.6’ for construction of a three sided 40’ (across) x 11.3’ (South side) x 4’ (North side) storage enclosure beneath an existing addition. Variance of Section 332.5 Minimum Setback Requirements, Front Yard Setback from 50’ to 35.1’ for placement of HVAC equipment pad as shown on a 2.5’ x 2.5’ footprint on the submitted A-2 survey. Variance of Section 332.5 Minimum Setback Requirements, Front Yard Setback from 50’ to 48.5’ for placement of a generator equipment pad as shown on a 2’ x 4’ footprint on the submitted A-2 survey. Variance of Section 324. 3 B Generators Air Conditioners, Pool Filters, and Other Noise Generating Equipment: for placement of the generator and HVAC equipment pads shown on submitted survey. Variance of Section 384, Increase of Non-conformity, Other than Use; to construct an enclosed storage space beneath the existing nonconforming dwelling footprint; all in accordance with submitted building plans and submitted A-2 survey entitled “Property Survey Prepared for Mary Beth O’Brien, 140 Green Pond Road, Sherman, CT”. Dated: 03/21/19, Last revised: 05/03/19 (Proposed A/C & Generator Added) Prepared by: CCA, LLC Engineering. Zone B.
Seconded by: D. Raines  Vote: For: Unanimous

Public Hearing II:
ZBA Case # 699- White Silo Farm Winery- Owner: Ralph Gorman -32 Route 37 East (M-18, L-4) Requesting a Variance of Section 384, Increase of Non-conformity, Other than Use; to construct emergency egress platform and stair. Requesting Variance of Section 331.5 Minimum Setback Requirements, Front Yard Setback, from 75’ to the center of road line to 45’ for construction of a x 3’,9”(L) x 5’, 2”(W) x 1’6”(H) emergency egress platform including stair to ground level required by the Fire Marshal, in accordance with submitted marked up A-2 survey entitled “Abutters Map, Site Name: White Silo Farm, 32 Route 37 East, Sherman CT 06784.” Prepared by: Northeast Survey Consultants. Dated 10/09/2013. Zone A.

Chair, K. Gubner opened the Public Hearing and stated the file contents. Clerk, C. Branson read the Legal warning into Record. The Legal warning was published in the Town Tribune on May 23rd and again on May 30th, 2019. Eleven property abutters were sent certified notice on 5/21/2019. No correspondence was received. Property owners, R. Gorman and E. Gorman were present to speak on behalf of the application. The file contained an application, a hardship letter, building plans for the egress platform. A photograph was submitted showing the new proposed egress platform and stair in location. Also in the file was a Certificate of Approval from the Sherman Fire Marshal dated March 30, 2019, Building Permit Number 159-28. ZEO, R. Cooper provided State Fire Code statutes for reference. A marked-up A-2 survey was submitted showing the measurements of the proposed egress platform in relation to the front yard setback, and construction plans were submitted. The applicants were invited to come forward to speak. E. Gorman gave a brief description of the events that led up to the installation of the egress platform. Mr. Gorman stated he was advised by the Fire Marshal following an inspection that they were required by State Mandate to provide a second emergency egress. R. Gorman had been in to the Building Department and Zoning Office to pull the permits related to constructing the platform. When Mr. Gorman submitted the Zoning application in March, the ZEO pointed out the fact that the platform was proposed in a non-compliant location and would require a Variance. Town of Sherman Fire Marshal, D. Lathrop spoke in reference to the State mandated egress. Mr. Lathrop stated that he was contacted by the Building Official, B. Jenkins. Mr. Lathrop’s inspection showed that because the tasting room is approved for over 49 person occupancy load, a second point of emergency egress was mandatory. There is another door in the commercial kitchen but Mr. Lathrop stated per State Fire Code, an
emergency egress may not be through a commercial kitchen. Mr. Lathrop stated the platform that was constructed meets requirements and cannot be used as an access way, there are no exterior knobs, there is a panic bar that can only be activated from the interior as an exit. Mr. Lathrop met with the ZEO and they went over the State Fire Code requirements. The copy of the applicable codes from the ZEO is included in the file. There were no additional comments from the applicants or the Board.

D. Raines Moved to Close the Public Hearing for ZBA Case # 699- White Silo Farm Winery- Owner: Ralph Gorman -32 Route 37 East (M-18, L-4).
Seconded by: A. Chiaramonte Vote: For: Unanimous

Deliberation of Public Hearing II:
ZBA Case # 699- White Silo Farm Winery- Owner: Ralph Gorman -32 Route 37 East (M-18, L-4)
The Board discussed the requested Variance in relation to the requirement mandated by the Town Fire Marshal. The Board agreed the platform was constructed exactly as proposed. The Board also agreed the request for variance is reasonable, in keeping with the nature of the property and is necessary for the safe operation of the business. There was no further discussion.

D. Raines Moved to Approve ZBA Case # 699- White Silo Farm Winery- Owner: Ralph Gorman -32 Route 37 East (M-18, L-4) Requesting a Variance of Section 384, Increase of Non-conformity, Other than Use; to construct emergency egress platform and stair. Requesting Variance of Section 331.5 Minimum Setback Requirements, Front Yard Setback, from 75’ to the center of road line to 45’ for construction of a x 3’5” (L) x 5’2” (W) x 1’6”(H) emergency egress platform including stair to ground level required by the Fire Marshal, in accordance with submitted marked up A-2 survey entitled “Abutters Map, Site Name: White Silo Farm, 32 Route 37 East, Sherman CT 06784.”
Seconded by: K. Fazzone Vote: For: Unanimous

D. Raines Moved to recess the Meeting at 7:35pm.
Seconded by: K. Fazzone Vote: For: Unanimous

Chair, K. Gubner reconvened the Meeting at 7:40pm.

Public Hearing III:
ZBA Case # 700- Chemero, William-133 Route 37 South (M-56, L- 8) Requesting a Variance of Section 384, Increase of Non-conformity, Other than Use. Requesting Variance of Section 331.5 Minimum Setback Requirements, Front Yard Setback, from 50’ to 39.4’ for construction of a new second story 12’ x 12’ deck and stairway to ground level on an existing accessory building, as shown on a submitted A-2 survey entitled “Proposed Zoning Location Survey Prepared for Bill Chemero, 133 Route 37 South, Sherman, Connecticut”. Dated: 05/05/18, Last Revised 10/18/18. Prepared by: CCA, LLC. Zone A.

Chair, K. Gubner opened the Public Hearing and stated the file contents. Clerk, C. Branson read the Legal warning into Record. The Legal warning was published in the Town Tribune on May 23rd and again on May 30th, 2019. Two property abutters were sent certified notice on 5/21/2019. No correspondence was received. Property owner, W. Chemero was present to speak on behalf of the application. The file contained an application, a hardship letter, building plans of the proposed 12’ x 12’ deck and stair. A denied Zoning application was in the file. An A-2 survey was submitted showing the measurements of the proposed deck and stair in relation to the front yard setback, and construction plans were submitted. The applicant was invited to come forward to speak. Mr. Chemero provided a history of the barn and use from the time of its construction. The two story barn was constructed by the Taylors in 1965, the second story was used for hay storage and has a block and tackle style pulley system still attached to the exterior. The first floor originally was for keeping horses. At some point Route 37 was moved closer to this barn, making it pre-existing non-conforming. Now the use of the barn is accessory to residential, no longer a farm. Mr. Chemero would like safer access to the second story, other than a small hatch and straight ladder, there is no way to get to the second floor. Mr. Chemero would like the ability to store outdoor furniture during the winter season and has no safe way to get it to the second floor. The proposed 12’ x 12’ deck and stair would allow safe access to the second story, however because of the proximity to Route 37, he is required to request a Variance. The Board discussed the interior existing conditions. First Selectman, D. Lowe spoke from the audience in support of Mr. Chemero’s request, stating is a reasonable request and is in keeping with the other homes in the neighborhood.
Deliberation of Public Hearing III:
ZBA Case # 700– Chemero, William-133 Route 37 South (M-56, L- 8)
The Board discussed the Variance request, while the need for stairs for safety was recognized, the general consensus was the size of the deck was large. The Board also recognized the relocation of Route 37 caused the barn to become non-conforming. No matter which side of the barn the stairs and deck are proposed, a variance would still be needed. While some members recognized the safety need for the request for the deck and stairs, others stated they could not justify a true hardship caused by the land. The Motion did not carry.

D. Raines Moved to Approve ZBA Case 700– Chemero, William-133 Route 37 South (M-56, L- 8) Requesting a Variance of Section 384. Increase of Nonconformity, Other than Use. Requesting Variance of Section 331.5 Minimum Setback Requirements, Front Yard Setback, from 50’ to 39.4’ for construction of a new second story 12’ x 12’ deck and stairway to ground level on an existing accessory building, as shown on a submitted A-2 survey entitled “Proposed Zoning Location Survey Prepared for Bill Chemero, 133 Route 37 South, Sherman, Connecticut”. Dated: 05/05/18, Last Revised 10/18/18. Prepared by: CCA, LLC. Zone A.
Seconded by: K. Fazzone
Vote: For: 2 (D. Raines & K. Gubner) Against: 2 (K. Fazzone & A. Chiaramonte)

Public Hearing IV:
ZBA Case # 701- Brown, Avery- 6 Pond View Lane (M- 37, L- 75) Requesting Variance of Section 331.5 Minimum Setback Requirements, Side Yard Setback, from 25’ to 19.1’ to make an existing swimming pool Legal non-conforming, all in accordance with submitted A-2 survey entitled “Property Survey Prepared for Fairway to Heaven, LLC, 6 Pond View Lane, Sherman, Connecticut”. Dated: 05/08/19. Prepared by: CCA, LLC. Zone A. Chair, K. Gubner opened the Public Hearing and stated the file contents. Clerk, C. Branson read the Legal warning into Record. The Legal warning was published in the Town Tribune on May 23rd and again on May 30th, 2019. Two property abutters were sent certified notice on 5/21/2019. One letter correspondence was received from abutting owner Malcolm McCluskey stating support in granting the proposed variance. The file contained an application, a hardship letter, an Agent letter, a copy of the B-100a showing the septic system location was included in the file, and an aerial photograph was submitted showing the proximity to of the pool to the abutting property line. Appointed Agent Ellen Cavallo Buccitti was present to speak on behalf of the application. Ms. Cavallo Buccitti was invited to speak. She provided the Board a highlighted copy of the survey which shows easements and restrictions along the 1.90 acre property, which sits on a golf course. In addition to the Town’s required setbacks there are also golf course easements on the property limiting the area where any activity can be allowed. The dwelling is positioned centrally within the allowable building area, the driveway and septic and well take up the rest of the yard. The 14’ x 21’ pool is located at the rear of the property with a golf course buffer easement abutting the Southern edge where the variance is being requested. The pool was installed 6 feet into the rear yard setback. There was a lengthy discussion regarding proximity to the golf course easement. Ms. Cavallo Bucitti read from a statement that she submitted along with the highlighted surveys, pointing out that the request is to bring a 74 square foot area into legal non conformity. To her knowledge the pool was installed to the best ability of the contractor. Discussion took place regarding the Zoning application, which showed that the pool was originally proposed to be 12’ x 16’. There was further discussion regarding the permit process for this project. Two examples of ZBA case law were referenced by the Board during discussion: “Durkin Village Plainville, LLC v-ZBA Plainville and Highland Park Inc, v- ZBA North Haven. The consensus of the Board was to continue this case to allow time to consult with the ZEO, view the building department files and possibly consult the Land Use Attorney if necessary.

D. Raines Moved to Continue ZBA Case 701 Brown, Avery- 6 Pond View Lane (M- 37, L- 75) to request more information, consult with the ZEO, view the building department files and possibly consult the Land Use Attorney if necessary. This Case will continue on June 11th, 2019 beginning at 3pm at Malory Town Hall, Town of Sherman, CT.
Seconded by: K. Fazzone
Vote: For: Unanimous
Deliberation of Public Hearing IV:
ZBA Case # 701- Brown, Avery- 6 Pond View Lane (M- 37, L- 75)
No deliberation took place, the Public Hearing was Continued to June 11, 2019 at 3:00 pm at Mallory Town Hall.

Approval of Minutes: ZBA Regular Monthly Meeting of May 7, 2019

D. Raines Moved to Approve the Minutes of May 7, 2019 as written.
Seconded by: K. Gubner  Vote: For: Unanimous

Adjournment:

K. Fazzone Adjourned the Meeting at 9:01 pm.

Respectfully submitted by:

__________________________________
Christine Branson, Administrative Clerk
June 11, 2019
Approved as written at the October 1, 2019 meeting.