ZONING BOARD OF APPEALS
MEETING MINUTES
Tuesday, November 2, 2021 7:00 pm

Members Present: K. Gubner, K. Fazzone, W. Jones, J. Bonner, A. Chiaramonte and Alternate R. Devine

Members Absent: None

Also: C. Branson, Board Administrative Clerk


CALL TO ORDER: Chair, K. Gubner Called the Meeting to Order at 7:07 pm

K. Fazzone Moved to change the order of the Agenda, and put Public Hearing IV and Deliberation of ZBA Case # 733- 10 Terrace Drive (Map-68, Lot-80) Edwards, Mark D. at the beginning of the meeting.

Seconded by: A. Chiaramonte

Vote: For: Unanimous

PUBLIC HEARING IV:

ZBA CASE # 733- 10 Terrace Drive (Map-68, Lot-80) Edwards, Mark D.- For construction of a wooden staircase to front door to service new home construction: Requesting Variance of Section of 332.5, Minimum Setback Requirements- to reduce the 50’ front yard setback to 0’ front yard setback to allow for the construction of a wooden staircase to service new home construction and Section 321.5, New Building on Existing Lots- to allow for construction on a lot that was not in separate ownership on September 5, 1947, but has been identified as lot #34 on a subdivision map entitled, Candlewood Lake Estates, Section A, Sherman, Connecticut”, which was originally filed in Map Book # 3, page 8, that was filed on August 29, 1959 and has been in separate ownership since then. Staircase in accordance as shown in the exact footprint location on submitted B-100 Septic plan entitled; “System Design prepared for Mark D. Edwards, MBLU 68-80, Candlewood Lake Estates, Lot 34, Section A, 10 Terrace Drive, Sherman, Connecticut”. Dated October 23, 2018. Prepared by: CCA, LLC. Zone B.

Chair, K. Gubner opened the Public Hearing for ZBA CASE # 733- 10 Terrace Drive (Map-68, Lot-80) Edwards, Mark D. Clerk, C. Branson read the Legal Warning into record. Legal Notice was sent to abutting neighbors on October 19, 2021. Legal Warning was published in the Town Tribune on October 21, 2021, and again on October 28, 2021. Clerk C. Branson stated the contents of the application file; there was a fully executed application, there was an attachment to the application stating the requested variances, there was a hardship letter, an Agent Letter designating Attorney Neil Marcus as appointed agent, an abutter’s list, a field card and a signed A-2 survey of the property. Also in the file was a copy of the original subdivision map dated July of 1955. Nine letters of correspondence have been received from the following: J. Getman of 16 Shore Drive; Erhardt & Thompson Family of 20 Shore Drive; M. Geller of 10 Shore Drive; M. & E. Smith of 8 Shore Drive, I. Schugel & M. Silverman of 9 Candlewood Lake Drive; S. Howells of 2 Shore Drive; R. Kelly of 7 Candlewood Lake Drive; T. Wasserman of 6 Candlewood Lake Drive; C. Hoagland of 20 Terrace Drive. Atty. N. Marcus was present to speak on behalf of the application. Atty. Marcus stated they were requesting two variances. Atty. Marcus discussed the history of ownership of this property with the Board. Chair, K. Gubner stated that there was a jurisdictional problem: ZBA cannot grant a variance without proof that this lot has been approved as a buildable lot. Chair K. Gubner requested stated he would like to continue this matter to the next meeting date; December 7, 2021 in order to consult the Town Atty.’s opinion. Atty. Marcus agreed to the continuation.
K. Fazzzone Moved to Continue to December 7, 2021 via ZOOM - ZBA CASE # 733- 10 Terrace Drive (Map-68, Lot-80) Edwards, Mark D.- For construction of a wooden staircase to front door to service new home construction: Requesting Variance of Section of 332.5, Minimum Setback Requirements- to reduce the 50’ front yard setback to 0’ front yard setback to allow for the construction of a wooden staircase to service new home construction and Section 321.5, New Building on Existing Lots- to allow for construction on a lot that was not in separate ownership on September 5, 1947, but has been identified as lot #34 on a subdivision map entitled, Candlewood Lake Estates, Section A, Sherman, Connecticut”, which was originally filed in Map Book # 3, page 8, that was filed on August 29, 1959 and has been in separate ownership since then. Staircase in accordance as shown in the exact footprint location on submitted B-100 Septic plan entitled; “System Design prepared for Mark D. Edwards, MBLU 68-80, Candlewood Lake Estates, Lot 34, Section A, 10 Terrace Drive, Sherman, Connecticut”. Dated October 23, 2018. Prepared by: CCA, LLC. Zone B.

Seconded by: J. Bonner

Vote: For: Unanimous

DELIBERATION IV:
ZBA CASE # 733- 10 Terrace Drive (Map-68, Lot-80) Edwards, Mark D.-
No deliberation took place, the Public Hearing was continued to December 7, 2021 at 7pm. via ZOOM meeting.

PUBLIC HEARING I:
ZBA CASE # 730- 170 Green Pond Road- (Map-64, Lot-44) David Jacobowitz - For construction of a new single family dwelling: Requesting Variance of Section 331.5, Minimum Setback Requirements, Side Property Line Setback from 40’ to 24’. Requesting Variance of Section 331.5, Rear Property Line setback from 40’ to 23’, 5”, as shown in the exact footprint location shown on submitted A-2 survey entitled; “Proposed Zoning Location Survey, Prepared For David & Barbara Jacobowitz, MBLU 64-44, Candlewood Lake Estates, Lot 20- Section C, 170 Green Pond Road, Sherman, Connecticut.” Dated: 08/25/2021. Zone A.

Chair, K. Gubner opened the Public Hearing for ZBA CASE # 730- 170 Green Pond Road-(Map-64, Lot-44) David Jacobowitz -For construction of a new single family dwelling. Clerk, C. Branson read the Legal Warning into record. Legal Notice was sent to abutting neighbors on October 19, 2021. Legal Warning was published in the Town Tribune on October 21, 2021, and again on October 28, 2021. Clerk C. Branson stated the contents of the application file; there was a fully executed application, there was a hardship letter, Health approval was issued 9/9/2021. There was an abutter’s list, a field card and a signed A-2 survey of the property were included in the application file. Also in the file was a subdivision map entitled “Candlewood Lake Estates, Section C, Sherman, CT” Dated July 1954. Property owner, D. Jacobowitz and Engineer, M. Mazzuco were present to speak on behalf of the application. Chair Gubner requested proof from the property owner that the lot was approved as a buildable lot. D. Jacobowitz stated that the property has been in separate ownership since 1955, and in 1981 there was a proposal for a small cottage on this property which would have required a variance due to the proximity of the front yard setback. The minutes of the Planning & Zoning Commission were referenced; “Mr. Espizito asked Mr. Kriminoff replied at the time the lot was approved and recorded in the minutes of the P&Z Commission, Mr. McRoberts agreed”. Mr. Jacobowitz stated he researched this property extensively and what he found was that this lot was purchased in 1955. In 1956, “Smith” (possibly how the property was referenced at the time) was approved for a dwelling and a garage. Mr. Jacobowitz stated that was the information he came up with, and he was not sure how he could prove “Smith” was in fact his property, lot #20. The consensus of the Board was to request continuation and ask the Town Attorney be present for the next meeting for clarification.

W. Jones Moved to Continue to December 7, 2021 ZBA CASE # 730- 170 Green Pond Road- (Map-64, Lot-44) David Jacobowitz -For construction of a new single family dwelling: Requesting Variance of Section 331.5, Minimum Setback Requirements, Side Property Line Setback from 40’ to 24’. Requesting Variance of Section 331.5, Rear Property Line setback from 40’ to 23’, 5”, as shown in the exact footprint location shown on submitted A-2 survey entitled; "Proposed Zoning Location Survey, Prepared For David & Barbara Jacobowitz, MBLU 64-44, Candlewood Lake Estates, Lot 20- Section C, 170 Green Pond Road, Sherman, Connecticut.”
Dated: 08/25/2021. Zone A.

Seconded by: K. Fazzzone

Vote: For: Unanimous

DELIBERATION I:
ZBA CASE # 730- 170 Green Pond Road- (Map-64, Lot-44) David Jacobowitz
No deliberation took place, the Public Hearing was continued to December 7, 2021 at 7pm. via ZOOM meeting.
PUBLIC HEARING II:

ZBA CASE # 731- 19 Deer Run Trail (Map-69, Lot-28) Argento, Joseph & Lisa- For a proposed deck expansion:


Chair, K. Gubner opened the Public Hearing for ZBA CASE # 731- 19 Deer Run Trail (Map-69, Lot-28) Argento, Joseph & Lisa- and read the Legal Warning into record. Legal Notice was sent to abutting neighbors on October 19, 2021. Legal Warning was published in the Town Tribune on October 21, 2021, and again on October 28, 2021. Clerk C. Branson stated the contents of the application file; there was a fully executed application, there was a hardship letter described as “Exhibit A”, there was an Agent letter authorizing Architect Lance Zimmerman the ability to speak on behalf of the owner. Six photographs were submitted showing the topography. There was an abutter’s list, a field card and building plans entitled, “Argento Residence, 19 Deer Run Trail, Sherman, CT” five pages, a B-100a dated 09/02/2021 septic system design by Artel Engineering Group, LLC entitled, “B-100a Septic Plan, From Existing 4 Bedroom to 5 Bedroom, Joseph & Lisa J. Argento, 19 Deer Run Trail, Sherman, Connecticut” and a certified, signed A-2 survey of the property was included in the application file. There were five letters of correspondence received from the following: B. Hoag of 17 Deer Run Trail; J. Zelaya of 21 Deer Run Trail; R. & E. Zweibel of 25 Deer Run Trail; J. DeWan & E. McMahon of 23 Deer Run Trail; T. & M. McFadden all proponents of the proposed activity. Mr. Zimmerman spoke on behalf of the application, the proposal is to create a second story addition directly on top of the footprint of the existing first floor and to create a small connector deck between two existing decks on the ground level. Mr. Zimmerman stated that the lot is small and narrow compared to other lots in the area. Mr. Zimmerman stated the property frontage is 98 feet wide and the existing dwelling does not conform to todays’ side yard setbacks. Mr. Zimmerman added any location for an addition would require side yard variances no matter where it is placed. Mr. Zimmerman said basement is not considered a story. The average height of the proposed second story addition will be 26’, 1/6”. Mr. Zimmerman shared the building plans with the Board on the meeting screen and explained the second story addition and how it ties into the ground floor. The proposed addition will add approximately 160 square feet total of increased non-conforming area, the proposed deck addition on the ground floor would add 37 square feet total of increased non-conforming area. The Board asked Mr. Zimmerman if the addition could be placed in a conforming area. Mr. Zimmerman stated yes, the addition could be reduced in size and brought in but it would not easily tie in structurally with the first floor and would not be visually appealing. There was no further discussion.


Seconded by: K. Fazzone

Vote: For: Unanimous
DELIBERATION II:
ZBA CASE # 731- 19 Deer Run Trail (Map-69, Lot-28) Argento, Joseph & Lisa-

Chair K. Gubner opened the deliberations portion of this hearing. The Board discussed this property compared to others in the neighborhood. Discussion took place regarding the hardship stated.


Seconded by: W. Jones

Vote: For: 1 (Jones)/ Against: 3 (Bonner, Chiaramonte, Fazzone)

K. Gubner recessed the Meeting starting 8:42pm

K. Gubner reconvened the Meeting at 8:47pm

PUBLIC HEARING III:

Chair, K. Gubner opened the Public Hearing for ZBA CASE # 732- 9 Sail Harbour Drive (Map- 54, Lot-3) Nine SHD, LLC-Clerk, C. Branson read the Legal Warning into record. Legal Notice was sent to abutting neighbors on October 19, 2021. Legal Warning was published in the Town Tribune on October 21, 2021, and again on October 28, 2021. Clerk C. Branson stated the contents of the application file; there was a fully executed application, a hardship letter, there was an Agent letter authorizing Atty. Neil Marcus of Cohen & Wolf, P.C., also in the file was a description of the pool equipment, the list of abutters, a B-100a was included showing the location of the pool in relation to the septic system. The A-2 certified survey shows the location of the proposed pool and related equipment. Also in the file was a subdivision plan entitled “Sail Harbour Club”, last revised April 28/1986, with P&Z approval signature, dated June 14, 1987. Another subdivision plan entitled “Sail Harbour Club” dated December 13, 1988 with mention of the Conservation Buffer in the notes, as item # 12. There was a copy of the Sail Harbour Club Association Deed with the Greenbelt Restrictive Covenant (Conservation Buffer) included for clarification. Atty. Marcus was present to speak on behalf of this application. Atty. Marcus spoke about the Conservation Buffer, stating this does not exist in other Towns that abut the lake. Atty. Marcus continued by discussing the hardships stated in the submitted letter focusing on the steep topography and configuration of the lot. Atty. Marcus spoke about the neighboring properties in the surrounding area, stating several of these properties have swimming pools in almost the exact locations. Architect M. Sorosiak shared his screen with the Board to provide a visual to the application. Atty. Marcus stated the applicants’ attempted to locate the pool in a compliant location, however they were met with difficulty due to the location of the septic system and reserve areas. Photographs of the steep topography were shared on the meeting screen. M. Sorosiak stated the equipment shall be housed in an underground bunker and described the style of pool that is being proposed as a “negative edge pool” which drains into a gutter that is somewhere between 2’ to 4’ to the water edge. Discussion took place regarding the pool construction and specifically the pool gutter/ water edge distance to the Conservation Buffer. Architect M. Sorosiak stated that after construction of the proposed pool he plans to place rocks and plantings at the base of the retaining wall that runs vertically from ground level in keeping with the stipulations of the Conservation Buffer and will have a stone veneer portion of that wall as it gets higher up toward the pool for a natural appearance.

W. Jones Moved to Close the Public Hearing for ZBA Case # 732- 9 Sail Harbour Drive (Map-54, Lot-3) Nine SHD, LLC.

Seconded by: K. Fazzone

Vote: For: Unanimous
Chair K. Gubner opened the Deliberations portion of this hearing. The Board discussed the hardship as stated and the construction style of the pool. This Case was warned to be a 0’ setback to the Conservation Buffer, however in discussions during the Public Hearing it was stated by the Architect M. Sorosiak that the water edge would be realistically be set back somewhere between 2’ to 4’ from the Conservation buffer. Further discussion followed regarding the stated hardship.


Seconded by: J. Bonner Vote: For: 1 (Jones) / Against: 3 (Bonner, Chiaramonte, Fazzone)

PUBLIC HEARING V:
ZBA CASE # 734- 7 Oak Drive (Map-74, Lot-11)- Salvatore & Maureen Bellino- POST FACTO-For placement of a 8’ x 10’ storage shed: Requesting Variance of Section 332.5 Minimum Setback requirement, Side yard property line setback from 25’ to 0’ for placement of a 8’ x 10’ storage shed (POST FACTO) in the exact footprint location shown on submitted marked-up A-2 Survey entitled, "Property Survey Prepared for Salvatore & Maureen P. Bellino, 7 Oak Drive, Town of Sherman, Fairfield County, CT” dated July 10, 2006 with the last revision dated June 14, 2017; Update and Proposed Addition”. Prepared by the office of PAH, Inc. Land Surveyors. Zone B.

Chair, K. Gubner opened the Public Hearing for ZBA CASE # 734- 7 Oak Drive (Map-74, Lot-11)- Salvatore & Maureen Bellino. Clerk, C. Branson read the Legal Warning into record. Legal Notice was sent to four abutting neighbors on October 19, 2021. Legal Warning was published in the Town Tribune on October 21, 2021, and again on October 28, 2021. Clerk C. Branson stated that a new A-2 Survey was emailed to the P&Z office today but it does not have a certified stamp or signature of the surveyor. Chair K. Gubner stated that this Case must be Continued and re-warned to show the actual measurement requested to the setback, since the new survey is showing a different setback than the application reflects. The property owners were present and agreed to the continuation to December 7, 2021. No further discussion took place.

J. Bonner Moved to Continue the Public Hearing to December 7, 2021 beginning at 7:00 pm via ZOOM for ZBA CASE # 734- 7 Oak Drive (Map-74, Lot-11)- Salvatore & Maureen Bellino-POST FACTO-For placement of a 8’ x 10’ storage shed: Requesting Variance of Section 332.5 Minimum Setback requirement, Side yard property line setback from 25’ to 0’ for placement of a 8’ x 10’ storage shed (POST FACTO) in the exact footprint location shown on submitted marked-up A-2 Survey entitled, "Property Survey Prepared for Salvatore & Maureen P. Bellino, 7 Oak Drive, Town of Sherman, Fairfield County, CT” dated July 10, 2006 with the last revision dated June 14, 2017; Update and Proposed Addition”. Prepared by the office of PAH, Inc. Land Surveyors. Zone B.

Seconded by: K. Fazzone Vote: For: Unanimous

DELIBERATION V:
ZBA CASE # 734- 7 Oak Drive (Map-74, Lot-11)- Salvatore & Maureen Bellino

No Deliberation took place, the Public Hearing was continued to December 7th, 2021 beginning at 7:00pm via ZOOM.

APPROVAL OF MINUTES: Zoning Board of Appeals Meeting of July 6, 2021
Zoning Board of Appeals Meeting of July 17, 2021

Approval of Minutes was tabled to the December 7th, 2021 Meeting via ZOOM.

ADJOURNMENT: Chair, K. Gubner Adjourned the Meeting at 9:49 pm.

Respectfully submitted by:

Christine Branson, Administrative Clerk
November 10, 2021