

August 15, 2002

MEMBERS PRESENT: Mrs. Leab, Mr. Owens, Mrs. Roberts, Mr. Sedito, Mr. White

ALTERNATE PRESENT: Mr. Skoog

ALTERNATES ABSENT: Mr. Averill, Mrs. Middlebrook

STAFF PRESENT: Mrs. Hill

ALSO PRESENT: Mr. Tibbatts, Mr. Rosa, Mr. Churchill

Mr. White called the Meeting and Hearings to order at 7:32 p.m. and read the legal notice published in *Voices* on 8/4/02 and 8/11/02. Concerning #ZBA-0218, an application submitted by Mr. Anderson to construct two barns at 97 Judea Cemetary Road, Mr. White read the 8/14/02 letter of withdrawal from Mr. Bennett, authorized agent.

Tibbatts/1 Barnes Road/#ZBA-0215/Add Mudroom to Existing Dwelling/11.6.1.c and 17.4.a/Continued

Mr. White seated Members Leab, Owens, Roberts, Sedito, and White and noted the property owner, Mr. Tibbatts, and engineer, Mr. Rosa, were present.

Mr. White noted the public hearing had been continued to provide the applicant an opportunity to submit the exact dimensions, location of the dwelling, and property line boundaries as requested by the Board at the July meeting. Mr. Tibbatts stated he had not had a survey done, but had brought Mr. Rosa to discuss the application. The sketch map, "Plot Plan," by Mr. Rosa, dated 5/30/02 was reviewed. Mr. Rosa said the site features were consistent with this drawing, the tax map, and the appraiser's description of the property and on that basis he thought the stonewall along Moody Bridge Road was the boundary line and the existing house was 20 feet from the wall. When Mr. White pointed out the Commission did not know for a fact that was the boundary line location, Mr. Rosa responded that even if that was not the line, the proposed addition would not come any closer to the line than the existing house.

A lengthy discussion ensued. Mr. Tibbatts thought he should not have to provide a survey because the Town should have this information on file. The Board maintained that the house was nonconforming so an addition was not "as of right" and that a variance, if granted, had to be quantifiable. Responding to a question by Mrs. Roberts, Mr. Tibbatts said he had not checked the Town Clerk's Office for a road survey or maps of adjoining properties. Mr. Owens questioned whether the Tibbatts property went all the way to the paved portion of Barnes Road as the survey map for the nearby LaMuniere property at 7 Barnes Road showed the property line was set ten feet from the road. In short, the Board asked Mr. Tibbatts to research the location of the property lines as he had been asked to do at the last meeting because it was necessary that the exact location of the house and boundaries and length of the variance required be established. Mr. Sedito suggested a surveyor be hired to set three pins to establish the boundary line rather than prepare a survey of the entire property.

Hardship was discussed. Mrs. Roberts noted the letter accompanying the application stated the proposed location for the addition was the most feasible because the septic system was located to the south, the driveway was on the east, and there was a steep embankment to the west. Also Mr. Rosa noted that if Barnes Road was considered the front yard rather than Moody Bridge Road, the proposed addition would encroach farther into the required setback. Mr. Owens asked why the dimension of the proposed addition could not be decreased by one foot so that a variance would not be required. Mr. Tibbatts noted the location of a two hundred year old oak that he wanted to save and circulated photos of the house.

Mr. Tibbatts submitted a written request for a thirty-five day extension of the time in which to conduct

the public hearing.

MOTION: To accept Mr. Tibbat's written request for a 35 day extension in which to conduct the public hearing for Tibbats/1 Barnes Road/ #ZBA-0215/Add a Mudroom to Existing Dwelling. By Mrs. Roberts, seconded by Mr. Sedito, and passed 5-0.

At 8:10 p.m. Mr. White continued the public hearing to Thursday, September 18, 2002 at 7:30 p.m. in the Land Use Meeting Room.

Hartley-Schlosstein/97 Lower Church Hill Road/#ZBA-0217/ Addition to Existing Dwelling/12.1.1, 11.6.1.c, and 17.4.a

The public hearing commenced at 8:11 p.m. Mr. Churchill, contractor, represented the applicants.

Mr. White reviewed the documents in the file and asked if the notices to adjoining property owners had been mailed out. Mr. Churchill said this had been done twice.

Mr. Churchill read his 8/8/02 letter to the Board in which he explained the least disruptive location for the addition was on the west side of the building due to a pond, utilities, and difficult topography to the south and front yard setback to the north. It was noted the existing dwelling is nonconforming because it does not meet the minimum front yard setback requirement.

Mr. White noted a similar application for a smaller addition had been submitted and denied in 1997. The 1997 minutes were reviewed. He pointed out the Board had thought there were other options then and that he did not think the circumstances had changed for this application. It was noted three variances would be required for the current proposal; 12.1.1 - setback from the pond, 11.6.1.c - front yard setback, and 17.4.a - increase in the nonconformity of a nonconforming building. A survey map from the 1997 file, Prepared for Ralph L. Schlosstein and Jane D. Hartley, by Mr. Alex, dated 9/13/84 was reviewed and the extensive wetlands on the property were noted. Mrs. Roberts informed Mr. Churchill the ZBA does not reconsider variance requests unless significant changes have been made, which was not the case for the current application.

Mrs. Hill noted the Zoning Commission is considering whether to delete Section 12.1.1 of the Zoning Regulations. If this were done there would be more options for the applicant to build without requiring a variance.

Mr. Churchill apologized to the Board and submitted a written request to withdraw the application.

MOTION: To accept the 8/15/02 letter of withdrawal submitted by Mr. Churchill for Hartley-Schlosstein/97 Lower Church Hill Road/ #ZBA-0217/Addition to Existing Dwelling. By Mr. Owens, seconded by Mr. Sedito, and passed 5-0.

Mr. White closed the public hearing.

The above public hearings were recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

Regular Meeting

Consideration of the Minutes

The 7/18/02 Minutes were accepted as corrected. On page 1 in the sixth line from the bottom, should be

On page 4 in the second motion, Mr. Sedito's name was spelled incorrectly.

MOTION: To accept the July 18, 2002 Minutes as corrected. By Mr. Owens, seconded by Mrs. Roberts, and passed 5-0.

Discretion of the Chair

Mr. White had attended the July 22nd Zoning Commission meeting and reported on several proposed revisions to the Zoning Regulations that commission is considering.

- Section 17. Mr. Owens explained that in general Atty. Byrne had advised the Zoning Commission that the current Section 17 was no longer in compliance with the state statutes, and so had delivered a copy of this section crossing out all the outdated wording. He had then gone on to draft revisions to give Zoning flexibility in dealing with existing nonconforming lots, especially in respect to coverage and density. This flexibility was given through the Special Permit process. This would mean that some proposals that would now require the ZBA to grant a variance, would, if the revisions were approved, be submitted to the Zoning Commission in a Special Permit application instead. Mr. White thought the rewrite confused the roles of the two boards. Mr. Martin indicated Zoning would delete those sections recommended for deletion by Atty. Byrne and make no further changes to this section.
- Section 18.1.3. Mr. White read the proposed revision, which would add a statement that the ZBA may not grant use variances. He said in theory it substantiates existing practices and procedures and he did not think it was necessary. Mr. Owens thought Zoning had the perception that ZBA was not as rigorous in establishing hardships as Zoning thought it should be. Mrs. Hill assured the Commissioners that she tells prospective applicants that applications for use variances may not be submitted, so whether this revision was approved or not should make no difference in the ZBA's workload.

Mr. White stressed the ZBA does a diligent job and tries to cooperate with the Zoning Commission. He thought of these proposed revisions and the ongoing discussions between the two boards as a continuing step in their evolution. He said Atty. Zizka, a well known land use attorney, would be invited to give a seminar on law and procedures pertaining to ZBA and that after that had been conducted, a joint meeting with the Zoning Commission would be scheduled.

Mr. White asked Mrs. Hill if it would be possible to tape the portions of upcoming Zoning meetings concerning revision of the Regulations so those ZBA Commissioners who are interested can listen to the deliberations. Mrs. Hill agreed to do so. He thought this would help to keep the two commissions in synch.

Application Form

Mrs. Roberts, Mr. White, and Mr. Owens will meet to work on updating the application form. There was a brief discussion regarding whether surveys should be required as part of a complete application as is required in many other towns. Mr. Owens noted that in Sherman, not only is a survey required, but it must show the proposed work. Mrs. Leab questioned whether this would be too expensive for applicants with minimal proposals. Mr. Owens noted the Board has the authority to waive its standards. Mr. White agreed it would increase the cost for the applicant, but said the Board must be consistent.

MOTION: To adjourn the meeting. By Mrs. Roberts.

Mr. White adjourned the meeting at 8:55 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, ZEO