TOWN OF WASHINGTON

Bryan Memorial Town Hall

Post Office Box 383

Washington Depot, Connecticut 06794

ZBA Regular Meeting

October 18, 2018

7:30 P.M. Main Level Meeting Room

**MEMBERS PRESENT:** Mr. Bowman, Mr. Horan, Mr. Wyant

**MEMBERS ABSENT:** Mr. Peterson

**ALTERNATES PRESENT:** Mr. Wildman

**ALTERNATES ABSENT:** Mr. Gunnip

**STAFF PRESENT:** Ms. White, Ms. Hodza

**OTHERS PRESENT:** Mr. Fleischmann, Atty. Woermer, Mr. Carpanzano, Mr. Farmer, Mr. Condon, Mr. Rieghard

**PUBLIC HEARING(S):**

Mr. Bowman called the meeting to order at 7:30 p.m.

**SEATED:** Mr. Bowman, Mr. Horan, Mr. Wyant, Mr. Wildman

**Continued - ZBA-1057: Appeal by Fleischmann, 219 Roxbury Rd, of a decision by the ZEO to issue a permit for installation of a driveway and fence on property owned by Tunis, 227 Roxbury:**

Atty. Woermer stated that he was here to represent Mr. Fleischmann.

Mr. Bowman stated that he spoke with Atty. Zizka, Town Counsel. He explained that it is his understanding that a subdivision plan was submitted to the Planning Commission in 1989 and it was approved with the condition that a revised map be filed on the Town Land Records within 48 hours. The corrected plan was never submitted so, consequently, there is no approved subdivision plan. Mr. Bowman stated that he believes the zoning permit was issued erroneously by the former ZEO believing that the revised subdivision map had been submitted. He noted that the two properties have been developed and this year the two rear lots have begun the process to construct a permanent driveway. The temporary driveway that runs across Mr. Fleischmann’s lot has been used as the access way. Mr. Bowman stated that currently, the ZBA can only act upon the former ZEO’s decision to grant a zoning permit for the construction of a driveway at 227 Roxbury Rd.

Atty. Woermer stated that the Washington Zoning Regulations state that no more than two interior lots may be serviced by one access way. He noted that the original approval states that when the two rear lots are sold and developed, the right of way or access way across Mr. Fleischmann’s property would be abandoned and the two rear lots will use the new driveway exclusively.

There were no further comments.

**MOTION:** To close the public hearing to consider **ZBA-1057** - appeal submitted by Fleischmann, 219 Roxbury Rd, of a decision by the ZEO to issue a permit for installation of a driveway and fence on property owned by Tunis, 227 Roxbury, by Mr. Wyant, seconded by Mr. Horan, passed by 4-0 vote.

**Meeting:**

Mr. Bowman stated that the ZBA can assume that the former ZEO granted the zoning permit for this driveway believing that this subdivision was valid.

There was a brief discussion regarding writing a letter acknowledging that there was no authority to issue the zoning permit because the subdivision is invalid.

**MOTION:** To sustain the appeal **ZBA-1057**, submitted by Fleischmann, 219 Roxbury Rd, that Zoning Permit ZP-10-30-17 to install a driveway and fence on the property owned by Tunis 227 was erroneously issued and approved by the ZEO because a revised Subdivision Plan was never submitted to the Town, by Mr. Wyant, seconded by Mr. Horan, passed unanimously

**SEATED:** Mr. Bowman, Mr. Horan, Mr. Wyant, Mr. Peterson, Mr. Wildman

**ZBA-1058: Request of Cowles, 210 West Shore Rd, for a Special Exception/Section 12.1.1-Structure (Wetlands & Watercourse Setbacks), to tear down existing shed and rebuild with slightly larger footprint w/in 50ft of a water body:**

Mr. Reighard was present to represent Cowles of 210 West Shore Rd for this application. He submitted the A-2 Survey titled, “Zoning Location Survey,” prepared for New Castle Homes for Cowles, 210 West Shore Road, by Berkshire Engineering & Surveying, LLC., dated 9/28/18.

Mr. Reighard presented pictures of the existing shed, proposed floor plan and elevations of the proposed shed. He demonstrated that the existing shed is dilapidated and it does not fit the property owner’s equipment. The existing shed is 8’ x 12’ and the proposed would be 10’ x 16’ with the proposed height being 11’ 6”. Mr. Reighard noted that the proposed overhang is 3ft. deep, the structure would be set on concrete blocks, they are proposing a double door on the side and a single door on the side facing the lake.

The Commissioners discussed the submitted materials.

The Commissioners asked that Mr. Reighard provide an architectural rendering of the exact dimensions of the proposed and existing shed. Mr. Bowman explained that due to the proximity of the lake, the Commission requires a very clear understanding, including exact dimensions, of what is being proposed.

There were no further questions.

**MOTION:** to grant a continuance of the public hearing for ZBA-1058:Request of Cowles, 210 West Shore Rd, for a Special Exception/Section 12.1.1-Structure (Wetlands & Watercourse Setbacks), to tear down existing shed and rebuild with slightly larger footprint w/in 50ft of a water body, by Mr. Wyant, seconded by Mr. Horan, passed by 4-0 vote.

**SEATED:** Mr. Bowman, Mr. Horan, Mr. Wyant, Mr. Wildman

**ZBA-1061: Request of Schereschewsky, 1 Golf Course Rd, for a Special Exception/Section 12.14 – Noise Generating Equipment, to place A/C condenser units in setback:**

No one was present to represent this application.

Mr. Bowman asked the Commissioners if they should discuss the application.

It was noted that Mr. Schereschewsky submitted a letter to the Land Use Office dated September 26, 2018, from Thomas J. Allen of Compass Property Inspections, LLC regarding Sound Level Measurement. This letter confirmed that the two “Carrier Air Conditioner units” at One Golf Course Rd operate at 46.4 decibels at the nearest property line measured with a digital sound level instrument by PeakMeter.

Mr. Horan felt that the Commission does not need to continue this public hearing because they have received the professional digital decibel reading that they had asked the applicant to supply.

There were no comments from the public.

**MOTION:** to close the public hearing to consider **ZBA-1061:** Request of Schereschewsky, 1 Golf Course Rd, for a Special Exception/Section 12.14 – Noise Generating Equipment, to place A/C condenser units in setback, by Mr. Wyant, seconded by Mr. Horan, passed 4-0 vote.

**Meeting:**

There were no further comments**.**

**MOTION:** to approve **ZBA-1061:** Request of Schereschewsky, 1 Golf Course Rd, for a Special Exception/Section 12.14 – Noise Generating Equipment, to place A/C condenser units in setback, by Mr. Bowman, passed unanimously.

**SEATED:** Mr. Bowman, Mr. Peterson, Mr. Wildman, Mr. Gunnip

Mr. Horan and Mr. Wyant recused themselves.

**ZBA-1062: Request of Washington Club, Inc., 92 Green Hill Rd, for a Variance/Section 11.5.1A – Lot Coverage, 11.6.1 – Setbacks, to install platform tennis court, stairs, and terrace:**

Mr. Farmer, President of the Washington Club, was present to discuss this application. He stated that he submitted a revised package.

Mr. Bowman noted that the Gunnery sent an additional letter dated October 18, 2018, from Mr. C. Cowell, CFO and Business Manager. In this letter, The Gunnery expressed concerns about the location of the proposed court. The plan proposes that the structure is located 3.04’ from the property line and in an area that was released to The Gunnery by the Washington Club via QUIT-CLAIM DEED which was not properly documented in the survey provided by The Washington Club.

Mr. Bowman read the letter into the record.

Mr. Farmer stated that he had met with Mr. Cowell and Mr. Showalter, Property Manager, to discuss drainage. He informed the Commissioners that they plan to put rip rap underneath the proposed structure and install a curtain drain.

Mr. Farmer noted that the Washington Club submitted two separate plans because the Historic District Commission requested that the proposed court be located further down the hill. He noted that moving the proposed court to the bottom of the hill was a condition of approval granted by the HDC. Mr. Farmer stated that this addition to the club would put them on equal footing of other country clubs in the area and revive the club hall.

The Commissioners reviewed both proposed Zoning Location Surveys, prepared for Washington Club Hall by T. Michael Alex, both dated August 2018. Site Plans A & B by Tittmann Design & Consulting, photographs of existing examples of the proposed Gravel Terrace/Driveway, Raised Patio Steps, Stone Wall, Rail Ties Steps, Tennis Court, Tennis Court Fence, Trellis, and Court Lights were reviewed by the Commissioners.

Mr. Farmer stated that he researched the Quit Claim for the portion of the property that was released to the Gunnery. He noted that the documentation shows that this Quit Claim was granted in 1970 by the President of the Washington Club and he did so without a meeting with the members or approval of the Board of Governors at the time. Mr. Farmer noted that Mr. Condon was present and was on the Board of Governors for the Washington Club fifty years ago at the time the Quit Claim Deed was granted and was in agreement that the quite claim deed was granted erroneously. Mr. Farmer noted that the Club is willing to honor it. He read the historical correspondence between the Washington Club and The Gunnery.

A letter dated October 15, 2018, addressed to Mr. Philip M. Farmer, from Curtiss B. Smith of Smith & Company – Surveyors and Engineers was submitted for the record. The letter states that Smith & Co. will review the drainage, grading, and layout of the proposed court.

Mr. Farmer stated that they are proposing to replicate the existing tennis court lights for this proposed tennis court.

Mr. Gunnip stated that the Quit Claim document appears to be a right to enter on this strip of property. There isn’t any language regarding this strip being a right of way and there is no mention of maintenance.

Mr. Bowman stated that he would like to have a clearer understanding of the Quit Claim Deed and would like to see a it represented on all of the site plans. He noted that it is the applicant’s choice as to whether the Commission should vote on this tonight. Mr. Bowman suggested that the application is amended to include a variance to allow the light fixtures because per section 5.3.3 in the Zoning Regulations – Unilluminated tennis, basketball, and other outdoor sports courts. He stated that very specific information regarding the lighting should include details such as the expanse of the lighted area from the fixtures, description of the construction of the structure, and the impact load of the netting surrounding the court.

There was a lengthy discussion regarding the lighting of the proposed court and the existing courts.

Mr. Farmer submitted a letter requesting a continuance.

**MOTION:** to grant a continuance of the public hearing for **ZBA-1062:** Request of Washington Club, Inc., 92 Green Hill Rd, for a Variance/Section 11.5.1A – Lot Coverage, 11.6.1 – Setbacks, to install platform tennis court, stairs, and terrace, by Mr. Wildman, seconded by Mr. Gunnip, passed by 4-0 vote.

**Seated:** Mr. Bowman, Mr. Peterson, Mr. Horan, Mr. Wyant, Mr. Gunnip

**ZBA-1063: Request of Sherman Building Design (for Seeley P and P, LLC), 139 Wykeham Rd, for a Variance/Section 11.6.1 – Setbacks, to install heat pump/A/C unit, propane fuel tanks, and standby generator:**

Mr. Carpanzano, Sherman Building Design, was present to represent the property owners or 139 Wykeham Rd. A letter of agent representation was submitted for the record.

The Commissioners and Mr. Carpanzano reviewed the Property Survey, prepared for Seeley P and P, by PAH, Inc. – Land Surveyors, dated 9-7-18. Mr. Carpanzano explained that the property owners are proposing to install a standby generator, heat pump/air conditioning condenser unit and propane fuel tanks on the northwest side of the property and within the front yard setback. The house is existing nonconforming and the side of the house is within the front yard setback along Wykeham Road. They are proposing to locate the standby generator at the side of the house as there is an existing generator hookup.

Mr. Carpanzano stated that considering all the conditions, building codes and zoning regulations he feels that this is the best location for these items. He informed the Commissioners that the decibel level for the a/c unit complies with the regulations but the generator does not so they are proposing to install five 6 ft. tall evergreen trees to attenuate the sound.

Mr. Carpanzano informed the Commissioners that there are some existing shrubs but they wanted to propose something more comprehensive.

There was a discussion regarding the driveway and how fuel would be delivered.

There was a discussion regarding other locations for the proposed items.

Mr. Carpanzano stated that they would create a nonconformity with the side setback if these items were to be located at the back of the house and the tanks need to be within a certain distance of the sources of ignition.

Mr. Bowman stated that he would prefer the nonconformity to the side setback.

Mr. Horan stated it would be difficult to service the tanks if they were located in the side yard setback.

Mr. Carpanzano stated that an underground tank would cause issues with Inland Wetlands.

The Commissioners and Mr. Carpanzano discussed planting shrubbery or installing a privacy fence along the front property line. They discussed which one is more effective.

**MOTION:** to close the public hearing for **ZBA-1063:** Request of Sherman Building Design (for Seeley P and P, LLC), 139 Wykeham Rd, for a Variance/Section 11.6.1 – Setbacks, to install heat pump/A/C unit, propane fuel tanks, and standby generator, by Mr. Wyant, seconded by Mr. Gunnip, passed by 5-0 vote.

**Meeting:**

The Commissioners discussed the need for a privacy fence for attenuating sound and hiding all of the items from the road. They all felt that including this as a condition would be necessary.

**MOTION:** to approve **ZBA-1063:** Request of Sherman Building Design (for Seeley P and P, LLC), 139 Wykeham Rd, for a Variance/Section 11.6.1 – Setbacks, to install heat pump/A/C unit, propane fuel tanks, and standby generator, as per Property Survey, prepared by PAH, Inc. – Land Surveyors, dated9-7-18, contingent up installation of 32 ft. long, no less than 5 ft. tall, privacy fence similar to the existing lattice, by Mr. Bowman, passed unanimously.

**Consideration of the Minutes**

Consideration of the Minutes of the September 20, 2018, regular ZBA Meeting was tabled until the next regularly schedule ZBA Meeting on November 15, 2018.

**Other Business:**

Ms. White stated that Mr. Talbot of Peter Talbot, Architect, informed the Land Use Office that they have decided to save the chimney at the Aberdene property at 93 East Street which will result in moving the approved addition (ZBA-1060) further out of the setback area.

The Commissioners requested that an as-built be filed when the renovation is completed.

**Adjournment:**

**MOTION:** to adjourn by Mr. Horan, passed unanimously.

 Respectfully submitted.

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Shelley White, Land Use Clerk, October 25, 2018

 Subject to approval(revised 11-28-18)

 \*All materials on file in the Land Use Office

 \*\*A recording of this meeting is available upon request