

BERLIN ZONING BOARD OF APPEALS

June 23, 2020

7:00 p.m.

CALL IN NUMBER: 1-701-802-5317 Access PIN Code: 847264#

The Berlin Zoning Board of Appeals will hold a regular meeting by remote conference call on Tuesday, June 23, 2020 at 7:00 p.m. and hold Public Hearings on the following matters:

The public can call into this meeting. If you would like to attend the meeting, please call: **1-701-802-5317**. You will be asked to punch in the access code followed by the pound sign: **847264 #**

This agenda and all meeting materials related to the agenda items which have been distributed to the Board will be posted on the town's website at: www.town.berlin.ct.us and will be available for viewing twenty-four (24) hours prior, during and after the meeting. Members of the public are encouraged to submit materials relevant to the applications no later than 12:00 p.m. on Monday, June 22, 2020, for posting prior to, during and after the meeting.

Berlin Zoning Board of Appeals Regular Meeting Agenda – REVISED*

I. Call to Order

II. *Executive Session:

***1.** Discuss the status of the pending litigation of Liam T. Mitchell, et al. v. Berlin Zoning Board of Appeals, and possible action relating to same.

***2.** Consider whether to convene in executive session to discuss the status of the pending litigation of Liam T. Mitchell, et al. v. Berlin Zoning Board of Appeals.

III. Public Hearings:

ZBA #2020-09 1104 High Road, Map 14-1, Block 51, Lot 9

Terry and Robin Grant are requesting a variance of 16 feet for a front setback of 24 feet when 40 feet is required and a variance of 4 feet for a side yard of 21 feet with total side yards of 40 feet when 45 feet is required in the R-21 zone per Berlin Zoning Regulations §V.A.10. for an attached garage. The property is owned by Robin E. and Terrence C. Grant.

1005 Kensington Road, Map 21-1/Block73/Lot 15

Remand issued by Superior Court in the matter of Liam T. Mitchell, et al. v. Berlin Zoning Board of Appeals concerning the Board's denial of the plaintiffs' appeal of a Cease and Desist Order issued by the Zoning Enforcement Officer for an unauthorized basement apartment in the R-43 zone per Berlin Zoning Regulations § XV.A.1.

IV. Regular Meeting:

ZBA #2020-09 1104 High Road, Map 14-1, Block 51, Lot 9

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1005 Kensington Road, Map 21-1/Block73/Lot 15

Remand issued by Superior Court in the matter of Liam T. Mitchell, et al. v. Berlin Zoning Board of Appeals concerning the Board's denial of the plaintiffs' appeal of a Cease and Desist Order issued by the Zoning Enforcement Officer for an unauthorized basement apartment in the R-43 zone per Berlin Zoning Regulations § XV.A.1.

- V. Approval of Minutes:** February 25, 2020; April 28, 2020
- VI. Adjournment**



Town of Berlin

ZBA # 2020-09

Planning and Zoning Department

240 Kensington Road
Berlin, Connecticut 06037
www.town.berlin.ct.us

ZONING BOARD OF APPEALS APPLICATION

- ☐ Special Permit ☒ Variance ☐ Appeal of ZEO
☐ Motor Vehicle Location ☐ Alcohol Uses Location ☐ Other / Determination

Property Owner(s): Terry, Robin Grant

Project Address*: 1104 High Rd

Map: 14-1 Block: 51 Lot: 9 Zone(s): B-21 Lot Area: _____

Please select all relevant items below:

- ☐ Supplemental Information Is Required For:
ZBA Special Permit / Sale of Alcoholic Beverages Location / Motor Vehicle Uses Location
☐ Inland Wetlands and Water Course Commission review needed
☐ Planning and Zoning Commission review needed
☐ Property is within 500 feet of a Municipal Boundary of _____
☐ Previous Zoning Board of Appeals actions on this property:

Date(s) & Purpose(s): _____

Applicant Information

Name: Robin Grant Firm Name: _____
Street Address: 1104 High Rd City: Kensington ST: CT Zip: 06037
Email: terrysenergy@aol.com Phone: 860-965-6477
Signature: Robin Grant Date: 5/28/20

Property Owner(s) Information (If Not the Applicant)

Name: _____ Principal: _____
Street Address: _____ City: _____ ST: _____ Zip: _____
Email: _____ Phone: _____

*Letter of Authorization Required

ZBA action is requested pursuant to Berlin Zoning Regulations Section(s): _____

*Any town official and/or employee who the town deems necessary may enter the property to verify information submitted with this application.

Brief description of the proposal: We're building a needed garage.
originally garage was supposed to go along right
side of house, now there is a sewer line through my
yard.

VARIANCE APPLICATIONS: For relief of: _____ requirement.

Requested requirement: _____

Reason/Description of Hardship (REQUIRED): _____

sewer easement, which I was unaware of when
I purchased home, proposed plot for garage is the
only option.

MOTOR VEHICLE USE LOCATION¹:

The first page of the State DMV application is required to be submitted with this application

<input type="checkbox"/> New Car Dealer	<u>Number of Service Bays</u>	<u>Parking Required</u>	<u>Parking Provided</u>
<input type="checkbox"/> Used Car Dealer	_____	_____	_____
<input type="checkbox"/> General Repairer	_____	_____	_____
<input type="checkbox"/> Limited Repairer	_____	_____	_____
<input type="checkbox"/> Gasoline Station	_____	_____	_____

SALE OF ALCOHOLIC BEVERAGES LOCATION¹

The first page of the State Liquor Permit application is required to be submitted with this application

Type of State Liquor Permit:

- ☐ On -Premises Permit: Type _____
- ☐ Off-Premises: Type _____
- ☐ Other: Explain _____

To be completed by P&Z staff only:

Fee Paid \$ _____ (Refer to current Fee Schedule)

ZBA # 2223-09

Received by: _____

Scheduled on ZBA Agenda of: _____

ZONING BOARD OF APPEALS DECISION:

Plan Title & Date: _____



Date Printed: 6/19/2020



MAP DISCLAIMER - NOTICE OF LIABILITY

This map is for assessment purposes only. It is not for legal description or conveyances. All information is subject to verification by any user. The Town of Berlin and its mapping contractors assume no legal responsibility for the information contained herein.

Approximate Scale: 1 inch = 75 feet

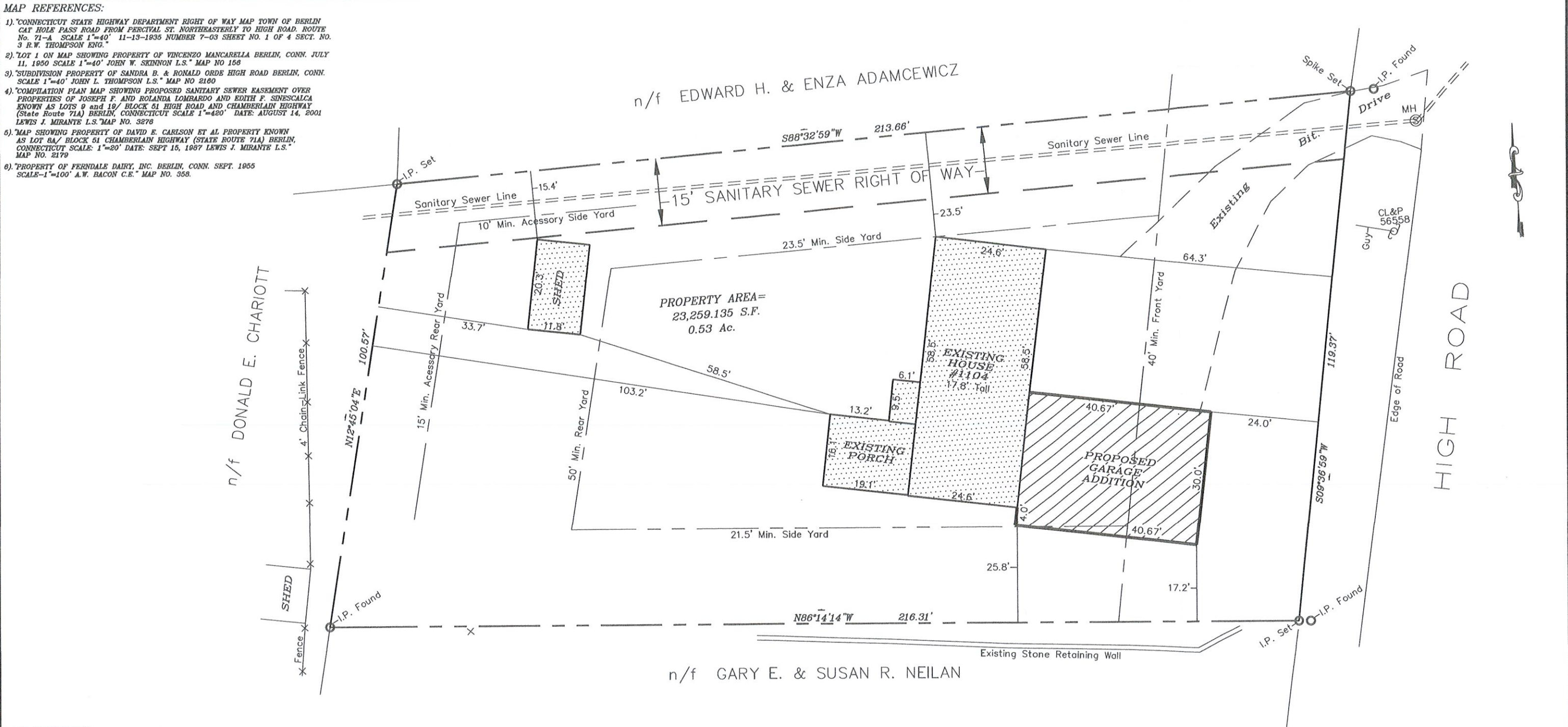


CURRENT OWNER		TOPO	UTILITIES		STRT / ROAD	LOCATION		CURRENT ASSESSMENT				6007			
GRANT ROBIN C & TERRENCE E 1104 HIGH RD BERLIN CT 06037 VISION		1 Level	2 Water	3 Sewer	1 Paved			Description	Code	Appraised Value	Assessed Value	BERLIN, CT			
								RES LAND	1-1	111,700	78,200				
								DWELLING	1-3	88,200	61,700				
								RES OUTBL	1-4	2,300	1,600				
SUPPLEMENTAL DATA															
Alt Prcl ID 14-1 0051 000009								Section: W							
CENSUS 4003								dc							
Incomeexp								CB Letter							
GIS ID 14-1-51-9								Assoc Prcl#							
RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)							
GRANT ROBIN C & TERRENCE E		0646	0901	02-17-2011	U	I	0	01	Year	Code	Assessed	Year	Code	Assessed	
GRANT ROBIN C		0646	0900	02-17-2011	U	I	0	34	2019	1-1	78,200	2018	1-1	78,200	
BEAULIEU ROBIN C		0441	0707	12-27-2000	U	I	120,000			1-3	61,700		1-3	61,700	
LOMBARDO JOSEPH F &		0136	0000	03-08-1965	U	I	0			1-4	1,600		1-4	1,600	
Total								Total		141500		Total		141500	
This signature acknowledges a visit by a Data Collector or Assessor															
EXEMPTIONS		OTHER ASSESSMENTS													
Year	Code	Description	Amount	Code	Description	Number	Amount	Comm Int							
		</													

CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)						
Element	Cd	Description	Element	Cd	Description					
Style:	01	Ranch								
Model	01	Residential								
Grade:	05	C								
Stories:	1	1 Story								
Occupancy	1									
Exterior Wall 1	25	Vinyl Siding								
Exterior Wall 2										
Roof Structure:	03	Gable								
Roof Cover:	03	Asph/F Gls/Cmp								
Interior Wall 1	05	Drywall								
Interior Wall 2										
Interior Flr 1	14	Carpet								
Interior Flr 2										
Heat Fuel	03	Gas/Oil								
Heat Type:	04	Forced Air-Duc								
AC Type:	03	Central								
Total Bedrooms	02	2 Bedrooms								
Total Bthrms:	1									
Total Half Baths	1									
Total Xtra Fixtrs										
Total Rooms:	5									
Bath Style:	02	Average								
Kitchen Style:	02	Average								
Whirlpool Tub										
# Fireplaces	1									
Fin Bsmnt Area										
Fin Bsmnt Qualit										
Fin Bsmnt Qualit										
Bsmnt Garage										
Fin Bsmnt Area2										
OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond.	% Gd	Grade	Grade Adj.	Appr. Value
SHD1	Shed Wld Res	L	240	12.54	2015	G	75		0.00	2,300
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MAP REFERENCES:

1. "CONNECTICUT STATE HIGHWAY DEPARTMENT RIGHT OF WAY MAP TOWN OF BERLIN CAT HOLE PASS ROAD FROM PERCIVAL ST. NORTHEASTERLY TO HIGH ROAD. ROUTE No. 71-A SCALE 1"=40' 11-13-1935 NUMBER 7-03 SHEET NO. 1 OF 4 SECT. NO. 3 R.W. THOMPSON ENG."
2. "LOT 1 ON MAP SHOWING PROPERTY OF VINCENZO MANCARELLA BERLIN, CONN. JULY 11, 1950 SCALE 1"=40' JOHN W. SKINNON L.S." MAP NO 158
3. "SUBDIVISION PROPERTY OF SANDRA B. & RONALD ORDE HIGH ROAD BERLIN, CONN. SCALE 1"=40' JOHN L. THOMPSON L.S." MAP NO 2160
4. "COMPILED PLAN MAP SHOWING PROPOSED SANITARY SEWER EASEMENT OVER PROPERTIES OF JOSEPH F. AND ROLANDA LOMBARDO AND EDITH F. SINESCALCA KNOWN AS LOTS 9 and 19/ BLOCK 51 HIGH ROAD AND CHAMBERLAIN HIGHWAY (State Route 71A) BERLIN, CONNECTICUT SCALE 1"=420' DATE: AUGUST 14, 2001 LEWIS J. MIRANTE L.S." MAP NO. 3276
5. "MAP SHOWING PROPERTY OF DAVID E. CARLSON ET AL PROPERTY KNOWN AS LOT 8A/ BLOCK 51 CHAMBERLAIN HIGHWAY (STATE ROUTE 71A) BERLIN, CONNECTICUT SCALE: 1"=20' DATE: SEPT 15, 1987 LEWIS J. MIRANTE L.S." MAP NO. 2179
6. "PROPERTY OF FERNDAL DAIRY, INC. BERLIN, CONN. SEPT. 1955 SCALE-1"=100' A.W. BACON C.E." MAP NO. 358.



CERTIFICATION:

1. THIS MAP AND SURVEY WERE PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES, SECTIONS 80-3009-1 THRU 80-3009-20, AND THE RECOMMENDED STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT EFFECTIVE OCTOBER 26, 2018 PREPARED AND ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. PURSUANT TO AND AS SET FORTH THESE STANDARDS. THE TYPE OF SURVEY PERFORMED AND THE MAPPED FEATURES DEPICTED HEREON ARE IN ACCORDANCE WITH THE REQUIREMENTS OF AN IMPROVEMENT LOCATION SURVEY.
2. THIS MAP AND SURVEY WERE PREPARED FOR TERRANCE E. & ROBIN C. GRANT TO BE USED IN MATTERS THAT RELATE TO PROPOSED CONDITIONS. USE OF THIS MAP FOR OTHER PURPOSES OR BY OTHER PARTIES IS NOT AUTHORIZED OR VALID.
3. NO DECLARATION IS EXPRESSED OR IMPLIED BY THIS MAP OR COPIES THEREOF UNLESS IT BEARS THE IMPRESSION TYPE SEAL AND ORIGINAL LIVE SEAL AND ORIGINAL LIVE SIGNATURE OF THE SURVEYOR WHOSE NAME AND REGISTRATION NUMBER APPEAR BELOW. ANY CHANGES MADE TO THIS PLAN WITHOUT THE KNOWLEDGE OF THE SIGNER INVALIDATES THESE DECLARATIONS.

TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

PETER D. FLYNN
KENNETH E. CYR
DATE 3-21-20

NOT VALID UNLESS ORIGINAL SIGNATURE, LIVE STAMP, & RAISED SEAL ARE AFFIXED.

FLYNN & CYR LAND SURVEYING, LLC
1804 FARMINGTON AVE. 860-225-7000
BERLIN, CONNECTICUT 06037



REGULATIONS FOR R-21 ZONE			
ITEM	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	21,000 S.F.	17,780 S.F.	17,780 S.F.
MIN. FRONTAGE	125'	90.0'	90.0'
MIN. LOT WIDTH	125'	96.4'	96.4'
MIN. FRONT YARD	40'	64.3'	24.0' *
MIN. SIDE YARD (EACH)	20'	23.5'	17.2' *
MIN. SIDE YARD (BOTH)	45'	49.3'	40.7' *
MIN. REAR YARD	50'	103.2'	103.2'
MAX. BLDG. HEIGHT	2.5 STY/35'	2 STY/35'	2 STY/35'
MAX. COVERAGE	N/A	N/A	N/A
ACCESSORY BUILDING			
DIST. TO PRINCIPAL BLDG	12.0'	33.7'	33.7'
DIST. TO FRONT LOT LINE	40.0'	165.8'	165.8'
DIST. TO SIDE LOT LINE	10.0'	15.4'	15.4'
DIST. TO REAR LOT LINE	15.0'	58.6'	58.6'

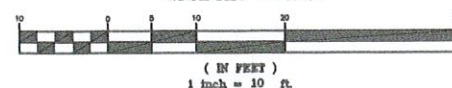
*NON-CONFORMING CONDITION WHICH WILL REQUIRE ZBA APPROVAL

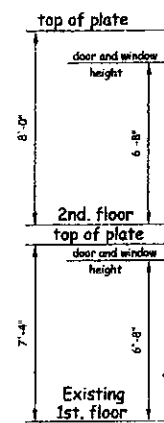
Town of Berlin
Received

JUN 02 2020

Planning & Zoning Department
Berlin, Connecticut

IMPROVEMENT LOCATION SURVEY
SHOWING PROPOSED GARAGE
PROPERTY OF
TERRANCE E. & ROBIN C. GRANT
Map 14-1/ Block 51/ Lot 9
#1104 HIGH ROAD
BERLIN, CONNECTICUT
SCALE 1"=10' MAR. 21, 2020
GRAPHIC SCALE





top of plate

finished grade beyond

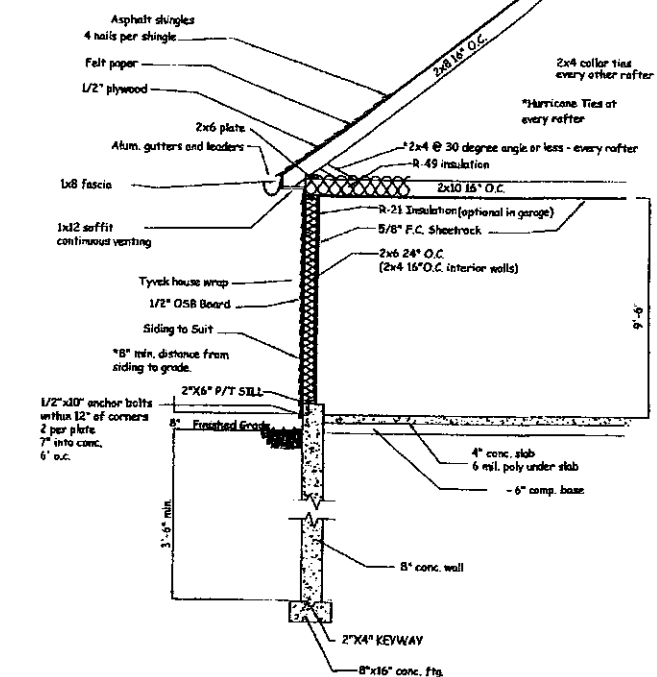
finished grade

GARAGE ADDITION

FOYER ADDITION

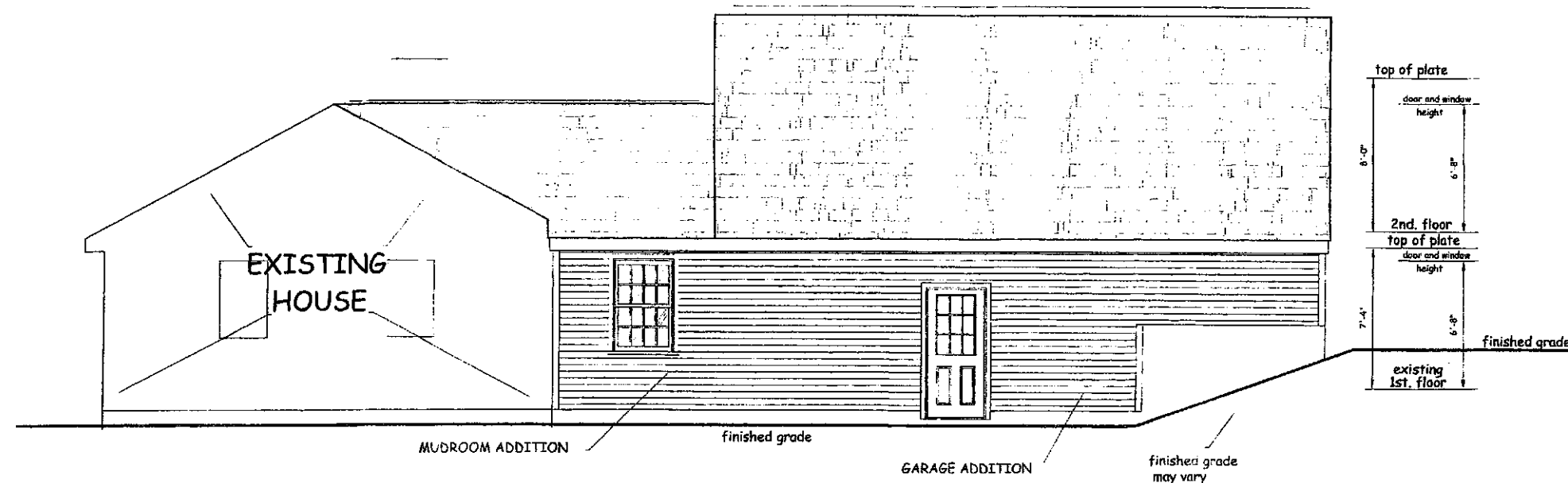
RIGHT ELEVATION

SCALE 1/4" = 1'-0"



TYPICAL WALL SECTION

NOT TO SCALE

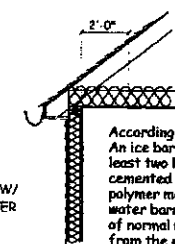


LEFT ELEVATION

SCALE 1/4" = 1'-0"

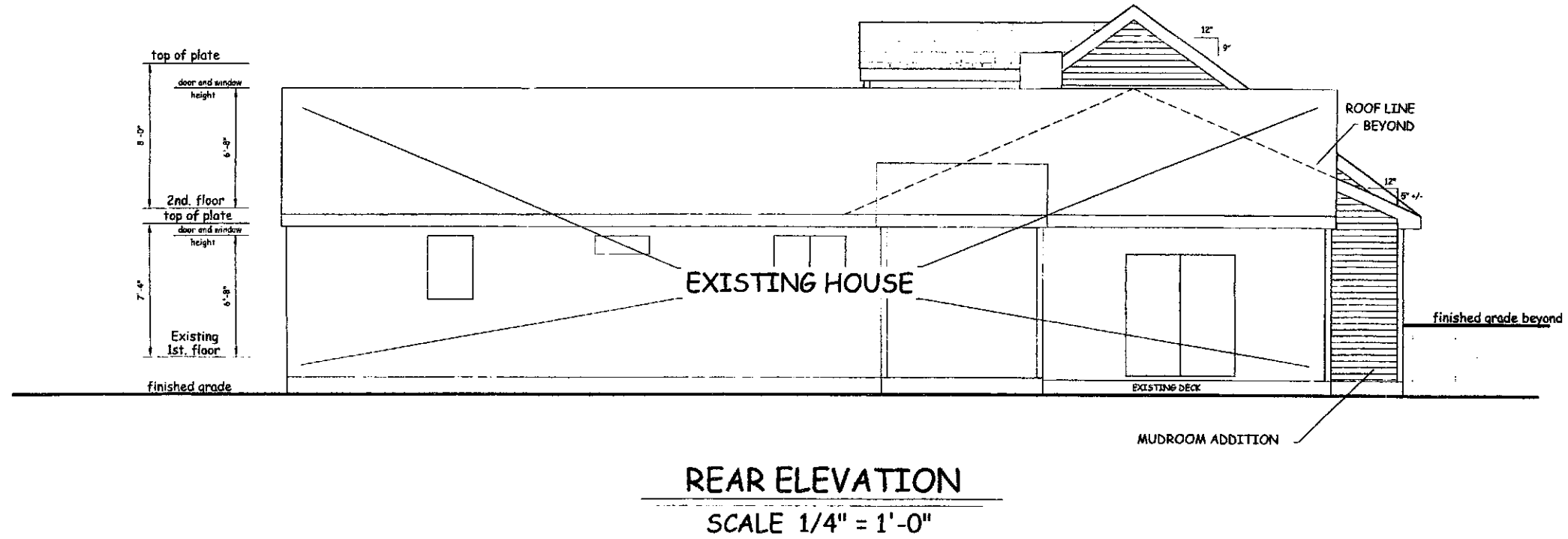
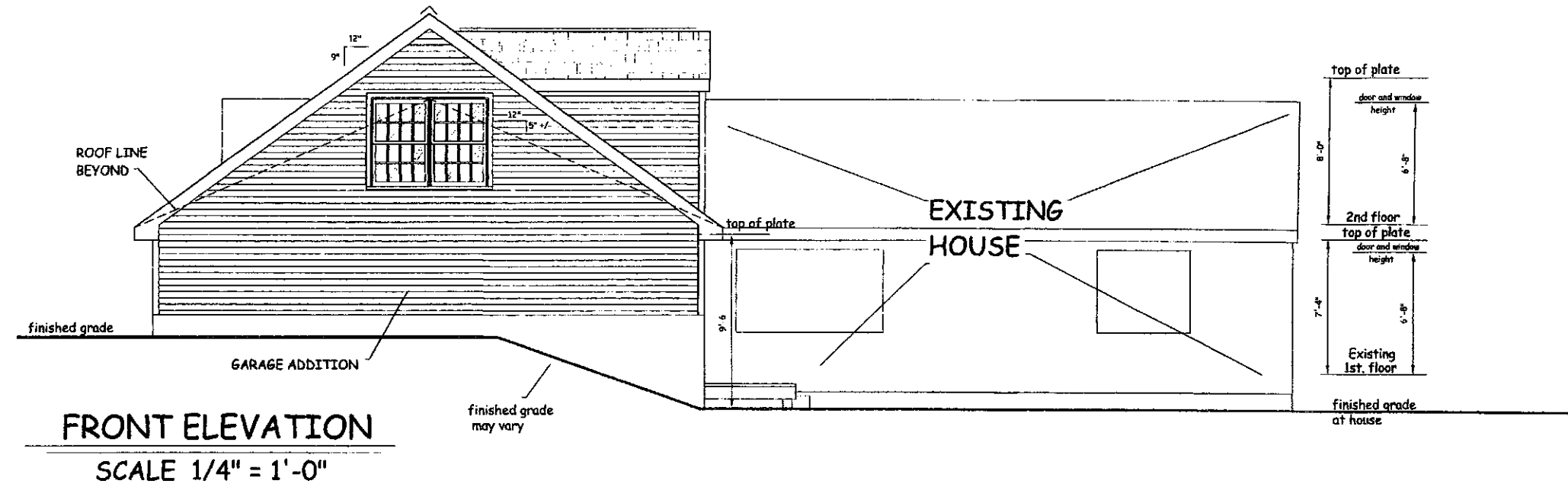
TYPICAL ROOF NOTES
ALL ROOFING, FLASHING UNDERLAYMENT, FELT PAPER AND RIDGE VENTS SHALL BE INSTALLED IN ACCORDANCE WITH MANUFACTURERS RECOMMENDATIONS.

ICE & WATER SHIELD TO EXTEND UP FROM FASCIA, ADDITIONALLY, ALL VALLEYS, RIDGES, RAKE EDGES, HIPS, DORMERS, AREAS W/ CHANGE IN SLOPE ARE TO RECEIVE ICE & WATER SHIELD UNDERLAYMENT. ALL ROOF TO WALL INTERSECTIONS TO RECEIVE ICE & WATER SHIELD UP FROM INTERSECTION W/ REQUIRED FLASHING



According to IRC 2015 R905.2.7.1 An ice barrier that consists of a least two layers of underlayment cemented together or of self-adhering polymer modified bitumen sheet (ice and water barrier), shall be used in lieu of normal underlayment and extend from the eave's edge to a point at least 24" inside the exterior wall line of the building.

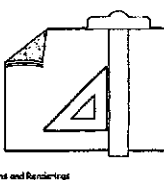
- the maker can not guarantee against human error and omissions. The contractor on the job must check all dimensions and other details and be responsible for the same.
- Contractor to correct any unforeseen field condition.
 - All work shall conform to all applicable codes.
 - Elevations are artist's conception.

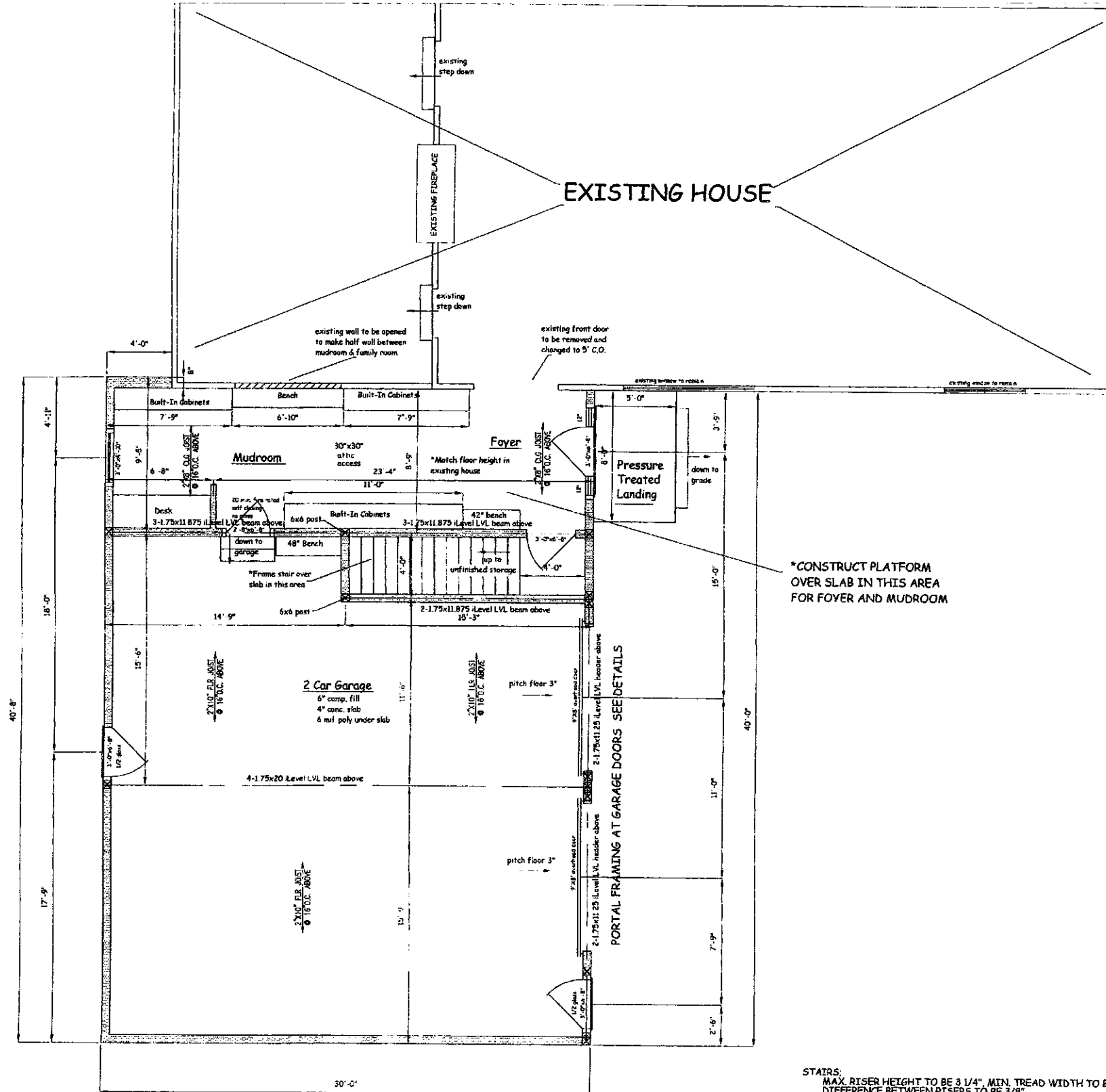


GARAGE AND MUDROOM ADDITION PLANS
ROBIN & TERRY GRANT
1104 HIGH ROAD, BERLIN CT

DATE
10/31/2019
SHEET
#1 of 5

Architectural Design
and Drafting
Services, LLC.
Kathy Fournier
133 Main Street 2nd. Floor
Southington, Ct. 06879
Tel: (860) 620-9597





**BERLIN ZONING BOARD OF APPEALS
REGULAR MEETING**

February 25, 2020

Berlin Town Hall

7:00 p.m.

**Town Council Chambers
Chambers**

Members Present

Antonio Francalangia, Chairman, Nelson Graca, Co-Vice Chairman, Leonard Tubbs, Co-Vice Chairman, Corey Whiteside, Sandra Coppola, Secretary, Ryan Zelek, Alternate

Members Absent

Christine Mazzotta (alternate), Hunter Mathena (alternate)

Staff Present

Maureen Giusti, Zoning Enforcement Office/Town Planner

Call to order

Chairman Francalangia called the meeting to order at 7:00 pm

Election of Officers

Commissioner Whiteside made a motion to nominate Antonio Francalangia as Chairman, Nelson Graca as Co-Chairman, Leonard Tubbs as Co-Chairman and Sandra Coppola as Secretary seconded by Sandra Coppola, passed unanimously.

Audience of citizens

None

Public Hearings:

1005 Kensington Road, Map 21-1/Block73/Lot 15

Remand issued by Superior Court in the matter of Liam T. Mitchell, et al. v. Berlin Zoning Board of Appeals concerning the Board's denial of the plaintiffs' appeal of a Cease and Desist Order issued by the Zoning Enforcement Officer for an unauthorized basement apartment in the R-43 zone per Berlin Zoning Regulations § XV.A.1.

Continued to April 2020 meeting or Special Meeting.

Corporation Counsel, Jennifer Coppola, was present and explained to the Board that in conference with opposing counsel they agree to request the remand be continued.
Chairman Francalangia made a motion to continue proposal to April 28, 2020 or Special Meeting, seconded by Commissioner Tubbs, passed unanimously.

ZBA #2020-01 208 Stockings Brook Road, Map 19-3 Block 15 Lot 48

Eugene Palazzolo, Garian Property Management, is requesting a variance to maintain the existing side yard setback of 30+/- feet when 50 feet is required per Berlin Zoning Regulations § V.A.10 in the R-86 zone, to allow an existing 22 ft. x 14 ft. unpermitted screened porch on the northwest rear of the existing attached garage to remain. The property is owned by Federal National Mortgage Association.

Tabled until next meeting.

ZBA #2020-02 24 New Park Drive, Map 21-4 Block 153 Lot 12A

Adam Speeg is requesting a Sales of Alcoholic Beverages Location Approval for Manufacturer for Beer and Brew Pub Liquor Permit for Skulls Brew House in the PI zone per Berlin Zoning Regulations §XI.B. The property is owned by Cariati Family Limited Partnership. The Planning and Zoning Commission approved a text amendment to regulate Brew-Pub uses as a special permit use in the PI zone effective 11/22/2018. The applicant has applied to the Planning and Zoning Commission with an anticipated hearing date of March 5, 2020.

Adam Speeg is a Meriden resident. He is proposing the manufacturing and sales of beer as well as a tap room. He is proposing limited entertainment such as an acoustics, disc jockey, live band comedian or karaoke. He has been home brewing for nine years. He also did brew for a few months at another in state brewery. This is a long-time hobby of his. He has eight or so rotating flagships in the works. At this point he doesn't plan to distribute. He would like to entertain with food trucks. This will start as a weekend brewery. Capacity will be at 45-50 seats.

Staff Comments

The sale of alcoholic beverages regulations, Section XI.B. (as amended effective 10-1-2014) specifically list criteria that needs to be met to allow the location approval. Staff has reviewed the criteria and has found no outstanding items. §IX.B.2 exempts brew pubs from the distance requirement to another location with an on-premises permit. None of the uses listed in §IX.B.1.c. were found within 500 feet. The attached map shows approximate 500-foot distances from the entrance area.

The applicant has indicated to staff that they expect their footprint within the building to expand as they become successful.

The applicant has provided the cover page of the State Application for On-Premises Liquor Permit which includes:

1. Live Entertainment for: Acoustics, Disc Jockeys, Live Bands, Comedians and, Karaoke.
2. No patio area.

Zoning Requirements

§XI.B requires ZBA location approval for the sale of alcoholic beverages.

Comments in Favor

Chris edge reported that most breweries in the state are in industrial areas. There is ample parking. He has a great following. The building has been vacant for a long time. He hopes that this business will be successful.

Comments in Opposition

None

Commissioner Zelek moved to close the public hearing seconded by Co-Chairman Tubbs. The motion carried unanimously.

ZBA #2020-03 74 Peter Parley Row, Map 16-3 Block 114 Lot 7

Tim Kontogouris, PKON LLC is requesting a variance of 8 feet for a front yard setback of 27 feet when 35 feet is required in the R-15 zone per Berlin Zoning Regulations §V.A.10. for a second-floor addition over an existing house. The property is owned by Scott K. Henderson.

Tim Kontogouris is proposing an upward addition of three bedrooms a bathroom on the existing 1.5 story footprint. This would be adding approximately 800 square feet to the property. The house was built in 1954 with a 27-foot setback.

Maureen Giusti reported that there is an extension of the home on the first floor that will not be in the footprint of the second-floor addition. She has found that several homes in the row seem to fall at approximately the same nonconforming setback.

Comments in Favor

Mr. Henderson reported that he has had an addition to his family. He noted the 2nd floor headroom is insufficient and hazardous with the sloped ceilings and they are in need of more room. He would like to stay Town of Berlin and hopes this proposal will be approved.

Comments in Opposition

None

Staff Comments

None

Staff Comments

The proposed second floor addition is over the cape style original house structure, with no increase to the single story 14 ft x 12 ft extension on the west side, therefore the proposed addition will meet the currently required side and rear setbacks.

Zoning Requirements:

§V.A.10. Front Yard-Required: 35 Existing Nonconforming: 27.4 ft. Proposed: 27.4 ft for 2nd floor.

Commissioner Zelek moved to close the public hearing seconded by Co-Chairman Tubbs. The motion carried unanimously.

ZBA #2020-04 1128 Farmington Avenue, Map 9-4 Block 91 Lot 2-1

Seven Moons LLC is requesting a Sales of Alcoholic Beverages Location Approval for an On-Premises Restaurant Beer & Wine Liquor Permit for Seven Moons restaurant per Berlin Zoning Regulations §XI.B. The property is owned by CHR Berlin LLC.

Attorney Silver reported the previous owner received a beer and wine approval permit. He explained this is a new Thai restaurant in the space previously occupied by Ramen Ya restaurant.

The previous restaurant obtained ZBA approval for a beer-wine permit for on premises sales on 5-30-2017. This restaurant has received zoning compliance and opened a few weeks ago. They request the same type of liquor permit.

Zoning Requirements

§XI.B. Sale of alcoholic beverages.

Staff Comments

Conditions remain the same with no uses identified in §XI.B.1.c., requiring a 500 ft separation, being identified. No changes to the site are proposed by this application. The submitted State On-Premises Liquor Permit application for a Restaurant Wine-Beer Permit indicates no patio and no entertainment is proposed.

Comments in Favor

Chris Edge reported this is a great addition to the community.

Comments in Opposition

None

Chairman Francalangia moved to close the public hearing seconded by Co-Chairman Tubbs.
The motion carried unanimously.

ZBA #2020-05 38 Pajor Hill Road, Map 10-1 Block 76A Lot 11A

Dave and Debbie Mangone are requesting a variance for a side yard of 7 feet when 25 feet is required in the GI-2 zone per Berlin Zoning Regulations §VII.H. for a garage and greenhouse addition on a single-family house. The property is owned by David J. Mangone.

Co Chairman Tubbs recused himself. Seated Zelek

Mr. & Mrs. Mangone reported that their family has grown. They would like a second garage and greenhouse. There is a new gym place that has opened in the past year in back of their property. Since the opening of the gym, there has been footprints on their property as well as tire marks out to their driveway. The homeowners would like to secure both their cars in a garage at night.

Maureen Giusti reported the house was built in the 1960's in a residential zone. Since then the zoning has changed to an industrial zone. She explained the property is a nonconforming use, and an interior lot. The front is on Pajor Hill Road, a private driveway which is on the land of the abutting residential property. She noted the Planning and Zoning Commission is charged with allowing an increase in square footage to the nonconforming use and did so at their February 6, 2020 meeting. There is a septic to the rear of the existing deck and the Health district has confirmed that the proposed addition as staked would just meet their required setback from the system.

Comments in Favor

Dave Mangone, the home owners brother would appreciate the support of this board to approve the proposal in order to secure the property of the homeowner. He noted their grandparents were the original owners and the zoning was changed.

Chris Edge reported that he is in favor of this proposal since the zoning has changed and the gym has brought in traffic for the homeowner.

Comments in Opposition

None

Chairman Francalangia moved to close the public hearing seconded by Commissioner Whiteside.
The motion carried unanimously.

Regular Meeting:

ZBA #2020-02 24 New Park Drive, Map 21-4 Block 153 Lot 12A

Adam Speeg is requesting a Sales of Alcoholic Beverages Location Approval for Manufacturer for Beer and Brew Pub Liquor Permit for Skulls Brew House in the PI zone per Berlin Zoning Regulations §XI.B. The property is owned by Cariati Family Limited Partnership.

Commissioner Tubbs made a motion to approve the proposed application, seconded by Commissioner Zelek.

The motion carried unanimously.

- Noted – No patio was proposed.

ZBA #2020-03 74 Peter Parley Row, Map 16-3 Block 114 Lot 7

Tim Kontogouris, PKON LLC is requesting a variance of 8 feet for a front yard setback of 27 feet when 35 feet is required in the R-15 zone per Berlin Zoning Regulations §V.A.10. for a second-floor addition over an existing house. The property is owned by Scott K. Henderson.

Chairman Francalangia made a motion to approve the proposed application, seconded by Commissioner Graca.

The motion carried unanimously.

ZBA #2020-04 1128 Farmington Avenue, Map 9-4 Block 91 Lot 2-1

Seven Moons LLC is requesting a Sales of Alcoholic Beverages Location Approval for an On-Premises Restaurant Beer & Wine Liquor Permit for Seven Moons restaurant per Berlin Zoning Regulations §XI.B. The property is owned by CHR Berlin LLC.

Commissioner Graca made a motion to approve the proposed application, seconded by Commissioner Coppola, passed unanimously.

ZBA #2020-05 38 Pajor Hill Road, Map 10-1 Block 76A Lot 11A

Dave and Debbie Mangone are requesting a variance for a side yard of 7 feet when 25 feet is required in the GI-2 zone per Berlin Zoning Regulations §VII.H. for a garage and greenhouse addition on a single-family house. The property is owned by David J. Mangone.

Commissioner Graca made a motion to approve the proposed application, seconded by Commissioner Coppola, passed unanimously.

Noted Co-Chairman Tubbs recused himself from his vote and seated Commissioner Zelek.

Board Business

CFPZA annual conference to be held March 26, 2020

Maureen Giusti reported that property 60 Woodlawn did not have his LLC when he applied. He has

Approval of Minutes:

July 23, 2019 (Francalangia, Tubbs, Coppola, Zelek, Mazzotto)

Chairman Francalangia moved to approve the minutes of July 23, 2019, seconded by Commissioner Coppola.

The motion carried out unanimously.

September 24, 2019 (Francalangia, Tubbs, Graca, Whiteside, Zelek)

Commissioner Graca moved to approve the minutes of September 24, 2019, seconded by Chairman Francalangia. The motion carried out unanimously.

November 26, 2019 (Francalangia, Tubbs, Coppola, Zelek)
Chairman Francalangia moved to approve the minutes of November 26, 2019 seconded by Commissioner Coppola.
The motion carried out unanimously.

December 9, 2019 (Francalangia, Tubbs, Coppola, Zelek)
Chairman Francalangia moved to approve the minutes of December 9, 2019, seconded by Commissioner Coppola.
The motion carried out unanimously

Adjournment

Commissioner Zelek moved to adjourn the meeting, seconded by Co-Chairman Graca. The motion carried unanimously.

The time was 8:00 pm

Respectfully submitted

Marlo Matassa
Recording Secretary

**Berlin Zoning Board of Appeals
Regular Meeting Minutes – April 28, 2020**

I. Call to Order

The Berlin Zoning Board of Appeals held a r meeting on April 28, 2020. The meeting was called to order at 7:07 p.m.

In attendance

Chairman Anthony Francalangia
Co-Chairman Leonard Tubbs
Commissioner Nelson Graca
Commissioner Corey Whiteside
Alternate Commissioner Ryan Zelek (seated for applications #2020-01 and 2020-06)
Alternate Commissioner Hunter Mathena (seated for applications #2020-07 and 2020-08)

Acting Town Planner/Zoning Enforcement Officer Maureen Giusti

Absent

Commissioner Sandra Coppola
Alternate Commissioner Christine Mazzotta

II. Public Hearings

a. ZBA #2020-01 208 Stockings Brook Road, Map 19-3 Block 15 Lot 48

Eugene Palazzolo, Garian Property Management, is requesting a variance to maintain the existing side yard setback of 30+/- feet when 50 feet is required per Berlin Zoning Regulations § V.A.10 in the R-86 zone, to allow an existing 22 ft. x 14 ft. unpermitted screened porch on the northwest rear of the existing attached garage to remain. The property is owned by Federal National Mortgage Association

Mr. Eugene Palazzolo, Project Manager, Garian Property Management, stated the home is a designated “Fannie Mae” home which is being rehabilitated. The work is “90% cosmetic”. A 600-foot deck is extremely unsafe and will be demolished. When a demolition permit was in the process of being obtained from the town, it was found that a permit had never been approved for the deck or the porch. They would like to remove the deck and leave the screened in porch which is in good condition. He stated he has written permission to represent Fannie Mae, Dallas, in the matter. He stated after the deck is removed, stairs to the porch may be added and both the porch and stairs will be within the required setbacks.

Ms. Giusti stated the stairs will meet setbacks and the screened porch, constructed without a permit, is the matter at hand.

Mr. Palazzolo stated the porch is structurally excellent, as is the roof tied into the garage.

Ms. Giusti stated the home is part of the “Brookview Hills Subdivision” established in 1962. The zoning for this area was changed and is now an R-86 zone. The property, 209 Stockings Brook Road, is a ¾ acre parcel which means the garage is currently an existing structure with a non-conforming setback.

Mr. Palazzolo agreed that an inspection of the unpermitted porch will be needed.

Ms. Giusti stated inspection as part of obtaining a permit.

Commissioner Tubbs moved to close the hearing.

Commissioner Graca seconded the motion.

Ms. Giusti polled the Board:

Voting Aye: Commissioners Tubbs, Whiteside, Graca, Zelek, Francalancia

The motion carried unanimously.

b. ZBA #2020-06 Cynthia Drive, Map 9-3 Block 90 Lot 4D

Kevin and Jill Heslin are requesting a variance of 4 feet for a side yard setback of 6 feet when 10 feet is required in the R-11 zone per Berlin Zoning Regulations §V.B.5. for garage and living space additions. The property is owned by Jill C Heslin

Both Kevin and Jill Heslin were in attendance at this virtual meeting.

Mr. Heslin stated they would like to build a garage with a master suite above it. The plans have been drawn by an architect. He stated although the variance is actually 3-1/2 feet, he had been advised to request 4 feet. The garage is being built so cars may be stored off the street for safety and security from theft.

Mr. Heslin stated five steps are needed for the proposed two car garage into the house; however, it would mean the steps push the usable garage area into the setback. Other possibilities were discussed, including changing the elevation of the garage which would not be possible due to the steepness to get into the garage.

Ms. Giusti clarified it is standard to “round up” to a whole foot for a variance and that is why the application states four feet instead of the actual three and a half feet. She stated the original house plan seems to have been sited to allow for a one car garage.

Commissioner Graca moved to close the hearing.

Commissioner Tubbs seconded the motion.

Ms. Giusti polled the Board:

Voting Aye: Commissioners Tubbs, Whiteside, Graca, Zelek, Francalancia

The motion carried unanimously

Alternate Commissioner Ryan Zelek relinquished his seat.

Alternate Commissioner Hunter Mathena was seated for the next two applications.

c. ZBA #2020-07 50 Butternut Lane, Map 8-1 Block 29 Lot 84

Hoa T. Nguyen, Esq. is appealing the decision of the Zoning Enforcement Officer to issue a Cease and Desist Order to Karen Hoang, owner, dated 3/5/2020 per Berlin Zoning Regulations §XV, regarding the keeping of chickens/poultry at the residential property in the R-15 zone

Attorney Nguyen stated Ms. Hoang was also online at this virtual meeting. He stated he and his client agree that she does not own a “farm” as defined in the zoning regulations. The property is on .35 of an acre. He stated the pivotal issue is that she is not keeping livestock or fowl. She does not sell the chickens or eggs. He stated his case is clear that she is keeping pets and is not in pursuit of agricultural activity. There is no profit for her keeping the chickens. He submitted various published articles, including those from the Los Angeles Times, Good Housekeeping, and New Hampshire and New York publications which defined chickens as pets.

Ms. Hoang, property owner, stated she has been a Berlin resident for approximately 11 years. She stated she was not told by the store owner who sold her the chickens that she could not keep them on her property. She stated her opinion most parcels in Berlin are not ten acres, the required number of acres to keep chickens. She stated she has a predator proof coop and a fenced in yard. She feeds the chickens organic food and gives the eggs to friends and family members. She stated the chickens provide an educational benefit for her children.

Ms. Giusti noted, for clarification, and apologized that the order of the articles submitted by Attorney Nguyen seem to have gotten mixed up in the printing and uploading.

Attorney Nguyen clarified a submitted ordinance was from Concord, New Hampshire, not Berlin. He stated that ordinance had been submitted in conjunction with other articles to show other jurisdiction recognize chickens as pets. He stated when poultry or fowl is mentioned in the Berlin regulations, it is always related to the pursuit of an agricultural interest.

In response to Commissioner Whiteside’s stating the task at hand is to determine if the Cease and Desist Order had been properly served, Chairman Francalanga responded that it had been properly served. Commissioner Whiteside stated the application before the Board is not a variance to allow the keeping of chickens but only to determine if the Cease and Desist Order had been properly served.

Ms. Giusti stated the applicant’s home is a single-family home located in the Residential 15 zone. Complaints have been received about the chickens. Prior to the adoption of the Agricultural Regulations in 2016, regulations were in place for “keeping of animals” which required three acres and Zoning Board of Appeals approval. She read related sections of zoning regulations into the record. She stated the Agricultural Regulations had been addressed in public hearings and re-writes, noting that the public can always submit a proposal to amend a regulation

if unhappy with the adopted regulation. She stated pets are usually domesticated pets kept within a home.

Attorney Nguyen stated it is their opinion the regulation doesn't apply as the property is not a farm nor is the applicant in pursuit of agricultural activity.

Commissioner Tubbs stated the Board's decision is to determine if the Cease and Desist Order had been properly served, not to allow chickens or not.

Attorney Nguyen stated this is a threshold matter and it should be determined if the process is correct.

Commissioner Mathena stated the Board's decision is to determine if the Cease and Desist Order had been served with current regulations and not to judge the fairness of those regulations.

Attorney Nguyen stated it is their contention there is no violation and there is no agricultural use in this case.

Ms. Hoang noted she has six chickens which are outside most of the time. They do come into the house. When they were young, up to two months old, they did stay inside the house.

Commissioner Graca moved to close the hearing.

Commissioner Whiteside seconded the motion.

Ms. Giusti polled the Board:

Voting Aye: Commissioners Tubbs, Whiteside, Graca, Mathena, Francalancia

The motion carried unanimously

d. ZBA #2020-08 125 Wethersfield Road, Map 10-2 Block 126 Lot 2A

Richard Megos is requesting a variance of front yard setbacks on for a second-floor dormer and front porch roof extension in the required setback per Berlin Zoning Regulations §V.A.10 at an existing single-family dwelling in the R-21 zone

Mr. Megos stated he would like a roof installed over his front steps as exposure to the elements has damaged the steps. Mr. Megos stated he has a prosthetic leg, and the roof will improve the safety of the entrance, as well as improve the aesthetics of the house. He would also like to add a dormer on the back of the house as the upstairs room is not designed well and cannot function for use or placement of furniture.

Ms. Giusti stated there are actually two variances. One is for the full shed dormer and the other is to add a roof over the entry steps. Only a small portion of the new porch roof would encroach on the setback due to the angling of how the house is sited on the property.

Speaker

Mr. Wallace Suffish, 117 Wethersfield Road, spoke in favor of the application, stating the house is being “beautifully” restored from its prior condition.

Commissioner Tubbs moved to close the hearing.

Commissioner Mathena seconded the motion.

Ms. Giusti polled the Board:

Voting Aye: Commissioners Tubbs, Whiteside, Graca, Zelek, Francalangia

The motion carried unanimously

Commissioner Mathena relinquished his seat for the following two applications.

Commissioner Zelek was seated.

III Regular Meeting

a. ZBA #2020-01 208 Stockings Brook Road, Map 19-3 Block 15 Lot 48

Eugene Palazzolo, Garian Property Management, is requesting a variance to maintain the existing side yard setback of 30+/- feet when 50 feet is required per Berlin Zoning Regulations § V.A.10 in the R-86 zone, to allow an existing 22 ft. x 14 ft. unpermitted screened porch on the northwest rear of the existing attached garage to remain. The property is owned by Federal National Mortgage Association

Commissioner Tubbs moved to approve the request for this application.

Commissioner Graca seconded the motion.

Discussion

Ms. Giusti polled the Board for comments:

Commissioners Tubbs, Whiteside, Graca, Zelek, Francalangia

Commissioner Graca commented the property should be inspected prior to approval of permits.

Ms. Giusti polled the Board for a vote for the motion:

Voting Aye: Commissioners Tubbs, Whiteside, Graca, Zelek, Francalangia

The motion carried unanimously.

b. ZBA #2020-06 Cynthia Drive, Map 9-3 Block 90 Lot 4D

Kevin and Jill Heslin are requesting a variance of 4 feet for a side yard setback of 6 feet when 10 feet is required in the R-11 zone per Berlin Zoning Regulations §V.B.5. for garage and living space additions. The property is owned by Jill C Heslin

Commissioner Graca moved to approve the request for this application.

Commissioner Tubbs seconded the motion.

Discussion

Ms. Giusti polled the Board for comments and vote:

Voting Aye: Commissioners Tubbs, Whiteside, Graca, Zelek, Francalangia

Commissioner Tubbs commented other alternatives are not an option; security for the property is a plus and its consistent with the neighborhood.

The motion carried unanimously.

Commissioner Zelek relinquished his seat.

Commissioner Mathena was seated.

c. ZBA #2020-07 50 Butternut Lane, Map 8-1 Block 29 Lot 84

Hoa T. Nguyen, Esq. is appealing the decision of the Zoning Enforcement Officer to issue a Cease and Desist Order to Karen Hoang, owner, dated 3/5/2020 per Berlin Zoning Regulations §XV, regarding the keeping of chickens/poultry at the residential property in the R-15 zone

Chairman Francalangia moved to approve the decision of the Zoning Enforcement Officer to issue the Cease and Desist Order.

Commissioner Tubbs seconded the motion.

Discussion and Vote

Voting in Favor: Commissioners Tubbs, Whiteside, Graca, Mathena, Francalangia

Commissioner Whiteside stated the interpretation is correct and upheld the Zoning Officer's issuing the Cease and Desist Order.

Commissioner Mathena stated the interpretation is correct.

Commissioner Francalangia stated the interpretation is correct based on current regulations:

Commissioner Tubbs stated the interpretation is correct.

Commission Graca agreed with the Zoning Enforcement Officer's interpretation:

The motion carried unanimously. The enforcement order is upheld.

d. ZBA #2020-08 125 Wethersfield Road, Map 10-2 Block 126 Lot 2A

e. Richard Megos is requesting a variance of front yard setbacks on for a second-floor dormer and front porch roof extension in the required setback per Berlin Zoning Regulations §V.A.10 at an existing single-family dwelling in the R-21 zone

1st Variance – Porch roof extension (Wethersfield Road)

Discussion and Vote

Chairman Francalangia moved to approve the variance.
Commissioner Whiteside seconded the motion.

Voting in Favor:

Commissioner Tubbs stated the work would improve the safety of the entry bringing it up to the standards it should be, as well as the aesthetics of the house.

Commissioner Graca stated it would be a positive addition to the home, as well as the neighborhood.

Commissioner Whiteside stated his approval of the proposal and support of neighbor

Commissioner Mathena stated his agreement with the hardship and the improvement would benefit the safety of the owner.

Chairman Francalangia stated the applicant had stated a true hardship.

The motion carried unanimously.

2nd Variance – Dormer Addition

Discussion and Vote

Chairman Francalangia moved to approve the variance.
Commissioner Whiteside seconded the motion.

Voting in Favor:

Commissioner Tubbs said the proposal is staying within the original footprint.

Commissioner Graca stated the proposal will enhance the look of the house.

Commissioner Whiteside stated his agreement.

Commissioner Mathena stated his agreement with the hardship.

Chairman Francalangia stated the proposal will stay within the footprint of the house.

The motion carried unanimously.

IV Approval of Minutes

No action taken.

Commissioner Mathena relinquished his seat.

Commissioner Zelek was re-seated.

V Adjournment

Having no additional business to come properly before the Board, Commissioner Tubbs moved to adjourn. Commissioner Graca seconded the motion.

Voting Aye: Commissioner Tubbs, Graca, Whiteside, Zelek, Messina, Francalangia.

The time was 8:57 p.m.

Respectfully submitted,

Frances M. Semnoski

Acting Recording Secretary

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