

**Berlin Planning and Zoning Commission Agenda**  
**September 17, 2020**

The Berlin Planning and Zoning Commission will hold a Regular Meeting on Thursday, September 17, 2020 at 7:00 P.M. in person at the Board of Education Conference Room, located in the rear lower level of Berlin Town Hall. The public will also be able to access and participate in the meeting via Webex video conference and conference call as provided below. Therefore, the public may attend the meeting in person, via Webex video conference, or via telephone conference call.

<https://townofberlin.my.webex.com/townofberlin.my/j.php?MTID=m298e19c07f88ae4fb36e3d1389b4cc9b>

Meeting number (access code): 132 230 4779

Meeting password: P5bnkmVmB27 (75265686 from phones and video systems)

Join by phone: +1-408-418-9388 United States Toll

**\*\*\*PLEASE NOTE: The agenda and all meeting materials related to the agenda items which will be distributed to the Commission will be posted on the town's website at: [www.town.berlin.ct.us](http://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 Wednesday, September 16, 2020, for posting prior to, during and after the meeting.**

**I Call to Order**

**II Approval of Minutes**

a. September 3, 2020

**III Schedule Public Hearings**

Special Permit/Site Plan Applications of Richard Munson, Deming Road Business Park, LLC for a building on each of four existing lots, and related site improvements.

*Suggested Date: October 15, 2020 at the request of the applicant*

- a. Map 10-1, Block 83, Lot 3A (7,500 sq. ft.) Deming Road, 7,500 sq. ft. building on a rear lot for contractor shop use
- b. Map 10-1, Block 83, Lot 3A1 Deming Road, 3,606 sq. ft. building for contractor shop use
- c. Map 10-1, Block 83, Lot 3A2 Deming Road, 6,750 sq. ft. building for contractor shop use
- d. Map 10-1, Block 83, Lot 3A3 (9,000 sq. ft.) Deming Road, 9,000 sq. ft. building on a rear lot for contractor shop use

*Continued...*

**IV Commission Business**

- a. Façade Application of Michael and Rosemary Cassetta. Dairy Queen, 806 Farmington Avenue
- b. Discussion regarding motel properties along the Berlin Turnpike
- c. Discussion of required bonding concerning performance of the “Tree Preservation and Vegetation Management Plan”, and terms of related Settlement Agreement, Silver Island Homes, LLC

**V New Business**

- a. Carrier Enterprise Inc. for site plan approval to construct a single-family dwelling on Lot 19, Map 11-3, Block 132 Beckley Road, with an access easement over property identified as Lot B Ledge Drive
- b. Site Plan Amendment Application of Jon P. Demko to modify the approved 100-foot Open Space Subdivision buffer on Lot 13-3, for a buffer of 72 feet to allow for the construction of an 18’ x 36’ in-ground pool on Lot 13-3, 20 Hawks Landing

**VI Public Hearings**

- a. Special Permit/Site Plan Applications of Thomas O’Rourke, Military Experience Museum Inc. for a Military Experience Museum at 76 Chamberlain Highway (Map 30-2, Block 74, Lot 37 and 0 Chamberlain Highway) and 0 Chamberlain Highway (Map 30-2, Block 74, Lot 39) *(Continued from September 3, 2020)*

**VII Old Business**

- a. Special Permit/Site Plan Applications of Thomas O’Rourke, Military Experience Museum Inc. for a Military Experience Museum at 76 Chamberlain Highway (Map 30-2, Block 74, Lot 37 and 0 Chamberlain Highway) and 0 Chamberlain Highway (Map 30-2, Block 74, Lot 39)

**VIII Executive Session**

- a. **Discuss the status of pending litigation of Rio Vista Associates, LLC v. Berlin Planning and Zoning Commission and Town of Berlin and possible action relating to same.**
- b. **Consider whether to convene in executive session to discuss the status of the pending litigation of Rio Vista Associates, LLC v. Berlin Planning & Zoning Commission and Town of Berlin.**

**IX Adjournment**



**Berlin Planning and Zoning Commission**  
**Meeting Minutes – September 3, 2020**

The Berlin Planning and Zoning Commission held a Regular Meeting on Thursday, September 17, 2020 at 7:00 PM in person at the Board of Education Conference Room, located in the Board of Education Administrative Offices at 238 Kensington Road, Berlin. The public was also able to access and participate in the meeting via Webex video conference and conference call.

**I        Call to Order**

In attendance

Chairwoman Joan Veley

Commissioners Curtis Holtman, Diane Jorsey, Brian Rogan, Steve Wollman, Tim Zigmont

Alternate Commissioner Steve Biella, Jr.     Left the meeting at 9:40 p.m.

Excused:        Commissioner Jon-Michael O'Brien

Acting Town Planner/ZEO Maureen Giusti, AICP

**II        New Business**

- a.        Site Plan Amendment Application of David Manafort, CRP, LLC to replace an existing scale house and add a second scale, 415 Christian Lane

Mr. Matthew Brown, P.E., for the applicant, presented the application. He stated an existing scale house will be removed. A second scale will be constructed to the north of the existing scale and the new scale house will be located between the two scales. This will improve operations as there will be a new inbound traffic lane and the existing lane will be used for outbound vehicles. The scale house will have a wood frame and a new foundation. It will have a covered deck area and a window. Other ancillary work associated with the project will be minor, including widening of the existing access road.

Commissioner Wollman stated the change will greatly improve the safety of the congested site.

Commissioner Zigmont stated there is a nearby stream.

Mr. Brown stated the road does not encroach the stream and there will be minor grading and no net increase of fill within the floodplain. There is no increase of impervious surface. There is no need for mitigation of peak flows and because of the type of the facility, storm water quality is regulated by the State Department of Energy and Environmental Protection and tests are done on a quarterly basis. There are no notices of violation.

Commissioner Zigmont stated the landfill behind the property is higher than the Planning and Zoning Commission's recommendation that the height be no higher than Route 9. He stated about ten years ago, the hill was cut down and topped. He stated he had no objections to the site plan application for the scale house and second scale.

Mr. David Manafort, property owner of 415 Christian Lane, stated the landfill had been closed about 20 years ago, with elevations that had been approved by DEEP.

Commissioner Zigmont stated this commission's opinion was different. He stated staff should investigate any violations.

Ms. Giusti stated, if there is a violation it is unassociated with the application before the commission, and it would be addressed as a reported zoning violation.

Ms. Giusti stated if approved, a revised plan showing parking spaces will need to be submitted and acknowledgement from the Inland Wetlands agent that the wetlands will not be effected.

Commissioner Rogan moved to approve the application, with Ms. Giusti's stated conditions for the revised plan showing parking and the Inland Wetlands Agent's approval.

Commissioner Biella seconded the motion which carried unanimously.

- b. Carrier Enterprise Inc. has applied for site plan approval to construct a single-family dwelling on Lot 19, Map 11-3, Block 132 Beckley Road, with an access easement over property identified as Lot B Ledge Drive

Ms. Giusti stated the applicant has requested that this agenda item be continued to September 17, 2020.

Commissioner Zigmont moved to continue this agenda item to September 17, 2020.

Commissioner Jorsey seconded the motion which carried unanimously.

### **III Public Hearings**

Commissioner Rogan read the Call of the Hearings.

- a. Special Permit/Site Plan Applications of Merhan Cecunjanin for a Barber Academy and barbershop at 1427 Berlin Turnpike (Rescheduled from 8/20/20)

The applicant was not present at this time. The agenda item will be discussed later at this meeting.

- b. Special Permit/Site Plan Applications of Thomas O'Rourke, Military Experience Museum Inc. for a Military Experience Museum at 76 Chamberlain Highway (Map 30-2, Block 74, Lot 37 and 0 Chamberlain Highway) and 0 Chamberlain Highway (Map 30-2, Block 74, Lot 39) (Rescheduled from 8/20/20)

Mr. O'Rourke stated the Military Experience Museum is a non-profit organization. The site is located in an MR-1 zone which allows the proposal by Special Permit. The access for the site will be across from 2590 Chamberlain Highway. There are foot trails and battlefield recreations will be held. The site will be operational year round, weather permitting and rented for special occasions. A liquor permit and patio with seating are not proposed at this time; however, that may change in the future. The entrance will be locked. A two-year lease with renewal options is proposed. Events will be held mostly on the week-ends. Portable restrooms and cleaning stations will be available.

He read his responses to staff comments from Water Control stating that port-a-potties and wash stations will be used with no plan to use well water at this time and Inland Wetlands, stating there are no current plans for grading or changing the topography of the property. He stated there will be no permanent structures on the site.

Ms. Giusti asked that the commission suspend the meeting to 7:50 p.m. to allow technical difficulties with the equipment to be resolved.



Commissioner Wollman moved to suspend the meeting.  
Commissioner Biella seconded the meeting.

A motion to resume the meeting was made by Commissioner Wollman, seconded by Commissioner Biella and carried unanimously.

Commissioner Rogan read correspondence into the record:

- Correspondence from Clare Cain, Trails Stewardship Director, Connecticut Forest & Park Association, Rockfall, CT stating if approved, a condition should be a relocation of the New England Trail, stating if the “trail is severed by this proposal, trail continuity will be compromised”

Mr. ORourke stated the Trail Association has known for over six years that the trail goes through private property. The museum will have registration and waivers signed for its participants and there needs to be an agreement that the museum is not responsible for activity on the trail.

Commissioner Rogan read additional correspondence into the record:

- A letter stating opposition to the proposal from Attorney Dennis Kern on behalf of the Berlin Land Trust
- An email stating opposition to the proposal from Melissa Davis, 53 Westview Terrace.
- An email stating opposition to the proposal from Karen Pagliaro

Mr. ORourke responded to some concerns stated in the correspondence read into the record.  
He stated

- Regarding the noise from guns – air soft replicas will be used, similar to paint ball guns. During the re-enactments taking place on some week-ends during the daytime, they would like to have the option to allow blank fire guns.
- They will use biodegradable pellets only, with no lead or metal used.
- Regarding the Covid Virus, participants and travelers from other states would register, and travelers from restricted states not permitted. The registration would provide tracking information if needed.
- Regarding the abutting conservation land on the north side which is owned by the Town of Berlin, signs can be established or a gate installed which would reduce the ATV and dirt bike traffic using the site. A fence may restrict wildlife; a gate would be acceptable, but signs easily show the border.
- Trash and litter will be picked up more frequently than it now which is a result from unauthorized parties held on the property.
- Regarding, Attorney Kern’s letter from the Berlin Land Trust, he stated the letter has incorrect and false accusations.

Mr. ORourke continued his presentation stressing the educational goals of the museum and benefits to veterans and the general public.

Ms. Giusti read correspondence into the record:

- An email from Lorraine Stub, 2270 Chamberlain Highway stating concerns and requested more information with the proposal due to noise.
- An email with attached Police Memo concerning noise on the site caused by a previous shooting range and asking if the current applicant was affiliated with that range.

Speakers in attendance at the meeting:

Alexandria Kaminski stated her home is across from the field. She stated the noise from the guns will be a problem due to the acoustics of the area; the application is more for a military experience rather than a museum; the porta potties will be an eyesore and asked if they would be cleaned daily as well as the trash collected daily. She asked if the obstacle course will be set up daily and it will be a danger to animals and hikers.

Peter Zarabozo, 158 Ellwood Road, stated the applicant is “grossly misrepresenting” the application as it is not a museum but a military simulation exercise. He stated he has looked at Mr. ORourke’s business history on his web site and it shows he has organized 70 regional events, including those with 50 to 500 participation, including military simulation. Mr. Zarabozo stated he is “deeply concerned” about what is being proposed and is “staunchly against it”.

Christopher Edge, Director of Economic Development, Town of Berlin, stated the application could work if a middle ground is found.

In response to Commissioner Rogan’s questions, Mr. ORourke stated they would like the option of overnight camping for events; they will work with the town regarding the number of re-enactments, perhaps once or twice a year; an airsoft bee bee can travel up to 300 feet; and they will re-locate the porta-potties to a different location if needed.

In response to Commissioner Jorsey’s questions, Mr. ORourke stated the porta potties (typically one for the number of 30 people) will be located only at one area of the 77 acres; temporary structures, containers such as those used by the U.S. Army, to simulate a building will be used; security for the site, including vandalism such as graffiti, is difficult to control; blank fire weapons will be used a couple times a year in re-enactments and those will include rifle, pistol, and grenades – at this time there are no plans for tanks; battlefield re-enactments may take place three to four times a year; re-enactments using air soft weapons may occur two to three times a month; control of weapons is done by tagging and adapters, participants are checked in and sign waivers and property safety gear is checked; the 77 acre site makes it impossible to create a barrier for access to the site; the parking area is gravel and dirt.

Commissioner Jorsey stated if the applicant proposes motorized military vehicles he would need to return to the commission.

Mr. ORourke stated one of his other businesses is a military simulation company and he runs activities at military bases. He noted he has written screen plays and is in the entertainment business. He discussed the difficulties of non-profit and museums and museums staying open.

Commissioner Zigmont stated the obstacle course has small buildings and tunnels as permanent structures. He stated he does not see a support system, such as food trucks, for large attendance at events.

Commissioner Wollman moved to keep the public hearing open to September 17, 2020.  
Commissioner Holtman seconded the motion which carried unanimously.

(Commissioner Biella left the meeting at this time – 9:40 p.m.)

The agenda item delayed from earlier in this meeting was then considered:



### **III Public Hearing**

- a. Special Permit/Site Plan Applications of Merhan Cecunjanin for a Barber Academy and barbershop at 1427 Berlin Turnpike (Rescheduled from 8/20/20)

Mr. Admir Cecunjanin presented the application. He stated remodeling of the 1800 s.f. building is being done, including a new roof. Expansion of the business is anticipated.

Ms. Giusti stated the applicant had come before the commission in 2019 with a zoning amendment which will allow the vocational school in the current zone. There is an existing site plan approval for the property; however, parking needs clarification and there are some unsightly materials on site which will need to be removed. Should the business uses expand, including food service and a patio, the applicant will need to come back to the commission.

Christopher Edge, Director of Economic Development, stated support for the application.

Commissioner Wollman moved to close the hearing.

Commissioner Rogan seconded the motion which carried unanimously.

### **IV Old Business**

- a. Special Permit/Site Plan Applications of Merhan Cecunjanin for a Barber Academy and barbershop at 1427 Berlin Turnpike

Commissioner Wollman moved to approve the applications, subject to clarification of parking and resolving the issue of unsightly materials on the property.

Commissioner Jorsey seconded the motion which carried unanimously.

- b. Special Permit/Site Plan Applications of Thomas O'Rourke, Military Experience Museum Inc. for a Military Experience Museum at 76 Chamberlain Highway (Map 30-2, Block 74, Lot 37 and 0 Chamberlain Highway) and 0 Chamberlain Highway (Map 30-2, Block 74, Lot 39)

No discussion or action taken. The public hearing has been continued to September 17, 2020.

### **V Approval of Minutes**

- a. August 20, 2020

Commissioner Zigmont moved to approve the minutes, as presented.

Commissioner Jorsey seconded the motion which carried unanimously.

### **VI Adjournment**

Commissioner Jorsey moved to adjourn.

Commission Wollman seconded the motion which carried unanimously.

Respectfully submitted,

Frances M. Semnoski  
Recording Secretary







**Wisniewski & Sullivan, LLC**  
**Attorneys at Law**

**Wanda L. Wisniewski**  
Also admitted in New York

*Please respond to our Southington office*

**Timothy Sullivan**

**FILE COPY**

September 3, 2020

Town of Berlin  
240 Kensington Road  
Berlin, CT 06037

Town of Berlin  
Received

SEP 03 2020

Planning & Zoning Department  
Berlin, Connecticut

Attn: Maureen Giusti, Acting Town Planner

**RE: Deming Road Business Park, LLC  
Site Plan Application  
Special Permit Application**

Dear Mrs. Giusti

As we discussed, Wisniewski & Sullivan, LLC represents Deming Road Business Park, LLC ("DRBP") in regard to its Special Permit Applications and Site Plan Application for property on Deming Road known as 10-1/83/3A, 10-1/83/3A1, 10-1/83/3A2 and 10-1/83/3A3 (the "Property"). These are identical applications filed by Progressive Development Corporation ("PDC") in 2014 which were approved by the Planning & Zoning Commission in 2015 with the only change being the applicant. PDC is solely owned by Richard Munson and at the time of the 2014 application the Property was owned by Karen Berube. Following the 2015 approvals DRBP, which is solely owned by Munson, purchased the Property from Berube. Enclosed please find the following:

**SPECIAL PERMIT**

1. An Application/Application Checklist and a check in the amount of \$1,120.00
2. Written Narrative of Proposal;
3. List of names and addresses of owners of property within 500 feet of the subject property. The Proof of mailing will be submitted once a Public Hearing date is scheduled;

4. Acknowledgement of sign posting requirement;
5. Three (3) copies of a traffic study;
6. Three (3) copies of the environmental impact analysis submitted with the 2014 application. Concerning section XIIB5i of the regulation, while the Berlin Inland Wetlands & Watercourses Commission approved the 2014 application, an identical application was resubmitted on September 3, 2020 and is pending. Concerning section XIIB5j (new since 2014), a Phase 2 Environmental Study was performed which revealed no environmental contamination on the property; and
7. Three (3) copies of the Soil Resource Consultants report which was submitted with the 2014 application.

Finally, if possible, please schedule the Public Hearing on the applications for the Commission's October 15, 2020 meeting.

#### **SITE PLAN**

1. An Application/Application Checklist and a check in the amount of \$2,465.00;
2. Five (5) sets of 24"x36" Design Prints and Twelve (12) sets of 12"x18" Design Prints;
3. Five (5) sets of 24"x36" Architectural Plans and Twelve (12) sets of 12"x18" Architectural Plans; and
4. Two (2) copies of The Drainage Report which is the same Drainage Report submitted with the 2014 application.

Please note that the Landscaping Plan will be submitted.

Sincerely



Timothy Sullivan

Town of Berlin  
Received

SEP 03 2020

Planning & Zoning Department  
Berlin, Connecticut

ETS/AM  
Enc.





# Town of Berlin

## Planning and Zoning Department

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

### SITE PLAN APPLICATION

☒ Site Plan

☐ Site Plan Amendment

Project Name: Deming Road Business Park

Property Owner(s): Deming Road Business Park, LLC

Project Address\*: \*

Map: \* Block: \* Lot: \* Zone(s): GI2 Lot Area: \*

\* See Addendum

Please select all relevant items below:

- ☒ Special Permit – Also complete special permit application form
- ☐ Property is within 500 feet of a Municipal Boundary of \_\_\_\_\_
- ☐ Amendment to Zoning Regulations – Section(s) \_\_\_\_\_
- ☐ Amendment to Zoning Map – Zone(s) affected \_\_\_\_\_
- ☐ Zoning Board of Appeals review needed
- ☒ Inland Wetlands and Water Course Commission review needed

### Applicant Information

Name: Richard Munson Firm Name: Deming Road Business Park, LLC  
Street Address: 990 Andrews St City: Southington ST: CT Zip: 06489  
Email: none Phone: 860-919-6912  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Name: Same as Applicant Principal: \_\_\_\_\_  
Street Address: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

\*Letter of Authorization Required

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

This Site Plan Involves:

☐ Additions

☐ Alterations

☐ Demolition

☒ New Construction

Description of Project\*: See Addendum

\*If more space is needed, then please provide separate narrative document.

#### SITE PLAN ZONING STATISTICS

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED</u>
USE(S)	<u>none</u>	<u></u>	<u></u>
	<u></u>	<u></u>	<u></u>
	<u></u>	<u></u>	<u></u>
COMMERCIAL			
Gross Floor Area	<u></u>	<u></u>	<u></u>
Parking Spaces	<u></u>	<u></u>	<u></u>
INDUSTRIAL			
Gross Floor Area	<u>none</u>	<u>See Attached</u>	<u></u>
Parking Spaces	<u>none</u>	<u>See Attached</u>	<u></u>
RESIDENTIAL			
Number of Units	<u></u>	<u></u>	<u></u>
Number of Bedrooms	<u></u>	<u></u>	<u></u>
Gross Floor Area	<u></u>	<u></u>	<u></u>
Parking Spaces	<u></u>	<u></u>	<u></u>
OTHER USES			
Gross Floor Area	<u></u>	<u></u>	<u></u>
Parking Spaces	<u></u>	<u></u>	<u></u>

To be completed by P&Z staff only:

Fee Paid \$  (Refer to current Fee Schedule)

Received by:

Town of Berlin  
Received

SEP 03 2020





# Town of Berlin

## Planning and Zoning Department

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

### SPECIAL PERMIT APPLICATION

(Any Special Permit Application shall be submitted simultaneously with a Site Plan Application)

Project Name: Deming Road Business Park  
Property Owner(s): Deming Road Business Park, LLC  
Project Address\*: 0 Deming Road, Berlin, CT  
Map: 10-1 Block: 83 Lot: 3A Zone(s): GI2 Lot Area: 3.45 acres

#### Applicant Information

Name: Richard Munson Firm Name: Deming Road Business Park, LLC  
Street Address: 990 Andrews St City: Southington ST: CT Zip: 06489  
Email: none Phone: 860-919-6912  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Name: Same as Applicant Principal: \_\_\_\_\_  
Street Address: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

\*Letter of Authorization Required

Special Permit required pursuant to section(s):

Section VII c 3 e

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

To be completed by P&Z staff only:

Fee Paid \$ 280.- (Refer to current Fee Schedule)

Received by: JMS

Town of Berlin  
Received

SEP 03 2020



# Town of Berlin

## Planning and Zoning Department

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

### SPECIAL PERMIT APPLICATION

(Any Special Permit Application shall be submitted simultaneously with a Site Plan Application)

Project Name: Deming Road Business Park  
Property Owner(s): Deming Road Business Park, LLC  
Project Address\*: 0 Deming Road, Berlin, CT  
Map: 10-1 Block: 83 Lot: 3A1 Zone(s): GI2 Lot Area: .55 acres

#### Applicant Information

Name: Richard Munson Firm Name: Deming Road Business Park, LLC  
Street Address: 990 Andrews St City: Southington ST: CT Zip: 06489  
Email: none Phone: 860-919-6912  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Name: Same as Applicant Principal: \_\_\_\_\_  
Street Address: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

\*Letter of Authorization Required

Special Permit required pursuant to section(s):

Section VII c 3 e

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

To be completed by P&Z staff only:

Fee Paid \$ 280.- (Refer to current Fee Schedule)

Received by: fms

Town of Berlin  
Received

SEP 03 2020



# Town of Berlin

## Planning and Zoning Department

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

### SPECIAL PERMIT APPLICATION

(Any Special Permit Application shall be submitted simultaneously with a Site Plan Application)

Project Name: Deming Road Business Park  
Property Owner(s): Deming Road Business Park, LLC  
Project Address\*: 0 Deming Road, Berlin, CT  
Map: 10-1 Block: 83 Lot: 3A2 Zone(s): GI2 Lot Area: .51 acres

#### Applicant Information

Name: Richard Munson Firm Name: Deming Road Business Park, LLC  
Street Address: 990 Andrews St City: Southington ST: CT Zip: 06489  
Email: none Phone: 860-919-6912  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Name: Same as Applicant Principal: \_\_\_\_\_  
Street Address: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

\*Letter of Authorization Required

Special Permit required pursuant to section(s):

Section VII c 3 e

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

To be completed by P&Z staff only:

Fee Paid \$ 280.- (Refer to current Fee Schedule)

Received by: fm S

Town of Berlin  
Received

SEP 03 2020





# Town of Berlin

## Planning and Zoning Department

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

### SPECIAL PERMIT APPLICATION

(Any Special Permit Application shall be submitted simultaneously with a Site Plan Application)

Project Name: Deming Road Business Park  
Property Owner(s): Deming Road Business Park, LLC  
Project Address\*: 0 Deming Road, Berlin, CT  
Map: 10-1 Block: 83 Lot: 3A3 Zone(s): GI2 Lot Area: .82 acres

#### Applicant Information

Name: Richard Munson Firm Name: Deming Road Business Park, LLC  
Street Address: 990 Andrews St City: Southington ST: CT Zip: 06489  
Email: none Phone: 860-919-6912  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Name: Same as Applicant Principal: \_\_\_\_\_  
Street Address: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

\*Letter of Authorization Required

Special Permit required pursuant to section(s):

Section VII c 3 e

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

To be completed by P&Z staff only:

Fee Paid \$ 280.- (Refer to current Fee Schedule)

Received by: fms

Town of Berlin  
Received

SEP 03 2020

## Façade Improvements

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**Application:** Façade Program  
**Project Name:** Dairy Queen  
**Address:** 806 Farmington Avenue  
**Zone:** CCD-2  
**Applicant:** Michael and Rosemary Cassetta  
**Owner:** MRP Realty LLC  
**Proposal:** Exterior Renovation

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**PENDING REVISED MATERIALS FROM APPLICANT (9-15-2020)**  
**THIS ITEM MAY HAVE TO BE POSTPONED TO A LATER DATE**

### **Background:**

The Commission provided feedback to the applicant regarding exterior renovations at their May 21, 2020 meeting. The applicant was asked to work on revised plans with the Town façade consultant that are more reflective of the “village” character of the area.

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# Town of Berlin

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Department of Economic Development

September 8, 2020

Joan Veley  
Chairwoman  
Berlin Planning & Zoning Commission  
240 Kensington Road  
Berlin, CT 06037

Dear Chairwoman Veley and Ms. Giusti:

I am writing this note to inform the commission I have been speaking to a developer who is interested exploring the option of redeveloping a site which is vacant, but was most recently used as a motel. This site is located on the Berlin Turnpike in the BT-1 zone. His plans would be to take the existing motel units, completely remodel them in order to transform them into new modern living units and taking the old, unoccupied, outdated buildings to today's standards. He would propose to renovate all of the current separate structures and simultaneously build new units on the undeveloped portion of the property. These units would be smaller size units meant for young couples or retirees who would like a unique living experience. In order to attract the quality tenant to this location, the construction will have to be of a higher quality. This type of renovation will involve a substantial investment, with the plan of getting a return on the investment over the long term through the rental of the units. The Developer believes the viability of this concept of small, quality living units with a convenient location will depend heavily on the quality of construction.

I would estimate that we have at least 10 currently operating vacant motels on the Berlin Turnpike. These motels have been part of Berlin for many years. But, as the economy has grown, some of these properties have not kept up with the times. The developer I have been approached by has done successful projects in Berlin and would like to again invest in our town. The property in question is south of Route 9 and is in great need of TLC.

For this type of development to occur, this body would need to adopt a text amendment that would allow motels or hotels to be converted into residential units. If converted, this project would bring in additional revenue to the Town of Berlin through both the property improvements as well as tax revenue from new vehicles to the tax rolls. With the recent developments on Farmington Avenue and the Berlin Turnpike, investment in quality apartments can continue to be of great value for the Town of Berlin. This text amendment would assist developers in taking motels and hotels and turning them into "new properties" with more stable long term tenants. This type of development will also give potential future home buyers in the Town of Berlin another housing option in order to "test drive" our town before deciding to plant roots here.

Visit our Web Site <http://www.town.berlin.ct.us>

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# Town of Berlin

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## Department of Economic Development

I have been in touch with a number of towns in Connecticut and have found language including Multi-Use Developments in North Haven as well as Adaptive Reuse Regulations in Windsor Locks which the commission can use as an outline. Both communities have seen redevelopment of properties which have brought new excitement as well as additional revenues to each town. I am requesting your consideration of this concept, or at least a discussion at a future Planning & Zoning meeting. If such language was added and is limited to current or former motels/hotels, we could see a benefit in the revitalization of our Turnpike one property at a time. I welcome your feedback and thank you for your time.

Sincerely,

Christopher Edge  
Economic Development Director

Visit our Web Site <http://www.town.berlin.ct.us>

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## MEMO

**TO: Berlin Planning and Zoning Commission**

**FROM: Jennifer N. Coppola, Esquire, Ciulla & Donofrio, LLP**

**DATE: September 15, 2020**

**RE: Special Permit Application #64766 and Site Plan Application #64768**

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On the meeting agenda for the Commission's September 17, 2020 meeting under Commission Business is a discussion of the required bonding concerning performance of the "Tree Preservation and Vegetation Management Plan" ("Plan") for Silver Lake Estates and the terms of a related Settlement Agreement, which was entered into by the parties in the matter of Silver Island Homes, LLC and Vincent Brescia v. Berlin Planning and Zoning Commission (Docket No. HHB-CV04-4000329-S) ("2004 Settlement Agreement"). Said discussion item was placed on your agenda as a result of a recent meeting held between the Town (Acting Planner and Zoning Enforcement Officer Maureen Giusti and myself); Armand DiMatteo who is principal of Silver Island Homes, LLC ("Mr. DiMatteo") and its counsel Attorney Emanuele Mangiafico; and counsel for Vincent and Joseph Brescia, Attorney Richard Pentore.

A copy of the Plan and the 2004 Settlement Agreement is attached.

The Plan, dated October 13, 2004, was prepared by licensed arborist Peter C. Moritz of Acorn Tree Care, Inc. ("Mr. Moritz").

The 2004 Settlement Agreement provides at Section 4:

4. The Plaintiffs will be permitted to conduct selective cutting, pruning, planting and management in the Buffer/Conservation area in accordance with the "Tree Preservation and Vegetation Management Plan" submitted by the Plaintiffs' arborist, Peter C. Moritz, dated October 13, 2004. The Plaintiffs further agree to retain Peter Moritz throughout all phases of construction to supervise the management of the Buffer/Conservation area and to insure [sic] that the management plan is followed. Plaintiff will post a bond in the amount of \$45,000.00 to insure [sic] the enforcement and completion of the management plan. (This bond is separate and distinct from the customary construction/completion bond referred to in item No. 7 below). Said bond shall remain in effect for two (2) years after the completion of the entire project and the final certificates of occupancy are issued.

It appears based upon discussions among the parties and submissions to the Town that partial performance on the Plan has occurred and that Mr. Moritz has not supervised said performance in its entirety.

You will recall that Mr. DiMatteo recently requested a release of the remaining bond amount of \$91,200 being held on the above-referenced application approvals via an Irrevocable Standby Letter of Credit (“LOC”) and that a partial reduction of the bond (\$14,000 for paving) was approved by the Commission at its August 20, 2020 meeting. You may also recall that the LOC was terminated via the “Notice of Non-Extension” issued by People’s United Bank to the Town of Berlin as Beneficiary of the LOC with a final expiration date of August 17, 2020. Mr. DiMatteo has represented that he is attempting to extend the LOC but to date, has been unable to do so due to changes at the Bank related to the individual(s) assigned to process LOC applications.

Last year, special permit and site plan applications were submitted by Joseph Brescia to reapprove the subject above-referenced applications, which submitted applications were approved with conditions at the Commission’s August 1, 2019 meeting, including that all conditions of the 2004 Settlement Agreement were carried over to said 2019 Approvals. A copy of the letter of decision regarding the 2019 special permit and site plan approvals is attached.

Thus, without a substituted appropriate financial guarantee in the form of a cash bond or letter of credit having been submitted to the Town, Silver Island Homes, LLC and Vincent Brescia are in violation of the 2004 Settlement Agreement and Joseph Brescia is in default on the conditions of the 2019 special permit and site plan approvals.

Mr. DiMatteo has proposed that a report be submitted to the Commission regarding the status of performance on the Plan for the purpose of discussion modification of Section 4 of the Settlement Agreement by agreement of the parties.





# Town of Berlin

## Planning and Zoning Department

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

Planning and Zoning Commission  
Zoning Board of Appeals  
Conservation Commission  
Historic District Commission

August 7, 2019

Mr. Joseph Brescia  
12 Bedford Street  
New Britain, CT 06051

**RE: Notice of Decision – Planning & Zoning Commission**

**Application:** Site Plan and Special Permit  
**Project Name:** Silver Island Estates  
**Address:** Silver Island Way (27-3-120-65), North Colony Road (Meriden)  
**Zone:** POR  
**Applicant:** Joseph Brescia  
**Owner:** Joseph Brescia, Silver Island Homeowner's Association  
**Proposal:** Re-Approve Multi-Family, Age Restricted Development: 24 units

Dear Mr. Brescia:

At a regular meeting held on August 1, 2019 the Planning and Zoning Commission considered the above referenced applications and took the following action:

Upon a motion to approve the special permit and site plan made by Commissioner Wollman and seconded by Commissioner Rogan, the following resolution was unanimously adopted. (Voting in Favor: Veley, Jorsey, Rogan, Wollman, O'Brien, and Zigmont)

WHEREAS the Commission held a public hearing on August 1, 2019 and took all testimony required by law; and

WHEREAS special permit and site plan applications were submitted for approval to re-approve Site Plan #64768 and Special Permit #64766 for the construction of a multi-family development with 24 age-restricted, detached units located on a 8.8 ac property known as Silver Island Estates located off of North Colony Road (Meriden) in the POR Zone pursuant to Sections VIII.A, XII, and XIII of the Berlin Zoning Regulations; and

Marek Kozikowski, AICP, Town Planner. 860-828-7060. mkozikowski@town.berlin.ct.us  
Maureen Giusti, Assistant Town Planner/ZEO. 860-828-7008. mgiusti@town.berlin.ct.us  
Frances Semnoski, Land Use Administrator. 860-828-7066. fsemnoski@town.berlin.ct.us

WHEREAS the property contains 8.8 acres with a majority of the property located in the POR zone in Berlin and a portion of the property located in Meriden; and

WHEREAS the site is improved with a multi-family detached development with 18 constructed units, a private road-way, landscaping, utilities, and other associated improvements; and

WHEREAS the proposal includes completing the remaining units that have not been constructed and associated improvements; and

WHEREAS the first unit to be constructed is Unit # 6 along with the associated grading, and drainage improvements in the center common area; and

WHEREAS On 6/10/04, the Planning & Zoning Commission approved the site plan and special permit for the 24-unit, age restricted multi-family development with conditions, an appeal was filed, and on 12/21/04 a Settlement Agreement was made that replaced the conditions of the approval; and

WHEREAS the multi-family use is a special permit use (VIII.A.3.i) in the POR Zone consisting of 30 units at a density of 3 units/acre; and

WHEREAS the remaining unit areas shall be developed with the three design options originally approved, which are the Sussex model, the Worthington model, and at the Kensington model; and

WHEREAS the stormwater management plan was modified for the center common area with a new drainage swale with an underdrain with will connect to the stormwater system for the property; and

WHEREAS all other site improvements according to the originally approved site plan are proposed; and

WHEREAS the Commission received comments from the Town Planner and Public Works department; and

THEREFORE be it resolved the special permit and site plan applications of Joseph Brescia for the reapproval of Site Plan #64768 and Special Permit #64766 for the construction of a multi-family development with 24 age-restricted, detached units located on a 8.8 ac property known as Silver Island Estates located off of North Colony Road (Meriden) in the POR Zone as shown on

site development plans prepared by MBA Engineering, Inc. dated 8/7/03 with revisions dated 10/26/05 and modifications prepared by Harry E. Cole & Son dated 6/1/19 and revised 7/29/19 are hereby approved with the following conditions:

1. All conditions of the settlement agreement are carried over to this approval.
2. The Town Engineer shall confirm that the proposed drainage system complies with the Town standards.
3. Town Staff shall determine a site bond value for any work not completed under the site plan approval.
4. The units will be architecturally consistent with the existing units.
5. The originally approved grading will be installed including proper grading into the catch basin in the center island along with modification to the new swale.

In accordance with Section XIII.A.13 of the Town of Berlin Zoning Regulations, failure to complete all approved work within five years of the approval date shall result in automatic expiration of the approval. Upon a written request to extend the site plan approval beyond five years, the Planning & Zoning Commission may grant one or more extensions of time to complete all work not to exceed ten years from the initial approval date.

Sincerely,



Marek Kozikowski, AICP  
Town Planner



2turn: Joseph Brescia  
12 Bedford St.  
New Britain  
CT, 06051



# Town of Berlin

Doc ID: 001560540001 Type: SPECPERM  
BK 760 PG 747

## Planning and Zoning Department

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

Planning and Zoning Commission  
Zoning Board of Appeals  
Conservation Commission  
Historic District Commission

Record and Return to:

## CERTIFICATE OF SPECIAL PERMIT

**OWNER:** Joseph Brescia  
Silver Island Homeowner's Association

**APPLICANT:** Joseph Brescia

**LOCATION:** Silver Island Way (27-3-120-65)

### DESCRIPTION OF ACTION:

At its Regular Meeting of August 1, 2019, the Berlin and Planning and Zoning Commission unanimously approved with conditions, a reapproval of Site Plan #64768 and Special Permit #64766 for the construction of a multi-family development with 24 age-restricted, detached units located on a 8.8 ac property known as Silver Island Estates located off of North Colony Road (Meriden) in the POR Zone as shown on site development plans prepared by MBA Engineering, Inc. 8/7/03 with revisions dated 10/26/05 and revisions prepared by Harry E. Cole & Son dated 6/1/19 and revised 7/29/19.

In accordance with CGS Chapter 126 Section 8-26 and Section XIII.A.13 of the Town of Berlin Zoning Regulations all work in connection with such special permit and site plan amendment within five years after the approval date. Upon a written request to extend the special permit and site plan amendment approval beyond five years, the Planning & Zoning Commission may grant one or more extensions of time to complete all work not to exceed ten years from the initial approval date.

Marek Kozikowski, AICP  
Town Planner

Received for Record at BERLIN, CT  
On 08/09/2019 At 10:47:47 am

Marek Kozikowski, AICP, Town Planner. 860-828-7060. mkozikowski@town.berlin.ct.us  
Maureen Giusti, Assistant Town Planner/ZEO. 860-828-7008. mgiusti@town.berlin.ct.us  
Frances Semnoski, Land Use Administrator. 860-828-7066. fsemnoski@town.berlin.ct.us

DOCKET NO : CV 04-4000329S	:	SUPERIOR COURT
SILVER ISLAND HOMES, LLC, ET AL	:	J.D. OF NEW BRITAIN
VS.	:	AT NEW BRITAIN
BERLIN PLANNING AND ZONING COMMISSION	:	DECEMBER 21, 2004

### SETTLEMENT AGREEMENT

The Plaintiffs, Silver Islands Homes, LLC and Vincent Brescia, filed this zoning appeal arising out of certain conditions attached to the approval of a Special Permit Use/Site Plan which was approved by the Defendant Berlin Planning and Zoning Commission on June 10, 2004. The parties have agreed to settle this matter as follows: The approval of the Plaintiffs' Special Permit Use/Site Plan Application will remain in effect, subject to the following conditions which are in lieu of the original conditions contained in the June 10, 2004 approval:

1. That the Plaintiffs' receive approval from the Berlin Water Control Commission regarding the supply of water to the property.
2. Any staff notes that have been agreed to at this time by the applicant will continue to be addressed.
3. Construction will be done in four phases as outlined in the Plaintiffs submission entitled "Construction Phasing/Sequencing" dated September 7, 2004. Phase I will include the infrastructure and eight units, with minimal intrusion into areas to be built upon in Phases II and III (no stumping, excavating or rough grading to take place in Phase II and III areas except where infrastructure improvements are to be installed). Phase II and III will include eight additional units each. Phase IV will include final paving, curbs and misc. items. Completion of each phase including seeding for erosion control shall take place prior to commencement of the next phase. After the completion of each phase, and before the commencement of the next phase, the Plaintiff's engineer, Bart Bovee, will submit to the Defendant written verification that the completed phase was done in accordance with the "Construction Phasing/Sequencing" plan dated September 7, 2004.
4. The Plaintiffs will be permitted to conduct selective cutting, pruning, planting and management in the Buffer/Conservation area in accordance with the "Tree Preservation and Vegetation Management Plan" submitted by the Plaintiffs'

arborist, Peter C. Moritz, dated October 13, 2004. The Plaintiffs further agree to retain Peter Moritz throughout all phases of construction to supervise the management of the Buffer/Conservation area and to insure that the management plan is followed. Plaintiff will post a bond in the amount of \$45,000.00 to insure the enforcement and completion of the management plan. (This bond is separate and distinct from the customary construction/completion bond referred to in item No. 7 below). Said bond shall remain in effect for two (2) years after the completion of the entire project and the final certificates of occupancy are issued.

5. Age restriction, as per Berlin Zoning Regulations, will be stated in the condominium documents.
6. The condominium documents must conform to the Berlin Zoning Regulations and will be reviewed by staff.
7. Submittal of a bond regarding construction and completion in an amount to be determined by staff.
8. At the completion of the entire project the Plaintiff's engineer, Bart Bovee, will submit to the Defendant written verification that the stormwater, erosion and sedimentation controls were constructed in accordance with the plans submitted by the Plaintiff.

PLAINTIFF  
SILVER ISLAND HOMES, LLC  
And VINCENT BRESCHIA

DEFENDANT  
BERLIN PLANNING AND  
ZONING COMMISSION

By     / S /      
Kenneth Slater, Esq., Their Attorney  
Halloran & Sage  
225 Asylum Street  
Hartford, CT 06103  
Tel. 522-6103 Juris #26105

By     / S /      
Robert F. Weber, Jr., Its Attorney  
Weber & Carrier  
24 Cedar Street  
New Britain, CT 06052  
Tel. 225-9463 Juris#66587



## **ACORN TREE CARE, INC.**

P.O. Box 1057  
82 East Litchfield Road South  
Litchfield, Connecticut 06759

(860) 567-0652

### **Silver Lake Estates**

#### **Tree Preservation and Vegetation Management Plan**

As Prepared By  
Peter C. Moritz  
Licensed Arborist  
October 13, 2004



**Silver Lake Estates**  
**Tree Preservation and Vegetation Management Plan**

**I. GOAL OF THE PLAN**

Establish site specific guidelines from standards set forth by the Tree Care Industry Association ("TCIA" f/k/a "NAA"), International Society of Arboriculture ("ISA"), American National Standards Industry ("ANSI") and other commonly accepted arboricultural practices, in order to preserve and enhance desirable plant species for a Conservation Area to best manage the conservation area and improve and maintain its function as a buffer or screen.

**II. PURPOSE OF THE PLAN**

Provide the Town of Berlin and the property developers and ultimately the property owners a workable approach to create, manage and preserve a true and viable conservation area, which will serve as a buffer and screening area around the development. Establish standards for: (1) removal of hazardous and undesirable trees and shrubs; (2) the preservation of the trees and shrubs to remain in the Conservation Area, specifically the blue and green tagged trees; and (3) size and quantity of the desirable trees and shrubs to be planted, as identified and discussed in Acorn's September 9, 2004 report.

**III. IMPLEMENTATION OF THE PLAN**

Retain the services of an arborist licensed by the State of Connecticut to perform and oversee that the specifications of The Plan are implemented prior to, during and after construction activities.

**IV. SPECIFICATIONS OF THE PLAN**

A. Identify desirable and undesirable plant species, as defined and discussed in the September 9, 2004 Acorn Report, within the designated Conservation Area.

B. Tree Preservation of desirable trees

1. Crown cleaning: Pruning of dead, dying, diseased, weak branches and water sprouts



2. Soil Injections: Liquid soil injections of organic bio-stimulants and mycorrhizae to promote root development, root viability and enhancement
3. Root pruning: Pruning of roots greater than 1 ½ " diameter that have been disturbed by construction activities
4. Mulching: Distribution of organic material over areas under trees where existing surface organic material is disturbed
5. Cabling: Installation of support cables in trees where structural defects exist
6. Monitoring: Inspections of the trees during and after construction activities, making additional action steps as needed
7. Tree protection: Install clearly visible barrier to prevent unauthorized access to Conservation Area during construction, with appropriate fines for compliance failure

#### C. Removal of Undesirable Species

1. Remove the trees, shrubs and vines that are a hazard or will be a detriment to desirable trees, or whose presence will not provide a long-term buffer or screen. These undesirable species consist primarily of Black Birch, Grapevines, Poison Ivy, Wild Rose and Witch Hazel.

#### D. Conservation Area Enhancement

1. Plant 2.0" to 2.5" caliper replacement trees of a desired species, on a one-to-one basis, for each undesirable tree over 6" caliper that is removed. Plant 3' to 4' shrubs of a desirable species and similar density to replace undesirable shrubs that are removed. Plant three 4" to 4.5" caliper replacement trees of the same species to replace any tree that is lost due to construction activities.

**PETER C. MORITZ**  
**Licensed Arborist**  
**P.O. Box 1057**  
**Litchfield, Connecticut 06759**

**Education:**

- |           |   |
|-----------|---|
| 1968-1972 | Suffield Academy<br>Suffield, Connecticut   |
| 1972-1974 | Paul Smith's College<br>Paul Smith, New York <ul style="list-style-type: none"><li>• A.A.S. Forestry</li></ul>        |
| 1974-1976 | University of Massachusetts<br>Amherst, Massachusetts <ul style="list-style-type: none"><li>• B.S. Forestry</li></ul> |

**Continuing  
Education:**

List of studies available upon request.

**Professional:**

- |              |   |
|--------------|---|
| 1973-1978    | The Haupt Tree Co.<br>Sheffield, Massachusetts <ul style="list-style-type: none"><li>• Climber</li><li>• Sales Arborist</li></ul> |
| 1979-1985    | Alpine Tree Care<br>White Plains, New York <ul style="list-style-type: none"><li>• Sales Arborist</li><li>• Manager</li></ul>     |
| 1985-1995    | Acorn Tree Care<br>Litchfield, Connecticut <ul style="list-style-type: none"><li>• Founder/President</li></ul>                    |
| 1995-1999    | The Care of Trees<br>Trumbull, Connecticut <ul style="list-style-type: none"><li>• C.O.O. Northeast Region</li></ul>              |
| 1999-present | Acorn Tree Care<br>Litchfield, Connecticut <ul style="list-style-type: none"><li>• President</li></ul>                            |



**Memberships:**

1980-present	Connecticut Tree Protective Association Board of Directors, 1986-1996 President, 1994-1995
1978-present	National Association of Arborists
1974-present	International Society of Arboriculture Northeast Chapter Representative, 1977-1978

**Accreditation  
and Awards:**

- Excellence in Arboriculture Award, Pepsico World HQ, Purchase, NY (1999)
- Excellence in Arboriculture Award, Peter Cooper Village, Stuyvesant Town, NY (1998)
- Arborist Citation, CTPA (1997)
- Certified Arborist, International Society of Arboriculture (1994)
- Connecticut Licensed Arborist, State of Connecticut (1977)
- Massachusetts Certified Arborist, Massachusetts Arborist Association (1975)
- Eagle Scout Award, Boys Scouts of America (1969)





## ACORN TREE CARE, INC.

P.O. Box 1057  
82 East Litchfield Road South  
Litchfield, Connecticut 06759

(860) 567-0652

September 9, 2004

Kenneth R. Slater, Esquire  
Halloran & Sage LLC  
225 Asylum Street  
Hartford, Connecticut 06106

Re: Silver Island Estates  
Meriden / Berlin, Connecticut

Dear Attorney Slater:

The following is a draft of my observations and recommendations, based on my site visit to the proposed Silver Lake Estates on August 31, 2004. I primarily focused my visit on the Buffer/Conservation area.

### I. OBSERVATIONS

- A. The Buffer/Conservation area contains a variety of desirable and undesirable plant material.
- B. The undesirable species, including Black Birch, Witch Hazel, Grape Vine and Poison Ivy, will be detrimental to the long-term benefits of a Buffer/Conservation area.
- C. Protection and preservation of additional plantings of desirable species will enhance the Buffer/Conservation area by providing a multi-storied forest that will provide screening, reduce soil erosion, and encourage wildlife habitat. The primary species of the existing plant material consists of Red Oak, White Oak, Red Maple, American Beech, Hornbeam and Hickory.



September 9, 2004

Page 2

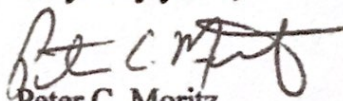
## II. RECOMMENDATIONS

- A. Remove the diseased and dead Black Birch trees that will create hazard tree situations, particularly on the unit side of the area.
- B. Plant desirable species to replace the removed Black Birch trees. Red Maples, Sugar Maples, Hornbeam and Beech would be good options.
- C. Remove the undesirable under story species, primarily the Witch Hazel, Grapevine and Poison Ivy, to a depth of approximately 20 feet from the unit side of the area.
- D. Plant desirable species to replace the removed undesirables. Such replacement selections would have good growth habits, provide better soil erosion protection and be less susceptible to ice and snow breakage. Mountain Laurel, Shadblow, Juniper and certain grasses would be good options.
- E. Develop and implement a Tree Protection and Preservation Plan as set forth in the *Standards of the National Arborist Association*. This implementation is critical in preserving the desirable trees.

In my professional opinion, if the recommendations of this report are adopted, the desirable species of trees within the buffer/conservation area of the Silver Island Homes development plan will be protected and that the limited site work within the drip line of the canopy of desirable trees in the buffer/conservation area will be tolerated.

Please let me know if I can be of further service.

Very truly yours,



Peter C. Moritz  
Licensed Arborist

## Site Plan

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**Application:** Site Plan  
**Project Name:** Carrier Enterprises  
**Address:** MAP 11-3 BLOCK 132 LOT 19, 288 Beckley Road  
aka 286 Beckley Road, 55 Ledge Drive.  
**Zone:** R-43  
**Applicant:** Robert Ziegler, Esq.  
**Proposal:** Single-family dwelling on landlocked parcel

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### UPDATE

Additional comments have been incorporated into the Staff Comments for Commission consideration. See original report (attached) and additional notes (below) for staff analysis.

### STAFF COMMENTS

If approved:

1. The status of the parcel where an access easement has been granted is to be rectified to the satisfaction of Corporation Counsel prior to permit issuance; including,
2. A Lot Line Revision Map submitted for zoning review with supporting documents and then filed on the Land Records to effectuate the property identified as Lot B and deeded separately in 2015. It should be noted that Lot B is "Not a Building Lot" or appropriate documents filed for incorporation into Lot 19.
3. Interdepartmental staff comments and permit reviews be completed to the satisfaction of applicable department prior to issuance of a building permit including;
4. Driveway grading and stormwater management plan to the satisfaction of Engineering Dept. prior to permit.
5. The driveway be improved to rear lot driveway standards with a minimum of 12 ft. pavement and 3 ft of compressed gravel on each side, regardless of ownership of the parcel(s) or existing lot nonconformity.
6. Sewer and Water service be coordinated and agreed upon with Berlin Water Control and Worthington Fire District.
7. Electrical service be installed underground.
8. Soil erosion and sedimentation controls and applicable bonding be in place prior to issuance of a building permit.

### BACKGROUND

A Title Search and additional information has been received and reviewed with Corporation Counsel, which show the landlocked parcel, Lot 19 was in existence prior to 1944, when zoning regulations were introduced in Berlin. The lot will function as a rear lot which requires site specific house approval by the Commission in accordance with Berlin Zoning Regulations



§IV.A.17. At the time of this writing, concerns remain regarding the creation of Parcel B, over which access is shown.

Zoning denials relating to the building permit applications of April and July 2020 have been appealed and are scheduled to be heard at the Zoning Board of Appeals meeting on September 22, 2020.

Address & Lot number clarification:

The Assessor designation of the landlocked parcel is Lot 19, some Town records indicate the parcel has the address of 286 Beckley Road (which was also assigned to the adjacent cell tower); 288 Beckley Road; and 55 Ledge Drive (recently assigned for the permits relating to this application). Lot 19 is also identified on the plans as Lot A; the parcel with the access easement as Lot B. A separate lot number or street address has not been assigned by the Town for the easement area.

"Lot A" is in the R-43 Zone and within the Berlin Water Control service area; "Lot B" is in the R-15 Zone and within the Worthington Fire District service area.

### **PROPOSED CONDITIONS**

The applicant is proposing to construct a 2855 sq. ft. 1-1/2 story cape style, 3-bedroom, 3 full bath, single-family dwelling with a full unfinished basement and attached 3-car garage with related grading, driveway and public utility improvements. No known structures exist on the vacant lot.

A 500+ feet long access driveway is proposed to be constructed between 53 and 71 Ledge Drive. The area, shown as Lot B has 37.59 ft. of frontage on Ledge Drive and includes the proposed driveway and utility easement as necessary. There are existing sanitary sewer and utility easements to Lot 19 over the property at 71 Ledge Drive.

This application is required for construction because proposed access over the area designated as Lot B will result in Lot 19 functioning as a rear lot, which requires approval of site-specific location of the house. (Section IV.A.17.j.). The lot exists and therefore a special permit for the creation of a rear lot is not required.

### **Utilities**

Sewer and Water service is proposed from the west, over 71 Ledge Drive. The lots along Ledge Drive are served by Worthington Fire District however Lot 19 is within the Berlin Water Control service area. Service should be coordinated by the applicant with the two districts.

### **Driveway and Grading**

Driveway access is shown from Ledge Drive, over a parcel identified as Lot B. Drainage improvements are shown along the driveway. The driveway will require a cut through the existing grade on Lot 19 where the plan shows a knoll on Lot 19. And will result in grades up to 10%. As such the driveway is required to be paved per BZR §IV.A.17.e. Review by the Town Engineer is pending.

### **Easements:**



A referenced lot line revision map, showing the reduction in the lot size of 53 Ledge Drive, as transferred to the current owner in 2015, and the configuration of Parcel B on the submitted applications, was not filed on the Land Records. Zoning review of the related deeds or the map was not found. Therefore, the creation of Lot B remains outstanding at the time of this writing. 53 Ledge Drive was reduced in size and a parcel was created by deed without confirmation that no zoning regulations were violated. Lot B would not meet frontage or minimum lot size for an R-15 buildable lot.

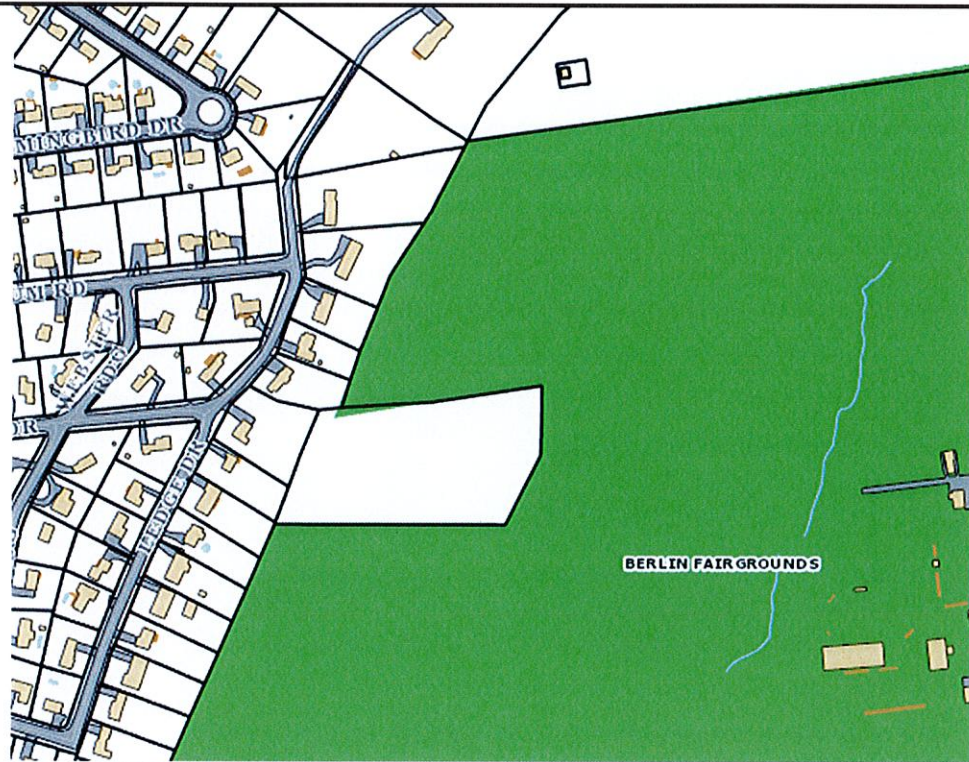
## Site Plan

**Application:** Site Plan for construction of single-family dwelling on existing nonconforming parcel

**Applicant/Owner:** Carrier Enterprises, LLC

**Address:** Map 11-3 Block 132, Lot 19 with access to Ledge Drive through adjacent parcel identified as Lot B. Lot 19 aka: 288 Beckley Road and proposed 55 Ledge Drive

**Zone:** R-43, access proposed through R-15



### PROPOSAL

Carrier Enterprise Inc has applied for site plan approval to improve the parcel with a single-family dwelling. They have proposed access through an easement over property to the west and out to Ledge Drive.

### STAFF COMMENTS

If approved:

1. The status of the parcel where an access easement has been granted is to be rectified to the satisfaction of Corporation Counsel prior to permit issuance; including,
2. A Lot Line Revision Map submitted for zoning review with supporting documents and then filed on the Land Records to effectuate the property identified as Lot B and deeded separately in 2015. It should be noted that Lot B is "Not a Building Lot" or appropriate documents filed for incorporation into Lot 19.

3. All standard interdepartmental permit reviews be completed to the satisfaction of applicable department prior to issuance of a building permit.
4. The driveway be improved to rear lot driveway standards with a minimum of 12 ft. pavement and 3 ft of compressed gravel on each side, regardless of ownership of the parcel(s) or existing lot nonconformity.

### **EXISTING CONDITIONS**

The Applicant has provided a Certified Title Search that shows the landlocked parcel, Lot 19, to have been in existence prior to zoning regulations being adopted. The land to the west that is shown on the plan as "Lot B" was created by deed in 2015 (Land records Vol 716, pg 236-237) from a portion of 53 Ledge Drive (MBL 10-4-132-68). While the deed described the parcel, and references a lot line revision map: Proposed Lot Line Adjustment dated July, 10, '14 by Civil Engineering Services LLC. said map was not reviewed for zoning compliance nor filed on the Land Records.

An easement has been filed over that land to access Lot 19 (Land Records Vol 764 pg 845-847) on 12/9/2019.

The Engineering Department has assigned a pending address of 55 Ledge Drive should a building permit be issued for Lot 19. The lot has also been identified as 288 or 286 Beckley Road. Lot B is not held by the same ownership entity as Lot 19. However, the access easement over land identified as Lot B, creates a situation that has Lot 19 act as a rear lot for the purposes of development. The above referenced lot line adjustment map notes the lot line to be removed thereby incorporating the area into Lot 19, making it a rear lot.

As a result of a confirmed title search the lot would be considered a nonconforming building lot. A special permit would therefore not be required to create the existing lot.

There are no known improvements on Lot 19.

### **BACKGROUND**

A 1995 Building Permit had been issued and expired. Subsequently private litigation found that the proposed access to the parcel from Beckley Road was not available. The permit file indicates that a permit refund was granted.

A building permit application for Lot 19 was denied zoning approval on July 7, 2020. Reasons, in summary include insufficient information submitted to confirm legal status of the parcel as a building lot and questions of the validity of the creation of parcel B, over which access is proposed.

Further research discovered a map had been prepared as described in the deed to the land over which the access easement to Ledge Drive was granted; however it does not appear to have been submitted for zoning compliance review, and was not filed on the Land Records.

The applicant submitted another permit application with additional documentation and this Site plan application all on or about July 20, 2020. Another Zoning Denial letter was issued on August 19, 2020.



The staff along with Corporation Counsel, Jenifer Coppola, has been working with Attorney Ziegler, counsel for the applicant to continue to resolve issues relating to permitting and filings on The Land Records. On August 28, 2020, having received the Certificate of Title, Attorney Coppola issued the attached letter to Attorney Ziegler.



September 15, 2020

Updated September 16, 2020 ((Inland Wetlands and Fire Marshal)

**TOWN OF BERLIN  
PLANNING & ZONING DEPARTMENT  
STAFF COMMENTS**

**SUBJECT:** Lot Line Adjustment – Carrier  
**LOCATION:** 288 Beckley Road  
MBL: 11-3/132/19 to be known as 55 Ledge Drive  
**AGENDA:** September 17, 2020

*To the Applicant:*

- *These are the comments received to date, additional comments may be forthcoming.*
  - *Please submit any written response to Maureen Giusti, Acting Town Planner/Zoning Enforcement Officer at [mgiusti@town.berlin.ct.us](mailto:mgiusti@town.berlin.ct.us) or revised plans directly to the Planning & Zoning Department in Room 121. We will forward your comments or distribute materials to the relevant departments.*
- 

Berlin Water Control

We would likely need a Memorandum of Understanding (MOU) with Worthington Fire District (WFD). Although the water and sewer will be provided by WFD, we do not want to relinquish our service area boundary. The actual home will be located in the Berlin Water Control District area and, therefore, should not be subject to WFD tax.

Inland Wetlands

No comment

Fire Marshal

No comment

*Emailed to Applicant: September 16, 2020*



# Town of Berlin

## Planning and Zoning Department

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

Town of Berlin  
Received

JUL 20 2020

Planning & Zoning Department  
Berlin, Connecticut

### SITE PLAN APPLICATION

☒ Site Plan

☐ Site Plan Amendment

Project Name: N/A  
Property Owner(s): Carrier Enterprises Inc.  
Project Address\*: 286 Beckley Rd. (aka 288 Beckley Rd/Lot 19)  
Map: 11-3 Block: 132 Lot: 19 Zone(s): R-43 Lot Area: 4.75 acres

#### Please select all relevant items below:

- ☐ Special Permit – Also complete special permit application form
- ☐ Property is within 500 feet of a Municipal Boundary of \_\_\_\_\_
- ☐ Amendment to Zoning Regulations – Section(s) \_\_\_\_\_
- ☐ Amendment to Zoning Map – Zone(s) affected \_\_\_\_\_
- ☐ Zoning Board of Appeals review needed
- ☐ Inland Wetlands and Water Course Commission review needed

#### Applicant Information

Name: Alexis Carrier Firm Name: Carrier Enterprises Inc.  
Street Address: 117 Birch Street City: Southington ST: CT Zip: 06489  
Email: alexisc@bycarrier.com Phone: (860) 793-9626 x3  
Signature: Alexis Carrier Date: 7.16.2020

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

Name: \_\_\_\_\_ Principal: \_\_\_\_\_  
Street Address: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

\*Letter of Authorization Required

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

**This Site Plan Involves:**

☐ Additions      ☐ Alterations      ☐ Demolition      ☒ New Construction

Description of Project\*: 2855 ft<sup>2</sup> single family detached home  
3 bed, 3 full bath, 3-car attached garage, full  
unfinished basement

\*If more space is needed, then please provide separate narrative document.

**SITE PLAN ZONING STATISTICS**

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED</u>
USE(S)	_____	_____	
	_____	_____	
	_____	_____	
<b>COMMERCIAL</b>			
Gross Floor Area	_____	_____	
Parking Spaces	_____	_____	_____
<b>INDUSTRIAL</b>			
Gross Floor Area	_____	_____	
Parking Spaces	_____	_____	_____
<b>RESIDENTIAL</b>			
Number of Units	_____	<u>1</u>	
Number of Bedrooms	_____	<u>3</u>	
Gross Floor Area	_____	<u>2855 ft<sup>2</sup></u>	
Parking Spaces	_____	_____	_____
<b>OTHER USES</b>			
Gross Floor Area	_____	_____	
Parking Spaces	_____	_____	_____

**To be completed by P&Z staff only:**

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

Received by: \_\_\_\_\_

**Town of Berlin  
Received**

**JUL 20 2020**

**Planning & Zoning Department  
Berlin, Connecticut**



ROBERT A. ZIEGLER

Attorney at Law  
58 East Main Street  
Plainville, Connecticut 06062  
Telephone 860-793-1506  
Facsimile 860-747-5219

 FILE COPY

Robert A. Ziegler  
Bob@zieglerlawct.com  
Taryn D. Martin  
Taryn@zieglerlawct.com

Karen@zieglerlawct.com  
Adam@zieglerlawct.com  
Billing@zieglerlawct.com  
Nicole@zieglerlawct.com

VIA FEDEX ONLY

July 17, 2020

Town of Berlin  
Planning and Zoning Department  
240 Kensington Road  
Berlin, CT 06037

Attention: Zoning Officer

RE: 288 Beckley Road, aka Lot A, 286 Beckley Road, Berlin, CT  
Our File No. 9546.058

Dear Zoning Officer,

Please be advised that this office represents Carrier Enterprises, Inc. in relation to the enclosed Site Plan Application. Please be advised that a Building Permit Application has been sent to the Building Department simultaneously herewith. Enclosed please find the Checklist, Site Plan Application with attachments, as well as five sets of both Site Development Plans and architectural plans. It is my understanding that upon your review of the same, you will advise if there are any fees, and the amount of any fee. If my understanding is incorrect, please contact my office upon receipt of this correspondence so that my client can submit any required fee immediately. Upon review, please provide written zoning compliance certification to the building department, with a copy to this office and to the office of Carrier Enterprises, Inc.

If upon your review, your office need further information or requires any additional information, please contact this office.

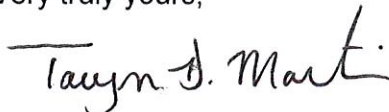
Thank you.

Town of Berlin  
Received

JUL 20 2020

Planning & Zoning Department  
Berlin, Connecticut

Very truly yours,

  
Taryn D. Martin

Enc.

Y:\Work Directory\Real Estate\CARRIER\Carrier Enterprises, Inc\Appeal - 288 Beckley Road, Berlin, CT\Letter to Zoning Department 7.17.20 New Application.docx



**CIULLA & DONOFRIO, LLP**

127 WASHINGTON AVENUE  
P. O. BOX 219  
NORTH HAVEN, CONNECTICUT 06473

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August 28, 2020

JEFFREY M. DONOFRIO  
DIRECT DIAL: (203) 239-9829

JENNIFER N. COPPOLA  
DIRECT DIAL: (203) 239-3642

LOUIS J. DAGOSTINE  
DIRECT DIAL: (203) 234-2699

RICHARD F. CONNORS  
DIRECT DIAL: (203) 234-0380  
OF COUNSEL

*VIA ELECTRONIC MAIL*

Robert A. Ziegler, Esquire  
58 East Main Street  
Plainville, Connecticut 06062

Re: Your File No. 9546.040  
288 Beckley Road, Berlin /MBL: 11-3/132/19/To Be Known As 55 Ledge Drive

Dear Bob:

I met with Acting Town Planner and Zoning Enforcement Officer Maureen Giusti regarding zoning approval of your client Carrier Enterprises, Inc. application for building permit to construct a single-family home at the above-referenced property ("Subject Property"), which approval has twice been denied by Ms. Giusti.

Thank you for forwarding the Certificate of Title issued by William Galske, III, Esquire of Zagorsky, Zagorsky, and Galske, P.C. for the Subject Property.

I have reviewed the zoning related documents submitted to the Town in support of your client's building permit application.

The outstanding issues of concern from a zoning perspective arise from the Statutory Quit Claim Deed recorded on October 8, 2015 at Vol. 716 Pg. 236 ("Quit Claim"). A copy of this recording was not included in the submissions made to the Town on behalf of your client so I have enclosed a copy for your review. As you may recall, this Quit Claim conveys title of a portion of 53 Ledge Drive/MBL: 10-4/132/68 from Y.C. Ventures, Inc. to your client J.C. Development, Inc. The Schedule A states in part that the piece or parcel of land being conveyed is:

Known and shown on a map entitled 'Proposed Lot Line Adjustment Lots 19 and 68 53 Ledge Drive Berlin CT Date JUL 10, '14 Scale AS SHOWN Civil Engineering Services, LLC. 203 Boston Hill Road Andover CT 06232 ph. (860) 742-0364 Sheet 1 of 1' which map is to be recorded in the office of the Berlin Town Clerk, more particularly bounded and described as follows: ....

("7/10/2014 Lot Line Adjustment Map"). The 7/10/2014 Lot Line Adjustment Map does not appear to have been recorded on the Berlin land records.

Mark W. Friend of Megson, Heagle & Friend Civil Engineers and Land Surveyors, LLC ("MH&F") contacted Ms. Giusti after speaking with the Assessor's Office and they spoke about this missing recording. MH&F had prepared drawings submitted with your client's building permit application, consisting of three sheets entitled "Boundary Map," "Plot Plan – Erosion & Sedimentation Control Plan," and "General Notes, Erosion Control Notes & Details", respectively, all for "#286 Beckley Road Prepared for Carrier Enterprises, Inc. Berlin, Conn." and dated 7-10-19. The Boundary Map prepared by MH&F references the 7/10/2014 Lot Line Adjustment Map. Mr. Friend forwarded a copy of the 7/10/2014 Lot Line Adjustment Map to Staff.

The metes and bounds description contained in the "Quit Claim" matches the area plotted on the 7/10/2014 Lot Line Adjustment Map and identified as "TRANSFER AREA 10108 SQ FT 0.23 ACRES FROM PARCEL 1 TO PARCEL 2. Parcel 1 is 53 Ledge Drive/MBL 10-4/132/68 and Parcel 2 is the Subject Property owned by your client Carrier Enterprises, Inc. (incorrectly identified as #286 Beckley Road, rather than #288 Beckley Road) as indicated thereon.

There are two notes of additional importance on the unrecorded 7/10/2014 Lot Line Adjust Map. First, there is a note that states "LOT LINES TO BE REMOVED" which points to the lot lines at N32° 13' 38" E that are 60.51' and 30.29' (or 90.80 feet total as indicated in the Schedule A to the Quit Claim) running southwesterly along Parcel 2/the Subject Property. Second, there is a boxed note which states:

THE INTENT OF THIS MAP IS TO INDICATE A LOT-LINE ADJUSTMENT BETWEEN TWO ADJOINING PARCELS. THE PROPOSED ADJUSTMENT WOULD TRANSFER 10108 S.F. OF PROPERTY FROM PARCEL 1 TO PARCEL 2 AND WOULD ALLOW PARCEL 2 – CURRENTLY A LAND-LOCKED PARCEL – TO BECOME A REAR LOT WITH ACCESS ON RIDGE (SIC) DRIVE. AFTER THE LOT LINE ADJUSTMENTS BOTH PARCELS WILL BE IN CONFORMANCE WITH CURRENT ZONING REGULATIONS.

The remainder of Parcel 1 was subsequently transferred to Jeffrey A. Spring via the Warranty Deed recorded on April 2, 2015 at Vol. 709 Pg. 186.

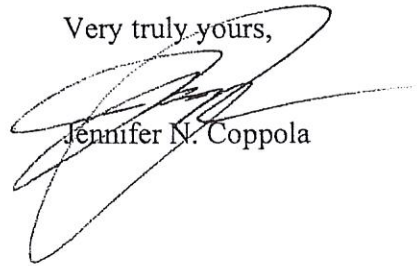
In addition to the above, there are discrepancies between the submitted plot and descriptions of the Subject Property contained in the Schedule A of the various pertinent deeds. Ms. Giusti also discussed this with Mr. Fried and he verbally described how he reconciled the measurements. A note with regard to this reconciliation should be included.

Robert A. Ziegler, Esquire  
August 28, 2020  
Page 3

Lastly, please be advised that your client's site plan application will be included in the meeting agenda for the Planning and Zoning Commission's next regular meeting to be held next Thursday, September 3, 2020. When the meeting agenda is finalized, I will send you a copy. The meeting will be held in person but there will also be remote participation options.

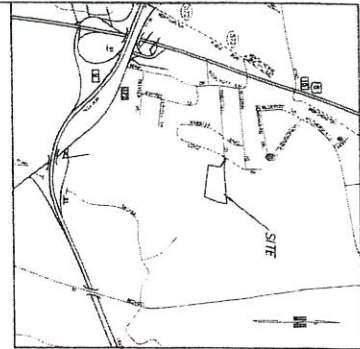
Please review the above-identified issues and contact me with a proposal for resolving same. Thank you.

Very truly yours,

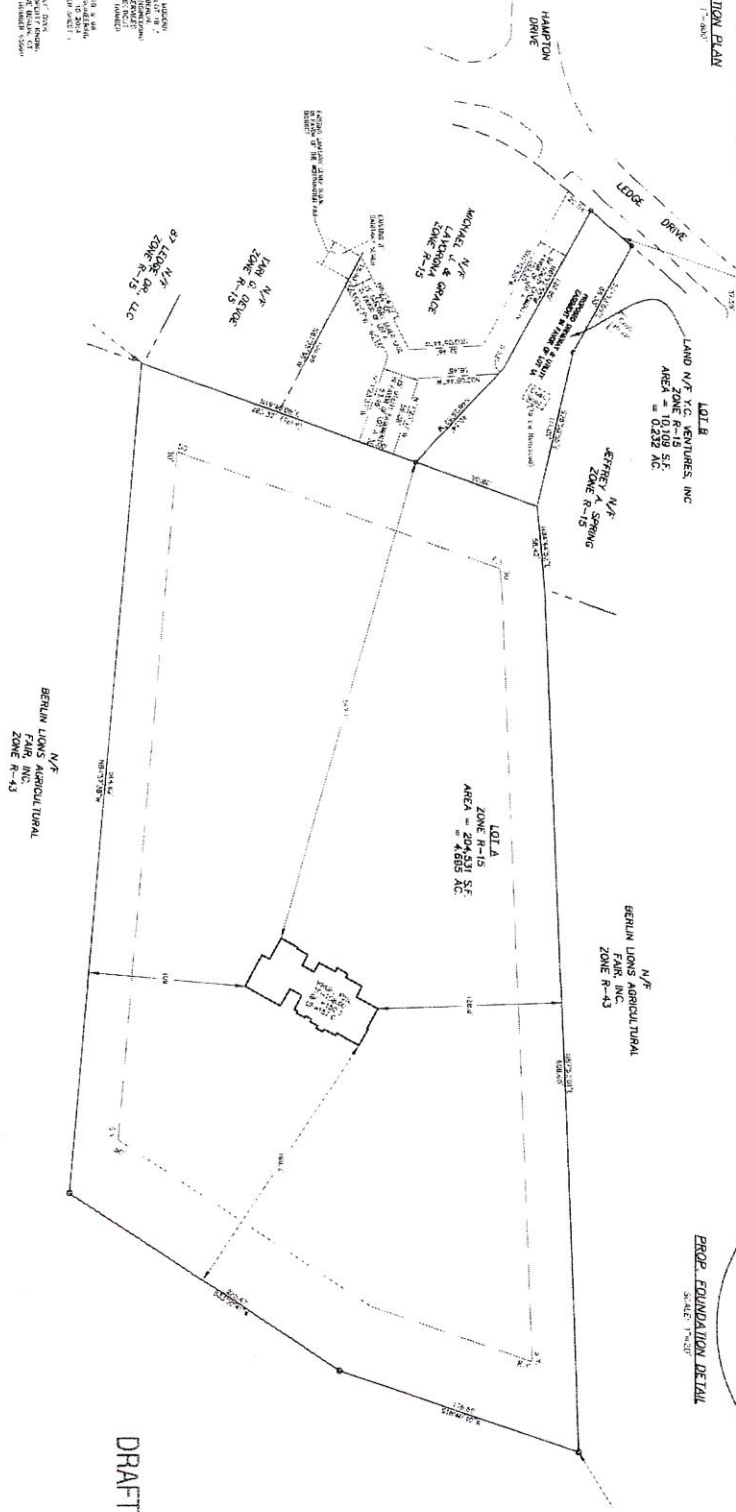
A handwritten signature in black ink, appearing to read "Jennifer N. Coppola", written over a horizontal line.

Enclosure

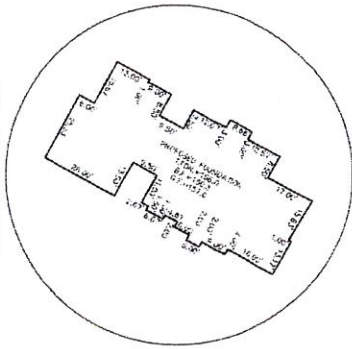




SITE LOCATION PLAN  
SCALE 1"=200'



PROP. FOUNDATION DETAIL  
SCALE 1"=20'



NOTES:  
1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
2. ALL DIMENSIONS ARE TO CENTER OF ROAD OR RAILROAD.  
3. ALL DIMENSIONS ARE TO CENTER OF LOT OR TRACT.  
4. ALL DIMENSIONS ARE TO CENTER OF LOT OR TRACT.  
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10. ALL DIMENSIONS ARE TO CENTER OF LOT OR TRACT.







the "Effect of Female Size at Mating on the Development of the Male's Reproductive System in the Fruit Fly *Drosophila melanogaster*"

NEW MATERIAL

[illegible]

© 2004 Blackwell Publishing Ltd

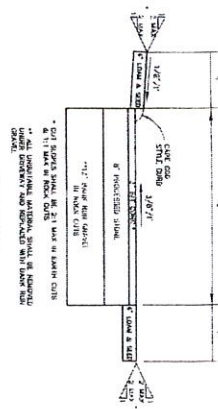
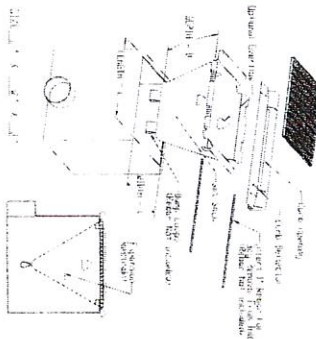
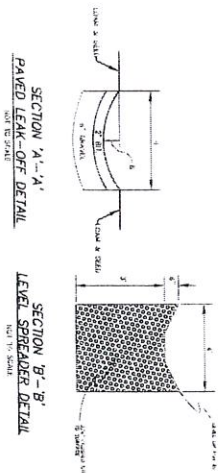
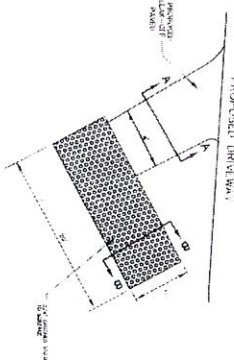
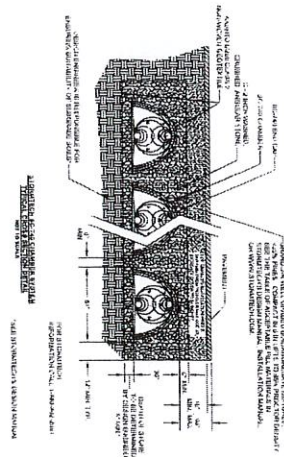
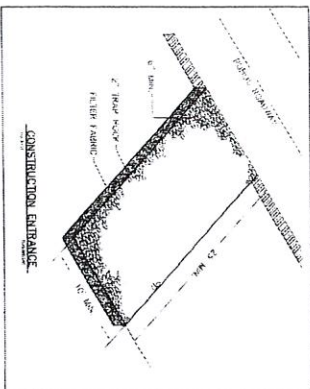
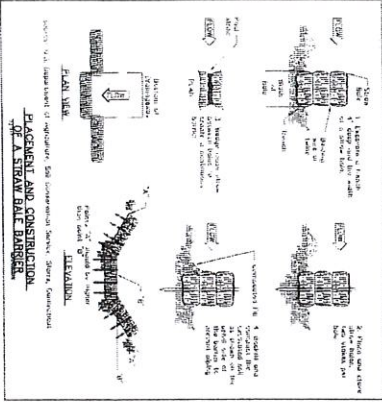
[illegible][illegible]

**Table 1.**

1. *Interiors* is a magazine that caters to the interior design community. It features articles, photographs, and advertisements related to interior design. The magazine is published quarterly and is available in print and digital formats.

3. **Identify** what is at stake in a given case before identifying the standard that will govern the case.
4. **Identify** the **issue** in a particular case. The issue is a question of law.
5. **Identify** the **rule** that controls the outcome in the case. The rule is a legal principle that governs the outcome in the case.
6. **Identify** the **facts** that are relevant to the case. The facts are the events that occurred in the case.
7. **Identify** the **conclusion** that the court reached in the case. The conclusion is the final decision of the court.
8. **Identify** the **reasoning** that the court used to reach its conclusion. The reasoning is the legal analysis that the court used to reach its conclusion.
9. **Identify** the **policy** that the court was trying to achieve. The policy is the goal that the court was trying to achieve.
10. **Identify** the **impact** that the case will have on the law. The impact is the effect that the case will have on the law.

1. *Abstracts* (conference abstracts) should be included as a final section under the heading "Abstracts".
2. Books (see "Books" elsewhere) and *Abstracts* (see "Abstracts" elsewhere) should be included under the heading "Books and Abstracts".
3. *Abstracts* (conference abstracts) should be included as a final section under the heading "Abstracts".
4. *Abstracts* (conference abstracts) should be included as a final section under the heading "Abstracts".
5. *Abstracts* (conference abstracts) should be included as a final section under the heading "Abstracts".



ALAN W. CRIST

BS 41561E

#286 BECKLEY ROAD  
PREPARED FOR  
CARRIER ENTERPRISES  
BERLIN, CONN.

**MEGSON, HEAGLE & FRIEND**  
CIVIL ENGINEERS & LAND SURVEYORS, LLC  
61 HANKIN ROAD  
GLASTONBURY, CONN 06033  
PHONE (860)-659-0687

I HEREBY DECLARE TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THIS PLAN IS SUBSTANTIALLY CORRECT.

DATE	10-12-18
DOCK	CRANE
SMITH	3 CO 5
MADE	119-12-704



## Site Plan Amendment

**Application:** Site Plan Amendment  
**Address:** 20 Hawks Landing  
**Applicant:** Jon Demko, owner  
**Zone:** R-43 OSS  
**Proposal:** Reduction of required Open Space Subdivision perimeter buffer at Lot 13-3, 20 Hawks Landing



### PROPOSAL

The Planning and Zoning Commission approved the eighteen lot DeCormier Woods Open Space Subdivision on December 13, 2018. The required perimeter buffer was approved as proposed at 100 feet.

The applicant is requesting a modification to the buffer requirement of 100 feet, for a buffer of 72 feet along the north border of Lot 13-3, 20 Hawks Landing for the installation of a structure (in-ground swimming pool).

### STAFF COMMENTS

1. A mylar be recorded showing any approved change to the required buffer that was indicated on the previously recorded subdivision map with a title indicating that the purpose of the map is only to modify the buffer.
2. A note be added along the buffer line on the final as-built plan for the property indicating that per BZR §V.A.8.d.iii. no structures shall be located within the buffer.
3. Any setback lines that are invalid due to a greater buffer requirement be eliminated from the plot plans.
4. The Commission should clarify if the limit of clearing shown on the approved plan was to be a requirement or informational and consider if the designated limit of clearing may be adjusted.
5. The Commission should consider if additional landscaping/screening is required in any reduced buffer area.
6. The conditions of the original approval remain valid.
7. Any pending staff comments be addressed.

### BACKGROUND / EXISTING CONDITIONS

The Open Space Subdivision is under construction. Open Space deeded to DeCormier Woods Homeowner Assoc Inc wraps the perimeter of the site. The open space parcel is 50 feet wide behind 20 Hawks Landing. A reduction to the buffer does not appear to have been proposed or discussed at the time of subdivision approval.

## **ZONING**

The criteria in Berlin Zoning Regulations Section V.A.8 allowing for the creation of an open space subdivision include the requirement of a perimeter buffer between the OSS and surrounding properties. The section (V.A.8.d.iii.) further allows that *"... The buffer requirement may be reduced by the Commission where it finds the existing topography, natural features, or existing forest areas will provide a sufficient buffer area. In no case shall the buffer be reduced to less than the required side yard of the underlying zone. Said buffer shall be landscaped so as to provide screening as deemed appropriate by the Commission. The Commission may require berms as part of the landscape plan to provide additional screening."*

The minimum side yard in the underlying zone is 30 feet which is exceeded by the 50-foot Open Space parcel and therefore does not conflict with a reduced buffer dimension.

## **Landscaping**

The regulations do not prohibit clearing and grading within OSS perimeter buffers, however, there is "limit of clearing" line shown on the approved subdivision map. The proposed pool location does not encroach upon the proposed limit of clearing as shown on the approved subdivision map. The applicant should clarify if they are proposing activity beyond the indicated limit of clearing. No new landscaping has been proposed.

Department Comments:

Wetlands has indicated "No Comment"

Conservation Commission:

Alteration of required buffer for DeCormier Woods Subdivision, off Ice Pond Lane & Main St EB

The Commission noted the open space is not Town land but owned by the homeowners association; the developer seems to have made a mistake in not recognizing the limitations on a buffer, and a property owner can otherwise improve or clear the area but without structures, but encourages existing buffers to remain in place to protect from encroachment into open space. Staff noted the engineer represented that the other (adjacent) lots subject to the buffer have a different geometry and a request to modify their buffers is not anticipated as they should not have a similar conflict with the approved tree line.



# Town of Berlin

## Planning and Zoning Department

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

Town of Berlin  
Received

SEP 01 2020

Planning & Zoning Department  
Berlin, Connecticut

### SITE PLAN APPLICATION

☐ Site Plan

☒ Site Plan Amendment

Project Name: Lot 13-3, DeCormier Woods

Property Owner(s): Jon P. Demko & Jeannette W. Demko

Project Address\*: 20 Hawks Landing, Berlin, CT 06037

Map: 23 Block: 1-144 Lot: 13-3 Zone(s): R-43 Lot Area: .55 acres

#### Please select all relevant items below:

- ☐ Special Permit – Also complete special permit application form
- ☐ Property is within 500 feet of a Municipal Boundary of \_\_\_\_\_
- ☐ Amendment to Zoning Regulations – Section(s) \_\_\_\_\_
- ☐ Amendment to Zoning Map – Zone(s) affected \_\_\_\_\_
- ☐ Zoning Board of Appeals review needed
- ☐ Inland Wetlands and Water Course Commission review needed

#### Applicant Information

Name: Jon P. Demko

Street Address: 630 Main Street

Email: jcassidy@hpcengr.com

Signature: [Signature]

c/o Hallisey, Pearson & Cassidy Engineering

Firm Name: Associates, Inc.

City: Cromwell ST: CT Zip: 06416

Phone: (860) 529-6812

Date: 9/1/2020

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

Name: Jon P. Demko & Jeannette W. Demko Principal: n/a

Street Address: 63 Old Wood Road

City: Berlin ST: CT Zip: 06037

Email: jdemko@spectransport.com

Phone: (860) 829-1629

\*Letter of Authorization Required

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



**This Site Plan Involves:**

☐ Additions      ☐ Alterations      ☐ Demolition      ☒ New Construction

**Description of Project\*:** This application is to allow for the construction of a 18' x 36' inground pool within the 100' buffer required per Section V.A.8.d.iii of the Berlin Zoning Regulations, as shown on the proposed site plan. The request is for a reduction of 27.98 feet, leaving 72.02 feet of buffer, including 50 feet of heavily wooded open space, which is more than the 10 feet required in the underlying zone.

\*If more space is needed, then please provide separate narrative document.

**SITE PLAN ZONING STATISTICS**

	<u>EXISTING</u>	<u>PROPOSED</u>	<u>REQUIRED</u>
<b>USE(S)</b>	n/a	residential	
	n/a	single-family	
<b>COMMERCIAL</b>			
Gross Floor Area			
Parking Spaces			
<b>INDUSTRIAL</b>			
Gross Floor Area			
Parking Spaces			
<b>RESIDENTIAL</b>			
Number of Units		1	
Number of Bedrooms			
Gross Floor Area			
Parking Spaces		n/a	
<b>OTHER USES</b>			
Gross Floor Area			
Parking Spaces			

**To be completed by P&Z staff only:**

Fee Paid \$ 260.- (Refer to current Fee Schedule)

Received by: fms

Town of Berlin  
Received

SEP 01 2020

September 9, 2020

**TOWN OF BERLIN  
PLANNING & ZONING DEPARTMENT  
STAFF COMMENTS**

**APPLICATION:** Site Plan Amendment  
**APPLICANT:** Jon Demko  
**LOCATION:** Lot 13-3, DeCormier Woods, Hawk Ridge Landing  
**AGENDA DATE:** September 17, 2020

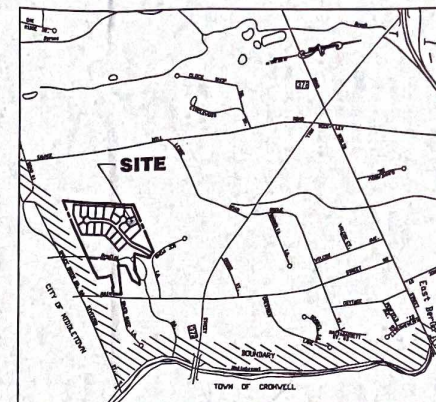
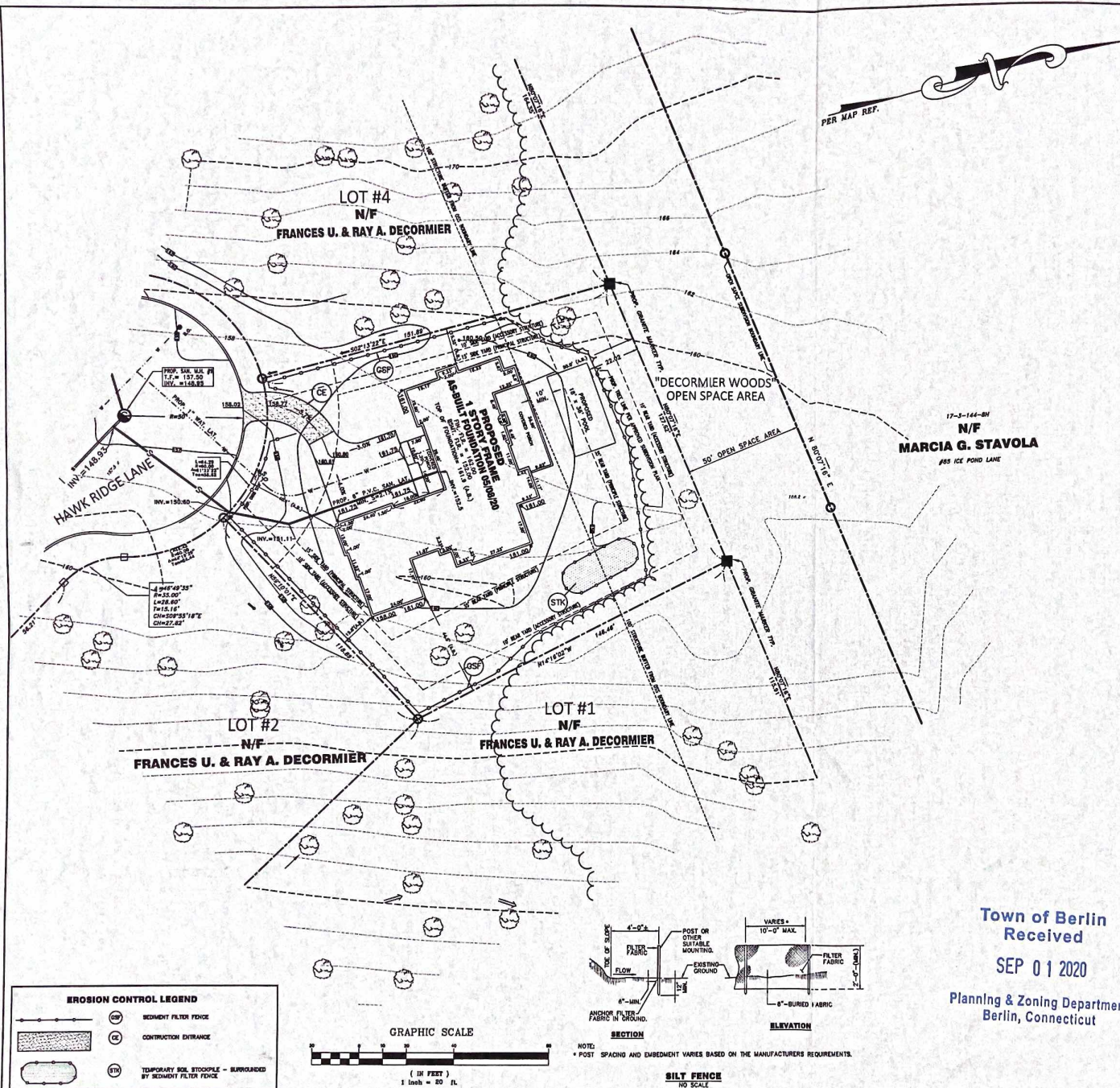
*To the Applicant:*

- *These are the comments received to date, additional comments may be forthcoming.*
  - *Please submit any written response to Maureen Giusti, Acting Town Planner/Zoning Enforcement Officer at [mgiusti@town.berlin.ct.us](mailto:mgiusti@town.berlin.ct.us) or revised plans directly to the Planning & Zoning Department in Room 121. We will forward your comments or distribute materials to the relevant departments.*
- 

Inland Wetlands  
No comment

Emailed to Applicant: September 9, 2020





## NOTES

1. SURVEY NOTES
- This survey has been prepared pursuant to the Regulation of Connecticut State Agencies Section 20a-300(a) through 20a-300e-2 and the "Standards for Survey and Maps in the State of Connecticut" as adopted by the Connecticut Association of Land Surveyors on September 28, 1988.
  - Type Of Survey by ZONING LOCALITY SURVEY - RECORD
  - Boundary Determination Category is FIRST SURVEY
  - Class of Accuracy is NON- $\pm 0.75$ , NON- $\pm 0.25$ , VERT- $\pm 0.25$
2. LOT DATA: R-43 (OPEN SPACE SURVEY)
3. PARCEL AREA: 24,027 sq. ft. or 0.5518 acres
4. MAP REFERENCES:
- "TELEVISIONING PLAN PROPOSED OPEN SPACE SURVEY DISCOVERED WOODS SUBDIVISION FOR PROPERTY OF FRANCHISE L & RAY A. DECOMBER #4889 MAIN STREET & ICE POND LAKE DRIVE, WESTPORT, CONNECTICUT PREPARED BY HAUSLEY PERCIVAL & CASSIDY DATE: JULY 24, 2018 SCALE: 1"=30'
5. PROPERTY LIES IN FLOOD HAZARD ZONE "X" (LEAKS ABOUT 500 YEAR FLOOD ZONE)  
PER F.E.H.A. NO. 09000306C, PARCEL 628 OF 675. DATED SEPTE. 26, 2008.
6. PROPERTIES MAY BE REMOVED AND/OR MODIFIED BY RECORDED AND/OR UNRECORDED EASEMENTS.
7. UNDERGROUND UTILITY, STRUCTURE AND FACILITY LOCATIONS SPECIFIED AND NOTED HEREON HAVE BEEN CONFIRMED, IN PART, FROM RECORDING SURVEYING SPECIFICATIONS BY THE RESPECTIVE JURISDICTIONS. LOCATIONS NOT SPECIFIED ARE CONSIDERED AS APPROXIMATE IN NATURE. ADDITIONALLY, OTHER FEATURES MAY EXIST ON THE SITE, THE EXISTENCE OF WHICH CANNOT BE DETERMINED BY THIS SURVEY. THE SURVEY LOCATIONS AND DISTANCES OF ALL SUCH FEATURES MUST BE FURTHER DETERMINED AND VERIFIED BY THE APPROPRIATE AUTHORITIES PRIOR TO CONSTRUCTION.
- ALL RIGHTS ARE RESERVED BY THE SURVEYOR.
8. ELEVATIONS BASED ON NAVD 83 CONTIGUOUS VERTICAL FEET.

REQUIREMENT	REQUIRED	PROPOSED
MIN. LOT AREA	21,550 SQ. FT.	24,027 SQ. FT.
MIN. FRONT YARD	30'	39.84'
MIN. SIDE YARD	12'	15.33'/15.57'
MIN. REAR YARD	35'	44.35'

[illegible]

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS  
NOTED HEREON:

*Paul A. Mallist* JAN. 28, 2020  
PAUL A. MALLIST, L.S. LC. NO. 7781 DATE

THIS DOCUMENT AND COPIES THEREOF ARE VALID ONLY IF THEY BEAR THE  
SIGNATURE AND EMBOSSED SEAL OF THE DESIGNATED LICENSED PROFESSIONAL.  
UNAUTHORIZED ALTERATIONS TO THIS PLAN RENDER THE DECLARATION HEREON NULL  
AND VOID ONLY ON MAPS BEARING EMBOSSED SURVEYOR'S SEAL.

**ZONING LOCATION SURVEY - RECORD**  
FOR PROPERTY OF  
**JOE DEMKO**  
#0- HAWK RIDGE LANDING  
LOT #03 DECMBER WOODS SUBDIVISION  
BERLIN, CONNECTICUT







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4 Cooper Ave  
Wallingford, CT 06492

TOTAL NO.

of Pieces Listed by Sender

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of Pieces Received at Post Office™

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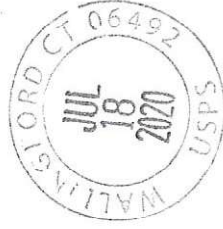
*[Signature]*

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JUL 23 2020

Planning & Zoning Department  
Berlin, Connecticut



USPS® Tracking Number  
Firm-specific Identifier

1

Joan Belmore  
138 Butler Street  
Kensington, CT 06037

2

Michal & Beata Zuber  
2311 Chamberlain hwy  
Berlin, CT 06037

3

Theresa Macchietto  
2528 Chamberlain Highway  
Berlin, CT 06037

4

Miroslaw Kaminski & Jolanta Gajek  
2537 Chamberlain Hwy  
Berlin, CT 06037

5

Theodore & Yvonne Benoit Living Trust  
2560 Chamberlain HWY  
Kensington, CT 06037

6

Robert E Jr & Duan Luce  
2590 Chamberlain Hwy  
Berlin, CT 06037

Postage

Fee

Special Handling

Parcel Airlift



# Certificate of Mailing — Firm (Domestic)

Town of Berlin

Name and Address of Sender  Military Experience Museum Inc. 4 Cooper Ave Wallingford, CT 06492		TOTAL NO. of Pieces Listed by Sender  5		TOTAL NO. of Pieces Received at Post Office™  5		Affix Stamp Here Postmark with Date of Receipt.  JUL 23 2020 Planning & Zoning Department Berlin, Connecticut		Received  JUL 23 2020			
Postmaster, per (name of receiving employee)  [Signature]		Postmark with Date of Receipt.  JUL 18 2020		JUL 18 2020		JUL 18 2020		JUL 18 2020			
USPS® Tracking Number Firm-specific Identifier		Address (Name, Street, City, State, and ZIP Code™)		Postage		Fee		Special Handling		Parcel Airlift	
1		Jason J Aziz 2612 Chamberlain Hwy Berlin, CT 06037									
2		City of Meriden 117 Parker Ave Meriden, CT 06050									
3		Connecticut Forest & Park Association 16 Meriden Road Rockfall, CT 06481									
4		Stonetrough LLC P.O. Box 483 Kensington, CT 06037									
5		Town of Berlin 240 Kensington Rd Berlin, CT 06037									
6		<del>XXXXXXXXXX</del>									

=====

WALLINGFORD  
4 S MAIN ST  
WALLINGFORD, CT 06492-9998  
088500-0492  
(800)275-8777  
07/18/2020 11:43 AM

=====

Product	Qty	Unit Price	Price
MadeofHearts	11	\$0.55	\$6.05
CTOM - Firm - Domestic	6	\$0.43	\$2.58
CTOM - Firm - Domestic	5	\$0.43	\$2.15
Total:			\$10.78

Credit Card Remitd \$10.78

Card Name:MasterCard  
Account #:XXXXXXXXXX0434  
Approval #:2ECF8T  
Transaction #:015  
AID:A0000000042203 Chip  
AL:Debit  
PIN:Not Required Debit

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Received  
JUL 23 2020  
Planning & Zoning Department  
Berlin, Connecticut



July 29, 2020 - Updated July 30, 2020 (Town Engineer)  
Updated July 31, 2020 (Inland Wetlands)  
Updated August 10, 2020 (Board of Police Commissioners, Police Chief)  
**Updated September 9, 2020 Health District Comment**

**TOWN OF BERLIN  
PLANNING & ZONING DEPARTMENT  
STAFF COMMENTS**

**APPLICATIONS:** Special Permit/Site Plan Amendment  
**APPLICANT:** Thomas ORourke  
Military Experience Museum Inc.  
**LOCATION:** Chamberlain Highway  
Map/Block/Lot: 30-2-74-37 (76 Chamberlain Highway) 58.7 Acres  
30-2-74-39 (Meadow Haven Inc.) 18.3 Acres  
**AGENDA DATE:** August 20, 2020

*To the Applicant:*

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Building Official

Any structures, whether existing or new, would require a Building Department review.

Fire Marshal

No comment

Water Control

Water Control Commission needs to be involved in any potential water supply that may be needed for this project. Applicant has not addressed the need and use of water and sewer. This may be a public water system by CT Department of Health definitions. Please address. Thanks.

Town Engineer

No comment

Inland Wetlands

1. Wetland evaluation/testing required.
2. Grading plan/topo map required to properly evaluate potential impacts.

Board of Police Commissioners

No comment

Police Chief

See Attached

Health District

If food is offered, the applicant needs to contact the Central CT Health District to determine if a license is required.

*Emailed to Applicant: September 9, 2020*

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**From:** Patrick Charlow <pccharlow@yahoo.com>  
**Sent:** Monday, September 7, 2020 9:26 AM  
**To:** mgiusti; fsemnosk  
**Subject:** Zoning Proposal for 76 Chamberlain Hwy Berlin CT

Hi,  
I am writing to express my vehement opposition to the zoning proposal for 76 Chamberlain Hwy Berlin CT outlined in the social media post below.

There is no need to simulate warfare to the point of using mock grenades and actual military vehicles and virgins etc...

Warfare should never be celebrated or simulated.

Thank you for your time.  
Patrick

**Town of Berlin  
Received**

**SEP 08 2020**

**Planning & Zoning Department  
Berlin, Connecticut**

Hi everyone,

A development is being proposed on 76 Chamberlain Hwy. in Berlin, CT. A significant portion of the New England Trail (NET) runs through this land.

The proposal is by 'Military Experience Museum, Inc.'. (MEM) MEM pitches itself as an outdoor museum but in reality the founder is hoping to establish this area and use it as a Military Simulation (MILSIM) outdoor event center:

This would entail the following:

- MILSIM events with 50 - 400+ participants.
- Use of airsoft guns and pellets/BBs, use of vehicles and military vehicles, 'mock' grenades, and other military paraphernalia.
- Erecting semi-permanent structures such as large cargo/shipping containers to create US Military style training areas.

This proposal would be extremely disruptive to this area and threatens the Open Space and other trails in the area. (South Mountain, Cathole Mtn, Blue Hills Conservation area.)

Furthermore, this proposal directly threatens a portion of the NET. The owner of this project has stated he is already frustrated that the NET runs through this property and 'doesn't understand why it wasn't moved years ago.'

I was present at the first Planning and Zoning meeting and the vote has been delayed to Sept. 17th @ 7PM. Public comment has also been extended to this time.

The NET is the only national scenic trail that does not have eminent domain rights and is wholly reliant on local/state and private land owner cooperation.

I encourage you to write/attend/call/e-mail the Berlin, CT Planning and Zoning Commission if you wish to comment, have concerns, or oppose this, etc.

Contact information and more details about the proposal can be found  
<https://www.town.berlin.ct.us/departments/board.php?structureid=54>

Berlin, CT Zoning:

Phone: (860) 828-7008

E-mail of Zoning Liason and Planner: [mgiusti@town.berlin.ct.us](mailto:mgiusti@town.berlin.ct.us)

[fsemnoski@town.berlin.ct.us](mailto:fsemnoski@town.berlin.ct.us) Zoning Recording Secretary for Public Comment phone: 860-828-7066

Please note that the Connecticut Forest and Park Association (CFPA) are aware of this proposal. However, every voice counts when working to protect our natural assets and trails.

Please forgive me if this post is not appropriate for this setting, but I feel it is important for outdoor enthusiasts to always be aware and informed of things that jeopardize the trails and lands they love and enjoy.

Sent from Yahoo Mail on Android