

BERLIN ZONING BOARD OF APPEALS

September 22, 2020

7:00 p.m.

The Berlin Zoning Board of Appeals will meet in person at Town Council Chambers, Berlin Town Hall, 240 Kensington Road and remotely by video conference call on Tuesday, September 22, 2020 at 7:00 p.m. The Town of Berlin invites you to access and participate in this meeting in person, via Webex video conference and telephone conference call as provided below.

Join Webex Meeting:

<https://townofberlin.my.webex.com/townofberlin.my/j.php?MTID=m618e476c7f43c517083b02e65a8e5a01>

Meeting Number (access Code) 132 642 1626

Password: ZBATu700 (92288700 from phones and video systems)

Join by video system

Dial 1326421626@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-408-418-9388 United States Toll

Access code: 132 642 1626

This agenda and all meeting materials related to the agenda items which have been distributed to the Board will be posted on the town's website at: www.town.berlin.ct.us and will be available for viewing twenty-four (24) hours prior, during and after the meeting. Members of the public are encouraged to submit materials relevant to the applications no later than 12:00 p.m. on Monday, September 21, 2020, for posting prior to, during and after the meeting.

Berlin Zoning Board of Appeals Regular Meeting Agenda

I. Call to Order

II. Public Hearings:

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

Terry and Robin Grant are requesting a variance of 16 feet for a front setback of 24 feet when 40 feet is required and a variance of 4 feet for a side yard of 21 feet with total side yards of 40 feet when 45 feet is required in the R-21 zone per Berlin Zoning Regulations §V.A.10. for an attached garage. The property is owned by Robin E. and Terrence C. Grant. (*opened and continued from June 23, 2020*)

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

POSTPONED

Remand issued by Superior Court in the matter of Liam T. Mitchell, et al. v. Berlin Zoning Board of Appeals concerning the Board's denial of the plaintiffs' appeal of a Cease and Desist Order

issued by the Zoning Enforcement Officer for an unauthorized basement apartment in the R-43 zone per Berlin Zoning Regulations § XV.A.1. **(postponed)**

ZBA #2020-11 Map 11-3 Block 132 Lot 19, 288 Beckley Road
aka: 286 Beckley Rd and 55 Ledge Drive

POSTPONED

Carrier Enterprises, LLC is appealing the decision of the Zoning Enforcement Officer dated July 7, 2020, to deny a zoning permit for Building Permit Application for new construction of a single-family house. **(postponed at request of applicant)**

ZBA #2020-12 Map 11-3 Block 132 Lot 19, 288 Beckley Road
aka: 286 Beckley Rd and 55 Ledge Drive

POSTPONED

Carrier Enterprises, LLC is appealing the decision of the Zoning Enforcement Officer dated August 19, 2020, to deny a zoning permit for Building Permit Application for new construction of a single-family house. **(postponed at request of applicant)**

ZBA #2020-13 466 Norton Road Map 14-4 Block 71 Lot 11C

George and Christine Choinski are requesting a variance for an easterly side yard of 5 feet when 10 feet is required in the R-43 Zone per Berlin Zoning Regulations §V.A.10 for a detached 14 ft. x 24 ft. accessory structure shed.

ZBA #2020-14 250 Berlin Turnpike, (Building address 224 Berlin Turnpike, Unit 1.
Map 4-4 Block 82 Lot 18

Ken Robitaille is requesting a Sale of Alcoholic Beverages approval per Berlin Zoning Regulations XI.B., for an On-Premises Beer and Wine with Patio Liquor Permit for The Boss Grill LLC. The property is owned by 224 Berlin Turnpike LLC and is zoned BTB(PS-B).

III. Regular Meeting:

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

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

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

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

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IV. Approval of Minutes:

February 25, 2020;

April 28, 2020;

June 23, 2020

V. Adjournment



Town of Berlin

ZBA # 2020-09

Planning and Zoning Department

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

Town of Berlin
Received

JUN 02 2020

Planning & Zoning Department
Berlin, Connecticut

ZONING BOARD OF APPEALS APPLICATION

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

Property Owner(s): Terry, Robin Grant

Project Address*: 1104 High Rd

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

Please select all relevant items below:

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

Date(s) & Purpose(s): _____

Applicant Information

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

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

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

*Letter of Authorization Required

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

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

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

VARIANCE APPLICATIONS: For relief of: _____ requirement.

Requested requirement: _____

Reason/Description of Hardship (REQUIRED): _____

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

MOTOR VEHICLE USE LOCATION¹:

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

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

SALE OF ALCOHOLIC BEVERAGES LOCATION¹

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

Type of State Liquor Permit:

<input type="checkbox"/> On -Premises Permit:	Type _____
<input type="checkbox"/> Off-Premises:	Type _____
<input type="checkbox"/> Other:	Explain _____

To be completed by P&Z staff only:

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

ZBA # 2020-09

Received by: _____

Scheduled on ZBA Agenda of: _____

ZONING BOARD OF APPEALS DECISION:

Plan Title & Date: _____

CURRENT OWNER				TOPO		UTILITIES		STRT / ROAD		LOCATION		CURRENT ASSESSMENT								
GRANT ROBIN C & TERRENCE E 1104 HIGH RD BERLIN CT 06037				1 Level	2 Water	3 Sewer	1 Paved					Description	Code	Appraised Value	Assessed Value					
														RES LAND	1-1	111,700	78,200			
														DWELLING	1-3	88,200	61,700			
														RES OUTBL	1-4	2,300	1,600			
SUPPLEMENTAL DATA																				
Alt Ptcl ID 14-T 0051 000009																				
CENSUS 4003																				
(not used) Medium Incomeexp																				
GIS ID 14-1-51-9																				
Section: W																				
dc																				
CB Letter																				
Assoc Pld#																				
Total				202,200 141,500																
RECORD OF OWNERSHIP				BK-VOL/PAGE	SALE DATE	QU	VI	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)										
GRANT ROBIN C & TERRENCE E				0646 0901	02-17-2011	U	I	0	01	Year	Assessed	Year	Code	Assessed	Year	Code	Assessed			
GRANT ROBIN C				0646 0900	02-17-2011	U	I	0	34	2019	78,200	2018	1-1	78,200	2017	1-1	78,200			
BEAULIEU ROBIN C				0441 0707	12-27-2000	U	I	120,000		1-3	61,700		1-3	61,700		1-3	61,700			
LOMBARDO JOSEPH F &				0136 0000	03-08-1965	U	I	0		1-4	1,600		1-4	1,600		1-4	1,600			
Total										Total	141,500	Total	141,500	Total	141,500	Total	141,500			
EXEMPTIONS				OTHER ASSESSMENTS																
Year	Code	Description	Amount	Code	Description	Number	Amount	Comm Int												
Total				0.00																
ASSESSING NEIGHBORHOOD				Batch																
Nbhd	Nbnd Name			Tracing																
1020																				
NOTES																				
6/27/02 ADD A/C GARAGE																				
CONVERTED TO LIVING AREA																				
GL14 ADD COMPOSITE DECK																				
BUILDING PERMIT RECORD				VISIT / CHANGE HISTORY																
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments	Date	Id	Type	Is	Cd	Purpose/Result						
BP15-0135	05-19-2015	RS	Residential	5,000		100		12 X 20 PREFAB STORAGE S	10-01-2015	JF	1		51	BP Exterior only						
5012	06-28-2004	RS	Residential Permit	9,800		100		VINYL SIDING & ROOFING 2	08-25-2014	JH	1		01	Measur+1Visit						
1560	04-24-2001	CV		1,000		100		SERV UPGR 200 A	05-28-2002	PD			01	Measur+1Visit						
Total Appraised Parcel Value															202,200					
LAND LINE VALUATION SECTION				Special Pricing																
B	Use Code	Description	Zone	D	Front	Dept	Land Units	Unit Price	I Factor	SA	Cond.	ST.Idx	Adj.	Notes	Spec Use	Spec Cal	S Adj	Adj. Unit	Land Value	
1	1010	Single Family	R-21	1			0.560 AC	136,400 AC	1.53881	5	1.00	7	0.950		0		1.000		111,700	
Total Card Land and Units				0.5600 AC						Parcel Total Land Area 0.5600						Total Land Value 111,700				

CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)							
Element	Cd	Description	Element	Cd	Description						
Style: Model Grade: Stories: Occupancy Exterior Wall 1 Exterior Wall 2 Roof Structure: Roof Cover Interior Wall 1 Interior Wall 2 Interior Flr 1 Interior Flr 2 Heat Fuel Heat Type: AC Type: Total Bedrooms Total Bthrms: Total Half Baths Total Xtra Fixtrs Total Rooms: Bath Style: Kitchen Style: Whirlpool Tub # Fireplaces Fin Bsmnt Area Fin Bsmnt Qualit Fin Bsmnt Qualit Bsmnt Garage Fin Bsmnt Area2	01 05 C 1 1 25 03 03 05 14 03 04 03 02 1 1 5 02 02 1	Ranch Residential C 1 Story Vinyl Siding Gable Asph/F Gls/Cmp Drywall Carpet Gas/Oil Forced Air-Duc Central 2 Bedrooms Average Average 									
				MIXED USE							
				Code	Description	Percentage					
				1010	Single Family	100 0 0					
				COST / MARKET VALUATION							
				Building Value New		124,242					
				Year Built		1950					
				Effective Year Built		G					
				Depreciation Code							
				Remodel Rating		29					
				Year Remodeled							
				Depreciation %							
				Functional Obsol		1					
				Trend Factor							
				Condition							
				Percent Good		71					
				Crs Sect Rcndld		88,200					
				Dep % Ovr							
				Dep Ovr Comment							
				Misc Imp Ovr							
				Misc Imp Ovr Comment							
				Cost to Cure Ovr							
				Cost to Cure Ovr Comment							
				OB - OUTBUILDING & YARD ITEMS(L)/XF-BUILDING EXTRA FEATURES(B)							
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond.	Cd	% Gd	Grade	Grade Adj.	Appr. Value
SHD1	Shed Wd Res	L	240	12.54	2015	G		75		0.00	2,300
BUILDING SUB-AREA SUMMARY SECTION											
Code	Description	Floor Area	Eff Area	Unit Cost	Undeprec Value						
BAS	First Floor	1,392	1,392	74.66	103,933						
BSM	Basement	0	1,008	14.96	15,082						
CDK	Composite Deck	0	320	54	4,032						
FST	Utility, Finished	0	54	16	1,195						
Ttl Gross Liv / Lease Area					1,392	2,774	1,664	124,242			

Town of Berlin

Geographic Information System (GIS)

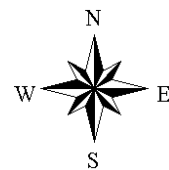


Date Printed: 9/21/2020

**MAP DISCLAIMER - NOTICE OF LIABILITY**

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

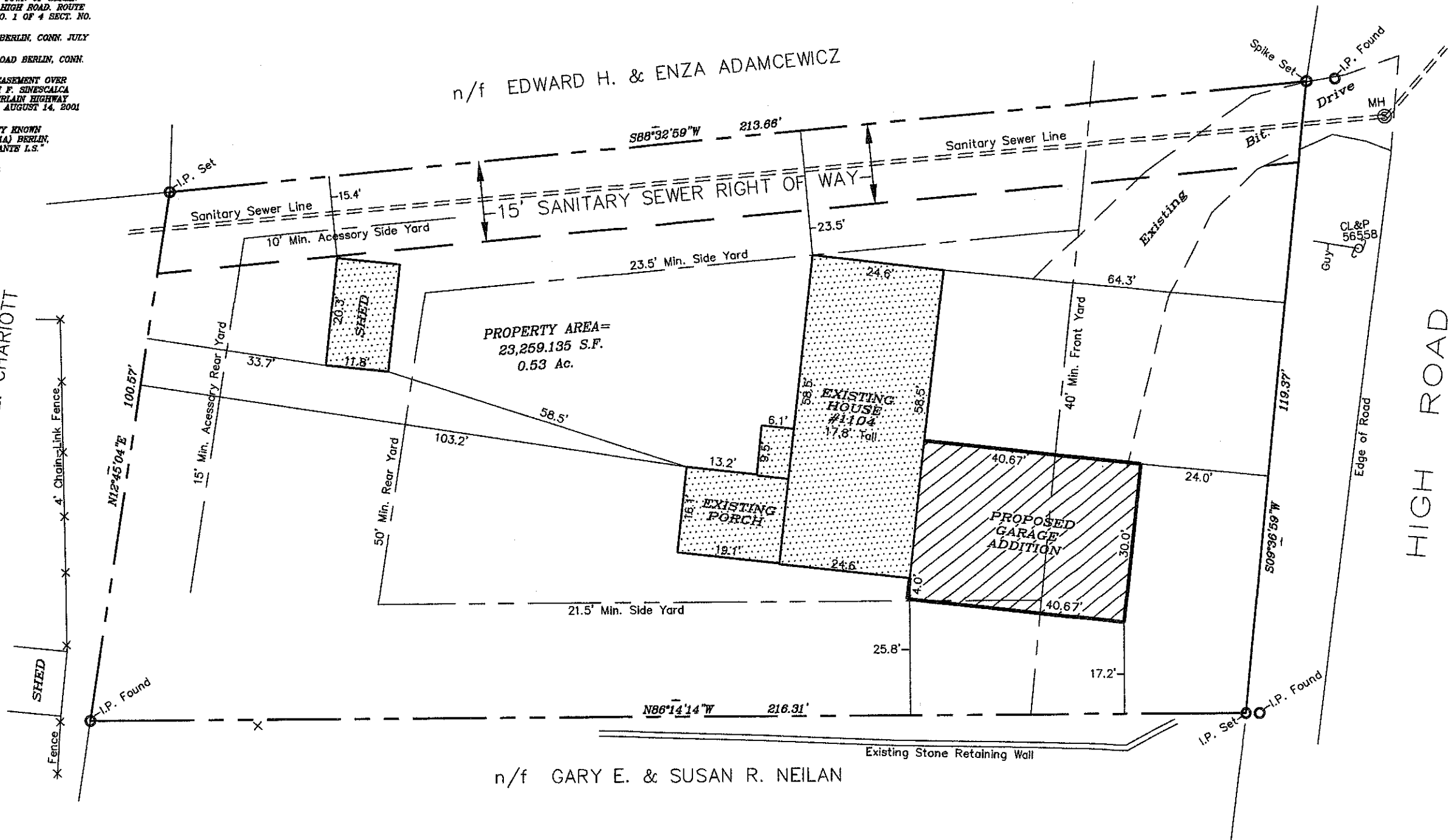
Approximate Scale: 1 inch = 50 feet



MAP REFERENCES:

- 1) "CONNECTICUT STATE HIGHWAY DEPARTMENT RIGHT OF WAY MAP TOWN OF BERLIN CAT HOLE PASS ROAD FROM PERCIVAL ST. NORTHEASTERLY TO HIGH ROAD. ROUTE No. 71-A SCALE 1"=40' 11-13-1935 NUMBER 7-03 SHEET NO. 1 OF 4 SECT. NO. 3 R.W. THOMPSON ENG."
- 2) "LOT 1 ON MAP SHOWING PROPERTY OF VINCENZO MANCARELLA BERLIN, CONN. JULY 11, 1930 SCALE 1"=40' JOHN W. SKINNON L.S." MAP NO 168
- 3) "SUBDIVISION PROPERTY OF SANDRA B. & RONALD ORDE HIGH ROAD BERLIN, CONN. SCALE 1"=40' JOHN L. THOMPSON L.S." MAP NO 2180
- 4) "COMPIATION PLAN MAP SHOWING PROPOSED SANITARY SEWER EASEMENT OVER PROPERTIES OF JOSEPH F. AND ROLANDA LOMBARDO AND EDITH F. SINESCALCA KNOWN AS LOTS 9 and 10/ BLOCK 51 HIGH ROAD AND CHAMBERLAIN HIGHWAY (State Route 71A) BERLIN, CONNECTICUT SCALE 1"=40' DATE: AUGUST 14, 2001 LEWIS J. MIRANTE L.S. MAP NO. 2276
- 5) "MAP SHOWING PROPERTY OF DAVID E. CARLSON ET AL PROPERTY KNOWN AS LOT 6A/ BLOCK 51 CHAMBERLAIN HIGHWAY (STATE ROUTE 71A) BERLIN, CONNECTICUT SCALE: 1"=20' DATE: SEPT 16, 1997 LEWIS J. MIRANTE L.S. MAP NO. 2178
- 6) "PROPERTY OF FERNDAL DAIRY, INC. BERLIN, CONN. SEPT. 1956 SCALE-1"=100' A.W. RACON C.E." MAP NO. 358.

n/f DONALD E. CHARIOTT



CERTIFICATION:

- 1) THIS MAP AND SURVEY WERE PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES, SECTIONS 20-300B-1 THRU 20-300B-20, AND THE RECOMMENDED STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT EFFECTIVE OCTOBER 26, 2018 PREPARED AND ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. PURSUANT TO AND AS SET FORTH THESE STANDARDS. THE TYPE OF SURVEY PERFORMED AND THE MAPPED FEATURES DEPICTED HEREON ARE IN ACCORDANCE WITH THE REQUIREMENTS OF AN IMPROVEMENT LOCATION SURVEY.
- 2) THIS MAP AND SURVEY WERE PREPARED FOR TERRANCE E. & ROBIN C. GRANT TO BE USED IN MATTERS THAT RELATE TO PROPOSED CONDITIONS. USE OF THIS MAP FOR OTHER PURPOSES OR BY OTHER PARTIES IS NOT AUTHORIZED OR VALID.
- 3) NO DECLARATION IS EXPRESSED OR IMPLIED BY THIS MAP OR COPIES THEREOF UNLESS IT BEARS THE IMPRESSION TYPE SEAL AND ORIGINAL LIVE SEAL AND ORIGINAL LIVE SIGNATURE OF THE SURVEYOR WHOSE NAME AND REGISTRATION NUMBER APPEAR BELOW. ANY CHANGES MADE TO THIS PLAN WITHOUT THE KNOWLEDGE OF THE SIGNER INVALIDATES THESE DECLARATIONS.

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

PETER D. FLYNN
KENNETH R. CYR
NOT VALID UNLESS ORIGINAL SIGNATURE, LIVE SEAL, & PRESSED SEAL ARE AFFIXED.



REGULATIONS FOR R-21 ZONE			
ITEM	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	21,000 S.F.	17,780 S.F.	17,780 S.F.
MIN. FRONTAGE	125'	90.0'	90.0'
MIN. LOT WIDTH	125'	98.4'	98.4'
MIN. FRONT YARD	40'	64.3'	24.0' *
MIN. SIDE YARD (EACH)	20'	23.5'	17.2' *
MIN. SIDE YARD (BOTH)	45'	49.3'	40.7' *
MIN. REAR YARD	60'	103.2'	103.2'
MAX. BLDG. HEIGHT	2.5 STY/35'	2 STY/35'	2 STY/35'
MAX. COVERAGE	N/A	N/A	N/A
ACCESSORY BUILDING			
DET. TO PRINCIPAL BLDG	12.0'	33.7'	33.7'
DET. TO FRONT LOT LINE	40.0'	165.6'	165.6'
DET. TO SIDE LOT LINE	10.0'	15.4'	15.4'
DET. TO REAR LOT LINE	15.0'	58.6'	58.6'

*NON-CONFORMING CONDITION WHICH WILL REQUIRE ZBA APPROVAL

Town of Berlin
Received

JUN 0 2 2020

Planning & Zoning Department

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



top of plate
 door and window height
 8'-0"
 6'-8"
 2nd. floor
 top of plate
 door and window height
 7'-4"
 6'-8"
 Existing 1st. floor

finished grade beyond

top of plate

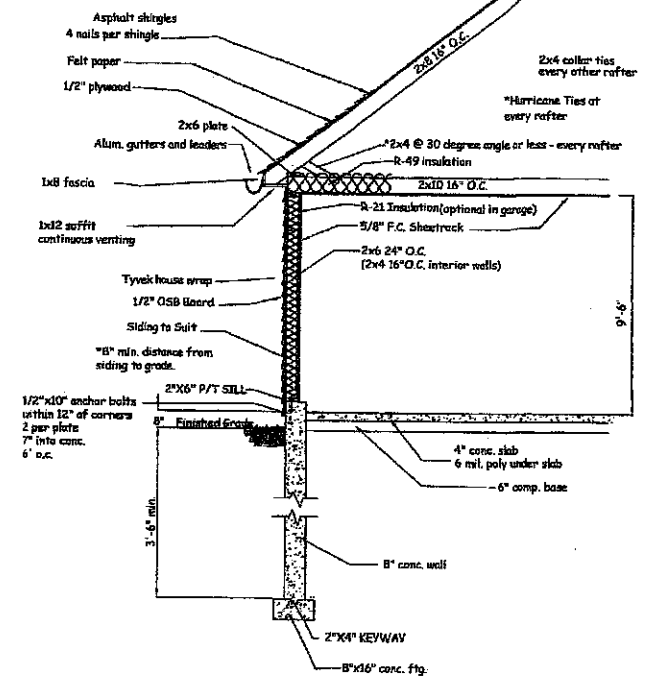
finished grade

GARAGE ADDITION

FOYER ADDITION

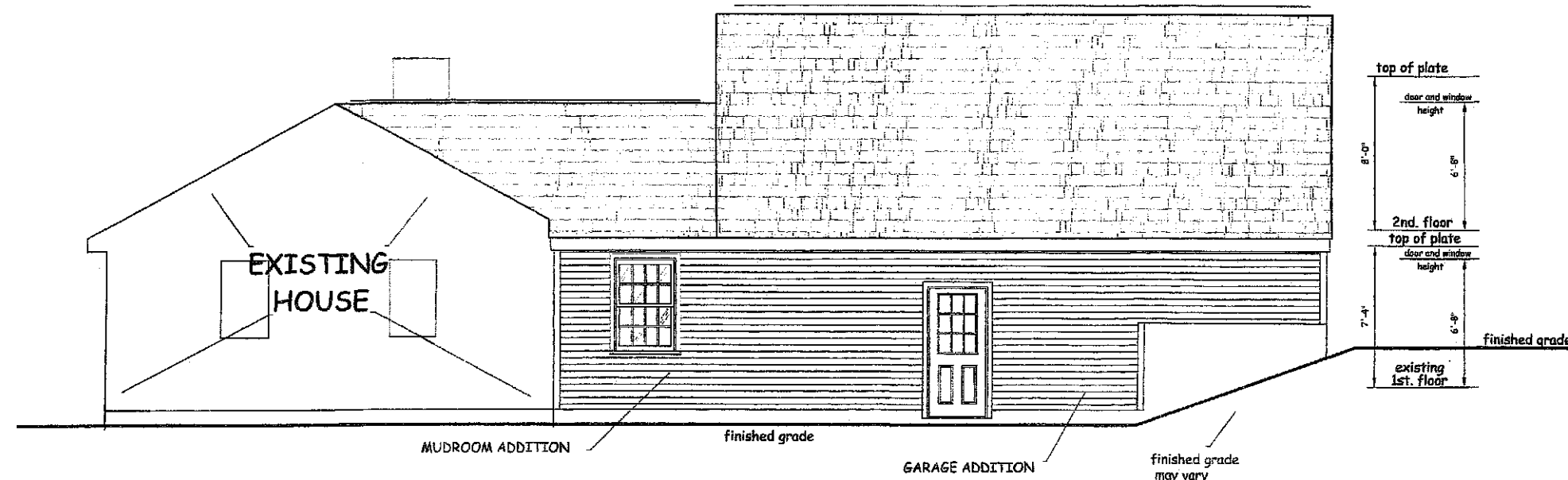
RIGHT ELEVATION

SCALE 1/4" = 1'-0"



TYPICAL WALL SECTION

NOT TO SCALE

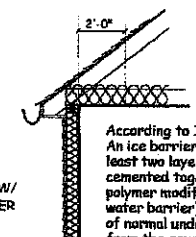


LEFT ELEVATION

SCALE 1/4" = 1'-0"

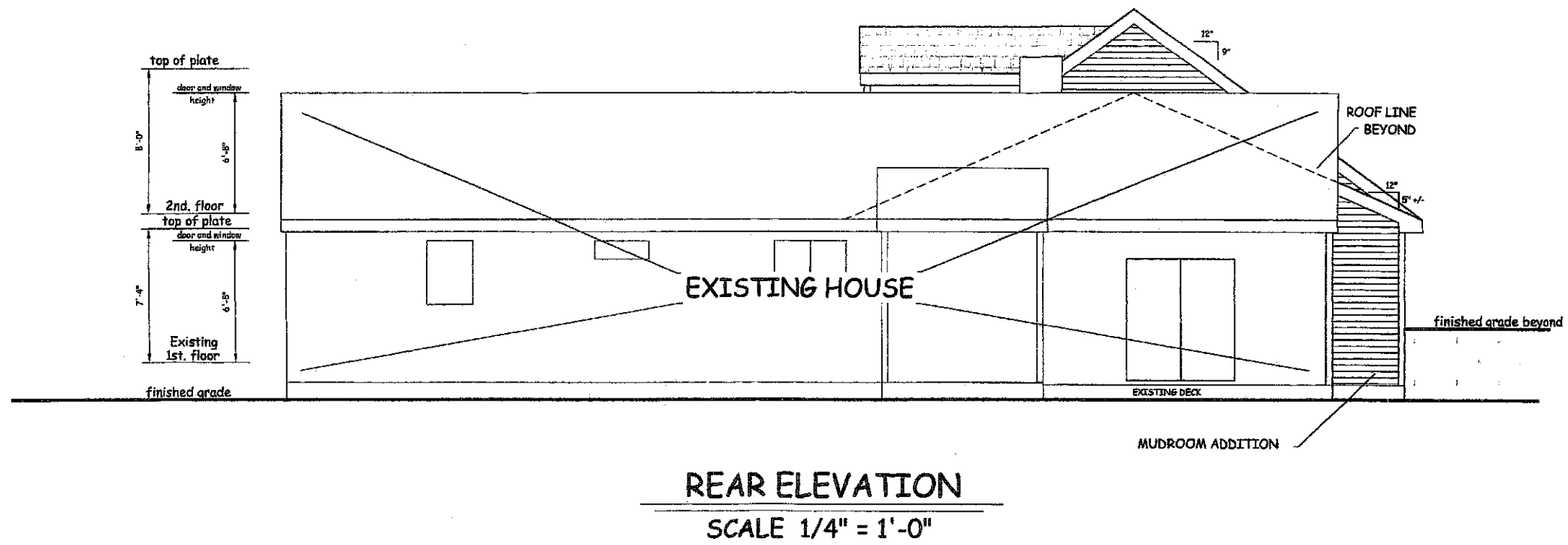
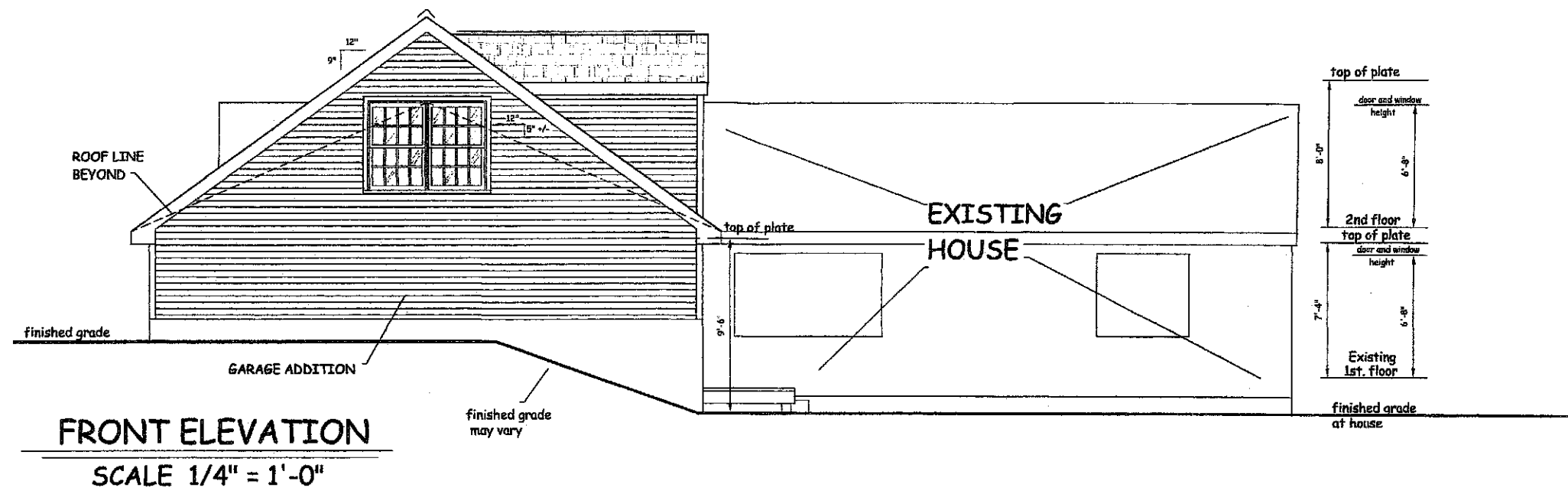
TYPICAL ROOF NOTES
 ALL ROOFING, FLASHING UNDERLAYMENT,
 FELT PAPER AND RIDGE VENTS SHALL BE
 INSTALLED IN ACCORDANCE WITH
 MANUFACTURERS RECOMMENDATIONS.

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



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

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



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

GRANT 19-01-065

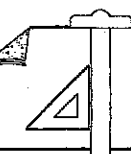
DATE
10/31/2019
SHEET
#1 of 5

Architectural Design
and Drafting
Services, LLC.
Kathy Farmer
133 Main Street 2nd Floor
Southington, Ct, 06879
Tel: (860) 620-9937

Town of Berlin
Received

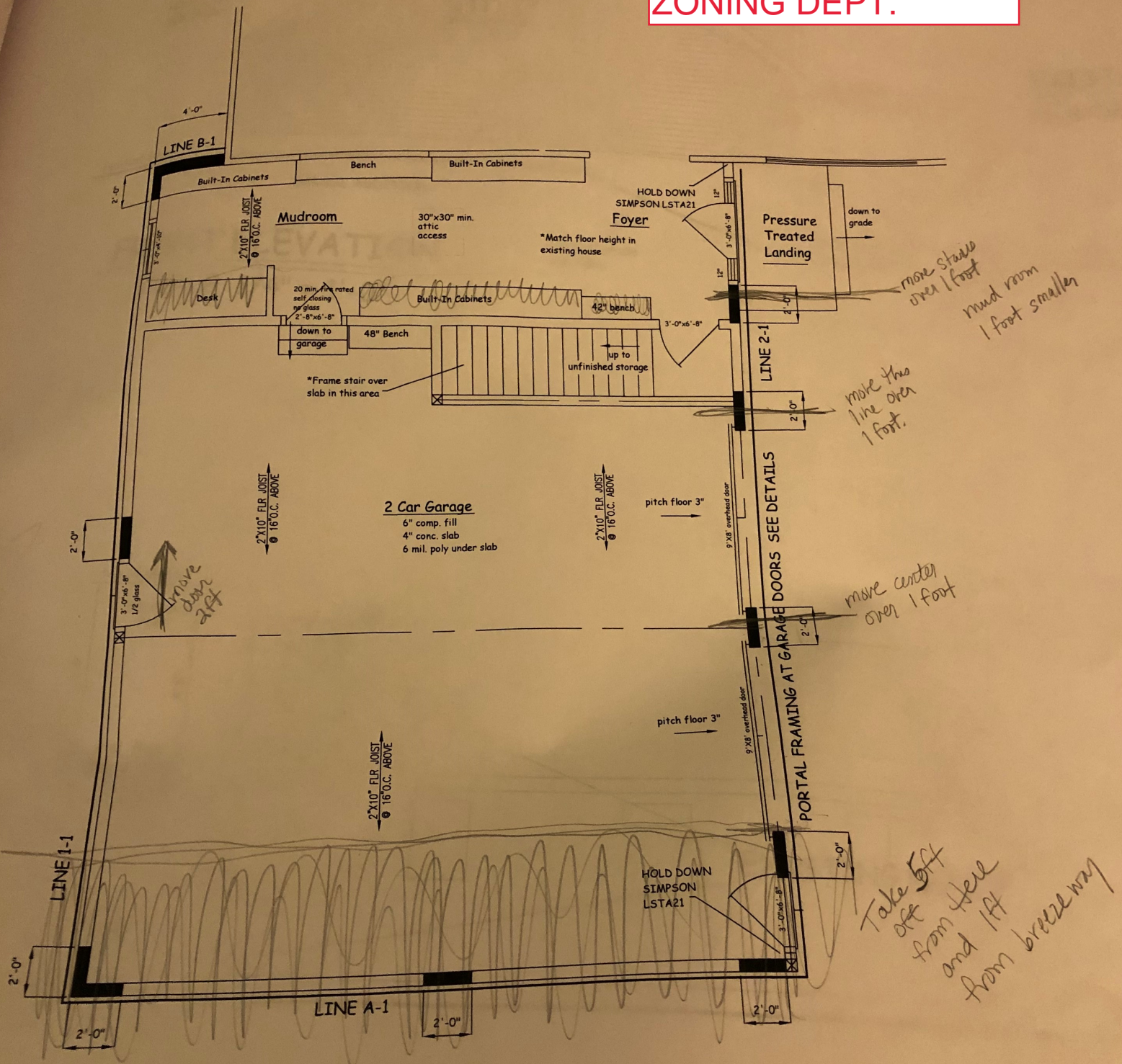
10/31/2019

Project: 19-01-065 - Grant Addition
1104 High Road, Berlin, CT



House & Addition Plans and Renderings

RECEIVED 9/21/2020
TOWN OF BERLIN
PLANNING AND
ZONING DEPT.



1ST. FLOOR PLAN

(SHOWING HOLD DOWN, PORTAL FRAME, AND
CONTINUOUSLY SHEATHED BRACED WALL PANEL LOCATIONS)

MEMORANDUM OF STAFF COMMENTS

TO: Zoning Board of Appeals
FROM: Maureen K. Giusti, AICP Acting Town Planner
DATE: June 18, 2020
RE: ZBA #2020-13 Side yard variance, accessory structure
APPLICANT: George and Christine Choinski
ADDRESS: 466 Norton Road MBL: 14-4 / 71 / 11C
ZONE: R-43
REGULATION: BZR §V.A.10.

Proposal and Background:

George and Christine Choinski are requesting a variance for an easterly side yard of 5 feet when 10 feet is required in the R-43 Zone per Berlin Zoning Regulations §V.A.10 for a detached 14 ft. x 24 ft. accessory structure shed.

Staff Comments:

The applicant is requesting to place their new 14 ft. x 24 ft. accessory structure shed along the east side of their lot between the garage and side lot line. The R-43 zone regulation allows accessory structures that are placed in excess of 12 feet from the principal structure may have a reduced setback of 10 feet from the side line. Accessory structures less than 12 ft. from the principal structure must maintain the principal setback, 30 feet. This application proposes the accessory structure/shed to be 22 ft from the attached garage and 5 feet from the side property line.

The proposed structure (in yellow) is not to scale on the submitted plan. (not proportionally shown in proximity to the property line and the dimensions are not scaled correctly. Staff will provide the location approximately corrected, in RED, of the proposed 14' x 24' detached shed at 22 ft. from the garage and 5 feet from the side line.

A drainage swale/grading as shown on the 1986 As-Built plot plan should be maintained so as to prevent any disturbance to adjacent properties.

The Town of Berlin Plan of Conservation and Development, Section II, Strategic Outline for Implementation Strategy 1. Coordinate the Regulatory Structure to Support the Plan, 3) states: Any variance granted by the Zoning Board of Appeals should be consistent with the standards imposed by the Connecticut General Statutes in which a hardship exists owing to conditions affecting a specific parcel of land, and the variance which is granted should be consistent with the goals and policies of the this plan and the intent of the zoning regulations.



Town of Berlin

ZBA # _____ - _____ - _____

Planning and Zoning Department

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

ZONING BOARD OF APPEALS APPLICATION

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

Property Owner(s): George & Christine Choinski
Project Address*: 466 Norton Rd. Kensington, CT 06037
Map: 14-4 Block: 71 Lot: 11C Zone(s): R-43 Lot Area: 1.85 acres

Please select all relevant items below:

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

Date(s) & Purpose(s): _____

Town of Berlin
Received

SEP 02 2020

Applicant Information

Name: George & Christine Choinski Firm Name: _____
Street Address: 466 Norton Rd. City: Kensington ST: CT Zip: 06037
Email: Kris1122@comcast.net Phone: 860-828-4908
Signature: Christine Choinski Date: 9/1/2020

Planning & Zoning Department
Berlin, Connecticut

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

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

*Letter of Authorization Required

ZBA action is requested pursuant to Berlin Zoning Regulations Section(s): VA10

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

Brief description of the proposal: Place a 14' x 24' detached Shed.
B-43 zone. Rear, Front + principle lot lines all met.
Requesting side lot requirement of 10' to be
decreased to 5' please.

VARIANCE APPLICATIONS: For relief of: 10' side lot requirement.

Requested requirement: Side lot 10' requirement decreased to 5'

Reason/Description of Hardship (REQUIRED): To have adequate
access to our rear yard if needed by an
oversized Truck/vehicle. For example a Septic truck.
We have future thoughts of putting a lean to on garage.
we just want to make sure we can access the rear yard
ie: if we needed a bulldozer or Large Truck to get in the back
yard.

MOTOR VEHICLE USE LOCATION:

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

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

SALE OF ALCOHOLIC BEVERAGES LOCATION:

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

Type of State Liquor Permit:

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

To be completed by P&Z staff only:

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

ZBA # _____ - _____ - _____

Received by: _____

Scheduled on ZBA Agenda of: _____

ZONING BOARD OF APPEALS DECISION:

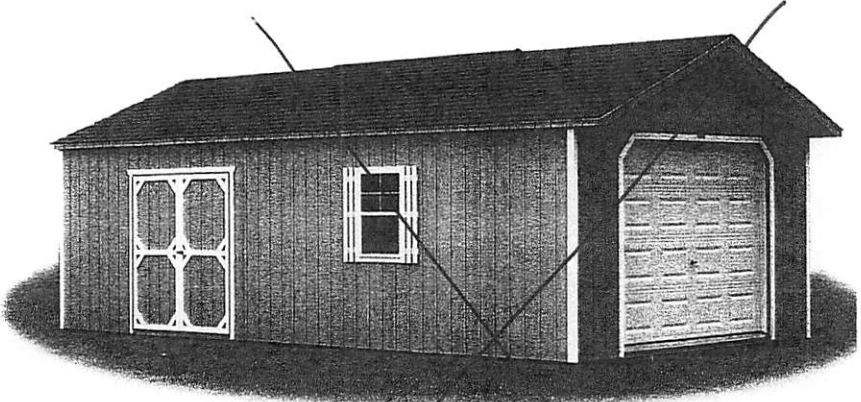
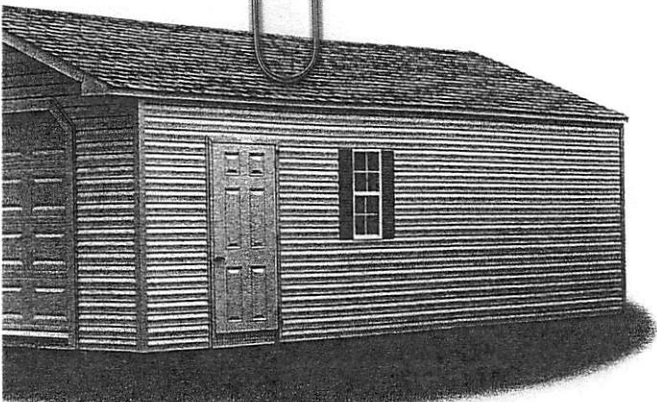
Town of Berlin
Received

SEP 02 2020

Planning & Zoning Department
Berlin, Connecticut

Plan Title & Date: _____

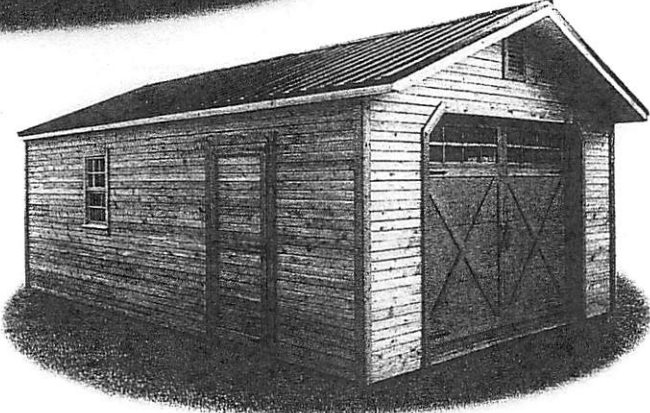
Peak style garages include 16" front overhang, one window, one 16" entry door, and one 9' x 7' garage door.



14 x 28 Peak Garage

Shown with beige LP Smart Side siding, white trim, white garage door, white shutters, and shakewood shingle roof. Also shown with optional aluminum ridge vent, upgrade to double doors, and diamond tread plate.

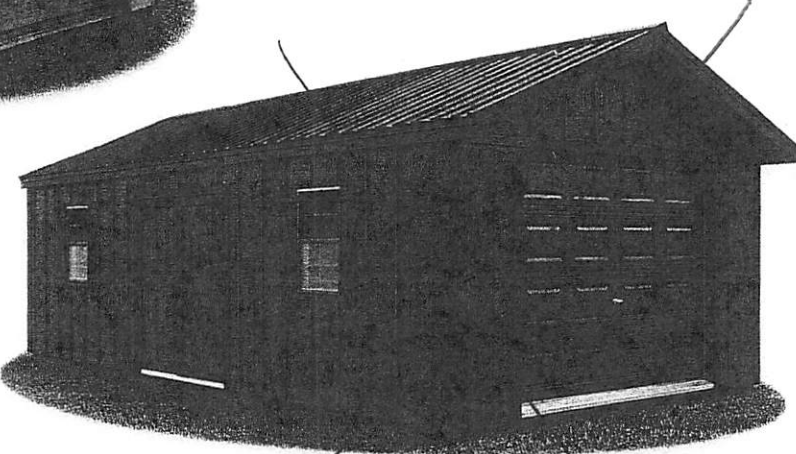
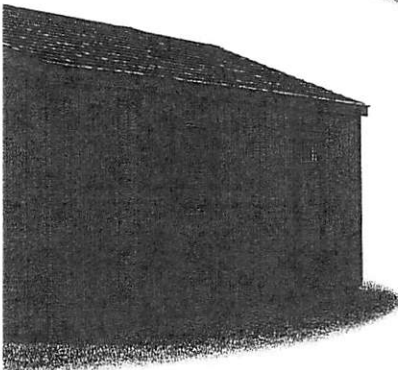
artisan clay trim, sand-ss door, red shutters, and th optional gable end vents



14 x 24 Peak Garage

Shown with cedar siding, and green metal roof. Also shown with optional custom cedar garage door, archtop cedar gable end vents, and upgrade to metal roof.

signed
y Use!



14 x 28 Peak Garage

Shown with rustic cedar polyurethane on LP Board 'N' Batten Smart Side siding, red trim, coffee brown garage door, red shutters, and rural red metal roof. (New England trim package and hardware included standard on LP Board 'N' Batten Smart Side models). Also shown with optional ridge vent, upgrade to metal roof, additional window, upgrade to double door, optional garage door color, and diamond tread plates.

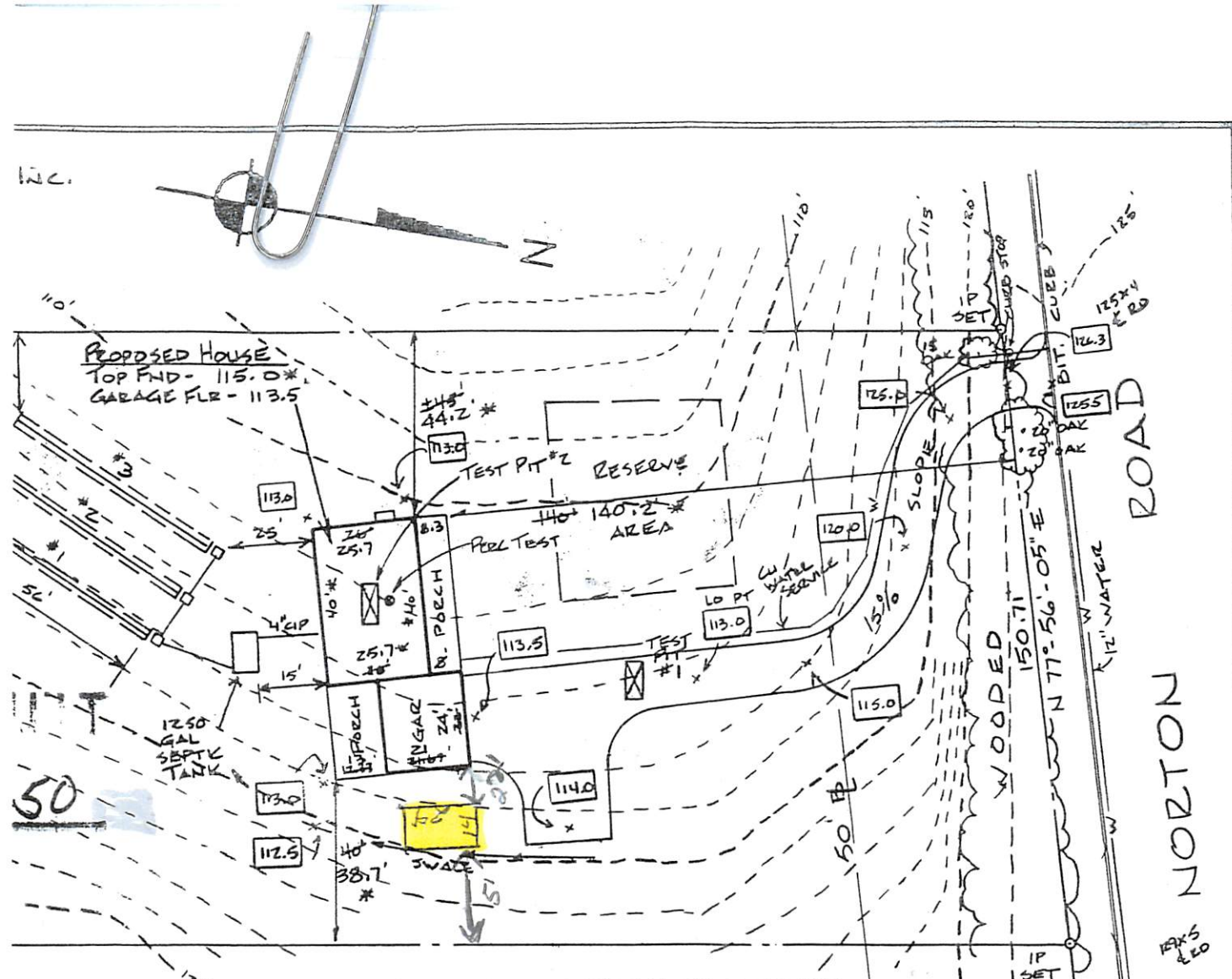
Peak Garage
ie on LP Smart Side siding, dark brown Z' shutters, and barkwood shingle roof. dge vent, colonial style garage door, New vs in single door, and diamond tread plate.

6

Town of Berlin
Received

SEP 02 2020

Planning & Zoning Department
Berlin, Connecticut



I HEREBY CERTIFY THAT THIS MAP AND SURVEY WERE PREPARED IN ACCORDANCE WITH THE STANDARDS OF A CLASS A-2 SURVEY AS DEFINED IN THE CODE OF RECOMMENDED PRACTICE FOR STANDARDS OF ACCURACY OF SURVEYS AND MAPS, ADOPTED DECEMBER 10, 1975 AS AMENDED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC.

Lewis J. Mirante
 LEWIS J. MIRANTE, REGISTERED LAND SURVEYOR #12058

THIS PLAN IS
 AS BUILT
 AS SHOWN

NCE: "Subdivision Plan, Property
 & Norman H. Munson, Norton
 , Connecticut; Scale: 1"=40';
 1986, MBA Engineering."
 & LOCATED IN AN R-43 ZONE.
 & STAKED BY LICENSED LAND

TEST PIT MAY BE REQUIRED BY
 ARIAN PRIOR TO THE
 ON OF SANITARY SYSTEM.
 O BE SERVED BY PUBLIC WATER
 ORMATION (Test Pits #1 & #2)
 soil
 idish Brown Sandy Loam
 ridge or Mottling
 7 feet.

LOT PLAN AND
 SANITARY SYSTEM DESIGN
 FOR *Christine*
GEORGE & CHOINSKI

LOT 11 C / BLOCK 71
 NORTON ROAD BERLIN, CONNECTICUT
SEPTEMBER 25, 1986
 REV. 1/2/86 - AS BUILT
 Map Prepared by:

MBA Engineering
 Surveying and Engineering Services
 1064 Farmington Avenue
 Berlin, Connecticut 06037
 (203) 828-6331

Town of Berlin
 Received
 SEP 02 2020

Planning & Zoning Department
 Berlin, Connecticut

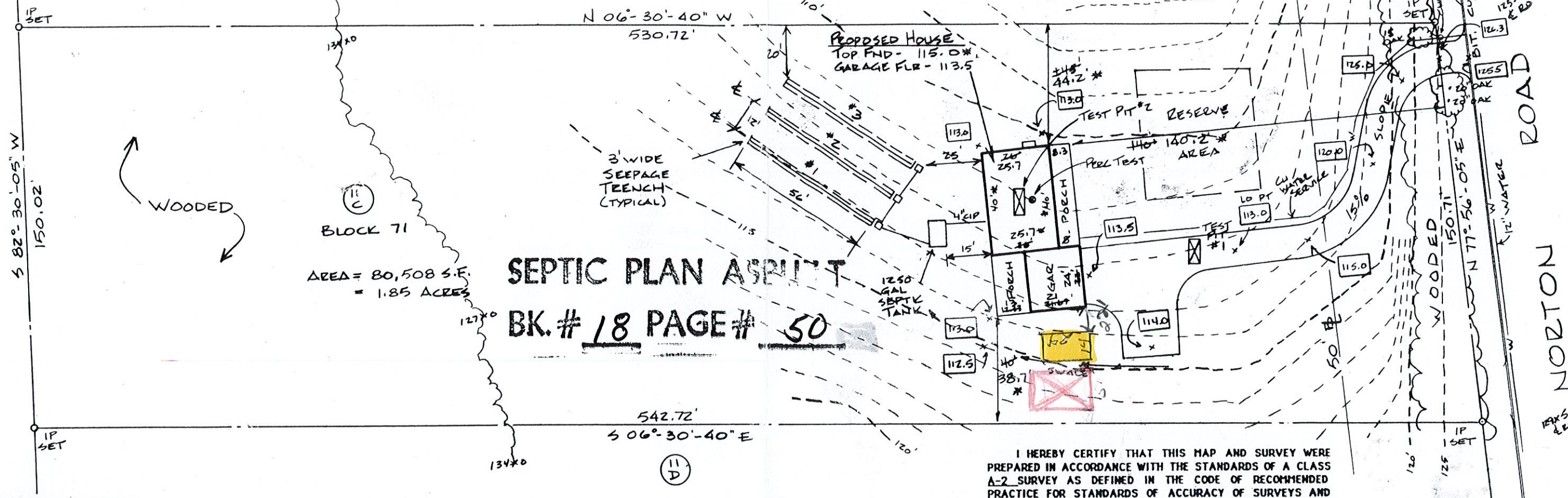
SCALE: 1"=40'



NOTE: ELEVATIONS TO
USGS DATUM

N/F BERLIN LIONS MEMORIAL FUND, INC.

N/F ELIZABETH PLASKAS RUDNICKER



Phone: 203.548.7355

Fax: 860.846.0030

www.shedsinstruct.com

cts@sheds@gmail.com

☐ Stock☒ New Order☐ Build Onsite

Order Date

8/24/2020

Customer Expects To

Be Ready By:

4-5 weeks

Customer Name

Christine Choinski

Address

466 Norton Rd

City/State/Zip

Berlin CT

Home Phone

Cell Phone

860.828.4908

Work Phone

E-mail

Size

14x24

Style

Peak Garage

☒ Coated LPSiding
ColorTrim
ColorShutter
ColorRoof
Color☒ Asphalt
☐ Metal

	QTY.	SIZE	COLOR	STYLE	COST
Door	1	3x6		Double Doors	
Window	2	24x36		Single Hung	
Door	1	9x7		Garage	
Quantity	Option				Cost
	2 windows - on				
	Right side (Facing shed)				
	Door also Right side				

Quantity	Size	Options	Cost
1	10	SORV	
		End Vent	
1	9'	Ramp	
		Cupola	
		Flower box	
		Loft	
		Weathervane	
		Vented Eaves	
		Diamond Plate	
		Diamond Plate	

Delivery Remarks:

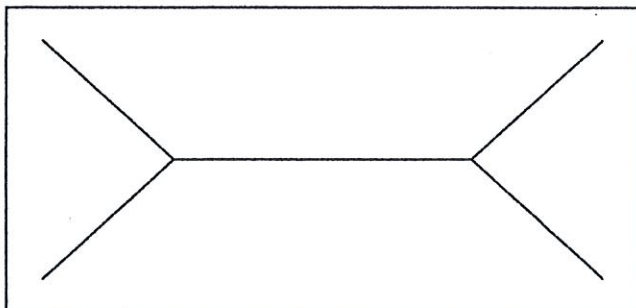
☐ Check here if we need to cross your lawn to deliver this building?☐ Check here if lawn conditions are soft when wet?

How are delivery conditions?

☐ Wide Open☐ Some Obstacles☐ Very Tight

Confirmed Delivery Date:

Load door on building to which direction on trailer?

☐ Front☐ Back☐ Driver Side☐ Passenger Side

Received Deposit

☐ Cash☐ Check☐ Credit

Received Payment in Full

☐ Cash☐ Check☐ Credit☐ Financed

Base \$9,748.00

Options \$0.00

Mule \$0.00

Delivery Charge \$0.00

Subtotal \$9,748.00

Tax \$619.00

Total \$10,367.00

Deposit \$5,183.50

Balance \$5,183.50

Balance is due in full upon delivery. 1.5% per month will be added to all past due invoices. There will be a \$30 charge for NSF checks. Cancellation after 3 days from order date is subject to a 15% restocking fee. Customer is responsible for all building permits and compliance with local regulations. Customer is responsible to ensure we have access for delivery. PCS is not responsible for yard or property damage due to lack of access or unfavorable delivery conditions. If we must cross or enter neighboring property, customer is responsible to have written permission prior to delivery. In the event of default payment, we have the right to enter the property without prior notice and repossess the building. Pine Creek Structures must be paid in full prior to any modifications or improvements being made to the structure including electrical and plumbing hook ups. Any modification to the structure that effect the integrity of the structure will void your warranty. These include but are not limited to windows, doors, improperly installed spouting, attaching to the roof with exposed fasteners, insulating without proper ventilation, and installation of drywall to the interior of the structure. Pine Creek Structures will not warranty the structure, or be liable for any damage by improperly installed foundations or pad sites

Signature Christine Choinski

HIC# PA049068

HIC# CT0634404

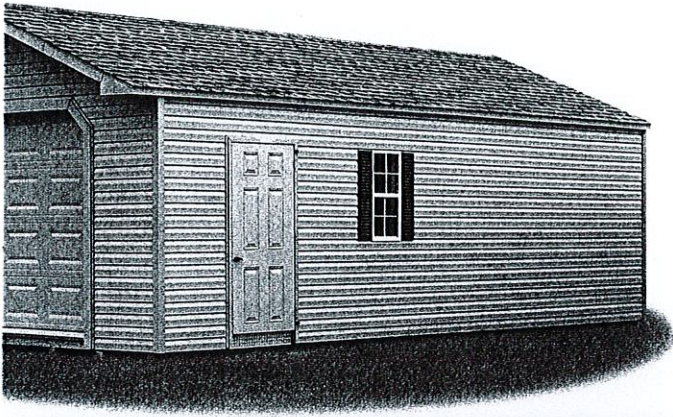
PV 18410

Town of Berlin
Received

SEP 02 2020

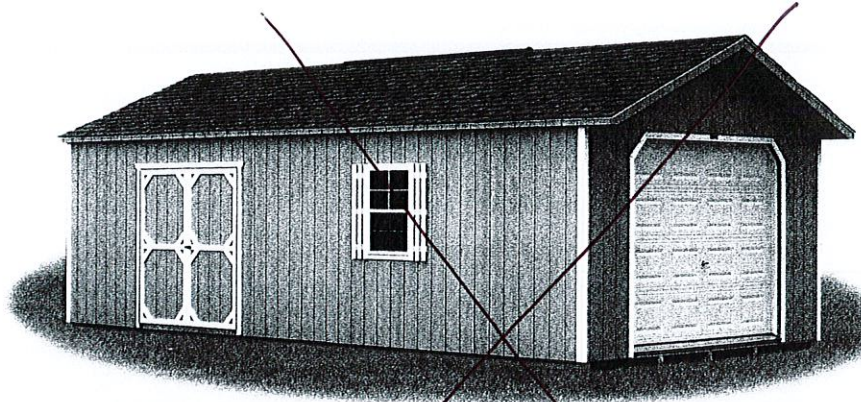
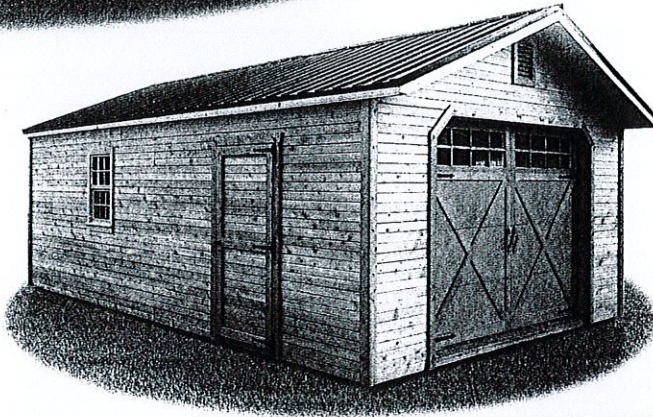
Planning & Zoning Department
Berlin, Connecticut

Peak style garages include 16" front overhang, one window, one 36" entry door, and one 9' x 7' garage door.



Garage
artisan clay trim, sand-
lass door, red shutters, and
with optional gable end vents

esigned
ity Use!



14 x 28 Peak Garage

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14 x 24 Peak Garage

Shown with cedar siding, and green metal roof. Also shown with optional custom cedar garage door, archtop cedar gable end vents, and upgrade to metal roof.



Peak Garage

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'Z' shutters, and barkwood shingle roof.
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ws in single door, and diamond tread plate.



14 x 28 Peak Garage

Shown with rustic cedar polyurethane on LP Board 'N' Batten Smart Side siding, red trim, coffee brown garage door, red shutters, and rural red metal roof. (New England trim package and hardware included standard on LP Board 'N' Batten Smart Side models). Also shown with optional ridge vent, upgrade to metal roof, additional window, upgrade to double door, optional garage door color, and diamond tread plates.

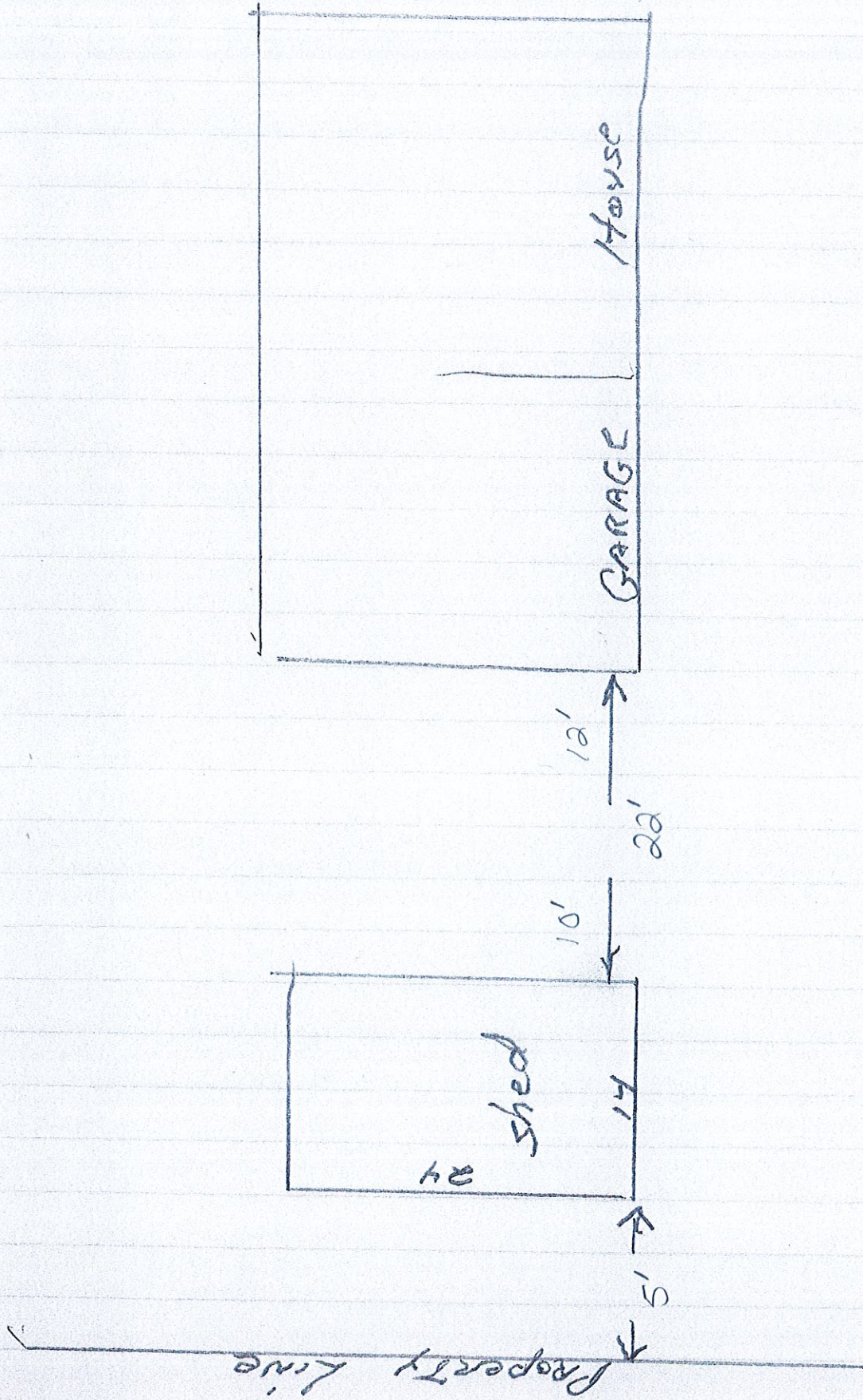
6

Town of Berlin
Received

SEP 02 2020

Planning & Zoning Department
Berlin, Connecticut

Variance proposal



Town of Berlin
Received

SEP 02 2020

Planning & Zoning Department
Berlin, Connecticut

George & Christine
Choiniski

466 Norton Rd

Tel. # 860-828-4908 Kensington, CT 06037

[illegible]

Town of Berlin

Geographic Information System (GIS)



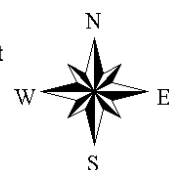
Date Printed: 9/21/2020



MAP DISCLAIMER - NOTICE OF LIABILITY

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

Approximate Scale: 1 inch = 100 feet



MEMORANDUM OF STAFF COMMENTS

TO: Zoning Board of Appeals
FROM: Maureen K. Giusti, AICP Acting Town Planner
DATE: June 18, 2020
RE: **ZBA #2020-14 Sale of Alcoholic Beverages Location Approval**
APPLICANT: **Ken Robitaille**
ADDRESS: **250 Berlin Turnpike, (Building address 224 Berlin Turnpike, Unit #1.
Map 4-4 Block 82 Lot 18**
ZONE: **BTD (PS-B)**
REGULATION: **BZR §XI.B**

Proposal and Background:

Ken Robitaille is requesting a Sale of Alcoholic Beverages approval per Berlin Zoning Regulations XI.B., for an On-Premises Beer and Wine with Patio Liquor Permit for The Boss Grill LLC. The property is owned by 224 Berlin Turnpike LLC and is zoned BTD(PS-B).

Staff Comments:

The new construction multi-tenant commercial building is part of the multi-use complex that includes the Acura dealership, this existing multi-tenant commercial building, another multi-tenant commercial building under construction to the north and multi-family apartments to be built to the west of the commercial buildings (fronting on Episcopal Road)

This building is substantially occupied with a smoothie shop, personal service tenants. Another restaurant use is pending. The applicant is requesting an on-premised beer-wine liquor license to include service to patio dining. They are not proposing any live entertainment.

No uses subject to the 500' distance limitations in BZR §XI.B.1.c. have been identified by staff and per BZR §XI.B.2, the restaurant permit would be exempted from the 1500 foot distance requirements of BZR §XI.B.1.a.

The Town of Berlin Plan of Conservation and Development, Section II, Strategic Outline for Implementation Strategy 1. Coordinate the Regulatory Structure to Support the Plan, 3) states: Any variance granted by the Zoning Board of Appeals should be consistent with the standards imposed by the Connecticut General Statutes in which a hardship exists owing to conditions affecting a specific parcel of land, and the variance which is granted should be consistent with the goals and policies of the this plan and the intent of the zoning regulations.



Town of Berlin

Planning and Zoning Department

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

ZBA # 2020-14

Town of Berlin
Received

SEP 04 2020

Planning & Zoning Department
Berlin, Connecticut

ZONING BOARD OF APPEALS APPLICATION

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

Property Owner(s): 224 Berlin Turnpike LLC

Project Address*: 250 Berlin Tpk (Building @ 224 B.T. Unit #1)

Map: 4-4 Block: 82 Lot: 18 Zone(s): BTD (PS-B) Lot Area: 18.53

Please select all relevant items below:

☒ Supplemental Information Is Required For:

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

Date(s) & Purpose(s): _____

Applicant Information

Name: Ken Robitaille

Firm Name: The Boss Grill LLC

Street Address: 803 Holly Hill Dr.

City: Rocky Hill ST: CT Zip: 06067

Email: Thebossgrill@gmail.com

Phone: 860-841-8105

Signature: [Signature]

Date: 7-29-2020

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

Name: _____

Principal: _____

Street Address: _____

City: _____ ST: _____ Zip: _____

Email: _____

Phone: _____

*Letter of Authorization Required

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

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

Brief description of the proposal: For the Sale of Alcohol,
Beer + wine at A new restaurant.

SEP 04 2020

Planning & Zoning Department
Berlin, Connecticut

VARIANCE APPLICATIONS: For relief of: _____ requirement.

Requested requirement: _____

Reason/Description of Hardship (REQUIRED): _____

MOTOR VEHICLE USE LOCATION¹:

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

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

SALE OF ALCOHOLIC BEVERAGES LOCATION¹:

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

Type of State Liquor Permit:

☒ On -Premises Permit: Type Beer + wine
☐ Off-Premises: Type _____
☐ Other: Explain _____

To be completed by P&Z staff only:

Fee Paid \$ 380⁰⁰ (Refer to current Fee Schedule)

ZBA # _____ - _____ - _____

Received by: MKG 9/4/2020

Scheduled on ZBA Agenda of:

9/22/2020 subject
to receipt of omitted
application materials

ZONING BOARD OF APPEALS DECISION:

Plan Title & Date: _____

STATE OF CONNECTICUT
 DEPARTMENT OF CONSUMER PROTECTION
 Liquor Control Division
 Telephone: (860) 713-6210
 Email: dcp.liquorcontrol@ct.gov
 Web Site: www.ct.gov/dcp/liquorcontrol



APPLICATION FOR ON-PREMISES LIQUOR PERMIT

Please print clearly or type the information entered on this application. **An application and permit fee is required. Please see fee chart for required fee.** Checks and/or money orders should be made to "**Treasurer, State of Connecticut**" and must accompany this application. The application fee is non-refundable. Return your completed application, documentation and appropriate fee to:

Department of Consumer Protection, 450 Columbus Blvd., Suite 801, Hartford, CT 06103

Section A: BUSINESS INFORMATION

ADDRESS AT WHICH BUSINESS WILL BE CONDUCTED

1. Type of Liquor Permit Applying for: <i>Beer + wine</i>		2. Are you requesting a Provisional Permit? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
3. Trade Name (DBA Name) <i>The Boss Grill</i>			
4. Business Address <i>224 Berlin Turnpike</i>		City <i>Berlin</i>	State <i>CT</i>
Zip Code <i>06037</i>			
5. Business Telephone Number <i>860-969-2677</i>	6. Business Fax Number <i>—</i>	7. Business Email Address <i>Thebossgrill@gmail.com</i>	
8. Is there currently a liquor permit at the proposed premises? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		9. Patio? (If yes, complete attached patio request form) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
10. Type of Live Entertainment: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, please check (✓) all that apply below)			
<input type="checkbox"/> Acoustics - (Not Amplified)	<input type="checkbox"/> Disc Jockeys	<input type="checkbox"/> Live Bands	<input type="checkbox"/> Comedians
<input type="checkbox"/> Concerts	<input type="checkbox"/> Karaoke	<input type="checkbox"/> Plays/Shows	<input type="checkbox"/> Sporting Event(s)
		<input type="checkbox"/> Exotic Dancers	<input type="checkbox"/> Magicians

Section B: APPROVAL/CERTIFICATION OF LOCAL OFFICIALS

11. Zoning Authority Approval: I certify that I am familiar with the zoning ordinances and bylaws of the city/town identified in item #4 of this application and they do not prohibit the sale of alcoholic beverages under the type of liquor permit/establishment identified in this application and/or entertainment listed in #10.	
Signature of Zoning Official X _____	Print Name _____
Title of Official _____	Date ____/____/____
12. Fire Marshal's Approval: I certify that the premises identified in items #3 & #4 of this application is physically constructed in a manner that is safe for the type of business that will be operated there.	
Signature of Fire Marshal X _____	Print Name _____
Title of Official _____	Date ____/____/____
13. Certification of Town Clerk: The town in which the business identified in item # 4 of this application is to be operated, has no ordinance restricting the hours of sale of alcoholic liquors beyond those set forth in State law except as indicated in the box below. (If none, please enter "NONE")	
Additional Restrictions: _____	
Signature of Town Clerk X _____	Date ____/____/____

STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION
Liquor Control Division
Telephone: (860) 713-6210
Email: dcp.liquorcontrol@ct.gov
Web Site: www.ct.gov/dcp/liquorcontrol



For Official Use Only

1

APPLICATION FOR PATIO, EXTENSION OF USE and/or ADDITIONAL CONSUMER BAR

<input checked="" type="checkbox"/> PATIO (Restaurants & Cafes ONLY)	<input type="checkbox"/> EXTENSION OF USE (All other permit types)	<input type="checkbox"/> ACB (Additional Consumer Bar) # of ACB's: _____ (FEE: \$190.00 each)
--	--	--

Section A: BUSINESS INFORMATION

1. Trade Name (DBA Name) <i>The Boss Grill</i>		2. Permit Number	
3. Permittee Name (First, Middle, Last) <i>Kenneth Robitaille</i>			
4. Backer Name (Corporation, LLC, Partnership, Sole Proprietorship, etc.) <i>The Boss grill LLC</i>			
5. Business Address <i>224 Berlin Turnpike</i>	City <i>Berlin</i>	State <i>CT</i>	Zip Code <i>06037</i>
6. Business Telephone Number <i>860-969-2677</i>	7. Business Fax Number	8. Business Email Address <i>Thebossgrill@gmail.com</i>	
9. Type of Request? <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Temporary		If <u>TEMPORARY</u> is checked, List Specific Dates Below:	

Section B: APPROVAL/CERTIFICATION OF LOCAL OFFICIALS

10. **Zoning Authority Approval:** I certify that I am familiar with the zoning ordinances and bylaws of the city/town identified in Section A and on the sketch provided with this application, they do not prohibit the sale of alcoholic beverages under the type of liquor permit/establishment identified in this application.

Signature of Zoning Official X _____ Print Name _____

Title of Official _____ Date ____/____/____

11. **Fire Marshal's Approval:** I certify that the premises identified in Section A and on the sketch of this application is safe for this type of request.

Signature of Fire Marshal X _____ Print Name _____

Title of Official _____ Date ____/____/____

12. **Local Health Approval: (Patio Requests ONLY)** I certify that the Patio at the premises identified in Section A and on the sketch of this application meets local health approval.

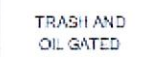
Signature of Health Official X _____ Print Name _____

Title of Official _____ Date ____/____/____

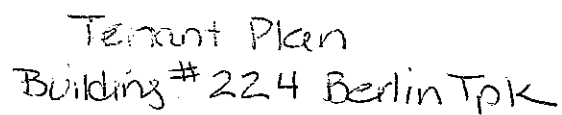
Section C: CERTIFICATION OF BACKER OR AUTHORIZED REPRESENTATIVE OF BACKER

13. Backer Certification (To be signed by backer or the authorized representative of the backer) I certify that the information provided in this application is true to the best of my knowledge and that the permittee applicant identified in "Section A" of this application is designated as my principal representative on the premises for which this application is being submitted.	Signed by Backer or Authorized Representative of Backer <i>X [Signature]</i>		Date: <i>9-4-20</i>
	Print name of Backer or Representative <i>Ken Robitaille</i>	Title of Backer or Representative	

Attach a Sketch of the current premises, identifying the proposed Patio, Extension of Use area and/or ACB



Planning & Zoning Department
Berlin, Connecticut



**BERLIN ZONING BOARD OF APPEALS
REGULAR MEETING**

February 25, 2020

Berlin Town Hall

7:00 p.m.

**Town Council Chambers
Chambers**

Members Present

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

Members Absent

Christine Mazzotta (alternate), Hunter Mathena (alternate)

Staff Present

Maureen Giusti, Zoning Enforcement Office/Town Planner

Call to order

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

Election of Officers

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

Audience of citizens

None

Public Hearings:

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

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

Continued to April 2020 meeting or Special Meeting.

Corporation Counsel, Jennifer Coppola, was present and explained to the Board that in conference with opposing counsel they agree to request the remand be continued.

Chairman Francalangia made a motion to continue proposal to April 28, 2020 or Special Meeting, seconded by Commissioner Tubbs, passed unanimously.

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

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

Tabled until next meeting.

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

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

The Planning and Zoning Commission approved a text amendment to regulate Brew-Pub uses as a special permit use in the PI zone effective 11/22/2018. The applicant has applied to the Planning and Zoning Commission with an anticipated hearing date of March 5, 2020.

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

Staff Comments

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

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

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

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

Zoning Requirements

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

Comments in Favor

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

Comments in Opposition

None

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

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

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

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

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

Comments in Favor

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

Comments in Opposition

None

Staff Comments

None

Staff Comments

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

Zoning Requirements:

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

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

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

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

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

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

Zoning Requirements

§XI.B. Sale of alcoholic beverages.

Staff Comments

Conditions remain the same with no uses identified in §XI.B.1.c., requiring a 500 ft separation, being identified. No changes to the site are proposed by this application.

The submitted State On-Premises Liquor Permit application for a Restaurant Wine-Beer Permit indicates no patio and no entertainment is proposed.

Comments in Favor

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

Comments in Opposition

None

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

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

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

Co Chairman Tubbs recused himself. Seated Zelek

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

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

Comments in Favor

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

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

Comments in Opposition

None

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

Regular Meeting:

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

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

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

The motion carried unanimously.

- Noted – No patio was proposed.

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

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

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

The motion carried unanimously.

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

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

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

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

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

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

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

Board Business

CFPZA annual conference to be held March 26, 2020

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

Approval of Minutes:

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

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

The motion carried out unanimously.

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

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

November 26, 2019 (Francalanga, Tubbs, Coppola, Zelek)

Chairman Francalanga moved to approve the minutes of November 26, 2019 seconded by Commissioner Coppola.

The motion carried out unanimously.

December 9, 2019 (Francalanga, Tubbs, Coppola, Zelek)

Chairman Francalanga moved to approve the minutes of December 9, 2019, seconded by Commissioner Coppola.

The motion carried out unanimously

Adjournment

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

The time was 8:00 pm

Respectfully submitted

Marlo Matassa
Recording Secretary

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

I. Call to Order

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

In attendance

Chairman Anthony Francalangia

Co-Chairman Leonard Tubbs

Commissioner Nelson Graca

Commissioner Corey Whiteside

Alternate Commissioner Ryan Zelek (seated for applications #2020-01 and 2020-06)

Alternate Commissioner Hunter Mathena (seated for applications #2020-07 and 2020-08)

Acting Town Planner/Zoning Enforcement Officer Maureen Giusti

Absent

Commissioner Sandra Coppola

Alternate Commissioner Christine Mazzotta

II. Public Hearings

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

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

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

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

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

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

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

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

Commissioner Tubbs moved to close the hearing.

Commissioner Graca seconded the motion.

Ms. Giusti polled the Board:

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

The motion carried unanimously.

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

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

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

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

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

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

Commissioner Graca moved to close the hearing.

Commissioner Tubbs seconded the motion.

Ms. Giusti polled the Board:

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

The motion carried unanimously

Alternate Commissioner Ryan Zelek relinquished his seat.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commissioner Graca moved to close the hearing.

Commissioner Whiteside seconded the motion.

Ms. Giusti polled the Board:

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

The motion carried unanimously

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

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

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

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

Speaker

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

Commissioner Tubbs moved to close the hearing.

Commissioner Mathena seconded the motion.

Ms. Giusti polled the Board:

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

The motion carried unanimously

Commissioner Mathena relinquished his seat for the following two applications.
Commissioner Zelek was seated.

III Regular Meeting

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

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

Commissioner Tubbs moved to approve the request for this application.

Commissioner Graca seconded the motion.

Discussion

Ms. Giusti polled the Board for comments:

Commissioners Tubbs, Whiteside, Graca, Zelek, Francalangia

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

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

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

The motion carried unanimously.

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

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

Commissioner Graca moved to approve the request for this application.

Commissioner Tubbs seconded the motion.

Discussion

Ms. Giusti polled the Board for comments and vote:

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

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

The motion carried unanimously.

Commissioner Zelek relinquished his seat.

Commissioner Mathena was seated.

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

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

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

Commissioner Tubbs seconded the motion.

Discussion and Vote

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

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

Commissioner Mathena stated the interpretation is correct.

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

Commissioner Tubbs stated the interpretation is correct.

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

The motion carried unanimously. The enforcement order is upheld.

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

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

1st Variance – Porch roof extension (Wethersfield Road)

Discussion and Vote

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

Voting in Favor:

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

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

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

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

Chairman Francalanga stated the applicant had stated a true hardship.

The motion carried unanimously.

2nd Variance – Dormer Addition

Discussion and Vote

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

Voting in Favor:

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

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

Commissioner Whiteside stated his agreement.

Commissioner Mathena stated his agreement with the hardship.

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

The motion carried unanimously.

IV Approval of Minutes

No action taken.

Commissioner Mathena relinquished his seat.

Commissioner Zelek was re-seated.

V Adjournment

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

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

The time was 8:57 p.m.

Respectfully submitted,

Frances M. Semnoski

Acting Recording Secretary

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**BERLIN ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES**

**June 23, 2020
7:00 p.m.**

**Berlin Town Hall
Virtual Meeting**

Members Present

Antonio Francalangia, Chairman
Leonard Tubbs, Co Vice-Chairman
Nelson Graca, Co Vice-Chairman

Corey Whiteside
Ryan Zelek, Alternate (seated)

Members Absent

Sandra Coppola, Secretary
Christine Mazzotta, Alternate
Hunter Mathena

Staff Present

Maureen Giusti, Acting Town Planner/ZEO
Attorney Jennifer Coppola, Corporation Counsel
Kristen Grabowski, Recording Secretary

I. Call to Order

Chairman Francalangia called the meeting to order at 7:05. He discussed the protocol for the virtual meeting. Ms. Giusti conducted a roll call for the meeting.

Commissioner Francalangia moved to begin Executive Session with Corporation Counsel Jennifer Coppola. Commissioner Graca seconded the motion, which carried unanimously. It was noted that the Executive Session would be held on a different line. Ms. Giusti noted that the line would remain active for the audience.

II. Executive Session:

1. Discuss the status of the pending litigation of Liam T. Mitchell, et al. v. Berlin Zoning Board of Appeals, and possible action relating to same.
2. Consider whether to convene in executive session to discuss the status of the pending litigation of Liam T. Mitchell, et al. v. Berlin Zoning Board of Appeals.

Chairman Francalangia moved to come out of Executive Session. The motion was seconded by Commissioner Tubbs, and it carried unanimously.

The Board came out of Executive Session at 7:43 p.m.

Atty. Coppola noted the Ms. Giusti was not present at the Executive Session.

III. Public Hearings:

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

Terry and Robin Grant are requesting a variance of 15 feet for a front setback of 24 feet when 40 feet is required and a variance of 4 feet for a side yard of 21 feet with total side

yards of 40 feet when 45 feet is required in the R-21 zone per Berlin Zoning Regulations Section V.A.10. for an attached garage. The property is owned by Robin E. and Terrence C. Grant.

Ms. Giusti noted that Commissioner Zelek (alternate) was seated for this application.

Robin Grant was on the line to present the application to the Board. Chairman Francalangia reiterated the meeting process, noting that new information must be presented during the public hearing portion of the meeting.

Ms. Grant gave a brief history of the property, noting that she purchased the house in 2000, with the intention of putting a garage on the right side of the house. She explained that there is a sewer easement on the property, which she was not aware of when she purchased the home. The easement was purchased shortly before she purchased the house. Throughout the years, she has tried to figure out a different place to put the garage on the property, but she has been unsuccessful in doing so. After getting married in 2010, the discussion about the garage began again, and rather than sell the house, she and her husband decided that it would be best to put a garage on the property. They've purchased a shed to increase storage, but it is not adequate. Ms. Grant noted that she has spoken with Maureen, and they have tried to figure out an alternate location for the garage, but the proposed location is the only feasible place on the property. Ms. Grant explained the need for a garage, noting that she and her husband would like a two-car garage with a mudroom. She explained the purpose of the mudroom would also include storage, as the house has virtually not storage at all. It was also noted that the basement is damp, so it cannot be used for storage. Ms. Grant summarized, reiterating that there is nowhere else for the garage to go on the property, especially because of the sewer easement to the right of the house.

Chairman Francalangia noted the size of the garage, indicating that a 1,200 sq. ft. garage seems large. He asked if that much room was needed for the garage, suggesting that it might be possible to reduce the size a bit to cut back on the exposure on the front property line. Ms. Grant noted that prior to finalizing these plans, they tried many things. She explained that they have a small business, so the left side of the garage includes a small work area, as well as a mudroom connected to the house. She explained that they did try to cut it back, and they shrunk the mudroom a bit. She reiterated the lack of storage in the house and need for extra space. Ms. Grant noted that she thought the variance was for 9-ft.

Chairman Francalangia noted that the variance request is for 16-ft, and that the setback is 40-ft. He explained that the proposed garage is 24-ft from the property line. He expressed concern about traffic, and the potential for cars to veer off the road, hitting the garage.

Ms. Grant noted that they've tried to cut back on the mudroom, noting the standard size of a garage is 24-ft by 30-ft. She explained that the extra 6-ft would help with the business, especially to hold tools and parts needed.

Commissioner Tubbs inquired about the type of business being run out of the home. Ms. Grant explained that they have a home heating business that provides service work, but they don't deliver oil. Commissioner Tubbs asked if they were looking for a warehouse, and Ms. Grant noted that the garage area would store a hand truck (one motorized and one standard), parts, and some transformers, but nothing major. Ms. Grant explained that the tools and materials stored would be needed for a job, but nothing that would be on display for purchase. Commissioner Whiteside noted that the business could be a potential zoning concern.

Ms. Giusti interjected, noting that the only type of home occupation allowed would be included in the home occupation regulations. She explained that she was unaware that the garage would be used for any type of business. Ms. Giusti noted that she would have to look into whether or not they would be able to meet the home occupation regulations. It would be zoning matter that has to be dealt with.

Ms. Grant noted that most supplies are kept in the truck, but the garage would be used to store the hand trucks.

Chairman Frangalancia discussed the size of the garage, once again. He explained that his small three-car garage is 23-ft by 30-ft., with about 800 sq. ft. of space is smaller than the proposed two-car garage. He inquired again as to whether that much space would be necessary, as the proposal includes 1,200 sq. ft. of space at 40-ft wide and 30-ft deep. He explained that the 40-ft was not as big of concern because of the side yard, but the 30-ft comes into the front yard quite a bit. Commissioner Whiteside noted that there is a variance request for both the front and side yard setbacks.

Ms. Grant noted that it might be possible to cut the garage back from 40-ft to 35-ft. Commissioner Tubbs noted that if the applicant stayed within the front yard setback, there would still be a 24-ft deep garage. He noted that size as bigger than most garages. Ms. Grant explained that part of the depth includes a mudroom, which is 10-ft that is part of the 40-ft mark. She explained that the 40-ft is not only the garage. Chairman Francalancia noted that even if that garage was 30-ft by 30-ft, it would still encroach on the setback, but the garage would be 10-ft farther from the road. Ms. Grant reviewed the plans, and she noted that if the garage was 34-ft instead of 40-ft, it would end up being a 30-ft setback. Chairman Francalancia noted that it would be more reasonable.

Ms. Giusti noted that she would review the parameters of the home occupation rules with the applicants separately, and make sure that whatever business is conducted in the home meets the requirements of Section XI.F.

Ms. Grant confirmed potential plan revisions, noting that instead of a 40-ft garage, it would be 34-ft. Chairman Francalancia noted that the revised plans would have to show a 34-ft by 30-ft garage. Ms. Grant noted that the garage would be 24-ft by 30-ft because of the 10-ft mudroom.

Commissioner Graca noted that the application could be pushed to another meeting so that new plans could be reviewed.

Chairman Francalangia discussed the dimensions again, noting that a 30-ft by 30-ft structure would allow for plenty of room for a mudroom. Ms. Grant explained that layout of the proposed structure, noting that the mudroom is toward front of the structure. As noted in the plans, it is part of the 40-ft going out. She noted that the mudroom is 10-ft, and the garage is 24-ft, so the structure would be 34-ft out toward the road. The garage would then be 30-ft from the road instead of 24-ft from the road.

Commissioner Graca noted that if the proposed size is what the applicant would like, then the Board could vote on it as it stands. He noted that the hardship of the case was not clearly presented. Ms. Grant noted that the garage could not be put anywhere else. Chairman Francalangia noted that the home business could present more problems. Commissioner Graca noted concerns about the potential business use in relation to the hardship. Ms. Grant reiterated that the elimination of the 6-ft from the plans, took away any storage for the business, leaving the two-car garage and the 10-ft mudroom.

Commissioner Graca expressed concerns about voting on revised plans without having an opportunity to view them first. Ms. Grant noted that they could have new plans drawn up to reflect at 34-ft by 30-ft addition. She noted concerns about potentially being denied even after having revised plans drawn up.

Chairman Francalangia noted that the Board could vote on the existing plan with an amendment to cut it back 6-ft. He continued, noting concerns about the business.

Ms. Giusti reiterated that home occupation can only be utilized if the parameters are met, including a business office. She noted that the space would have to be within the existing home. She continued, stating that it could be addressed as a separate issue, provided that the square footage of the garage is not such that it encourages the expansion of the business.

Commissioner Tubbs noted that the 1000 sq. ft. garage is very large. She noted that the garage space is only 24-ft by 30-ft, with a 10-ft mudroom added on. Commissioner Whiteside noted that amended plans would require a 10-ft variance on the side, and the back would require a 2-ft variance.

Commissioner Whiteside reiterated that a clear hardship was not defined or articulate during the presentation. Ms. Grant noted that the garage cannot be put anywhere else on the property.

Chairman Francalangia noted that if the garage was 24-ft deep and 28-ft wide, a variance would not be necessary. Ms. Grant clarified the need for additional storage in the mudroom, explaining that the basement is wet and moldy, eliminating that as a possibility for storage.

Chairman Francalangia inquired about an upper level. Ms. Grant confirmed. Ms. Giusti referred to the floor plans, pointing out the staircase to the upper level. Chairman Francalangia noted the possibility for storage on the second level of the garage. Commissioner Tubbs noted that by cutting

off the 6-ft (to 34-ft), it would be difficult to get a car in there because it would be against the stairs. He noted that the plans elaborate for the mudroom are elaborate, including benches and storage. Ms. Grant suggested the possibility of shrinking the mudroom back to move the stairs. Chairman Francalangia inquired about plans for the upper level. Ms. Grant noted that it could eventually be finished, but there are no plans to do so at this time.

Commissioner Graca reiterated concerns about the hardship. Chairman Francalangia noted that the best thing would be to continue the application. Ms. Giusti noted that the plans as presented did not seem to have support, but the Board would have to make the decision. She noted that if continued, she would take the opportunity to advise the applicant to come in with revisions with something less encroaching. If the revised plans could fall within the setback, the application could be withdrawn.

The Board discussed concerns about the hardship. Commissioner Graca noted that the plans as presented do not clearly show the hardship. Commissioner Whiteside noted that there are specific statutes to follow. He referred to the statutory guidelines (found online), and he noted that the hardship must be clearly articulated. He noted that as presented, there are grounds to deny the application. He advised the applicant to review the guidelines to pull appropriate language to accurately articulate the hardship.

Ms. Grant noted that the garage cannot be put anywhere else on the property.

Commissioner Graca moved to continue the application to the next meeting on July 28, 2020. Commissioner Tubbs seconded the motion, which carried unanimously.

1005 Kensington Road, Map 21-1/Block 73/Lot 15

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

Chairman Francalangia noted that the remand was discussed with Corporation Counsel, and it will probably be discussed again. Commissioner Graca echoed the statement. Atty. Coppola noted that this matter could be continued to the July 28th meeting.

Commissioner Francalangia moved to continue this item to the July 28, 2020 meeting. Commissioner Graca seconded the motion, which carried unanimously.

IV. Regular Meeting:

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

Terry and Robin Grant are requesting a variance of 15 feet for a front setback of 24 feet when 40 feet is required and a variance of 4 feet for a side yard of 21 feet with total side yards of 40 feet when 45 feet is required in the R-21 zone per Berlin Zoning Regulations Section V.A.10. for an attached garage. The property is owned by Robin E. and Terrence C. Grant.

Continued to 7/28/2020 meeting

1005 Kensington Road, Map 21-1/Block 73/Lot 15

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

Continued to 7/28/2020 meeting

**V. Approval of Minutes:
February 2020
April 2020**

Continued to 7/28/2020 meeting

VI. Adjournment

Chairman Francalangia moved to adjourn the meeting. The motion was seconded by Commissioner Graca, and it passed unanimously. The time was 8:26 p.m.

Respectfully submitted,

Kristen M. Grabowski
Recording Secretary