

## **BERLIN ZONING BOARD OF APPEALS**

**June 22, 2021 7:00 p.m.**

The Berlin Zoning Board of Appeals will hold Public Hearings at their Regular Meeting on Tuesday, June 22, 2021 in the Berlin Town Hall, 240 Kensington Road, Berlin, CT. Interested parties may join and participate in person or remotely by video or telephone as provided below.

### **Join Zoom video conference:\***

<https://town-berlin-ct-us.zoom.us/j/8140556035?pwd=YU0xb1J2Yyt4RDVLUkRIbFpFTFRuQT09>

Meeting ID: 814 055 6035    Passcode: PZ100

### **Or join by phone:\*** 1 929 205 6099

Meeting ID: 814 055 6035    Passcode: 488321

\*Data and toll charges may apply. Participants are responsible for charges incurred by their carrier. The Town does not reimburse participants for any toll or data charges.

**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](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 Friday, June 18, 2021 for posting prior to, during and after the meeting.**

A video recording of the meeting is scheduled to be posted to YouTube after the meeting.

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## **Berlin Zoning Board of Appeals Agenda**

### **I. Call to Order**

### **II. Public Hearings:**

**ZBA #2021-13      211 New Britain Rd      Map 3-3 Block 28 Lot 12**

Robert Becker (President – Towne Place Condominium Association) is requesting a variance for a freestanding sign located 10 feet from the street line when 50 feet is required for a principal structure located greater than 75 feet from the street line in the CCD-1 zone per Berlin Zoning Regulation IX.A.6.e.iv.

**ZBA #2021-14      117 Sunmeadow Dr      Map 17-1 Block 133 Lot 26M**

Marc Ulan (property owner) is requesting a variance for westerly side yard of 3 feet when 10 feet is required in the R-21 Zone per Berlin Zoning Regulations V.A.10 for a detached 10 foot x 20 foot accessory pool shed.

**III. Regular Meeting:**

**ZBA #2021-13      211 New Britain Rd      Map 3-3 Block 28 Lot 12**

Robert Becker (President – Towne Place Condominium Association) is requesting a variance for a freestanding sign located 10 feet from the street line when 50 feet is required for a principal structure located greater than 75 feet from the street line in the CCD-1 zone per Berlin Zoning Regulation IX.A.6.e.iv.

**ZBA #2021-14      117 Sunmeadow Dr      Map 17-1 Block 133 Lot 26M**

Marc Ulan (property owner) is requesting a variance for westerly side yard of 3 feet when 10 feet is required in the R-21 Zone per Berlin Zoning Regulations V.A.10 for a detached 10 foot x 20 foot accessory pool shed.

**IV. Approval of Minutes:**

May 25, 2021 (Francalangia, Tubbs, Coppola, Whiteside, Zelek)

**V. Adjournment**

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DATE IN TOWN CLERK

2021 JUN 11 AM 11:27

Katlyn White  
TOWN CLERK

## **BERLIN ZONING BOARD OF APPEALS**

**May 25, 2021 7:00 p.m.**

The Berlin Zoning Board of Appeals will hold Public Hearings at their Regular Meeting on Tuesday, May 25, 2021 in the Berlin Town Hall, 240 Kensington Road, Berlin, CT. Interested parties may join and participate in person or remotely by video or telephone as provided below.

### **Join Zoom video conference:\***

<https://town-berlin-ct-us.zoom.us/j/8140556035?pwd=YU0xb1J2Yyt4RDVLUkRibFpFTFRuQT09>

Meeting ID: 814 055 6035    Passcode: PZ100

### **Or join by phone:\*** 1 929 205 6099

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**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](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 Friday, May 21, 2021 for posting prior to, during and after the meeting.

A video recording of the meeting is scheduled to be posted to YouTube after the meeting.

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### **Berlin Zoning Board of Appeals Regular Meeting – Supplemental Detailed Minutes**

#### **Members Present:**

Antonio Francalancia, Chairman, Leonard Tubbs, Co-Vice Chairman, Sandra Coppola, Secretary, Corey Whiteside, Ryan Zelek, Alternate, seated, Hunter Mathena, Alternate (via telephone, not seated)

#### **Members Absent:**

Nelson Graca, Co-Vice Chairman, , Christine Mazzotta, Alternate

#### **Staff Present:**

Maureen Giusti, Acting Town Planner, Adam Levitus, Temporary Zoning Enforcement Officer, Kristen Grabowski, Recording Secretary

#### **Call to Order**

Chairman Tony Francalancia called the meeting to order at 7:04 p.m.

## **Public Hearings:**

**ZBA #2021-08**

**2576 Berlin Turnpike**

**Map 27-1 Block 120 Lot 7**

Samuel Alejandro (Main Auto of Berlin) is requesting a Motor Vehicle Location approval for a used car dealership per Berlin Zoning Regulation XI.R. The property is zoned BT-1 and is owned by MJ-TK LLC (Kevin O'Sullivan).

Kevin O'Sullivan, property owner, was in attendance to present the application to the Board. He noted that there has been significant work done to the property to clean up the property, including the removal of over 90 junked cars and tractor trailers. Mr. O'Sullivan noted that he owned a successful car dealership in Plainville for over 30 years. Mr. O'Sullivan noted that there are two dealer licenses on the property, one being held by Lou Presta, and another being held by Mr. O'Sullivan at 2576 Berlin Turnpike (formally held by Bob Bishop). He noted that he joined in the Corporation, so approval for licensure was not necessary, and the dealer number has remained the same. Mr. O'Sullivan noted that repairs will be limited to the cars on the lot, and repairs will not be done for the public. It was also noted that there would be 25 cars in the front, and 50 cars in the back of the property. Samuel Alejandro spoke about the intentions for his business, noting that he is excited to get started with a full-time car dealership. He noted that he has been involved in the auto business on a part-time basis for many years.

Mr. Levitus projected photos taken of the property, and he explained that a substantial part of the property has been cleaned up. He also discussed the site plan that was submitted. He noted that the Presta Garage is to the north of the property. He explained that the delineation and clarification of the boundaries, storage, etc. must be addressed by the applicant.

The Commission discussed the State DOT right-of-way, noting that cars could not be stored along that strip of property. Mr. O'Sullivan noted that he was in contact with the State regarding the regulations, and he would be able to provide documentation if needed.

Ms. Giusti referred to the map, and she clarified the location of the property line. It was noted that the Board was previously not approved cars to be stored on the right-of-way. She referred to the submitted plans, noting that approval from the State would be needed to proceed as presented. Ms. Giusti noted that two-way traffic flow would also be necessary.

Ms. Giusti noted that approval could be conditional if necessary. Depending upon the documentation received after the meeting, the application could be finalized administratively rather than at another meeting. It was noted that a new site plan may not be needed depending upon the DMV and MV license.

Mr. O'Sullivan noted that 50-60 cars on the lot would be more than necessary. He noted that the public would not be allowed in the rear of the yard.

### **Comments in Favor**

There were none.

### **Comments in Opposition**

There were none.

### **Staff Comments**

Mr. Levitus noted that a possible condition of approval could encompass the continued cleanup of the property.

Commissioner Coppola moved to close the public hearing, which was seconded by Commissioner Whiteside. The motion carried unanimously. (Francalanga, Tubbs, Coppola, Whiteside, Zelek)

### **ZBA #2021-09**

### **197 Episcopal Rd**

### **Map 4-4 Block 81 Lot 7**

Jeff Carbone (Olive Branch Enterprises, LLC) is requesting an Alcohol Uses Location approval for an outdoor patio liquor permit at Sliders Grill and Bar per Berlin Zoning Regulation XI.B. The property is zoned GI-2 and is owned by FLM Enterprises, LLC (Fred Marcantonio).

Jeff Carbone, General Contractor, Olive Branch Enterprises was in attendance to present the application to the Board. Mr. Carbone explained the nature of the proposal and discussed the submitted plans. He noted that the application included a 16-ft x 35-ft concrete patio, which would have a 6-ft privacy fence parallel to Episcopal Road, and a 4-ft picket fence along parking lot side of the patio. He noted that there would be no outdoor bar, but the patio would include seven tables, with four seats per table, as per COVID guidelines. He explained that there would be single TV located between the two entry doors, with sound off. It was also noted that there would be no live bands or music of any sort. It was noted that as COVID restrictions are lifted, the number of tables on the patio could potentially increase.

Ms. Giusti noted that the Planning and Zoning Commission has previously approved the outdoor dining and patio area, along with the revised parking lot, which was recently restriped. She explained that outdoor dining has been extended Statewide through March 2022, and no permit is needed. She noted that the extension also includes liquor sales. She explained that the applicant would like to make that a permanent part of the business, and they have sought permit approval. The location of the temporary patio (and tent) was discussed, noting that it was in the rear of the property near the dumpster. The hours were discussed, noting that the patio would open for lunch between 11:00/11:30 a.m. and close at 10:00 p.m.

### **Comments in Favor**

There were none.

### **Comments in Opposition**

Jim Simons, 62 Goodrich Drive, addressed the Board. He has lived there for 30 years, and it has become a commercial, high traffic area. He noted that the bar is quite loud at 10:00 p.m. (from both inside and outside), and there are often motorcycle burnout around 1:00 a.m. He spoke about motor vehicle accidents in front of Sliders, and a fatal pedestrian accident involving a 5-year-old child at a close intersection. He inquired about the need for hardship.

Fred McBriarty, 57 Vivian Drive, addressed the Board. He noted that he grew up on Episcopal Road, he and has lived at the current address for 22 years. He reiterated Mr. Simons' comments, noting the loud noise level, especially at night. He noted that swearing a profanity can be heard well into the evening hours. He spoke about the proposed 6-ft privacy fencing, noting that it is not a noise barrier. He also submitted photos for the record showing the close proximity of the residential area to the property.

Emilia Vandzhuia, 216 Episcopal Road, spoke about the loud noise level and cigarette smoke. She noted

that with small children, she cannot open windows at night, and it has become difficult to enjoy outdoor space in the evening hours. She spoke with concern about the COVID restrictions being lifted, noting that parking problems will increase. She also noted that many cars use driveways to turn around.

Tyler Cole, 58 Knollwood Court, spoke in opposition to the application. He addressed noise and traffic concerns. He also addressed concerns with parking up and down the street, noting that with the addition of more seating, the number of cars will increase. He addressed a recent accident where a car leaving the parking lot ended up on a neighbor's front lawn.

Drew Lanthier, 44 Vivian Drive, addressed the Board. He purchased his home in 2017, and has since started a family. He spoke in opposition to the application, noting potential safety concerns. He explained that parking is minimal, and cars line the street every Friday and Saturday night. He noted that the noise level is quite loud. He explained that with two young children, he's concerned about the negative changes in the area.

Joshua Wantek, 222 Episcopal Road, addressed the Board, noting that his property is located diagonally across the street from Sliders. He reiterated parking concerns, noting that there is a severe lack of parking with cars lined up and down the street. He explained that he is often cleaning his front yard of broken bottle debris from patrons pregameing on the street or in the parking lot. He noted that it has progressively gotten worse, and he cannot have his 7-year-old son play in the front yard. He addressed a recent accident on March 28<sup>th</sup> involving two cars, one of which ended up on his front lawn.

Juanita Dee, 150 Episcopal Road, addressed the Board, noting that she lives on the corner of Vivian Drive. She explained that she is about 4-5 houses down from the property. She explained that in the evening hours, the noise level gradually increases, and it becomes quite loud and rambunctious, especially as people being leaving the bar for the night. Couples are fighting down the street, and she noted that patrons of Sliders will often walk up and down Vivian Drive, with some even taunting her dog by throwing beer bottles and cans.

Purnima Havnurkar 182 Episcopal Road, noted opposition to the proposal.

### **Staff Comments**

Mr. Levitus noted that noise of the use might be discussed by the board and could be considered as a potential condition of approval by limiting hours or time.

Mr. Whiteside noted a point of clarification, explaining that a resident addressed the need for a hardship. He explained that this type of application is not a variance, and therefore does not need to prove hardship.

Mr. McBriarty addressed the Board again, summarizing the comments of area residents. He noted that the major concern is the alcohol permit and consumption outside. He noted that reasoning behind the concern, explaining that they hear the noise constantly, people become ramped up, and there are fights with profanity. He noted opposition to outdoor alcohol consumption, no matter the time of the day, as it will be disruptive to the residential people living nearby.

Ms. Vandzhuia inquired about the approved dining area from last year, noting concern about a permanent dining area because of increased traffic and noise. She asked if another permit was needed to

make it permanent. Ms. Giusti clarified, noting that the COVID executive orders have been extended to allow outdoor dining through March, 2022. Any restaurants that have asked to create permanent outdoor dining area that go beyond March, 2022 have had to come (or will) before the Planning and Zoning Commission for a Site Plan Amendment. Sliders has been granted approval through that process. It was decided at a public meeting, but a public hearing was not held. The approval was granted as presented on the plan during this meeting.

Mr. Simons inquired about the Site Plan Amendment process, asking why a public hearing wasn't held to approve the outdoor dining area. Ms. Giusti explained the process outlined in the Zoning Regulations, noting that Site Plan Amendments do not require a public hearing. It was noted that there are capacity limitations for the property, and the Fire Marshal is charged with enforcing capacity concerns. It was noted that the Zoning department is charged with enforcing zoning violations. Mr. Simons also addressed concerns about the new apartment building going up in the area, noting concerns about parked cars lining the street.

Commissioner Zelek noted that he is a member of the Police Commission. He explained that meetings are held on the 3<sup>rd</sup> Wednesday of every month, and members of public are always welcome to attend to speak about concerns.

Chairman Francalanga moved to close the public hearing, which was seconded by Commissioner Tubbs. The motion carried unanimously. (Francalanga, Tubbs, Coppola, Whiteside, Zelek)

**ZBA #2021-10                      2378 Berlin Turnpike                      Map 27-2 Block 119 Lot 6**

Ken Wallen (KMK Plumbing and Heating) is requesting an approval for a change of nonconforming uses per Berlin Zoning Regulation IV.C.3.e for a plumbing and heating company to replace a fiber optics contractor use. The property is owned by Thomas Bukowski and is zoned BT-2.

Ken Wallen was in attendance to present the application to the Board. He described the nature of the business, noting that he owns a small heating and plumbing business. He explained that there is an intent to purchase the property pending the result of the application. He noted that there are two employees, and there is not a lot of traffic in and out, with two plumbing/heating vans, a plow truck, and a couple of flatbed enclosed trailers to be kept on the property. He noted the basic hours of operation are 7:00-4:30. It was noted that the proposed use is equal or less objectionable to the previous use.

**Comments in Favor**

Chris Edge, Economic Development Director, spoke in favor of the application. He noted that the property is an industrial building located in the BT-2 zone, which allows retail, restaurant, and office. He noted that the building is located up and off the road, which would not warrant one of those uses. He noted that the fiberoptic company did not end up purchasing the property. He noted that the business is family operated, and they would be relocating from Middlefield.

Attorney Richard Pentore addressed the Board, noting that he represented the property owner, Mr. Bukowski. He noted that the proposed use appears to be a less intensive use than the fiberoptics company. He noted less chance of having heavy equipment on the property. He noted that the applicant

is a good candidate for approval.

**Comments in Opposition**

There were none.

**Staff Comments**

There were none.

Chairman Francalangia moved to close the public hearing, seconded by Commissioner Tubbs. The motion carried unanimously. (Francalangia, Tubbs, Coppola, Whiteside, Zelek)

**ZBA #2021-11**

**210 Main St**

**Map 9-3 Block 54 Lot 13**

Geoffrey Biscette & Dina Sylvain-Biscette (property owners) are requesting variances for northerly front yard of 6 feet when 25 feet is required and a southerly rear yard of 23.75 feet when 40 feet is required in the R-11 Zone per Berlin Zoning Regulations V.B.5 for a detached 22 foot x 24 foot 2-car garage.

Attorney Richard Pentore was in attendance to present the application to the Board. Atty. Pentore discussed the nature of the application, noting that the property slopes significantly downward toward the pond in the back of the plot. He discussed the hardship, noting that due to triangular shape of the lot, along with the slopes of the lot, there is no other viable location for the garage. He noted that presently there is a level parking area adjacent to the house, which is the site of the proposed garage.

The Board discussed the height of the garage, and it was confirmed that it falls within the Zoning Regulations, with the mean height of the single-story garage at 15-ft. Ms. Giusti discussed the limitations of detached accessory structures. The location was discussed, noting that the garage will be 10-12 feet from the road, and 6-ft from the setback line.

**Comments in Favor**

There were none.

**Comments in Opposition**

There were none.

**Staff Comments**

Mr. Levitus noted an anonymous letter in opposition came in with concerns about the site lines. It was posted to the website, and the Board can determine the site line.

Atty. Pentore noted that the proposed location of the garage will not impact the sight line surrounding the curve on Main Street. He noted that it is not much farther back than the existing house, which is nonconforming. He reiterated that many structures in the area are nonconforming.

Chairman Francalangia moved to close the public hearing, seconded by Commissioner Coppola. The motion carried unanimously. (Francalangia, Tubbs, Coppola, Whiteside, Zelek)



**ZBA #2021-12****797 Farmington Ave****Map 9-1 Block 28 Lot 31B**

Alen Cecunjanin (business and property owner) is requesting an Alcohol Uses Location approval for an on-premises beer and wine liquor permit at Cornerstone Restaurant and Wine Bar per Berlin Zoning Regulation XI.B. The property is zoned CCD-2.

Alen Cecunjanin was in attendance to present the application to the Board. He noted that he owns the Red Fox restaurant in Middletown. He has purchased the former Even Stevens property, and he is looking to open a fine dining establishment, with approximately six or seven tables and seats at the bar. He noted that the fine dining experience includes wine and beer, he and is seeking an on-premises beer and wine permit. It was confirmed that there would be no live entertainment.

**Comments in Favor**

Atty. Pentore spoke in favor of the application, noting that his office is across the street on Harding Street. He noted that the property will be upgraded in both use and appearance, and the center of Town will benefit.

Chris Edge, Economic Development Direction, spoke in favor of the application, noting that he is excited to welcome the business to Farmington Avenue.

**Comments in Opposition**

There were none.

**Staff Comments**

Mr. Levitus noted that the applicant has already been granted restaurant approval to change from Even Stevens to a new use. He noted that there are plans in the works, including coordination with the Building Department, for improvements to the interior and exterior. He noted that there was one letter from a neighbor with concerns about alcohol use. Ms. Gisuti noted that the application is for a restaurant beer and wine permit only.

Chairman Francalangia moved to close the public hearing, and it was seconded by Commissioner Coppola. The motion carried unanimously.

**Regular Meeting:****ZBA #2021-08****2576 Berlin Turnpike****Map 27-1 Block 120 Lot 7**

Samuel Alejandro (Main Auto of Berlin) is requesting a Motor Vehicle Location approval for a used car dealership per Berlin Zoning Regulation XI.R. The property is zoned BT-1 and is owned by MJ-TK LLC (Kevin O'Sullivan).

Chairman Francalangia moved to approve the application with the following conditions:

1. Approval based on plan titled 'Improvement Location Map for Proposed Garage' dated 10/1/2020 with added stipulations that:
  - a. No more than 50 cars will be stored in the rear of the property
  - b. The front parking area adjacent to the Berlin Turnpike and within the state Right-of-Way (13 spaces shown on the plan) will not be used by the owner/applicant unless a written legal agreement (e.g., easement) between the owner and the State of Connecticut is provided to Planning and Zoning Staff. The agreement shall clearly

indicate the State's approval of the owner's use of the area for vehicle parking and/or display to the satisfaction of Planning and Zoning Staff.

2. The owner/applicant shall continue to clean up and remediate any remaining unsightly conditions, unapproved vehicles/storage, and any other potential zoning violations at the property

Commissioner Whiteside seconded the motion, which carried unanimously. (Francalangia, Tubbs, Coppola, Whiteside, Zelek)

**ZBA #2021-09                      197 Episcopal Rd                      Map 4-4 Block 81 Lot 7**

Jeff Carbone (Olive Branch Enterprises, LLC) is requesting an Alcohol Uses Location approval for an outdoor patio liquor permit at Sliders Grill and Bar per Berlin Zoning Regulation XI.B. The property is zoned GI-2 and is owned by FLM Enterprises, LLC (Fred Marcantonio).

Chairman Francalangia moved to approve the application for discussion, and the motion was seconded by Commissioner Coppola.

Chairman Francalangia noted that there is an existing problem at this location, and an outdoor patio would exacerbate the situation, noting that concerns should be remedied before approval is granted. Commissioner Tubbs noted that the property is located in a residential area. Commissioner Zelek agreed.

Chairman Francalangia rescinded the motion.

Chairman Francalangia moved to approve the application, seconded by Commissioner Coppola. The motion failed, 0-5. (Francalangia, Tubbs, Coppola, Whiteside, Zelek)

**ZBA #2021-10                      2378 Berlin Turnpike                      Map 27-2 Block 119 Lot 6**

Ken Wallen (KMK Plumbing and Heating) is requesting an approval for a change of nonconforming uses per Berlin Zoning Regulation IV.C.3.e for a plumbing and heating company to replace a fiber optics contractor use. The property is owned by Thomas Bukowski and is zoned BT-2.

Commissioner Tubbs moved to approve the application, seconded by Commissioner Coppola. The motion carried unanimously. (Francalangia, Tubbs, Coppola, Whiteside, Zelek)

**ZBA #2021-11                      210 Main St                      Map 9-3 Block 54 Lot 13**

Geoffrey Biscette & Dina Sylvain-Biscette (property owners) are requesting variances for northerly front yard of 6 feet when 25 feet is required and a southerly rear yard of 23.75 feet when 40 feet is required in the R-11 Zone per Berlin Zoning Regulations V.B.5 for a detached 22 foot x 24 foot 2-car garage.

Commissioner Francalangia moved to approve the application, seconded by Commissioner Tubbs. The motion carried unanimously. (Francalangia, Tubbs, Coppola, Whiteside, Zelek)

**ZBA #2021-12                      797 Farmington Ave                      Map 9-1 Block 28 Lot 31B**

Alen Cecunjanin (business and property owner) is requesting an Alcohol Uses Location approval for an on-premises beer and wine liquor permit at Cornerstone Restaurant and Wine Bar per Berlin Zoning Regulation XI.B. The property is zoned CCD-2.

Commissioner Tubbs moved to approve the application, seconded by Commissioner Coppola. The motion carried unanimously. (Francalangia, Tubbs, Coppola, Whiteside, Zelek)

**Approval of Minutes:**

April 27, 2021 (Francalangia, Tubbs, Graca, Whiteside, Zelek)

Commissioner Francalangia moved to approve the minutes, seconded by Commissioner Whiteside. The motion carried with a vote of 4-0-1. (Francalangia, Tubbs, Whiteside, Zelek in favor, Coppola abstained)

**Adjournment**

Commissioner Whiteside moved to adjourn the meeting, seconded by Commissioner Coppola. The motion carried unanimously. (Francalangia, Tubbs, Coppola, Whiteside, Zelek)

The time was 8:59 p.m.

Respectfully submitted,

Kristen Deliman Grabowski