



STATE OF CONNECTICUT – COUNTY OF TOLLAND  
INCORPORATED 1786

# TOWN OF ELLINGTON

55 MAIN STREET – PO BOX 187  
ELLINGTON, CONNECTICUT 06029-0187  
[www.ellington-ct.gov](http://www.ellington-ct.gov)

TEL. (860) 870-3120 TOWN PLANNER'S OFFICE FAX (860) 870-3122

**ZONING BOARD OF APPEALS  
REGULAR MEETING MINUTES  
MONDAY, MAY 3, 2021, 7:00 PM  
TOWN HALL MEETING HALL, 55 MAIN ST, ELLINGTON, CT**

**IN-PERSON PUBLIC ATTENDANCE LIMITED DUE TO COVID19 RESTRICTIONS  
AND ZOOM MEETING ATTENDANCE**

**PRESENT:** Chairman Art Aube, Regular members Ken Braga and Katherine Heminway and Alternate Ron Stomberg; Present via ZOOM meeting: Vice Chairman Sulakshana Thanvanthri, Regular member Subhra Roy, Alternates Rodger Hosig, and Ron Brown

**ABSENT:** None

**STAFF**

**PRESENT:** John Colonese, Assistant Town Planner/Zoning Enforcement Officer, Lisa Houlihan, Town Planner and Barbra Galovich, Recording Clerk

**I. CALL TO ORDER:**

Chairman Aube called the Zoning Board of Appeals (ZBA) meeting to order at 7:01 pm at the Ellington Town Hall Meeting Hall, 55 Main Street, Ellington, CT and read the Statement of Conduct for the meeting.

**II. PUBLIC COMMENTS (ON NON-AGENDA ITEMS): None**

**III. PUBLIC HEARINGS:**

1. V202106 – Pamela Peters, owner/applicant, request for a variance of the Ellington Zoning Regulations 2.1.10-Highway Clearance Setback and Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback along Stafford Road from 60ft to 17ft, reduce the front yard setback along West Shore Road from 35ft to 7ft, and reduce the side yard setback from 10ft to 8ft to allow a pitched roof over an existing flat roof garage at 146 West Shore Road, APN 169-022-0000 in a Lake Residential (LR) zone.

**TIME:** 7:02 pm

**SEATED:** Aube, Braga, Heminway, Thanvanthri and Roy

Pamela Peters, 28 Samuel Lane, Mansfield, CT and Chris Dreaheer, C.K. Construction Services, LLC, 26 Andrew Street, Meriden, CT were present to represent the application.

Ms. Peters stated she is looking to reroof her garage because it is leaking and is looking to construct a pitched roof, rather than having a flat roof. Alternate Brown asked if the roof will be extended. Mr. Dreaher stated the proposed roof will have a 6 inch overhang from left to right. Alternate Hosig asked if the proposed seating area will extend past the existing roof. Mr. Dreaher stated a portion of the roof will be pitched and the remainder will have a flat seating area facing the lake, and will not extend past the existing garage size. He added that the rear of the garage is built into the existing hillside.

No one from the public spoke regarding the application.

**MOVED (BRAGA), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202106.**

**MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO APPROVE V202106** – Pamela Peters, owner/applicant, request for a variance of the Ellington Zoning Regulations 2.1.10-Highway Clearance Setback and Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback along Stafford Road from 60ft to 17ft, reduce the front yard setback along West Shore Road from 35ft to 7ft, and reduce the side yard setback from 10ft to 8ft to allow a pitched roof over an existing flat roof garage at 146 West Shore Road, APN 169-022-0000 in a Lake Residential (LR) zone.

**HARDSHIP: Existing non-conforming garage.**

2. V202101 – 15 Green Street, Susann McCarthy owner/applicant, to appeal a Cease & Desist Order from the Zoning Enforcement Officer dated December 11, 2020 of Section 2.1.1.D-Zoning Compliance, Section 3.1-Permitted Uses and Section 2.1.7-Construction in Required Yards of the Ellington Zoning Regulations.

**TIME:** 7:10 pm

**SEATED:** Aube, Braga, Heminway, Thanvanthri and Roy

Chairman Aube read a procedural statement for the appeal outlining the duties the ZBA has during an appeal in accordance with Conn. Gen. Stat. Section 8-6, and how the ZBA would proceed hearing the appeal. He said the Zoning Enforcement Office will review his findings, then Susann McCarthy, 15 Green Street, will have an opportunity to explain why she feels there is an error made in the requirement or decision referenced in the Cease & Desist Order. He recommended the commission discuss and decide the violations separately.

John Colonese, Assistant Town Planner/Zoning Enforcement Officer, read his memorandum to the ZBA dated April 28, 2021 regarding how he arrived at his decision to issue a Cease and Desist Order for violations of the Ellington Zoning Regulations at 15 Green Street, which led to the appeal. He then referred to photos taken of the property dated May 3, 2021.

Chairman Aube asked Susann McCarthy to explain why she is appealing the Zoning Enforcement Officer's Cease and Desist Order. She explained that she is in the process of painting sections of platform that will be placed on the ground to walk on around the property. Ms. McCarthy stated she spoke with Mr. Colonese at her property and that he noted her neighbor, Rene Prentiss, had made a complaint to the Planning Department for an outdoor exercise bike, stone and slate, and fencing materials erected within the front yard setbacks. Ms. McCarthy said Mr. Colonese told her he was only there to look at the fencing.

Ms. McCarthy proceeded to explain how the elevation of her land is higher at the corner of Sweeney Street and Green Street and then slopes down along Sweeney Street. She mentioned the existing very old tall oak tree and an overgrown lilac bush on the property. She continued to explain how the property slopes down towards the lake. She stated there is a three foot stone wall around the property and there is an eleven foot drop from the Sweeney Street side to the Green Street side yard property line.

Ms. McCarthy said that other neighbors in the area have fences and stonewalls within the front yard without any approvals. Chairman Aube reminded Ms. McCarthy to focus on the appeal of the Cease and Desist Order.

Ms. McCarthy explained that she was erecting the fencing to protect her house and noted that things were stolen off the property and her bushes had been cut. Ms. Houlihan told her if she is having trespassing issues to contact the State Trooper's office. Ms. McCarthy noted that she has called and reported the issues. Ms. McCarthy did not think the height of the fence was an issue.

Ms. Houlihan asked what materials the platforms are made of and what they are being used for. Ms. McCarthy stated the platforms are made of pine and she made a ramp over the walkway and they are 8 inches off the ground. She noted she prefers to walk on the wooden platforms as opposed to the existing sidewalk due to her bad ankle.

Commissioner Braga said when the issue was first brought to the commission he took a drive by the property and there was a lot of material on the property. He added that he drove by the property today and there is still a lot of material on the site. He asked her to address the materials on site. Ms. McCarthy said she wants to secure her property and plans to erect some chain link fence. She explained she plans to secure the chain link fence behind portions of the stone wall. Braga asked about items that are leaning against the house. She explained that she was painting the plywood and pieces of platform and only has so much space to work within the property.

Ms. McCarthy explained how she has been painting the pieces of the wood and how she will be utilizing them on the property, noting the 2x4 or 2x6 pieces of wood will be placed over the existing cement. Ms. Houlihan asked Ms. McCarthy if she had any additional information to be submitted for the record. Ms. McCarthy stated she did not receive the original Notice of Violation that Mr. Colonese sent. She then received the Cease and Desist Order by service of a State Marshal. Ms. McCarthy stated her parcel is a non-conforming lot and she reviewed the definition of what a non-conforming lot consists of, and added that since she has a non-conforming lot she is not bound by the setback requirements for a fence.

Ms. McCarthy submitted a copy of her deed and a copy of the zoning enforcement complaint log for 15 Green Street dated from August 2, 2018 to October 1, 2020. Ms. McCarthy referred to Mr. Colonese's memorandum and dates of the complaints. She noted that the first few times Mr. Colonese visited the site he found no violations. She questioned if he found no violations at those times how could he find violations thereafter.

Vice Chairman Thanvanthri said nothing is assembled on the property and therefore it looks like junk. She understands that Ms. McCarthy will be using the spools for tables and planters. She asked Ms. McCarthy when she plans on finishing the project with the fencing materials as it has been sitting on the property for a good part of the year. Ms. McCarthy said she was served the Cease and Desist Order so she halted work on it until she got clarification from Mr.

Colonese on what her requirements were to be in compliance with the town. Vice Chairman Thanvanthri suggested that she talk with Mr. Colonese about what is required and briefly explained to her how the ZBA serves the town. She told Ms. McCarthy she has the option to apply for a variance for the erection of the fence, just like other properties that have non-conforming lots. Ms. McCarthy noted she had an old stockade fence at the side of the property along the driveway.

Ms. Houlihan referred to Mr. Colonese's diagram showing the corner lot setbacks of 15 Green Street. Ms. McCarthy to read the definitions of a "Building Setback Line" and "Yard, Front" from the Ellington Zoning Regulations. She stated her building line is where the house is located, referring to the definition of "Building Setback Line" and this is where the fence can be located. She stated her building line begins at her mudroom along Sweeney Street, for example. Mr. Colonese explained his interpretation of the regulations, stating that a six foot stockade fence is not allowed within the front yard setback area, which would be 35 feet back from Green Street and Sweeney Street. Ms. McCarthy submitted a copy of the Planning Department fence brochure and reviewed some of its content, and noted that based on the way it is worded she is in compliance with the regulations. Ms. Houlihan explained the brochure is for informational purposes only, and reviewed the remainder of the brochure that includes the zoning regulations and how the front yard setback area is defined.

Chairman Aube opened up the hearing to public comment.

Michael Vengruskas, 14 Green Street, said they have been waiting for over a year for something to be done about this property. He referred to pictures that were taken by Mr. Colonese today on site. He said Ms. McCarthy is continuously bringing stuff onto the property. He noted she has stored 16 sheets of vinyl fencing under the platform and is hiding additional stuff behind the fencing. He added that she rents trucks and brings in materials at all hours of the night. Mr. Vengruskas noted that no one goes on the property and steals anything, and he stated the property is hazardous and the fencing is not properly installed. He submitted pictures of the house from December of 2014 prior to when Ms. McCarthy bought the house in 2015.

Rene Prentiss, 11 Green Street, stated this issue has been going on since February of 2015 and Ms. McCarthy is a hoarder. She noted that Ms. McCarthy cleaned up the area in 2018 after speaking with Mr. Colonese and then disappeared for two years. She said that Ms. McCarthy started bringing junk onto the property again last May. Ms. Prentiss noted that when she applied for a variance for a fence on her property in 2015, the ZBA told her that she could install shrubs but not a fence within 35 feet of the front yard setback. She said Ms. McCarthy currently has fencing within 35 feet of the front property line. She added that surrounding neighbors have put money into their property to better the neighborhood.

Michael Damico, 12 Kenney Street, said he agrees with a couple of the commissioners who said that the junk has not been addressed. He said Ms. McCarthy is trying to hide the debris by putting up fencing all around the property. He added that he has lived there for 36 years and there was never a fence at 15 Green Street.

Commissioner Braga asked Ms. McCarthy for permission to walk on the property. It was explained to her that only one commission member at a time could visit and they would be instructed to view the site and not engage in a conversation with the property owner. Ms. McCarthy said she would have to think about the request and decide at a later date. Commissioner Braga requested that Ms. McCarthy let the Planning Department know by May 24<sup>th</sup> if they will be able to walk the property and see behind the fencing. Ms. Houlihan asked

Ms. McCarthy that if she has additional documentation to present to the ZBA, it would need to be submitted the Planning Department by May 24<sup>th</sup> in order to be distributed to the members of the ZBA. Any new documentation will be provided to the members of the commission prior to the next regularly scheduled meeting on June 7, 2021.

Lynn Tracy, 5 Keeney Street, said Ms. McCarthy's property looks like it's a fire hazard with all the fencing and wood pallets on the property. She noted that many surrounding owners have gone through the process to obtain a variance to do work on their property. Ms. Tracy noted that Ms. McCarthy's property is decreasing surrounding property values.

Alternate Hosig suggested the discussion at the next meeting should be focused on the junk portion of the Cease and Desist Order rather than fencing, which was discussed in detail tonight.

Ms. Houlihan asked the commission members to review the zoning regulations and the documentation that was submitted in preparation for the next meeting. She clarified that Ms. McCarthy has not applied for a variance. Ms. Houlihan explained the process of applying for a variance with the ZBA. Ms. McCarthy said she will consider applying for the variance.

**MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO CONTINUE THE APPEAL TO THE JUNE 7, 2021 REGULAR MEETING AT THE TOWN HALL MEETING HALL, 55 MAIN STREET, FOR V202101.**

#### **IV. ADMINISTRATIVE BUSINESS:**

1. Approval of the April 5, 2021 Regular Meeting Minutes.

**MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO APPROVE THE APRIL 5, 2021 MEETING MINUTES AS WRITTEN.**

2. Correspondence/Discussion:

- a. Letter from Pullman & Comley for CTEC Solar, LLC, dated April 13, 2021, submittal of a Petition for Declaratory Ruling to the Connecticut Siting Council for two solar-based electric generating facilities at 277 Sadds Mill Road, Ellington, CT.

#### **V. ADJOURNMENT:**

**MOVED (AUBE), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO ADJOURN THE ZBA MEETING AT 9:49 PM.**

Respectfully submitted,

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Barbra Galovich, Recording Clerk