



STATE OF CONNECTICUT – COUNTY OF TOLLAND  
INCORPORATED 1786

# TOWN OF ELLINGTON

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## ZONING BOARD OF APPEALS REGULAR MEETING MINUTES MONDAY, JULY 12, 2021, 7:00 PM

TOWN HALL ANNEX MEETING ROOM, 57 MAIN ST, ELLINGTON, CT

### REMOTE MEETING ATTENDANCE PROVIDED WITH ZOOM MEETING

**PRESENT:** Chairman Art Aube, Regular members Ken Braga, Katherine Heminway, Subhra Roy, and Alternate Ron Brown

**ABSENT:** Vice Chairman Sulakshana Thanvanthri, Alternate Ron Stomberg and Rodger Hosig

#### 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 7:00 pm at the Ellington Town Annex Meeting Room, 57 Main Street, Ellington, CT.

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

#### III. PUBLIC HEARINGS:

Alternate Ron Brown announced that he reviewed all the documentation, listened to the audio of last month's meeting, and is comfortable being seated on applications V202107 and V202101.

1. V202107 – Betty Lukens, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback from 35ft to 31ft and side yard setback from 10ft to 5ft for a detached garage at 28 Florence Avenue, APN 020-012-0000 in a Residential (R) zone.

**Time:** 7:01 pm

**Seated:** Aube, Heminway, Roy and Brown

Betty Lukens, 28 Florence Avenue and Dan Shustock, 61 Miller Road, Broad Brook, CT were present to represent the application.

Mr. Colonese stated the property owner has submitted a letter from her doctor and a survey showing the property line and detached garage structure. He also noted the Planning Department received a letter from the neighbor at 26 Florence Avenue on July 8, 2021.

Commissioner Heminway thanked Ms. Lukens for providing the survey to the Zoning Board of Appeals.

Kathy Vaiciulis, 26 Florence Avenue, stated she lives next door and read her letter that was submitted to the Planning Department on July 8, 2021. Ms. Lukens responded that she has limited mobility and balance due to the metal in her body, and is therefore unable to stretch to brush off the snow from her car.

Mr. Shustock explained the elevation to the west side of the property is a steep slope whereas on the east side there is only one step down to where the garage is located.

Ms. Vaiciulis stated the ramp to the garage is an additional obstacle for Ms. Lukens. Mr. Shustock said the ramp is like any other ramp, such as a convenience store handicap ramp.

Alternate Brown asked if there was any cover between the house and the garage, Ms. Lukens explained the side step off the house is covered and they plan to add hand rails leading into the garage.

**MOVED (AUBE), SECONDED (BROWN) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202107** – Betty Lukens, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback from 35ft to 31ft and side yard setback from 10ft to 5ft for a detached garage at 28 Florence Avenue, APN 020-012-0000 in a Residential (R) zone.

**MOVED (AUBE), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO APPROVE V202107** – Betty Lukens, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback from 35ft to 31ft and side yard setback from 10ft to 5ft for a detached garage at 28 Florence Avenue, APN 020-012-0000 in a Residential (R) zone.

**Hardship: Accessibility for a person with a disability.**

2. V202109 – Adam & Havi Kligfeld, owners/ Kendall B. Trenchard, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback from 35ft to 12ft for a 36'x16' screened in pavilion above an existing deck at 161 West Shore Road, APN 169-007-0000 in a Lake Residential (LR) zone.

**Time:** 7:16 pm

**Seated:** Aube, Braga, Heminway, Roy and Brown

Kendall Trenchard, 22 Lucks Way, Bolton, CT was present to represent the application. Mr. Trenchard stated there is an existing deck on the north side of the house. The owner of the property is looking to install a pavilion on roughly half of the deck. He noted there is a 12 foot retaining wall along side of the deck and the deck cannot be seen from the main road. Mr. Trenchard added that there is ledge on the south side of the house.

Alternate Brown asked why the owner would need the variance to 12 feet. Mr. Trenchard explained they are looking to keep the pavilion as far from the retaining wall as possible.

Commissioner Roy asked the applicant what the hardship is. Mr. Trenchard noted there is no other place to build the pavilion on the property due to the ledge and proximity to the water.

**MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202109** – Adam & Havi Kligfeld, owners/ Kendall B. Trenchard, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback from 35ft to 12ft for a 36'x16' screened in pavilion above an existing deck at 161 West Shore Road, APN 169-007-0000 in a Lake Residential (LR) zone.

**MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO APPROVE V202109** – Adam & Havi Kligfeld, owners/ Kendall B. Trenchard, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback from 35ft to 12ft for a 36'x16' screened in pavilion above an existing deck at 161 West Shore Road, APN 169-007-0000 in a Lake Residential (LR) zone.

**Hardship: Lot is narrow on south side of property with bedrock; pavilion to be built upon existing non-conforming deck.**

3. V202110 – Michael & Karen D'Amico, owners/applicants, request for a variance of the Ellington Zoning Regulations Section 2.1.6 – Visibility at Corners and Section 2.1.7 – Construction in Required Yards: to reduce the front yard setback from 35ft to 12ft on Sweeney Street and from 35ft to 19.6ft on Green Street for a 6ft fence at 12 Keeney Street, APN 129-031-0000 in a Lake Residential (LR) zone.

**MOVED (HEMINWAY), SECONDED (ROY) AND PASSED UNANIMOUSLY TO TABLE THE OPENING OF THE PUBLIC HEARING TO THE AUGUST 2, 2021 REGULAR MEETING AT THE TOWN HALL ANNEX MEETING ROOM, 57 MAIN STREET, FOR V202110** – Michael & Karen D'Amico, owners/applicants, request for a variance of the Ellington Zoning Regulations Section 2.1.6 – Visibility at Corners and Section 2.1.7 – Construction in Required Yards: to reduce the front yard setback from 35ft to 12ft on Sweeney Street and from 35ft to 19.6ft on Green Street for a 6ft fence at 12 Keeney Street, APN 129-031-0000 in a Lake Residential (LR) zone.

By consensus, the Board decided to go out of agenda order to Public Hearing item 5.

5. V202111 – 97 West Shore Road, Benjamin & Janelle Meyers owners/applicants, to appeal a Cease & Desist Order from the Zoning Enforcement Officer dated May 18, 2021 of Section 10.2-Definitions: Dwelling, One-Family, Section 2.1.1.D-Zoning Compliance and Section 3.1-Permitted Uses of the Ellington Zoning Regulations.

**MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO TABLE THE OPENING OF THE PUBLIC HEARING TO THE AUGUST 2, 2021 REGULAR MEETING AT THE TOWN HALL ANNEX MEETING ROOM, 57 MAIN STREET, FOR V202111**– 97 West Shore Road, Benjamin & Janelle Meyers owners/applicants, to appeal a Cease & Desist Order from the Zoning Enforcement Officer dated May 18, 2021 of Section 10.2-Definitions: Dwelling, One-Family, Section 2.1.1.D-Zoning Compliance and Section 3.1-Permitted Uses of the Ellington Zoning Regulations.

By consensus, the Board decided to go back to regular agenda order.

4. 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:** 7:26 pm

**Seated:** Aube, Braga, Heminway, Roy and Brown

Ms. Houlihan noted this is the third meeting for this appeal and there are only four days of extension remaining to close the public hearing. She stated to the applicant and the public that it is not necessary to repeat any testimony that was previously heard at the other meetings. Chairman Aube requested Ms. McCarthy to only discuss the Cease & Desist Order and not surrounding neighbors. Ms. McCarthy proceeded to explain that she moved some fencing to within the allowed area and was not in violation of the regulation. She reviewed a diagram of her property with the Board.

Michael Vengruskas, 14 Green Street, noted that the Board offered Ms. McCarthy to apply for a variance which she has not applied for, and he added that she hasn't done any improvements to the property since the last meeting.

Michael D'Amico, 12 Kenney Street, concurred with Mr. Vengruskas that Ms. McCarthy is not complying with the Board's suggestions.

Commissioner Heminway asked Ms. McCarthy why she could not get the survey completed for at least another 2 months, whereas a preceding applicant was able to have the survey completed and submitted to the Zoning Board of Appeals within a few weeks. Ms. McCarthy explained that the surveyors she contacted were unable to give her a timeframe of less than two months. Alternate Brown asked Ms. McCarthy what she has done on the property since she received the Cease & Desist Order. Ms. McCarthy responded that she has moved some of the fencing closer to the house.

Kathy Guilmette, 10 Keeney Street, stated the fencing that Ms. McCarthy has moved is now on her property.

Erin Stavens, Ellington Enterprises, 26 Green Street, expressed her concerns for the neighbors and feels the Zoning Board of Appeals has given Ms. McCarthy enough time to plead her case.

Ms. McCarthy submitted additional documents to the Board. Chairman Aube asked for a motion to close the public hearing.

**MOVED (BRAGA), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO CLOSE THE PUBIC HEARING FOR V202101.**

Ms. McCarthy submitted additional documents to the Board.

**MOVED (BRAGA), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO AFFIRM WHOLLY V202101** – Cease & Desist Order from the Zoning Enforcement Officer dated December 11, 2020, Section 2.1.7-Construction in Required Yards of the Ellington Zoning Regulations.

**OWNER SHALL SUBMIT TO THE PLANNING DEPARTMENT A ZONING BOARD OF APPEALS APPLICATION FOR A VARIANCE BY AUGUST 25, 2021 IN ORDER TO HAVE THE APPLICATION HEARD AT THE SEPTEMBER 13, 2021 REGULAR MEETING OR REMOVE THE FENCE AND SECTIONS OF FENCE WITHIN THE FRONT YARD SETBACK AREA OVER TWO AND A HALF FEET IN HEIGHT THAT PROVIDE MORE THAN FIFTY**

**PERCENT OBSTRUCTION OF VISION THROUGH THE FENCE AND ANY FENCE OVER FOUR FEET IN HEIGHT BY AUGUST 25, 2021. THE FRONT YARD SETBACK AREA ON THE PROPERTY IS SETBACK 35 FEET FROM THE FRONT PROPERTY LINE ON GREEN STREET AND SWEENEY STREET.**

**MOVED (BRAGA), SECONDED (AUBE) AND PASSED UNANIMOUSLY TO AFFIRM WHOLLY V202101 – Cease & Desist Order from the Zoning Enforcement Officer dated December 11, 2020, Section 2.1.1.D-Zoning Compliance, Section 3.1-Permitted Uses of the Ellington Zoning Regulations.**

**PROPERTY OWNER SHALL IMMEDIATELY CEASE FROM ACCUMULATING FURTHER JUNK ON THE PROPERTY.**

**ITEMS CONSIDERED JUNK ARTICLES CONSTITUTING A JUNK YARD BASED ON THE PHOTOS OF THE PROPERTY FROM DECEMBER 3, 2020 TO BE REMOVED WITHIN THIRTY (30) DAYS FROM TODAY, JULY 12, 2021 ARE IDENTIFIED AS FOLLOWS:**

- **DISASSEMBLED FENCE POSTS AND FENCE PANELS;**
- **DISASSEMBLED FENCE PIECES UNDER TARP;**
- **TARPED ARTICLES;**
- **GRAY, BLUE, AND WHITE GARBAGE BINS BY THE ROAD NOT PART OF TOWN TRASH OR RECYCLING COLLECTION;**
- **WOOD PALLETS NOT IN USE;**
- **METAL PIPES BY FRONT OF HOUSE.**

**DISASSEMBLED FENCE PIECES AS DESCRIBED BY THE OWNER IN THE FRONT YARD MAY REMAIN IF A VARIANCE IS APPLIED FOR BY AUGUST 25, 2021 IN ORDER TO HAVE THE APPLICATION HEARD AT THE SEPTEMBER 13, 2021 REGULAR MEETING.**

**BASED ON THE LATEST PHOTOS OF THE PROPERTY FROM JUNE 7, 2021 AND DESCRIPTIONS FROM THE OWNER AS TO HOW THE ITEMS ARE BEING USED ON THE PROPERTY, THE FOLLOWING ITEMS ARE NOT CONSIDERED JUNK ARTICLES CONSTITUTING A JUNK YARD:**

- **ONE GREEN EXERCISE DEVISE;**
- **WOODEN SPOOLS;**
- **WHITE WOODEN PALLETS IN USE.**

**WHITE WOOD RECTANGULAR ITEM ON THE DRIVEWAY AS SHOWN IN DECEMBER 3, 2020 PHOTOS AS TARPED AND DESCRIBED BY THE OWNER AS A PILLAR IS CONSIDERED A STRUCTURE AND WITHOUT PERMIT APPROVAL MUST BE REMOVED FROM THE PROPERTY WITHIN THIRTY (30) DAYS FROM TODAY, JULY 12, 2021.**

**FAILURE TO COMPLY WITH TIME PERIODS STATED HEREIN WILL RESULT IN THE ISSUANCE OF A CITATION AND FINE IN ACCORDANCE WITH CHAPTER 48: CITATIONS FOR WETLANDS AND ZONING VIOLATIONS OF THE TOWN OF ELLINGTON CODE OF ORDINANCES.**

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

1. Approval of the June 7, 2021 Regular Meeting Minutes.

**MOVED (BRAGA), SECONDED (HEMINWAY) AND PASSED (BROWN - ABSTAINED) TO APPROVE THE JUNE 7, 2021 MEETING AS WRITTEN.**

2. Correspondence/Discussion:

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

**MOVED (HEMINWAY), SECONDED (ROY) AND PASSED UNANIMOUSLY TO ADJOURN THE ZBA MEETING AT 8:12 PM.**

Respectfully submitted,

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Barbra Galovich, Recording Clerk