ZONING BOARD OF APPEALS
REGULAR MEETING AGENDA
MONDAY, APRIL 4, 2022, 7:00 PM

IN-PERSON ATTENDANCE: TOWN HALL ANNEX, 57 MAIN STREET, ELLINGTON, CT
REMOTE ATTENDANCE: VIA ZOOM MEETING, INSTRUCTIONS PROVIDED BELOW

I. CALL TO ORDER:

II. PUBLIC COMMENTS (ON NON-AGENDA ITEMS):

III. PUBLIC HEARING(S):  (Notice requirements met, hearings may commence unless otherwise noted)

1. V202201 – Jeff McKnight, owner/ Ryan Orszulak, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.2-Lot Requirements: to reduce the lot area below the minimum lot size (40,000 Sq. Ft.) from 37,306 Sq. Ft. to 24,407 Sq. Ft. at 144 Muddy Brook Road, APN 088-020-0000 in a Rural Agricultural Residential (RAR) zone.

2. V202202 – Michael Stosonis & Nicole Boileau, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 2.1.7-Construction in Required Yards: to allow a solid fence 8ft in height in the front yard setback area at 25 Green Street, APN 129-027-0000 in a Lake Residential (LR) zone.

3. V202203 – Kathleen T. Waugh, owner/ Connecticut Department of Transportation, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.2-Lot Requirements: to reduce the lot area below the minimum lot size (40,000 Sq. Ft.) from 34,950 Sq. Ft. to 34,831 Sq. Ft. at 18 Strawberry Road, APN 182-008-0000 in a Rural Agricultural Residential (RAR) zone.

4. V202204 – Blaire E. Herter, owner/ Connecticut Department of Transportation, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.2-Lot Requirements: to reduce the lot area below the minimum lot size (40,000 Sq. Ft.) from 31,247 Sq. Ft. to 30,838 Sq. Ft. at 23 Strawberry Road, APN 182-037-0000 in a Rural Agricultural Residential (RAR) zone.

5. V202205 – Scott Black, owner/ Connecticut Department of Transportation, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.2-Lot Requirements: to reduce the lot area below the minimum lot size (40,000 Sq. Ft.) from 35,436 Sq. Ft. to 35,023 Sq. Ft. at 29 Blueberry Circle, APN 182-009-0000 in a Rural Agricultural Residential (RAR) zone.

IV. ADMINISTRATIVE BUSINESS:

1. Approval of the December 6, 2021 Regular Meeting Minutes.

2. Election of Officers.

3. Correspondence/Discussion:
V. ADJOURNMENT:

Next Regular Meeting Scheduled for Monday, May 2, 2022

Instructions to attend remotely via Zoom Meeting listed below. The agenda is posted on the Town of Ellington webpage (www.ellington-ct.gov) under Agenda & Minutes, Zoning Board of Appeals.

Join Zoom Meeting via link:  
https://us06web.zoom.us/j/87122159909
Meeting ID: 871 2215 9909
Passcode: 410013

Join Zoom Meeting by phone:  
1 646 558 8656 US (New York)
Meeting ID: 871 2215 9909
Passcode: 410013
Town of Ellington
Zoning Board of Appeals Application

Type of Application: ☑ Variance ☐ Appeal of Decision ☐ Auto Dealer / Repairer License

Application # V202201
Date Received 3/10/2022

Notices associated with this application will be sent to the applicant unless otherwise requested.

Owner’s Information
Name: Jeff McKnight
Mailing Address: 141 Muddy Brook Rd, Ellington, CT 06029
Email: 

WHEN NOT REQUIRED BY LAW TO MAIL NOTICE BY USPS, MAY NOTICES BE EMAILED TO YOU? ☐ Yes ☑ No
Primary Contact Phone #: (860) 966-9871

Secondary Contact Phone #: 
Owner’s Signature: 
Date: 3/10/2022

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted. Moreover, by signing above I/we expressly provide written consent to the filing of the application and access to the site by the Board or its staff.

Applicant’s Information (if different than owner)
Name: Ryan Orszulak
Mailing Address: 34 Bridge St, Ellington, CT 06029
Email: orszulakllc@outlook.com

WHEN NOT REQUIRED BY LAW TO MAIL NOTICE BY USPS, MAY NOTICES BE EMAILED TO YOU? ☐ Yes ☑ No
Primary Contact Phone #: (860) 817-1604

Secondary Contact Phone #: 
Applicant’s Signature: 
Date: 3/10/22

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted.

Street Address: 144 Muddy Brook Rd (088-020-0000)

Assessor’s Parcel Number (APN): 88 020 0000 Zone: RAR

Public Water: ☑ Yes ☐ No Public Sewer: ☑ Yes ☐ No
If not served by public water and sewer, applicant/owner shall make application to North Central District Health Department (Enfield Office).

Is parcel within 500’ to any municipal boundary? ☑ Yes ☐ No

Are there any wetlands/watercourses within 100’ of construction activity or within 250’ of wetlands/watercourses when located in the Shenipsit Lake Drainage Basin? ☑ Yes ☐ No

Is the project in a public water supply watershed area? ☑ Yes ☐ No
If YES, applicant shall notify Connecticut Water Company and Commissioner of Public Health about the proposed project by certified mail, return receipt within 7 days of application. Conn. Gen. Stat. §8-3/3(b). Copy of application, plans, and supporting documents must accompany notice. Proof of notice and copies of return receipts must be provided to the Planning Department.

Previous Variances related to this property? ☑ Yes ☐ No If yes, specify date

Requesting a Variance to Zoning Regulations Section: (For Variance Application only) 
Section 3.2.2

Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License: (Attach additional sheets if needed)
Please See Attached

Hardship: Describe hardship and indicate why other options are unacceptable. (For Variance Application only)
Please See Attached
April 4th, 2022

Zoning Board of Appeals – Town of Ellington, CT

144 Muddy Brook Rd & 103 Sadds Mill Rd

Lot Line Revision

Description of Variance Request:

A lot line revision that impacts 144 Muddy Brook (088-020-000) as well as 103 Sadds Mill (088-21-0000) is requested to eliminate the party wall and splitting of the barn within the existing property line. The current property line runs along the face and through the large barn between these two properties as well as a retaining wall running parallel with Muddy Brook Rd. The requested new property line location was chosen to incorporate the entire barn, retaining wall, and adjacent concrete slabs. This new property line allows for the access to the side yard of 144 Muddy Brook, as well as the adjacent farmland (088-020-0001) owned by Jeff McKnight from Sadds Mill Rd through the means of an existing gravel driveway. Jeff McKnight is in agreement of the new property line location and supports the requested change.

Hardship:

The current configuration is not conducive to maintenance or repair of the barn or retaining wall and prevents the barn in its entirety to be procured by a single future property owner. The barn was originally incorporated with the house on 103 Sadds Mill Rd to make the original McKnight farmstead. Land surrounding 144 Muddy Brook is either a town road, or land that has been incorporated into the farm land preservation program which prevents making the lot line revision and also complying with section 3.2.2.
April 4th, 2022
Zoning Board of Appeals – Town of Ellington, CT
144 Muddy Brook Rd & 103 Sadds Mill Rd
Lot Line Revision

Dear Zoning Board of Appeals,

I, Jeff McKnight, fully support the requested lot line revision to incorporate the barn currently shared between 103 Sadds Mill Rd and 144 Muddy Brook Rd in its entirety into the 103 Sadds Mill Rd parcel. I’m in full agreement that the proposed lot line location is the best location possible with the given conditions. This allows access to 144 Mudd Brook Rd side yard as well as to the protected farmland (Parcel 088-020-0001) which I currently own. I will be unable to attend the Zoning Board of Appeals meeting on April 4th 2022 but would like to send my full support for this change and to allow Ryan Orszulak to propose this change to the board.

Sincerely,

[Signature]

Jeff T. McKnight
March 3, 2022

Ryan Orszulak
Jeff McNight
103 Sadds Mill Road & 144 Muddy Brook Road
Ellington, CT

Re: Lot line revision 103 Sadds Mill Road & 144 Muddy Brook Road Ellington, Connecticut

Ryan/Jeff,

Per your request we have prepared a lot line revision survey and map of the referenced properties. The existing property line between the two properties is along and through an existing barn and with the desire to separate the properties you have asked that we prepare a lot line revision to put the existing barn all on the property at 103 Sadds Mill Road.

When the property line between the two properties is moved to the East to put the large barn all onto the property of 103 Sadds Mill Road and respecting the required side yard of the existing zone this will create a lot area of 24,407 sq. ft. for the property at 144 Muddy Brook Road. This area is less than the required 40,000 sq. ft. for property in this zone.

Both existing properties have multiple non-conforming existing conditions to the present zoning regulations for area, front yard, side yard and rear yard setbacks. See the chart on the plan prepared by this office.

I believe the lot line revision is a good way to enable the properties to separate the barn onto one property to enable ownership, maintenance and upkeep of the barns to be the responsibility of the one landowner.

Sincerely,

Brian Denno, L.S.
Subsurface Sewage Disposal Investigation Results

144 Muddy Brook Road
Ellington

Lot #    Street #    St_name
Jeff McNight 141 Muddy Brook Road
Owner

Time  Reading  Time  Reading  Time  Reading  Time  Reading

21 Dec, 2021
Date

Hole  Depth  Presoak  Perc Rate (Min/In)

Soil Description Observation Pits

Pit 1
- 0-52" reddish loamy sand fill
- 52" trace dark loam
- 52-64" light brown loam

Pit 2
- 0-48" red brown loamy sand fill
- 48-49" trace topsoil
- 49-68" brown sandy loam with roots original grade appears undisturbed.
- 68-78" gray brown very fine sandy loam with silt
- no seepage
- no ledge, mottling possible

Pit 1
- Pit 1
- Pit 2

Pit
- Pit

Pit
- Pit

PIT  DEPTH  LEDGE  GROUND  SOIL
1  64"  None  None  Indistinct
2  78"  None  None

Westford Lirot, R.S.
Investigator
Confirmed/Witnessed by

Prepared By: __________
Sanitarian
Date: 12/23/2021
Hello Ryan,

I reviewed the plan submitted with the Zoning Board of Appeals (ZBA) variance application V202201 known as “Lot Line Revision prepared for Jeff T. McKnight 103 Sadds Mill Road & 144 Muddy Brook Road Ellington, Connecticut Date 2/9/22” by Denno Land Surveying & Consulting, LLC and have the following preliminary comments:

1) Show the building setback lines (“B.L.”) to the street property lines on Sadds Mill Road (60’) and Muddy Brook Road (55’).
2) Calculate and show the proposed lot coverage for each lot. Lot coverage must be a maximum of 25% or if the lot coverage is nonconforming to the regulations it cannot increase with the lot line revision.
3) Show a rear yard (“R.Y.”) principal building setback line (25’) and accessory building setback line (10’) for 103 Sadds Mill Road.
4) Show a rear yard (“R.Y.”) accessory building setback line (10’) for 144 Muddy Brook Road.
5) Show the Assessor Parcel Numbers for each lot.

If the ZBA decides in favor of the variance request, these revisions will be required prior to filing a lot line revision plan on the Ellington land records. Please feel free to contact me with any questions.

Regards,

John D. Colonese, CZEO
Assistant Town Planner/Zoning & Wetlands Enforcement Officer
P.O. Box 187
57 Main Street
Ellington, CT 06029
Phone (860) 870-3120
jcolonese@ellington-ct.gov
Town of Ellington  
Zoning Board of Appeals Application

**Type of Application:**  
- [x] Variance  
- [ ] Appeal of Decision  
- [ ] Auto Dealer / Repairer License

<table>
<thead>
<tr>
<th>Application #</th>
<th>V202202</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Received</td>
<td>3/14/2022</td>
</tr>
</tbody>
</table>

**Owner's Information**

- **Name:** Michael Stasonis & Nicole Boileau  
- **Mailing Address:** 25 Green St  
  Ellington, CT 06029  
- **Email:** connecticut@skbglobal.net

**Applicant's Information** (if different than owner)

- **Name:** Same
- **Mailing Address:**
- **Email:**

**NOTES:**
- WHEN NOT REQUIRED BY LAW TO MAIL NOTICE BY USPS, MAY NOTICES BE EMAILED TO YOU? [ ] Yes [x] No
- Primary Contact Phone #: 860-930-2195
- Secondary Contact Phone #: Same

**Owner's Information**

- **Signature:**  
- **Date:** 3/14/22

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted. Moreover, by signing above I/we expressly provide written consent to the filing of the application and access to the site by the Board or its staff.

- **Street Address:** 25 Green St
- **Assessor's Parcel Number (APN):** 129-027-0000  
  Zone: LR
- **Public Water:** [ ] Yes [x] No
- **Public Sewer:** [ ] Yes [x] No
- If not served by public water and sewer, applicant/owner shall make application to North Central District Health Department (Enfield Office).

- **Is parcel within 500' to any municipal boundary?** [x] Yes [ ] No

- **Are there any wetlands/watercourses within 100' of construction activity or within 250' of wetlands/watercourses when located in the Shenipsit Lake Drainage Basin?** [x] Yes [ ] No

- **Is the project in a public water supply watershed area?** [ ] Yes [x] No
- If yes, applicant shall notify Connecticut Water Company and Commissioner of Public Health about the proposed project by certified mail, return receipt within 7 days of application (8B-3t(b)). Copy of application, plans, and supporting documents must accompany notice. Proof of notice and copies of return receipts must be provided to the Planning Department.

- **Previous Variances related to this property?** [ ] Yes [x] No  
  If yes, specify date: 2-1-2010

**Requesting a Variance to Zoning Regulations Section:** (For Variance Application only)  
- **Section 2.17**

**Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License:** (Attach additional sheets if needed)

- **Requesting 8' Stockade Fence with in front yard area**

**Hardship:** Describe hardship and indicate why other options are unacceptable. (For Variance Application only)

- **My Front Yard Faces East look at road (25 Green St). We use our East yard as our Backyard. The front yard to us is facing Crystal Lake. We would like some privacy from people driving up & walking when we are out enjoying the yard.**
ELLINGTON PLANNING DEPARTMENT  
STAFF REVIEW SHEET  

ZONING BOARD OF APPEALS

V202202 – Michael Stosonis & Nicole Boileau, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 2.1.7-Construction in Required Yards: to allow a solid fence 8ft in height in the front yard setback area at 25 Green Street, APN 129-027-0000 in a Lake Residential (LR) zone.

PUBLIC HEARING DATE: April 4, 2022  
STAFF REVIEW RETURN DATE: March 28, 2022

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>COMMENTS AND/OR REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Town Engineer</td>
<td></td>
</tr>
<tr>
<td>Building Official</td>
<td></td>
</tr>
<tr>
<td>North Central District Health</td>
<td>Fire Marshal Review:</td>
</tr>
<tr>
<td>Department</td>
<td>Consideration should be given to how this might affect emergency response to this address and if this fence would inhibit response. Possible considerations might be additional signage to direct responders to the Keeney St side. Also, the 911 Coordinator should be consulted if the fencing is approved to coordinate with the Tolland County Dispatch Center regarding proper directions to access this address.</td>
</tr>
<tr>
<td>Fire Marshal</td>
<td></td>
</tr>
<tr>
<td>3/17/22</td>
<td></td>
</tr>
<tr>
<td>Public Works Director/WPCA</td>
<td></td>
</tr>
<tr>
<td>Assessor</td>
<td></td>
</tr>
<tr>
<td>Traffic Authority</td>
<td></td>
</tr>
</tbody>
</table>
Town of Ellington
Zoning Board of Appeals Application

Type of Application: [✓] Variance [☐] Appeal of Decision [☐] Auto Dealer / Repairer License

Application # V202203
Date Received 3/16/2022

Notices associated with this application will be sent to the applicant unless otherwise requested.

Owner’s Information

Name: Kathleen T. Waugh
Mailing Address: 18 Strawberry Road
Ellington, CT 06029
Email: N/A

Primary Contact Phone #: N/A
Secondary Contact Phone #: N/A

Owner’s Signature: See Exhibits A & B Date: 

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted. Moreover, by signing above I/we expressly provide written consent to the filing of the application and access to the site by the Board or its staff.

Applicant’s Information (if different than owner)

Name: Connecticut Department of Transportation
Mailing Address: 2800 Berlin Turnpike
Newington, CT 06111
Email: Dennis.McDonald@CT.gov

Primary Contact Phone #: 860-594-2475
Secondary Contact Phone #: 860-594-2393

Applicant’s Signature: Date: 3/15/2022

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted.

Street Address: 18 Strawberry Rd
Assessor’s Parcel Number (APN): 182 - 008 - 0000 Zone: RAR

Public Water: [✓] Yes [☐] No Public Sewer: [☐] Yes [✓] No
If not served by public water and sewer, applicant/owner shall make application to North Central District Health Department (Enfield Office).

Is parcel within 500’ to any municipal boundary? [☐] Yes [✓] No

Are there any wetlands/watercourses within 100’ of construction activity or within 250’ of wetlands/watercourses when located in the Shenipsit Lake Drainage Basin? [✓] Yes [☐] No

Is the project in a public water supply watershed area? [☐] Yes [✓] No
If YES, applicant shall notify Connecticut Water Company and Commissioner of Public Health about the proposed project by certified mail, return receipt within 7 days of application Conn. Gen. Stat. §8-3(i)(b). Copy of application, plans, and supporting documents must accompany notice. Proof of notice and copies of return receipts must be provided to the Planning Department.

Previous Variances related to this property? [☐] Yes [✓] No If yes, specify date

Requesting a Variance to Zoning Regulations Section: (For Variance Application only) 3.2.2 Lot Requirements
Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License: (Attach additional sheets if needed)
See attached sheet

Hardship: Describe hardship and indicate why other options are unacceptable. (For Variance Application only)
See attached sheet
Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License:

In connection with project 47-120 – Replacement of Bridge No. 06141 Strawberry Road Over Abbey Brook, the Connecticut Department of Transportation (Department) proposes to acquire 119± Sq. Ft. of land from the subject property. The subject property is located in the Rural Agricultural Residential Zone (RAR) which requires a minimum lot area of 40,000 Sq. Ft. This property is currently non-conforming with a lot area of 34,950 Sq. Ft. and as a result of the proposed acquisition will be further reduced to 34,831 Sq. Ft. In this regard, the Department is seeking a variance of Section 3.2.2 to allow the reduction of a non-conforming lot from the existing 34,950 Sq. Ft. to 34,831 Sq. Ft. in lieu of the required 40,000 Sq. Ft.

Hardship: Describe hardship and indicate why other options are unacceptable. (For Variance Application only)

As a result of the Departments proposed acquisition, the remaining property will not conform to the area requirements of the RAR zone. Per Connecticut General Statutes Section 48-24, failure to obtain a lot area variance may result in the total acquisition of the subject property, thus denying the property owner full use and occupancy of their remaining property through no fault of their own.
January 24, 1986

George R. Sullivan, Jr., Chairman
Zoning Board of Appeals
Town of New Milford
24 Church Street
New Milford, Ct. 06776

RE: Notification of Property Owners of Variable Application by DOT

Dear Mr. Sullivan:

I have researched the issue of whether property owners whose land is to be condemned by a state agency must consent to the agency’s application for a variance. The answer is clearly, no. Section 48-24 of the General Statutes gives the condemning authority the power to obtain a variance for the portion of property which will remain after the taking. In Smith v. Zoning Board of Appeals, 174 Conn. 323 (1978), where the plaintiff property owners were neither notified of nor consented to the application for a variance, the Connecticut Supreme Court stated:

The remaining issue in this appeal is the plaintiff’s claim that the granting of a variance without their consent violates their constitutional right to just compensation by forcing them to assume the financial risk of structural alteration or sale of property subject to a variance. We disagree. The plaintiffs’ claims for consequential damages to the remaining land resulting from the partial taking could be considered by a trier of fact under General Statutes Section 13a-76. Damages would be calculated by subtracting the
market value of the remainder after the taking
from the market value of the property just
prior to the taking. Laurel, Inc. v. State,
169 Conn. 195, 205, 362 A.2d. 1383; Meriden
v. Highway Commissioner, 169 Conn. 655, 660,
363 A.2d. 1094.

Mr. Douglas Hummel of the Department of Transportation plans
to notify the record owners of the property to be condemned for
the Lower Grove Street connection of the variance applications by
certified mail. This method of notification is obviously
sufficient. The Board should consider the variance applications
submitted by the Department of Transportation under these
circumstances.

Sincerely,
Jeffrey B. Sienkiewicz
New Milford Town Counsel

By
Nancy R. Sienkiewicz

NRZ/lc
oc: Douglas Hummel
February 28, 1986

Douglas M. Hummel
Assistant Property Agent
Office of Rights of Way
Department of Transportation
24 Wolcott Hill Road
Wethersfield, CT 06109

Dear Mr. Hummel:

With reference to our conversation concerning Conn. Gen. Stat. § 48-24 as of this date I have examined an opinion letter dated January 24, 1986 by the law firm of Pinney, Payne, Van Lenten, Burrell, Wolfe & Dillman, P.C. addressed to the chairman of the New Milford Zoning Board of Appeals.

Please be informed that I am completely in agreement with said opinion.

Very truly yours,

JOSEPH I. LIEBERMAN
ATTORNEY GENERAL

BY:  

Paige Everin
Assistant Attorney General

PE:rw
Town of Ellington
Zoning Board of Appeals Application

Type of Application: ☑ Variance  ☐ Appeal of Decision  ☐ Auto Dealer / Repairer License

Date Received: 3/16/2022

Notices associated with this application will be sent to the applicant unless otherwise requested.

Owner's Information

Name: Blaire E. Herter
Mailing Address: 23 Strawberry Road
Ellington, CT 06029
Email: N/A

Primary Contact Phone #: N/A
Secondary Contact Phone #: N/A
Owner’s Signature: See Exhibits A & B Date:

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted. Moreover, by signing above I/we expressly provide written consent to the filing of the application and access to the site by the Board or its staff.

Applicant’s Information (if different than owner)

Name: Connecticut Department of Transportation
Mailing Address: 2800 Berlin Turnpike
Newington, CT 06111
Email: Dennis.McDonald@CT.gov

Primary Contact Phone #: 860-594-2475
Secondary Contact Phone #: 860-594-2393
Applicant’s Signature: /Date: 3/16/2022

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted.

Street Address: 23 Strawberry Road
Assessor's Parcel Number (APN): 182 - 037 - 0000 Zone: RAR

Public Water: ☑ Yes ☐ No  Public Sewer: ☑ Yes ☐ No
If not served by public water and sewer, applicant/owner shall make application to North Central District Health Department (Enfield Office).

Is parcel within 500’ to any municipal boundary? ☐ Yes ☑ No

Are there any wetlands/watercourses within 100’ of construction activity or within 250’ of wetlands/watercourses when located in the Shenipsit Lake Drainage Basin? ☑ Yes ☐ No

Is the project in a public water supply watershed area? ☑ Yes ☐ No
If YES, applicant shall notify Connecticut Water Company and Commissioner of Public Health about the proposed project by certified mail, return receipt within 7 days of application Conn. Gen. Stat. 58-3(b). Copy of application, plans, and supporting documents must accompany notice. Proof of notice and copies of return receipts must be provided to the Planning Department.

Previous Variances related to this property? ☐ Yes ☑ No If yes, specify date

Requesting a Variance to Zoning Regulations Section: (For Variance Application only) ☑ § 2.2 Lot Requirements
Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License: (Attach additional sheets if needed)
See attached Sheet

Hardship: Describe hardship and indicate why other options are unacceptable. (For Variance Application only)
See attached Sheet
Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License:

In connection with project 47-120 – Replacement of Bridge No. 06141 Strawberry Road Over Abbey Brook, the Connecticut Department of Transportation (Department) proposes to acquire 409± Sq. Ft. of land from the subject property. The subject property is located in the Rural Agricultural Residential Zone (RAR) which requires a minimum lot area of 40,000 Sq. Ft. This property is currently non-conforming with a lot area of 31,247 Sq. Ft. and as a result of the proposed acquisition will be further reduced to 30,838 Sq. Ft. In this regard, the Department is seeking a variance of Section 3.2.2 to allow the reduction of a non-conforming lot from the existing 31,247 Sq. Ft. to 30,838 Sq. Ft. in lieu of the required 40,000 Sq. Ft.

Hardship: Describe hardship and indicate why other options are unacceptable. (For Variance Application only)

As a result of the Departments proposed acquisition, the remaining property will not conform to the area requirements of the RAR zone. Per Connecticut General Statutes Section 48-24, failure to obtain a lot area variance may result in the total acquisition of the subject property, thus denying the property owner full use and occupancy of their remaining property through no fault of their own.
January 24, 1986

George R. Sullivan, Jr., Chairman
Zoning Board of Appeals
Town of New Milford
24 Church Street
New Milford, Ct. 06776

RE: Notification of Property Owners of Variable Application by DOT

Dear Mr. Sullivan:

I have researched the issue of whether property owners whose land is to be condemned by a state agency must consent to the agency's application for a variance. The answer is clearly, no. Section 48-24 of the General Statutes gives the condemning authority the power to obtain a variance for the portion of property which will remain after the taking. In Smith v. Zoning Board of Appeals, 174 Conn. 323 (1978), where the plaintiff property owners were neither notified of nor consented to the application for a variance, the Connecticut Supreme Court stated:

The remaining issue in this appeal is the plaintiff's claim that the granting of a variance without their consent violates their constitutional right to just compensation by forcing them to assume the financial risk of structural alteration or sale of property subject to a variance. We disagree. The plaintiffs' claims for consequential damages to the remaining land resulting from the partial taking could be considered by a trier of fact under General Statutes, Section 13a-76. Damages would be calculated by subtracting the
market value of the remainder after the taking from the market value of the property just prior to the taking. Laurel, Inc. v. State, 169 Conn. 195, 205, 362 A.2d. 1383; Meriden v. Highway Commissioner, 169 Conn. 655, 660, 363 A.2d. 1094.

Mr. Douglas Hummel of the Department of Transportation plans to notify the record owners of the property to be condemned for the Lower Grove Street connection of the variance applications by certified mail. This method of notification is obviously sufficient. The Board should consider the variance applications submitted by the Department of Transportation under these circumstances.

Sincerely,
Jeffrey B. Sienkiewicz
New Milford Town Counsel

By
Nancy R. Sienkiewicz

NRS/1c
cc: Douglas Hummel
February 28, 1986

Douglas M. Hummel
Assistant Property Agent
Office of Rights of Way
Department of Transportation
24 Wolcott Hill Road
Wethersfield, CT 06109

Dear Mr. Hummel:

With reference to our conversation concerning Conn. Gen. Stat. § 48-24 as of this date I have examined an opinion letter dated January 24, 1986 by the law firm of Pinney, Payne, Van Lenten, Burrell, Wolfe & Dillman, P.C. addressed to the chairman of the New Milford Zoning Board of Appeals.

Please be informed that I am completely in agreement with said opinion.

Very truly yours,

JOSEPH I. LIEBERMAN
ATTORNEY GENERAL

BY: ________________

Faige Everin
Assistant Attorney General

PE:rw
Town of Ellington
Zoning Board of Appeals Application

Type of Application: ☑ Variance ☐ Appeal of Decision ☐ Auto Dealer / Repairer License

Application #: V202205
Date Received: 3/16/2022

Notices associated with this application will be sent to the applicant unless otherwise requested.

Owner's Information

Name: Scott Black
Mailing Address: 29 Blueberry Circle
Ellington, CT 06029
Email: N/A

Applicant’s Information (if different than owner)

Name: Connecticut Department of Transportation
Mailing Address: 2800 Berlin Turnpike
Newington, CT 06111
Email: Dennis.McDonald@CT.gov

Street Address: 29 Blueberry Circle
Assessor's Parcel Number (APN): 182 - 009 - 0000 Zone: RAR
Public Water: ☑ Yes ☐ No Public Sewer: ☐ Yes ☑ No

If not served by public water and sewer, applicant/owner shall make application to North Central District Health Department (Enfield Office).

Is parcel within 500' to any municipal boundary? ☑ Yes ☑ No

Are there any wetlands/watercourses within 100' of construction activity or within 250' of wetlands/watercourses when located in the Shenipsit Lake Drainage Basin? ☑ Yes ☐ No

Is the project in a public water supply watershed area? ☑ Yes ☑ No

If YES, applicant shall notify Connecticut Water Company and Commissioner of Public Health about the proposed project by certified mail, return receipt within 7 days of application Conn. Gen. Stat. 88-3(b). Copy of application, plans, and supporting documents must accompany notice. Proof of notice and copies of return receipts must be provided to the Planning Department.

Previous Variances related to this property? ☑ Yes ☑ No If yes, specify date

Requesting a Variance to Zoning Regulations Section: (For Variance Application only) 3.2.2 Lot Requirements
Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License: (Attach additional sheets if needed)
See attached Sheet

Hardship: Describe hardship and indicate why other options are unacceptable. (For Variance Application only)
See attached Sheet
Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License:

In connection with project 47-120 – Replacement of Bridge No. 06141 Strawberry Road Over Abbey Brook, the Connecticut Department of Transportation (Department) proposes to acquire 413± Sq. Ft. of land from the subject property. The subject property is located in the Rural Agricultural Residential Zone (RAR) which requires a minimum lot area of 40,000 Sq. Ft. This property is currently non-conforming with a lot area of 35,436 Sq. Ft. and as a result of the proposed acquisition will be further reduced to 35,023 Sq. Ft. In this regard, the Department is seeking a variance of Section 3.2.2 to allow the reduction of a non-conforming lot from the existing 35,436 Sq. Ft. to 35,023 Sq. Ft. in lieu of the required 40,000 Sq. Ft.

Hardship: Describe hardship and indicate why other options are unacceptable. (For Variance Application only)

As a result of the Department's proposed acquisition, the remaining property will not conform to the area requirements of the RAR zone. Per Connecticut General Statutes Section 48-24, failure to obtain a lot area variance may result in the total acquisition of the subject property, thus denying the property owner full use and occupancy of their remaining property through no fault of their own.
January 24, 1986

George R. Sullivan, Jr., Chairman
Zoning Board of Appeals
Town of New Milford
24 Church Street
New Milford, Ct. 06776

RE: Notification of Property Owners of Variable Application by DOT

Dear Mr. Sullivan:

I have researched the issue of whether property owners whose land is to be condemned by a state agency must consent to the agency's application for a variance. The answer is clearly, no. Section 48-24 of the General Statutes gives the condemning authority the power to obtain a variance for the portion of property which will remain after the taking. In Smith v. Zoning Board of Appeals, 174 Conn. 323 (1978), where the plaintiff property owners were neither notified of nor consented to the application for a variance, the Connecticut Supreme Court stated:

The remaining issue in this appeal is the plaintiff's claim that the granting of a variance without their consent violates their constitutional right to just compensation by forcing them to assume the financial risk of structural alteration or sale of property subject to a variance. We disagree. The plaintiffs' claims for consequential damages to the remaining land resulting from the partial taking could be considered by a trier of fact under General Statutes, Section 13a-76. Damages would be calculated by subtracting the
market value of the remainder after the taking from the market value of the property just prior to the taking. Laurel, Inc. v. State, 169 Conn. 195, 205, 362 A.2d. 1383; Meriden v. Highway Commissioner, 169 Conn. 655, 660, 363 A.2d. 1094.

Mr. Douglas Hummel of the Department of Transportation plans to notify the record owners of the property to be condemned for the Lower Grove Street connection of the variance applications by certified mail. This method of notification is obviously sufficient. The Board should consider the variance applications submitted by the Department of Transportation under these circumstances.

Sincerely,
Jeffrey E. Sienkiewicz
New Milford Town Counsel

By
Nancy R. Sienkiewicz

NRS/1c
cc: Douglas Hummel
February 28, 1986

Douglas M. Hummel
Assistant Property Agent
Office of Rights of Way
Department of Transportation
24 Wadsworth Hill Road
Wethersfield, CT 06109

Dear Mr. Hummel:

With reference to our conversation concerning Conn. Gen. Stat. § 48-24 as of this date I have examined an opinion letter dated January 24, 1986 by the law firm of Pinney, Payne, Van Lenten, Burrell, Wolfe & Dillman, P.C. addressed to the chairman of the New Milford Zoning Board of Appeals.

Please be informed that I am completely in agreement with said opinion.

Very truly yours,

JOSEPH I. LIEBERMAN
ATTORNEY GENERAL

BY: 

Paige Everin
Assistant Attorney General

PE:rw
REFERENCES:
1. GENERAL LOCATION SURVEY PROVIDED BY COMMUNITY DISTRICT 3: PROJECT NO. 47-120. CASE FILE: 20-01-047-0120 ELLINGTON BRIDGE 06141.120.
2. COMMUNITY CONSTRUCTION PROJECT NO. 47-120. ENTITLED: REPLACEMENT OF BRIDGE NO. 06141 STRAWBERRY ROAD OVER ABBEY BROOK.
3. VLIG. NO. 120. PAGE 672 (Q.G.C.)
4. VLIG. NO. 120. PAGE 673 (Q.G.C.)
5. VLIG. NO. 120. PAGE 674 (Q.G.C.)
6. VLIG. NO. 120. PAGE 675 (Q.G.C.)
7. MAP ENTITLED: "SUBDIVISION PLAN OF PARCELS ACRUING EAST PROPERTY OF WACO, INC. ELLINGTON, CONN." SCALE 1" = 100 FT DATED: 2-27-79 AS REVISED 3-2-79. (MAP NO. 47-028 E.R.R.)
8. MAP ENTITLED: "EASEMENT MAP PREPARED FOR TOWN OF ELLINGTON STRAWBERRY ROAD ELLINGTON, CONNECTICUT SCALE 1" = 100 FT DATED: 8-16-2013 (MAP NO. 47-028 E.R.R.)

NOTES:
2. THE FEATURES DEPICTED ARE THE RESULT OF THE GENERAL LOCATION SURVEY FOR THE PROJECT OR AS REFERENCED HEREBIN.
3. THE PROPERTY AND STREET LINES DEPICTED CONFORM TO CLASS D ACCURACY. THEY HAVE BEEN COMPARED FROM VARIOUS SOURCES AND ARE NOT TO BE CONSIDERED AS NEECESSARY FOR THE PURPOSE OF A FIELD SURVEY. NO OLY THEY REPRESENT A PROPERTY/BOUNDARY OPINION.
4. THE CONSTRUCTION EASEMENT DEPICTED HEREBIN WILL BE PARTIALLY ERECTED BY AN APPRAISAL WHICH WILL BE FILED IN THE PUBLIC RECORDS.

SCOTT BLACK
TAKING AREA = 413½ SQ. FT.

CONSTRUCTION EASEMENT FOR THE PURPOSE OF CONSTRUCTION ACCESS, GRADING, INSTALLATION OF TEMPORARY SEDIMENTATION CONTROL SYSTEM AND INSTALLATION OF TEMPORARY COFFERDAM DURING THE REPLACEMENT OF BRIDGE NO. 06141 STRAWBERRY ROAD OVER ABBEY BROOK. ACQUIRED CONSTRUCTION EASEMENT TAKEN UNDER THIS PARAGRAPH WILL BE RESTORED BY REMOVAL OF ALL TEMPORARY APPURTENANCES AND GRADING/RESCISSING ANY DISTURBED AREAS SAID EASEMENT WILL BE EXTINGUISHED UPON COMPLETION OF THE PROJECT, UNLESS SOONER EXTINGUISHED BY THE STATE.

EASEMENT TO INSTALL CONSTRUCT AND MAINTAIN METAL BEAM RAIL AND END ANCHORAGE ACQUIRED.
EASEMENT = 108 L.F.

TOWN OF ELLINGTON
MAP SHOWING LAND ACQUIRED FROM
SCOTT BLACK

RIGHT OF WAY SURVEY
BY
THE STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION
REPLACEMENT OF BRIDGE NO. 06141 STRAWBERRY ROAD OVER ABBEY BROOK
SCALE 1" = 20 SCALE: 1" = 20

File: D:\\47-0120\47-0120.MAP.RIS
Page: 001
File: D:\\47-0120\47-0120.MAP.RIS
Page: 002

FILE: D:\\47-0120\47-0120.MAP.RIS
Page: 001
File: D:\\47-0120\47-0120.MAP.RIS
Page: 002

FILE: D:\\47-0120\47-0120.MAP.RIS
Page: 001
File: D:\\47-0120\47-0120.MAP.RIS
Page: 002

FILE: D:\\47-0120\47-0120.MAP.RIS
Page: 001
File: D:\\47-0120\47-0120.MAP.RIS
Page: 002
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:

1. V202113 – 74 West Road LLC & KUP Enterprises LLC, owner/applicant, request for variances of the Ellington Zoning Regulations Section 4.2.1-Lot Area, Width & Yard Requirements: to reduce the front yard setback from 100ft to 64ft for gable dormers on an existing building and from 100ft to 75ft for a proposed greenhouse; Section 6.2.5 (A & B)-Location of Parking Facilities: to reduce parking to a commercial building from 20ft to 5ft and to a side property line from 15ft to 3ft at 74 West Road, APN 028-002-0000 & 80 West Road, APN 028-003-0000 in a Commercial (C) zone.

   Time: 7:01 pm
   Seated: Aube, Thanvanthri, Braga, Heminway and Hosig

   Eric Peterson, Gardner & Peterson Associates, LLC, 178 Hartford Turnpike, Tolland, CT, Jim Bell, Moser Pilon Nelson, Architects, LLC, 30 Jordan Lane, Wethersfield, CT, and Cory Kupferschmid, 74 West Road, Ellington were present to represent the application.

   Mr. Peterson stated the site is the Ellington Agway which is located on the corner of West Road (Route 83) and Lower Butcher Road and Bolles Motors is located to the north of the site. The subject properties are in the commercial zone. The building is an existing non-
conforming structure based on current setback requirements. The owner is proposing to construct a greenhouse 30 feet north of the existing building. Mr. Peterson noted they lined up the existing building porch overhang with the proposed greenhouse and are looking to extend the parking in the front along the same line. Parking is important to the client and they would like to add as many parking spaces as possible. Mr. Peterson reviewed the proposed additional parking on the site plan. He said they are looking to add two gable dormers to the front of the building protruding 2.8 feet from the existing porch, which would reduce the front yard setback from 100ft to 64ft. The proposed greenhouse would reduce the front yard setback from 100ft to 75ft. They are also looking to reduce parking to a commercial building to 5ft and reduce parking to a side property line to 3ft. Mr. Peterson submitted a 1977 plot plan for 80 West Road showing parking spaces up to the side property line.

Mr. Bell reviewed the architectural plans and said they are proposing two dormers on the front of the existing building with timber accents and the greenhouse which will be a glass structure. They will be able to meet the required fire code separation distance between the existing building and the greenhouse. Mr. Peterson stated the hardship is the non-conforming site.

Vice Chairman Thanvanthri asked if additional pavement will be added to the site. Mr. Peterson stated there will be no additional pavement however they will repave the existing pavement. She asked if there are any more exits proposed. Mr. Peterson explained that the existing exits will be better utilized after construction of the greenhouse. Alternate Hosig inquired about the ingress and egress stating it can be difficult maneuvering around the site. Mr. Peterson reviewed the existing curb cuts on West Road and Lower Butcher Road and stated they intend to keep the curb cuts for truck traffic entering and exiting the site. He added that parking spaces near Route 83 will be relocated for easier traffic flow.

No one from the public spoke regarding the application.

MOVED (BRAGA), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202113.

MOVED (BRAGA), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO APPROVE V202113 – 74 West Road LLC & KUP Enterprises LLC, owner/applicant, request for variances of the Ellington Zoning Regulations Section 4.2.1-Lot Area, Width & Yard Requirements: to reduce the front yard setback from 100ft to 64ft for gable dormers on an existing building and from 100ft to 75ft for a proposed greenhouse; Section 6.2.5 (A & B)-Location of Parking Facilities: to reduce parking to a commercial building from 20ft to 5ft and to a side property line from 15ft to 3ft at 74 West Road, APN 028-002-0000 & 80 West Road, APN 028-003-0000 in a Commercial (C) zone.

Hardship: Existing non-conforming building and parking.

2. V202114 – Kelly Boucher, owner/Jamie Boucher, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the side yard setback from 10ft to 4ft for a shed at 94 Hopkins Road, APN 092-036-0000 in a Rural Agricultural Residential (RAR) zone.

Time: 7:20 PM
Seated: Aube, Thanvanthri, Braga, Heminway and Hosig

Jamie Boucher, 319 Somers Road, was present to represent the application.
Mr. Boucher stated they are currently in the process of completing a lot line revision between 319 Somers Road and 94 Hopkins Road, which was started by JR Russo & Associates in 2016. The house at 94 Hopkins was recently removed and replaced, and the front door to the new house now faces Hopkins Road and therefore has a Hopkins Road address. Mr. Boucher hired Gardner & Peterson to complete the lot line adjustment process. A shed was previously installed by way of permit at 94 Hopkins Road however with the proposed lot line revision the shed will be 4.8 feet from the new property line.

Mr. Boucher explained there is a drainage issue at 319 Somers Road and 94 Hopkins Road created by water coming from the property above. He noted the parcels are at the bottom of a hill and the shed is on a stone pad that has been elevated to deal with the water issue. They also installed a trench drain along the driveway at 319 Somers Road to help with drainage. Mr. Boucher explained the hardship is the drainage issue, and that other locations on 94 Hopkins Road are problematic as they are wet.

Commissioner Braga asked about the future plans for 319 Somers Road. Mr. Boucher noted that they would like to construct a detached two car garage and the lot line revision would allow for the area to complete the project in compliance with the regulations. Vice Chairman Thanvantthri asked what the owners would have to do if they did not get a variance for the shed. Mr. Colonese stated they could adjust the proposed property line or move the shed. Vice Chairman Thanvantthri asked if it is the same owner for both properties. Mr. Boucher confirmed that it is the same owner for both properties.

Michael Swanson, 27 Standish Road, noted he is an abutter to Mr. Boucher’s property. He stated the sites are very wet and there is a drainage issue from the farm behind the property. He has no issue with the current location of the shed and is supportive of the proposal.

MOVED AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202114.

MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO APPROVE V202114 – Kelly Boucher, owner/Jamie Boucher, applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the side yard setback from 10ft to 4ft for a shed at 94 Hopkins Road, APN 092-036-0000 in a Rural Agricultural Residential (RAR) zone.

Hardship: Existing drainage issues; configuration of lot.

IV. ADMINISTRATIVE BUSINESS:

1. Approval of the September 13, 2021 Regular Meeting Minutes.

MOVED (BRAGA), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO APPROVE THE SEPTEMBER 13, 2021 MEETING AS WRITTEN.

2. Correspondence/Discussion:

a. Approval of 2022 Meeting Schedule.

MOVED (BRAGA), SECONDED (AUBE) AND PASSED UNANIMOUSLY TO APPROVE THE ZBA 2022 MEETING SCHEDULE.
b. Municipal Citation – 97 West Shore Road, Re: Violation of the Zoning Regulations.

Mr. Colonese said the ZBA previously upheld the Cease and Desist Order and gave the owners until end of August to cease short term rentals. The owners continued short term rentals through to October when a Municipal Citation was issued. The owner received the citation and sent the Planning Department a letter with check opting to pay one day’s fine and cease the violations. In general, the Board was unhappy with the time it took the owner to comply with their decision and thought they should pay more in fines. Mr. Colonese reviewed a portion of the town ordinance regarding payment of fines and stated the ultimate goal is to attain compliance which appears to have been achieved.

V. ADJOURNMENT:

MOVED (BRAGA), SECONDED (HEMINWAY) AND PASSED UNANIMOUSLY TO ADJOURN THE ZBA MEETING AT 7:40 PM.

Respectfully submitted,

_____________________________
Barbra Galovich, Recording Clerk