



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

TEL. (860) 870-3120

TOWN PLANNER'S OFFICE

FAX (860) 870-3122

ZONING BOARD OF APPEALS REGULAR MEETING AGENDA MONDAY, DECEMBER 4, 2023, 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, hearing may commence unless otherwise noted)*

1. V202311 – Stephen D. Williams, owner/applicant, to appeal a decision from the Zoning Enforcement Officer dated October 10, 2023, of Section 3.2.2-Lot Requirements and Section 7.9(C)-Rear Lot Requirements of the Ellington Zoning Regulations, and to request a variance of the Ellington Zoning Regulations Section 7.9(C)-Rear Lot Requirements: to allow access over an easement for two proposed rear lots on property located south of Hawks Nest Trail known as APN 004-002-0000 in a Rural Agricultural Residential (RAR) zone.

III. ADMINISTRATIVE BUSINESS:

1. Approval of the October 2, 2023, Regular Meeting Minutes.
2. Approval of the 2024 Zoning Board of Appeals Meeting Schedule
3. Correspondence/Discussion:
4. Commissioner training pursuant to Public Act 21-29.

IV. ADJOURNMENT:

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/81657258655>

Meeting ID: 816 5725 8655

Passcode: 259193

Join Zoom Meeting by phone:

1 646 558 8656 US (New York)

Meeting ID: 816 5725 8655

Passcode: 259193

Town of Ellington Planning Department

55 Main Street, PO Box 187, Ellington, CT 06029/Phone: 860-870-3120/Email: jcolonese@ellington-ct.gov



Date: November 28, 2023

To: Zoning Board of Appeals

From: John D. Colonese, Assistant Town Planner/ZEO

Re: V202311 – Stephen D. Williams, owner/applicant, to appeal a decision of the Zoning Enforcement Officer dated October 10, 2023, Section 3.2.2-Lot Requirements and Section 7.9(C)-Rear Lot Requirements of the Ellington Zoning Regulations on property located south of Hawks Nest Trail known as APN 004-002-0000.

In accordance with Conn. Gen. Stat. Section 8-7, I am transmitting all the papers constituting the record upon which the appeal was taken, as follows:

- Letter to Stephen D. Williams dated October 10, 2023.
- Excerpts of Ellington Zoning Regulations referenced in the October 10, 2023, letter.
- Lot Split Perimeter Boundary Survey by Russell H. Heintz, L.S. dated September 12, 2023.
- Letter from Attorney Edward Muska dated February 8, 2023.

Also, please find enclosed my response to the appeal of my decision.

Thank you for your time and consideration.



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October 10, 2023

Stephen D. Williams
36 Buff Cap Road
Tolland, CT 06084

RE: Proposed Lot Division (Assessor Parcel No. 004-002-0000)

Dear Mr. Williams:

This letter is in response to your submittal of a survey entitled, "APN 004-002-0000 – Lot Split Perimeter Boundary Survey Prepared for Stephen D. Williams Hawks Nest Trail / Hayes Avenue Ellington Connecticut Russell H. Heintz L.S. Land Surveying – Consulting – Planning 50 Spak Road Willington, CT 06279 Job No: 1768.TOM.SPLIT Date: 9-12-23 Scale: 1"=100' Drawn By: RHH Sheet 1 of 1." The survey proposes dividing the lot known as Assessor Parcel No. 004-002-0000 into two lots. The proposed two lots as shown on the survey violate the following Ellington Zoning Regulations:

- Section 3.2.2 Lot Requirements: (3) Lots require a Minimum Lot Width (defined as width of a lot taken at the street line) of 125 feet in the Rural Agricultural Residential zone.
- Section 7.9 Rear Lot Requirements: (A) All rear lots require a special permit from the Planning and Zoning Commission, unless a lot is a lawful lot of record as recorded in the office of the Town Clerk prior to February 1, 2016, or a lot subject to permanent easement for farmland preservation. (C) Rear lots require a minimum 25 foot wide fee simple access fronting on a town accepted road (or a road which will be built and accepted by the town as a result of the lot in question being part of subdivision application), or state highway, or private street used for travel and approved by the Commission as part of a subdivision approved after July 1999. If the lot will contain enough area such that it may, in the future, be further divided into additional building lots, the fee simple access strip shall be a minimum of 50 feet wide.

In addition, please note that any division of the existing lot will eliminate the protections afforded to the lot as a lot of record, per Section 2.2.5 Non-Conforming Lot of Record of the Ellington Zoning Regulation.

Pursuant to Section 8-7 of the Connecticut General Statutes, you may appeal this decision to the Zoning Board of Appeals, specifying the grounds of your appeal, within thirty (30) days of receipt of this letter.

If you have any questions, please do not hesitate to contact me.

Respectfully,

John D. Colonese, CZEO
Assistant Town Planner / Zoning Enforcement Officer

Section 2.2 Non-Conforming Uses of Land & Structures

2.2.1 Continuance of Non-Conforming Structures or Uses

Any lawful building or the lawful use of any buildings or premises or any part thereof existing at the time of the effective date of these regulations or any amendments thereto, or where a zoning permit is outstanding on the effective date of these regulations authorizing specific construction or use, which does not conform to these regulations, shall be considered nonconforming and as such may be continued, subject to the provisions of this Section.

2.2.2 Replacement of Non-Conforming Buildings or Structures

Any existing nonconforming building may be restored if damaged by fire, flood, storm, accident or Act of God, provided such restoration is undertaken within one year of time of damage and actively pursued. No nonconforming structure or nonconforming portion of a structure shall be enlarged to a greater size than at the time of destruction.

2.2.3 Change of Non-Conforming Use

A nonconforming use may be changed to another nonconforming use substantially the same in character, or to any use permitted in these regulations in any zone in which it is located.

2.2.4 Abandonment of Non-Conforming Use

Any existing nonconforming use shall cease if such nonconforming use is discontinued with the intent of abandonment for a period of one year by reason of the fault and neglect of the owner of the premises. Where said property is part of a decedent's estate, the preceding one year time limit may be extended for good cause shown for a time equal to the elapsed time from death of the decedent to distribution of the estate assets, but in no case shall the total time of non-use exceed two years.

2.2.5 Non-Conforming Lot of Record

The erection of a dwelling shall be permitted on a nonconforming lot of record in the office of the Assessors or the Town Clerk prior to the effective date of these regulations provided that the owner of any such lot did not own adjoining land on the effective date of these regulations, or has not acquired any adjoining land since the effective date of these regulations to enable such owner to conform with these regulations, or to conform therewith to a greater degree. All nonconforming lots shall conform to the yard requirements of the zone in which the lot is located.

2.2.6 Completion of Existing Buildings

Nothing herein contained shall require any change in the location, construction or designated use of a building for which a permit has been granted, construction of which has been started at the time of the effective date of these regulations.

3.2.2 Lot Requirements

	Residential	Rural Agricultural / Residential	Lake Residential
1. Minimum Lot Size – Single-family (square feet) ⁽¹⁾	40,000	40,000	25,000 with public water and public sewer, 40,000 Otherwise
2. Minimum Lot Size – Two-family (square feet)	60,000	n/a	n/a
3. Minimum Lot Width (feet) ⁽¹⁾	100	125 with Septic / 100 with Community Septic	100

⁽¹⁾ Under the density limitation formula only and provided that soil suitability is sufficient enough to allow a reduction in lot size for an onsite sanitary system or has access to public sewers, the following shall apply:

- a. Lot size may be reduced but not less than 32,000 square feet.
- b. Lot frontage may be reduced but not less than 75 lineal feet measured at the front property line.

In addition to the above requirements, each lot in an area not serviced by public servers shall contain land suitable for the structure and for an individual septic system (if not a community septic system) compliant with the current State of Connecticut Public Health Code and the current technical standards for subsurface sewage disposal systems. Depending upon individual lot soil conditions, lot sizes may need to be increased above the minimum specified in order to comply with the same. In areas with soil conditions rated as “excellent” in accordance with the Tolland County Soil Survey (NRCS, as amended) for septic systems, consideration of community septic systems is highly encouraged.

3.2.3 Minimum Yard Setbacks

	Residential	Rural Agricultural / Residential	Lake Residential
1. Front Yard (feet) ⁽¹⁾	35	35	35
2. Side Yard (feet) ⁽¹⁾	10	10	10
3. Rear Yard – Principal Building (feet)	25	25	10
4. Rear Yard – Accessory Building (feet)	10	10	10

⁽¹⁾ Where an existing building legally exists within the front or side yard setbacks either by way of variance or as an existing nonconforming building, any addition or accessory structure to the rear of the principal building that will not encroach within the front or side yard setback requirement any closer to the property line than the existing principal building may be permitted by way of a zoning permit. *(Added 8-23-10, Effective 9-7-10)*

ARTICLE 7 SPECIAL REGULATIONS

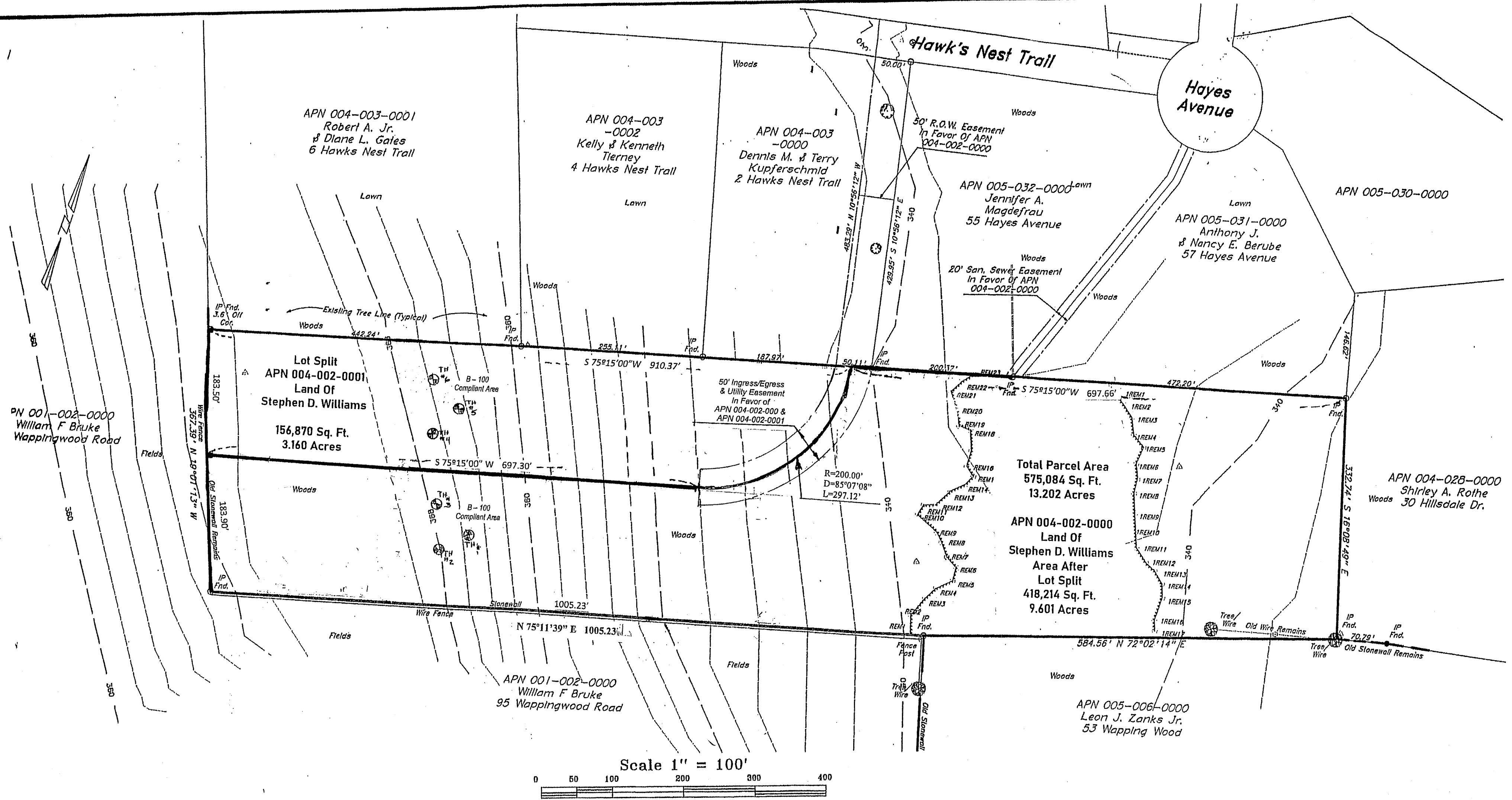
- A. Retain in fee simple ownership by the applicant/landowner with an agricultural or similar type of easement in favor of the town, state, land trust, homeowner's association or combination thereof.
- B. Fee simple purchase by the town (as an increase to the open space or other municipal purpose), state, land trust, homeowner's association or combination thereof.
- C. Some combination of the above as acceptable to all parties.

Section 7.9 Rear Lot Requirement *(Amended 1/29/18, Effective 2/15/18)*

- A. All rear lots require a special permit from the Planning and Zoning Commission, unless a lot is a lawful lot of record as recorded in the office of the Town Clerk prior to February 1, 2016, or a lot subject to permanent easement for farmland preservation.
- B. The provisions of this Section are intended to permit the use of land which has been unintentionally landlocked or deprived of minimum frontage on a street, or, in the case of a subdivision, where the topography or unusual shape of the property lends itself to the use of an interior lot to accomplish the best use of the land. In the case of a subdivision, the Commission shall not approve interior lots unless it finds that such lots provide the best development of the land because of the topography and shape of the land. No more than 20% of all lots contained within a subdivision shall be approved as rear lots. This requirement shall apply when a tract of land is divided into a total of six or more lots subsequent to the adoption of this amendment.
- C. There shall be provided a minimum 25 foot wide fee simple access fronting on a town accepted road (or a road which will be built and accepted by the town as a result of the lot in question being part of subdivision application), or state highway, or private street used for travel and approved by the Commission as part of a subdivision approved after July 1999. The lot line from which this access leads shall be considered the front lot line of the rear lot, and the driveway serving the lot shall be located within the fee simple accessway. The front yard setback shall be measured from the lot line which intersects the accessway and shall extend the full width of the lot. If the lot will contain enough area such that it may, in the future, be further divided into additional building lots, the fee simple access strip shall be a minimum of 50 feet wide. The minimum width shall be met the entire length of the accessway.
- D. The minimum lot area shall be 2x the minimum lot size required for the zone in which it is located. In cases where required lot size is reduced because of the use of sewers, the required lot size shall be 2x the reduced lot size.
- E. Said rear lot shall conform to all other applicable regulations prescribed for the zone in which it is located.
- F. The owner of the rear lot shall provide and maintain the driveway and storm drainage in the access area. Said driveway is to be fully capable of providing unrestricted access at any time for emergency vehicles such as fire trucks, etc.

Section 7.10 Sanitary Refuse Disposal Area

- A. A Special Permit for a Sanitary Refuse Disposal Area in an I-Industrial Zone shall be given only after a public hearing in which the following minimum requirements are established:
 - 1. That the site is well suited to this purpose,
 - 2. That such operation will not unreasonably effect the use and enjoyment of other land in the general area,
 - 3. That it will create no health or safety hazard in the community, and



NOTES: 1. PARCEL APN 004-002-0000 PER VOL. 50 PG. 64B, VOL. 32 PG. 51B AND VOL. 21 PG. 21 IS ENCUMBER "WITH A HIGHWAY LAID OVER SAID PREMISES" AS RECORDED.

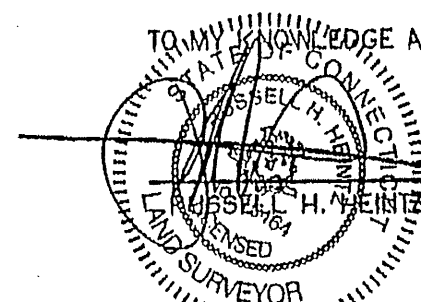
2. TOPOGRAPHY TAKEN FROM "ELLINGTONCT.MAPGEO.ID."

MAP REFERENCE:

- 1) "PLAN OF LAND OF MR. BERMART SURVEYED JAN. 23-28-31-FEB. 7-8, 1908 CONTAINING BY CALCULATION 113 ACRES + 24 SQ. RODS SCALE 3/16 INCH = 1 CHAIN C.H. BANCROFT, SURVEYOR."
- 2) "MAP SHOWING LAND OF ANNA ZANKS TOWN OF ELLINGTON, CONN. SCALE: 1"=50' CERTIFIED SUBSTANTIALLY CORRECT EVERETT O. GARDNER L.S. 4395 JULY 20, 1994 ROCKVILLE, CONN."
- 3) "SUBDIVISION PLAN KNOLLWOOD SECTION B-3 TOWN OF ELLINGTON, CONNECTICUT OWNER: DENNIS M. KUPFERSCHMID, ET UX GARDNER & PETERSON ASSOC. 578 OLD POST ROAD TOLLAND TOLLAND CONNECTICUT PROFESSIONAL ENGINEER LAND SURVEYOR SCALE: 1"=100' DATE: 4-22-80 SHEET 1 OF 1 MAP # 4759 REVISED 7-14-80."
- 4) "PARCEL OF LAND OF HENRY R. ROTHE, JR. ELLINGTON, CONN. ALFRED E. SCHINDLER LAND SURVEYOR ELLINGTON, CONNECTICUT DRAW BY: A.E.S. SCALE: 1"= 100' DATE: 5/19/80 JOB NO. 788-1."
- 5) "RESUBDIVISION PLAN PREPARED FOR DENNIS AND TERRY KUPFERSCHMID # 53 HAYES AVENUE ELLINGTON, CONNECTICUT OWNER/APPLICANT: DENNIS AND TERRY KUPFERSCHMID # 53 HAYES AVENUE ELLINGTON, CONNECTICUT ENGINEERS & SURVEYORS TARBELL HEINTZ & ASSOC. INC. 1227 BURNSIDE AVE. SUITE 8A EAST HARTFORD, CT. SCALE: AS SHOWN DATED 6-27-17 SHEET 1 OF 3."

NOTE: THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300b-1 THRU 20-300b-20 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES - "MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ENDORSED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. IT IS A PERIMETER SURVEY BASED ON A DEPENDENT/RESURVEY, CONFORMING TO HORIZONTAL ACCURACY CLASS "A-2", VERTICAL ACCURACY CLASS "D".

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.



L.S. 15464

REGISTRATION NO.

7-12-23

DATE

APN 004-002-0000 - LOT SPLIT PERIMETER BOUNDARY SURVEY

Prepared For

STEPHEN D. WILLIAMS
HAWKS NEST TRAIL/HAYES AVENUE
ELLINGTON, CONNECTICUT

Russell H. Heintz L.S.

Land Surveying - Consulting - Planning
50 Spak Road Willington, CT 06279 (860) 798-6160
Email: michael@nol.com - rmannn@gmail.com

Job No:	Date:	Scale:	Drawn By:	Sheet
1768.TOM.SPLIT	7-12-23	1" = 100'	RHH	1 of 1

ATTORNEY EDWARD MUSKA

ATTORNEY AT LAW

2 EAST MAIN STREET BOX 22
STAFFORD SPRINGS, CT 06076

EDWARD MUSKA
paradisomuskalaw@gmail.com

(860) 684-4221
FAX (860) 684-4181

February 8, 2023

RECEIVED

FEB 13 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT

Ms. Lisa Houlihan
Ellington Town Planner
P.O. Box 187
55 Main Street
Ellington, CT 06029

Dear Ms. Houlihan:

This office represents Stephen Williams, who on December 30, 2021 purchased a thirteen acre tract of land located southerly from Hayes Avenue from the Estate of Francis J. Tomasek. The deed of conveyance is recorded in Volume 531, Page 1126 of the Ellington Land Records.

This parcel was purchased by Francis J. Tomasek from Richard P. Brache by a Warranty Deed dated September 20, 1946 and recorded in Volume 50, Page 648 of the Ellington Land Records.

There has been no division or conveyance of any parties of said piece or parcel from September 20, 1946. The piece or parcel that is now owned by Stephen Williams is the same piece or parcel that was conveyed to Francis J. Tomasek on September 20, 1946.

As a result thereof, the division of said piece or parcel into two pieces is a first division and is exempt from subdivision regulations as defined in Connecticut General Statute 8-18.

Very truly yours,



Edward Muska

EM:jm



Doc ID: 001582500002 Type: FIDUCIARY

BK 531 PG 1126-1127

Grantees' Address:
Stephen D. Williams
36 Buff Cap Road
Tolland, CT 06084

FIDUCIARY'S DEED

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, THAT I, TODD R. TOMASEK of the Town of Stafford and State of Connecticut, **ADMINISTRATOR OF THE ESTATE OF FRANCIS J. TOMASEK**, late of the Town of Tolland, County of Tolland and State of Connecticut, deceased, by virtue of an order of the Probate Court for the District of Ellington, District No. PD12 dated December 16, 2021

And in consideration of the sum **THIRTY THOUSAND DOLLARS (\$30,000.00)**

received to my full satisfaction of **STEPHEN D. WILLIAMS** of 36 Buff Cap Road, Tolland, CT 06084

do hereby grant, bargain, sell and confirm unto the said **STEPHEN D. WILLIAMS**, his successors and assigns forever, all the right, title, interest, claim and demand which she had at the time of her decease, or which I as such Administrator have or ought to have, in and to that certain piece or parcel of land located in the Town of Ellington, County of Tolland and State of Connecticut known as Tripp Road and being more particularly described as follows:

A certain tract of land situate in the Town of Ellington, County of Tolland and State of Connecticut, and bounded and described as follows:

Northerly by land now or formerly of Joseph Snow, deceased; Easterly by land now or formerly of Martin Beebe; Southerly by land now or formerly of James Lacy, and Westerly by land now or formerly of James Ryan, containing about Thirteen acres and Fifty nine rods; with a highway laid over the same and being all the same premises conveyed to me by deed dated May 5th, 1920, and recorded in Ellington Land Records, Volume 32, Page 518.

Said piece or parcel is conveyed together with a 50' Right of Way Easement for access on land now or formerly of Terry K. Kupferschmid and Dennis M. Kupferschmid, Trustees and land now or formerly of Robert A. Gates, Jr. and Diane L. Gates, from the above described parcel to Hayes Avenue and Tripp Road. Said Right of Way is more particularly shown on a map or plan entitled, "Subdivision Plan Knollwood Section B-3 Town of Ellington, Connecticut Owner: Dennis M. Kupferschmid et ux Gardner Peterson Associates Scale: 1" = 100' Date 4-22-80 Sheet No. 1 of 1 Map 4759" which map or plan is on file with the Town Clerk of Ellington.

I CERTIFY THIS TO BE A TRUE COPY
OF THE DOCUMENT RECORDED IN THE
ELLINGTON CONNECTICUT LAND RECORDS
DATED AT ELLINGTON, CONNECTICUT

THIS 14th DAY OF Sept. 2022
Donna G. Hasey
TOWN CLERK/ASSISTANT

CONVEYANCE TAX RECEIVED
TOWN: \$75.00 STATE: \$225.00

Donna H. McKeegan
TOWN OF ELLINGTON, CT TOWN CLERK

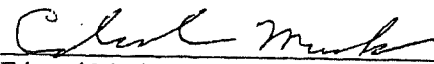
PLAINTIFF'S EXHIBIT	
Date	<input type="checkbox"/> FULL
	<input type="checkbox"/> ID
Docket #	Initials
CU20-6021563	

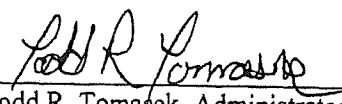
TO HAVE AND TO HOLD, the above granted and bargained premises with the appurtenances thereof, unto him the said Grantee to his proper use and behoof. And the said Administrator does hereby covenant with the said Grantee, that he has full power and authority as Administrator aforesaid, to grant and convey the above described premises in manner and form as aforesaid and for himself, and his heirs, executors, administrators, successors and assigns, does further covenant to warrant and defend the same to the said Grantee, against the claims of any person or persons whomsoever, claiming by, from or under him as Administrator aforesaid.

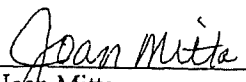
IN WITNESS WHEREOF, I, TODD R. TOMASEK, as such ADMINISTRATOR, have hereunto set my hand this 2nd day of December, 2021.

Signed, Sealed and Delivered in the presence of:

ESTATE OF FRANCIS J. TOMASEK


Edward Muska


By 
Todd R. Tomasek, Administrator


Joan Mitta

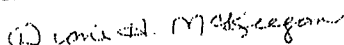
STATE OF CONNECTICUT)
COUNTY OF TOLLAND) ss. Stafford

December 30, 2021

Personally appeared **TODD R. TOMASEK, ADMINISTRATOR**, the signer and sealer of the foregoing instrument, who acknowledged that he executed the same in the capacity therein stated and for the purposes therein stated, and that the same is his free act and deed before me.


Edward Muska
Commissioner of the Superior Court

Received for Record at Town of Ellington CT
On 01/03/2022 At 2:00:00 pm



and pay such taxes, liens and assessments, judgment or amount and add the amounts so paid, including the costs and expenses connected therewith, to the note secured hereby, and the amounts so paid shall be secured by and under this deed and shall be payable on demand with interest at the rate of five (5) percentum per annum; and in case the grantee, his successors or assigns shall receive insurance money in settlement of an insured loss, same may, at the option of the grantee be applied to discharge any portion of the indebtedness secured thereby whether or not same be due and payable, or to the construction of the building or buildings so destroyed or damaged without affecting the lien of this deed, for the full amount secured thereby.

AND IT IS FURTHER EXPRESSLY AGREED that in case proceedings are instituted to foreclose this mortgage, that all costs, charges and expenses including attorney's fees incident thereto, shall become a part of the said debt and secured hereunder.

THE CONDITION OF THIS DEED IS SUCH, that whereas the said grantor is justly indebted to the said grantee in the sum of SEVEN HUNDRED Dollars, lawful money of the United States of America, as evidenced by his promissory note of even date herewith, payable to said grantee, his successors or assigns, at his office in the City of Springfield, Massachusetts, with interest thereon at the rate of five (5) per centum per annum, payable semi-annually, and the principal payable on an amortization plan in twenty equal-semi-annual installments, of \$35.00 each, the first of such installments on the first day of May 1947, both principal and interest payable in accordance with the terms of said note; provided that the grantor may at any time make one or more installment payments in reduction of the principal of the debt, or may pay the entire principal of the debt at an earlier date, and shall not reduce the amount or defer the due date of any subsequent installment of principal as provided in said note.

*remaining due, and provided further that any such additional payments in)

AND IT IS FURTHER AGREED that if the premises herein described be acquired, in whole or in part, by one who does not assume and agree to pay this mortgage, that the whole of said mortgage indebtedness shall become due at the option of the holder of this mortgage.

This mortgage is subject to the provisions of Part 3 of the act of Congress entitled the "Emergency Farm Mortgage Act of 1933" (and any amendments thereto).

NOW THEREFORE, if said note shall be well and truly paid according to its tenor and the grantor, his heirs, executors and administrators and assigns shall fully perform all the covenants and agreements on his part to be performed, then this deed shall be void, otherwise to be and remain in full force and effect.

IN WITNESS WHEREOF I hereunto set my hand and seal this 20th day of September, 1946.

Signed, sealed and delivered
in presence of
Marjorie S. Brady
George V. Smith

ERVIN L. LUGINBUHL (L. S.)

STATE OF CONNECTICUT)
County of Tolland) ss. Ellington, September 20th, 1946

Personally appeared Ervin L. Luginbuhl signer and sealer of the foregoing instrument and acknowledged the same to be his free act, and deed, before me.

George V. Smith
Commissioner of the State

Received for Record
September 20th, 1946 at 11:17 A. M.

Attest: Marshall E. Charter, Town Clerk.

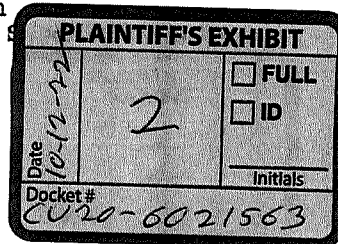
WARRANTEE DEED

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

Know Ye, That I, Richard P. Brache, of the Town of East Hartford, County of Hartford and State of Connecticut, for the consideration of Ten & other dollars, received to my full satisfaction of Francis J. Tomasek, of the Town of Vernon, County of Tolland and State of Connecticut, do, give, grant, bargain, sell and confirm unto the said Francis J. Tomasek, his heirs and assigns, a certain tract of land situate in the Town of Ellington, County of Tolland and State of Connecticut, and bounded and described as follows:

Northerly by land now or formerly of Joseph Snow, deceased; Easterly by land now or formerly of Martin Beebe; Southerly by land now or formerly of James Lacy; and Westerly by land now or formerly of James Ryan, containing about Thirteen acres and Fifty nine rods; with a highway laid over the same and being all the same premises conveyed to me by deed dated May 5th, 1920., and recorded in Ellington Land Records, Volume 32, Page 518.

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereof, unto him the said grantee and his heirs, successors, and assigns forever, to him and their own proper use and behoof. And also, I the said grantor do for myself and my heirs, executors, and administrators, successors and assigns, covenant with the said grantee and his heirs, successors, and assigns, that at and until the ensembling of these presents, I am well seized of



MANUSCRIPT VOL. 50

the premises, as a good indefeasible estate in FEE SIMPLE; and have good right to bargain and sell the same in manner and form as is above written and that the same is free from all incumbrances whatsoever.

AND FURTHERMORE, I the said grantor do by these presents bind myself and my heirs forever to WARRANT AND DEFEND the above granted and bargained premises to him the said grantee and his heirs, successors, and assigns, against all claims and demands whatsoever.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of September in the year of our Lord nineteen hundred and forty-six.

Signed, Sealed and Delivered
in the presence of
William E. Carroll
Robert L. Carroll

RICHARD P. BRACHE (L. S.)

State of Connecticut,)
County of Hartford) ss. East Hartford- September 20th, A.D., 1946.

Personally Appeared Richard P. Brache, Signer and Sealer of the foregoing Instrument, and acknowledged the same to be his free act and deed before me.

William E. Carroll
Notary Public.

I Hereby Certify that U.S. Documentary stamps in the amount of \$0.55 were affixed to the original instrument and duly cancelled.

Attest: M. C. Charter, Town Clerk

Received for Record
September 23rd, 1946 at 9:00 A. M.

Attest: Marshall C. Charter, Town Clerk.

I CERTIFY THIS TO BE A TRUE COPY
OF THE DOCUMENT RECORDED IN THE
ELLINGTON CONNECTICUT LAND RECORDS
DATED AT ELLINGTON, CONNECTICUT
THIS 15th DAY OF FEB. 2021

Donna G. Hosen
TOWN CLERK ASSISTANT

RELEASE OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, That I, SAMUEL EBENSTEIN, of the Town and County of Hartford and State of Connecticut do hereby release and discharge a certain mortgage from William Lally to Samuel Ebenstein dated March 7, 1946 and recorded in the Land Records of the town of Ellington County of Tolland and State of Connecticut in Vol. 50, at Page 413 to which reference may be had.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of September in the year of our Lord nineteen hundred and forty-six.

Signed, Sealed and Delivered
in the presence of
Lillian M. Michitz
Mary I. Lally

SAMUEL EBENSTEIN (L. S.)

State of Connecticut)
County of Hartford) ss. Hartford September 20, A.D., 1946

Personally Appeared Samuel Ebenstein Signer and Sealer of the foregoing Instrument, and acknowledged the same to be his free act and deed, before me.

Julius Apter
Notary Public.

Received for Record
September 26th, 1946 at 9:29 A. M.

Attest: Marshall C. Charter, Town Clerk.

WARRANTY DEED

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

Know Ye, That I, WILLIAM F. LALLY, of the Town of Ellington, County of Tolland and State of Connecticut, for the consideration of one or more dollars, received to my full satisfaction of FRANCES MLODZINSKI and LOUISE V. MLODZINSKI, both of the Town of Vernon, County of Tolland and State of Connecticut, do give, grant, bargain, sell and confirm unto the said FRANCES MLODZINSKI and LOUISE V. MLODZINSKI, their heirs and assigns forever, a certain piece or parcel of land, with the buildings thereon, situated in the Town of Ellington, County of Tolland and State of Connecticut, bounded and described as follows:

Northerly by land now or formerly of Mrs. Minnie Brigham, in part and in part by land of James Donley and wife; Easterly by highway known as Chestnut Street; Southerly by land of Fred J. Dowding in part and in part by land of Annie Prescott et al; and Westerly by highway known as North Park Street; being five (5) rods in width on each of said highways, and sixteen (16) rods more or less, in length, between said highways, containing about eighty (80) square rods of land, more or less.

Town of Ellington

Planning Department

55 Main Street, PO Box 187, Ellington, CT 06029/Phone: 860-870-3120/Email: jcolonese@ellington-ct.gov



Date: November 28, 2023

To: Zoning Board of Appeals

From: John D. Colonese, Assistant Town Planner/ZEO

Re: V202311 – Stephen D. Williams, owner/applicant, to appeal a decision of the Zoning Enforcement Officer dated October 10, 2023, Section 3.2.2-Lot Requirements and Section 7.9(C)-Rear Lot Requirements of the Ellington Zoning Regulations on property located south of Hawks Nest Trail known as APN 004-002-0000.

This memorandum is in response to the appeal of my decision received October 31, 2023 (hereinafter "Appeal"). The Appeal begins near the bottom of Page 1 by stating a ruling was requested from the ZEO "...to confirm that the owner/applicant was entitled to divide the property into two parcels without subdivision approval...". My October 10, 2023, letter does not dispute the property owner's entitlement to divide the property into two parcels without subdivision approval based on the letter from Attorney Edward Muska dated February 8, 2023.

I dispute the later part of the sentence which states, "...that each parcel would be eligible for building permits as a pre-existing lot of record with ingress, egress and utilities to be provided to the site within the existing permanent easement and right of way running from Hawk's Nest Trail to the subject property." As outlined in my letter dated October 10, 2023, the proposed two lots as shown on the Lot Split Perimeter Boundary Survey by Russell H. Heintz, L.S. dated 9-12-23 (hereinafter "Lot Split Survey") do not comply with Section 3.2.2(3)-Lot Requirements and Section 7.9(A&C)-Rear Lot Requirements of the Ellington Zoning Regulations. After the parcels are divided into two lots, they are no longer a pre-existing lot of record, and the erection of a dwelling cannot be permitted pursuant to Section 2.2.5-Non-conforming Lot of Record. The two new lots must comply with the zoning regulations. Moreover, the Appeal at the top of Page 2 supports my decision by confirming that the property, if divided, will not meet all the rear lot requirements as the two lots will not have a "25-foot-wide fee simple access fronting on a...private street".

The Appeal references a court Stipulated Judgement which states in Paragraph 8, "All development work in the subdivision performed by Mr. Williams shall be done in accordance with the inland wetlands and zoning regulations of the Town of Ellington, and all applicable laws and regulations." Again, the proposed two lots as shown on the Lot Split Survey do not comply with the zoning regulations therefore my decision should be wholly affirmed.

Thank you for your time and consideration.

Town of Ellington Zoning Board of Appeals Application

Application #

V202311

Date Received

10/31/2023

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

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

Owner's InformationName: Stephen D. WilliamsMailing Address: 36 Buff Cap RoadTolland, CT 06084Email: sdwhomes@gmail.comWHEN NOT REQUIRED BY LAW TO MAIL NOTICE BY USPS, MAY NOTICES BE EMAILED TO YOU? ☒ Yes ☐ NoPrimary Contact Phone #: 860-490-6767Secondary Contact Phone #: 860-875-2361

Owner's

Signature: Stephen D. Williams Date: 9/31/23

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.

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

Applicant's Information (if different than owner)Name: Stephen A. WilliamsMailing Address: 36 Buff Cap RoadTolland, CT 06084Email: sdwhomes@gmail.comWHEN NOT REQUIRED BY LAW TO MAIL NOTICE BY USPS, MAY NOTICES BE EMAILED TO YOU? ☒ Yes ☐ NoPrimary Contact Phone #: 860-490-6767Secondary Contact Phone #: 860-875-2361

Applicant's

Signature: Stephen A. Williams Date: 9/31/23

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: Tripp RoadAssessor's Parcel Number (APN): 004 - 002 - 0000 Zone: RARPublic 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 ☒ NoAre there any wetlands/watercourses within 100' of construction activity or within 250' of wetlands/watercourses when located in the Shenipsit Lake Drainage Basin? ☐ Yes ☒ NoIs 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. §8-31(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) 7.9.C

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

1) Appeal of Decision - see attached2) Variance - see attached

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

see attached

RECEIVED

OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT

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OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT

Owner/Applicant: Stephen D. Williams

Property: 13.23 Acres – Tripp Road (Property Card Attached)

Background for both Appeal of Decision and Variance Application

The subject property is a pre-existing lot of record that has existed in its current configuration since 1946, having been owned by the Tomasek family until it was acquired by the applicant/owner in 2022. (See attached property card). The parcel is currently zoned R A R. The date of subdivision regulations initial adoption in Ellington is December, 1954. Since the adoption of subdivision regulations in Ellington, this property has not been divided and is therefore eligible for a division into two parcels without the necessity of subdivision approval.

The subject property is a parcel consisting of 13.23 Acres, located to the rear of a private road, Hawk's Nest Trail. (See attached GIS town mapping). The sole access to the subject property is by way of a permanent 50' wide easement the crosses from Hawk's Nest Trail, as shown on the attached copy of the GIS mapping. This permanent right of way, which does not constitute fee simple ownership, was recently confirmed as a result of State of Connecticut, Superior Court litigation. (A copy of the final litigation result is attached.)

The subject property can be divided into two parcels, each conforming to the requirements of a rear lot as provided in Section 7.9 of the Ellington Zoning Regulations, except for the absence of frontage on a public or private road. It is not possible to establish fee simple ownership of the permanent right of way and easement referenced above.

The Appeal:

The applicant/owner requested a ruling from the Ellington Zoning Enforcement Officer ("ZEO") to confirm that the owner/applicant was entitled to divide the property into two parcels without subdivision approval and that each of the parcels would be eligible for a building permit as a pre-existing lot of record with ingress, egress and utilities to be provided to the site within the existing permanent easement and right of way running from Hawk's Nest Trail to the subject property.

The ZEO issued his decision in a letter dated October 10, 2023 and the applicant/owner has timely (within 30 days) appealed that decision.

The first determination that the lots would not meet the requirements of Section 3.2.2 of the Zoning Regulations as each lot will lack the requisite width "taken at the street line", apparently concluding that since the property does not have frontage on a street it therefore does not meet the requirement of the regulation. This conclusion totally ignores the legally existing, non-conforming status of the property as a fully landlocked parcel that has existed since dates prior to the adoption of subdivision (1954) and zoning regulations (August 1, 1952.)

The ZEO's second determination regarding the treatment of the subject property as subject to the rear lot provisions of the Ellington Zoning Regulations also ignores the pre-existing, non-conforming status of the property as pre-dating zoning regulations. It is clear from the plans presented that the property, if divided into two conforming RAR lots, will meet all of the requirements of the Rear Lot ordinance, except that the lots will not have a "25-foot-wide fee simple access fronting on a ...private street". Historically, this parcel had its access by way of Tripp Road, until Tripp Road ceased to exist as a result of a subdivision approval. (See map of Knollwood Section B-3 attached.) Had Tripp Road not disappeared, this parcel would have supported not less than four (4) subdivided lots. The ZEO determination ignores the historical fact that this property's access was eliminated by the Town of Ellington Planning and Zoning Commission in approving a subdivision without regard for the abutting owner. The earlier deeds, now memorialized in a Stipulated Judgment, indicate that substituted access to this parcel was to be gained through the 50' permanent easement and right of way as shown on the subdivision plan. This method of access, permanent and now judicially confirmed, achieves the same level of access and ownership that fee simple access will provide. This property will not be eligible for any further division (or subdivision) as it will lack the requisite additional 25-foot-wide strip to service any more than two lots and it is now subject to the Stipulated Judgment limiting development to no more than two lots..

The applicant/owner submits that the ZEO's lack of recognition of the legally pre-existing, non-conforming status of this historically landlocked parcel led the ZEO to reach erroneous conclusions with regard to the proposal to divide the existing parcel into two otherwise conforming parcels. Such a division would not increase the existing non-conformity of a lack of frontage on a public or private roadway or the lack of fee simple ownership of the access way.

The applicant/owner requests that the Zoning Board of Appeals recognize the legally existing, non-conforming status of the property and further that due to its legally existing, non-conforming status that pre-dates both zoning and subdivision regulations in the Town of Ellington the property can be divided into two conforming lots without subdivision approval and can be utilized as building lots for which building permits will be available, subject to health code compliance and building code compliance.

Alternative Relief:

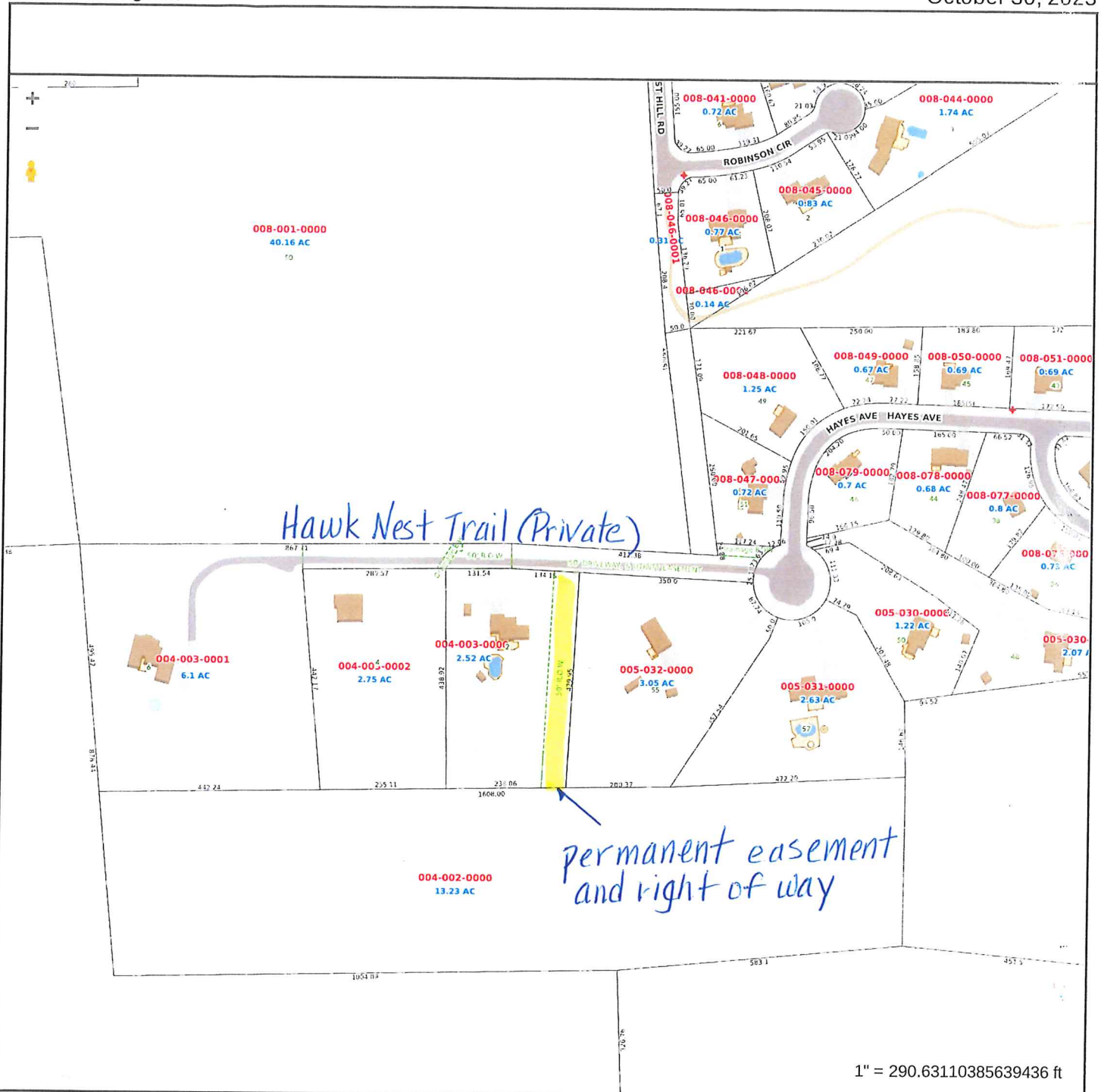
In the event that the ZBA sustains the ZEO's determination and does not overrule the ZEO as the applicant /owner seeks in his appeal, then the owner/applicant would have the opportunity to seek

approval of two real lots in accordance with Section 7.9 of the Ellington Zoning Regulations. No subdivision approval would be required.

In order to seek approval of two real lots, the owner/applicant must secure relief (a variance) from the ZBA with respect to the requirement that the access to the rear lots be in "fee simple ownership". The applicant/owner is not able to meet this requirement. A permanent right of way and easement has been established by way of a Stipulated Judgment (copy attached). While not fee simple ownership, it represents a permanent, legally enforceable right for ingress, egress and the installation of utilities that is identical to the rights afforded in "fee simple ownership". The existing access way was established even before the Hawk's Nest Trail subdivision was fully established. (See map provided). Later owners of property on Hawk's Nest Trail then attempted to deny the existence of the easement and right of way, thereby attempting to deny the landowner access to his land. The matter was finally resolved in a manner favorable to the rear, landlocked property.

The hardship for which relief is sought is the inability to establish a fee simple ownership of the easement and right of way that pre-exists the two subdivisions that permanently cut this parcel off from any possible, future access to any public or private road. The subdivision at the end of Hayes Avenue was approved by the Planning and Zoning Commission without requiring the developer to provide the opportunity for others to extend the roadway. The Hawk's Nest Trail subdivision on a private road was another opportunity for the Planning and Zoning Commission to address the access issue. For its own reasons, the issue was not addressed although it easily could have been. The hardship from which relief is sought was imposed upon this property by the actions of the Planning and Zoning Commission in its failure to address the obvious access issue that existed when each subdivision was considered and approved without access to the adjoining parcel. It is not a self-created hardship and there is no other reasonable method to secure relief, except to permit access by way of a permanent easement and right of way in place of a fee simple ownership access way as specified in the regulation. The permanent easement will function exactly as a fee simple ownership access will function.

It is not in dispute that the applicant/owner would be entitled to develop a single-family residential property on the subject property as a whole without any approvals needed, subject to health and building code requirements.



1" = 290.63110385639436 ft



MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

Town of Ellington, CT makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/11/2021
Data updated daily

Print map scale is approximate.
Critical layout or measurement activities should not be done using this resource.

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OCT 31 2023

**TOWN OF ELLINGTON
PLANNING DEPARTMENT**

P/O 1-1-1

657.71

HAWK'S NEST TRAIL (Private)

HAYES AVENUE

6

004-003-0001
1.1 AC

4

004-003-0002
2.75 AC

004-003-0000
1.17 AC

2

55

004-003-0000
1.00 AC

004-003-0000

90

004-003-0000
1.17 AC

57

004-007-0000
1.00 AC

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OCT 31 2023

TOWN OF
PLANNING DEPARTMENT

004-003-0000

69

004-003-0000
1.17 AC

69

[illegible]

41,230
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OCT 31 2023
TOWN OF ELLINGTON
PLANNING DEPARTMENT

Information may be deemed reliable, but not guaranteed.

Revaluation Date: 10/1/2015



Doc ID: 001612520010 Type: JUDG

BK 541 PG 986-995

RECEIVED

OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT

DOCKET NO.: TTD-CV20-6021563-S : SUPERIOR COURT
TODD TOMASEK, ADMINISTRATOR : J.D. OF TOLLAND
VS. : AT ROCKVILLE
TERRY K. KUPFERSCHMID, TRUSTEE,
DENNIS M. KUPFERSCHMID, TRUSTEE,
ROBERT A. GATES, JR. AND DIANE L. GATES : JANUARY 25, 2023

MOTION FOR ENTRY OF STIPULATED JUDGMENT

The defendants, Robert A. Gates, Jr. and Diane L. Gates, and the plaintiff, Stephen D. Williams ("the Parties"), have entered into a Stipulation to Judgment. The Stipulation to Judgment executed by the Parties is attached hereto.

The Parties move for the entry of an order granting this Motion and accepting the terms of the Stipulation to Judgment attached hereto.

STATE OF CONNECTICUT
SUPERIOR COURT
JUDICIAL DISTRICT OF
TOLLAND

APR 4 - 2023

CERTIFIED COPY
SEAL AFFIXED

BY [Signature] CLERK

KAHAN, KERENSKY & CAPOSSOLA, LLP - ATTORNEYS AT LAW
45 HARTFORD TURNPIKE, P.O. BOX 3811, VERNON, CONNECTICUT 06066-2181 - JUDAS MO. 30155 - (860) 846-1174

DEFENDANTS - ROBERT A. GATES, JR. AND DIANE L. GATES

By: 

Christopher T. Bowen, Esq.
Kahan Kerensky Capossela, LLP
45 Hartford Turnpike
P.O. Box 3811
Vernon, CT 06066
860-812-1742
cbowen@kkc-law.com
Their Attorneys

PLAINTIFF - STEPHEN D. WILLIAMS

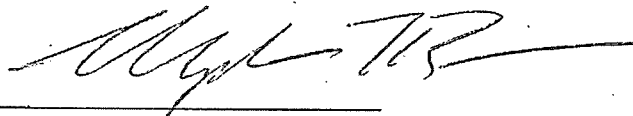
By: 

Edward Muska, Esq.
2 East Main Street
P.O. Box 22
Stafford Springs, CT 06076
860-684-4221
ed@paradisomuska.com

CERTIFICATION (P.B. § 10-14)

I certify that a copy of the above was or will immediately be mailed or delivered electronically or nonelectronically on January 25, 2023 to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were or will immediately be electronically served.

Edward M. Muska, Esq.
2 East Main Street
P. O. Box 22
Stafford Springs, CT 06076
ed@paradisomuska.com



Christopher T. Bowen, Esq.

NO. CV20-6021563

STEPHEN WILLIAMS

SUPERIOR COURT

VS.

JUDICIAL DISTRICT OF TOLLAND

TERRY K. KUPFERSCHMID,
TRUSTEE et al

JANUARY 13, 2023

STIPULATION TO JUDGMENT

The plaintiff STEPHEN WILLIAMS and the defendants DIANE GATES AND ROBERT GATES, hereby stipulate and agree as follows:

1. The GATES defendants will execute and convey an easement deed granting to the plaintiff WILLIAMS, and his heirs, successors and assigns a right of way over the easterly portion of Hawk's Nest Trail, Ellington, Connecticut. The easement or right of way shall be known as the "Easement over Hawk's Nest Trail and the land over which the Easement over Hawk's Nest Trail travels shall be known as the "Hawk's Nest Trail Easement Area". The Hawk's Nest Trail Easement Area is more particularly defined in Exhibit A, attached hereto.
2. The Easement over Hawk's Nest Trail map may be used by the plaintiff Williams to access property owned by him which is located southerly of the easement area and southerly of land owned by the defendants Terry K. Kupferschmid, Trustee and Dennis Kupferschmid, Trustee. Said property is more particularly described in an Administrator's Deed from Todd R. Tomasek to Stephen D. Williams, which Deed is dated December 30, 2021 and recorded in Volume 531, Page 1126 of the Ellington Land Records. Hereinafter "Williams Land".
3. The "Williams Land" and the Hawk's Nest Trail Easement Area are more particularly shown on a map or plan entitled, "Subdivision Plan Knollwood Section B3 Town of Ellington, Connecticut Owner: Dennis M. Kupferschmid et ux Gardner & Peterson Associates 576 Old Post Road Tolland, Connecticut Professional Engineers Land

Surveyors Scale 1"=100' Date 4-22-80 Sheet No. 1 of 1 Map No. 4759", which map or plan is on file with the Town Clerk of Ellington and to which reference may be had for a more particular description of said easement area.

4. The plaintiff Williams may use the Easement over Hawk's Nest Trail as a private driveway to access the Williams Land and to develop up to two building lots on the Williams land and for all other purposes for which a private right of way may be used, provided that such use does not unreasonably interfere with the Gateses' use of the Hawk's Nest Trail Easement Area. Such usage shall include, subject to the foregoing limitations, the right to install public utility lines, or underground utility service, as the utility company determines, within the Hawk's Nest Trail Easement Area.
5. Said easement deed shall be held in escrow until the parties enter into an amendment or addendum to the existing Common Driveway Maintenance Agreement, which is recorded in Volume 494, Page 128 of the Ellington Land Records. The easement deed and the addendum to the Common Driveway Maintenance Agreement will be recorded simultaneously on the land records and both will permanently encumber the land, as will this Stipulation.
6. a. The plaintiff Williams shall enter into an Addendum to the Second Amended and Restated Declaration of Common Driveway Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated May 7, 2018 and recorded in Volume 494, Page 128 of the Town of Ellington Land Records. The Common Driveway Maintenance Agreement shall remain in full force and effect unless specifically amended by this Stipulation or the Addendum.

b. The obligation of the plaintiff Williams shall only apply to that portion of Hawk's Nest Trail, which is used jointly by the said Williams, his heirs, successors and assigns, and the remaining property owners who have access to said right of way.

c. Upon delivery and recordation of the Hawk's Nest Trail Easement deed, the plaintiff Williams will contribute TWENTY-FIVE PERCENT (25%) of the costs of maintenance of the Hawk's Nest Trail Easement Area.

d. In the event a subdivision application filed by the plaintiff Williams or his successors in title is approved for two residential lots, he or his successors shall contribute FORTY PERCENT (40%) of the costs of maintenance of the Hawk's Nest Trail Easement Area.

The Gateses are not concealing any defects with the Hawk's Nest Trail Easement Area and have no current plans to repair the Hawk's Nest Trail Easement Area. Williams will not make any requests that the Gateses repair any existing conditions or problems with the Hawk's Nest Trail Easement Area. Mr. Williams has seen photographs and videos of heavy rainfall and is aware of the existing drainage problems in the Hawk's Nest Trail Easement Area and adjacent land during severe weather events.

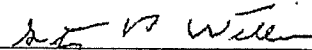
7. The plaintiff Williams will repair any damage done to the Hawk's Nest Trail Easement Area that occurs as a result of construction in the Kupferschmid Easement as described in the Stipulation to Judgment between the plaintiff Williams and the defendants Terry Kupferschmid and Dennis Kupferschmid, which is filed as Entry No. 129.00 on the Superior Court docket. The plaintiff Williams will indemnify, hold harmless, and defend the Gates defendants for any claims or liability arising from such damage.
8. All development work in the subdivision performed by Mr. Williams shall be done in accordance with the inland wetlands and zoning regulations of the Town of Ellington, and all the applicable laws and regulations.
9. The plaintiff Williams and/or his successors and assigns shall construct no more than two single family residences on the Williams Land.
10. Construction of Driveway Within the Right of Way.

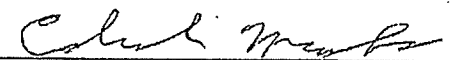
- a. All construction work within the Kupferschmid Easement, will be performed in such a way as not to increase the drainage runoff or flow of water onto the property of the Gates defendants, which includes the Hawk's Nest Trail Easement Area.
- b. In the event that an increase of water flow does cause damage on the property of the defendant Gates, including the Hawk's Nest Trail Easement Area, the plaintiff Williams shall be liable for any and all damage and corrective work, resulting from such damage.
- c. The foregoing provisions to the contrary notwithstanding, the plaintiff Williams shall indemnify, hold harmless and defend the Gates defendants from any damage, liability or claim arising from any actions taken by the plaintiff Williams in constructing the Kupferschmid Easement. The plaintiff Williams shall obtain all appropriate permits for the construction work in the Kupferschmid Easement area and in the development of Williams Land.

- 11. Notwithstanding anything in this Stipulation to the contrary, this Stipulation shall be binding upon the heirs, successors and assigns of the plaintiff Williams and shall inure to the benefit of the heirs, successors and assigns of the Gates' defendants. This Stipulation to Judgment shall be an encumbrance upon the plaintiff Williams Land, and any conveyance by the plaintiff Williams shall include an affirmative covenant that the grantee shall be bound by the terms of this Stipulation to Judgment.
- 12. The Superior Court for the Judicial District of Tolland shall retain jurisdiction of this civil action for the purpose of enforcing the terms of this Stipulation to Judgment. In the event a party to this Stipulation breaches the terms of this Stipulation, the non-breaching party may either commence a new action to enforce this agreement or file a Motion to Enforce on this docket pursuant to Audubon Parking Associates Limited Partnership vs. Barclay and Stubb, Inc. et al, 225 Conn. 804 (1993). The non-prevailing

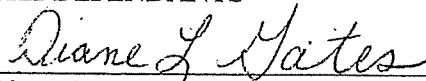
party will reimburse the prevailing party for all attorney's fees and costs incurred as a result of the breach.

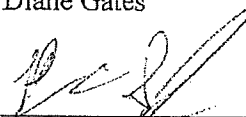
THE PLAINTIFF
STEPHEN D. WILLIAMS

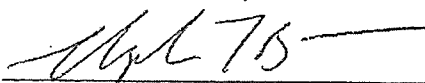

Stephen D. Williams

By 
Edward Muska
His Attorney

THE DEFENDANTS


Diane Gates


Robert Gates

By 
Christopher Bowen
Their Attorney

ATTORNEY EDWARD MUSKA
ATTORNEY AT LAW
2 EAST MAIN STREET
P.O. BOX 22
STAFFORD SPRINGS, CT
06076
JURIS NO. 045140

STATE OF CONNECTICUT
SUPERIOR COURT
JUDICIAL DISTRICT OF
TOLLAND

APR 4 - 2023

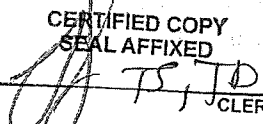
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SEAL AFFIXED
BY  TS, JD
CLERK

Exhibit A

Being the north and easterly portion of a 50 foot easement or right of way located on the westerly side of Hayes Avenue in the Town of Ellington, County of Tolland and State of Connecticut as shown on a map entitled: Subdivision Plan Knollwood Section B3 Town of Ellington, Connecticut Owner: Dennis M. Kupferschmid et ux Gardner & Peterson Associates 576 Old Post Road Tolland, Connecticut Professional Engineers Land Surveyors Scale 1"=100' Date 4-22-80 Sheet No. 1 of 1 Map No. 4759", reference to which map is hereby made,

Said portion is more particularly bounded and described as follows:

Beginning at a point on the westerly line of said Hayes Avenue which point marks the northeasterly corner of land now or formerly Jennifer A. Magdefrau and southeasterly corner of the herein described parcel, the lines run;

- Thence S-79°-03'-48"-W along land of said Magdefrau and land now or formerly of Dennis and Terry Kupferschmidt, partly by each, a distance of 400.00 feet to a point;
- Thence N-10°-56"-12"-W, a distance of 50.00 feet to a point and land now or formerly of Edward Sr., Jean and Edward Rothe, Jr.
- Thence N-79°-03'-48"-E, along land of said Rothe and other land of the grantor, partly by each, a distance of 413.06 feet to a point on the westerly line of said Hayes Avenue;
- Thence along a curve having a chord bearing and distance of S-03°-52'-56"-W and 51.23 feet, a delta angle and radius of 39°-56'-27" and 75.00 feet, a distance of 52.28 feet to the point and place of beginning.

DOCKET NO: TTDCV206021563S

SUPERIOR COURT

ORDER 439616

TOMASEK, TODD, ADMINISTRATOR

JUDICIAL DISTRICT OF TOLLAND
AT ROCKVILLE

V.

KUPFERSCHMID, TERRY K, TRUSTEE Et
Al

3/27/2023

ORDER

ORDER REGARDING:

03/10/2023 140.00 MOTION FOR JUDGMENT IN ACCORDANCE WITH STIPULATION

The foregoing, having been considered by the Court, is hereby:

ORDER: GRANTED

Superior Court Results Automated Mailing (SCRAM) Notice was sent on the underlying motion.

439616

Judge: DONNA M WILKERSON BRILLANT

This document may be signed or verified electronically and has the same validity and status as a document with a physical (pen-to-paper) signature. For more information, see Section I.E. of the *State of Connecticut Superior Court E-Services Procedures and Technical Standards* (<https://jud.ct.gov/external/super/E-Services/e-standards.pdf>), section 51-193c of the Connecticut General Statutes and Connecticut Practice Book Section 4-4.

STATE OF CONNECTICUT
SUPERIOR COURT
JUDICIAL DISTRICT OF
TOLLAND

APR 4 - 2023

Received for Record at Town of Ellington, CT
On 04/11/2023 At 2:08:00 pm

Donna M Wilkerson

CERTIFIED COPY
SEAL/AFFIXED
BY *[Signature]* J.P. CLERK

TOWN CLERK - Please return to:
Ralph J. Alexander, Esquire
Willard & Alexander, LLC
225 Oakland Road, Suite 306
South Windsor, CT 06074

Doc ID: 001620850003 Type: EASEMENT
BK 544 PG 721-723

DRIVEWAY EASEMENT

RECEIVED

OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT

2

KNOW ALL BY THESE PRESENTS that TERRY K. KUPFERSCHMID, TRUSTEE and DENNIS M. KUPFERSCHMID, TRUSTEE, trustees of the Terry K. Kupferschmid Living Trust dated August 11, 1998, both of the Town of Ellington, County of Tolland and State of Connecticut, hereinafter referred to as the Grantors, for the consideration of ONE DOLLAR (\$1.00) and other valuable consideration received to their full satisfaction of STEPHEN WILLIAMS, of the Town of Tolland, County of Tolland, and State of Connecticut, hereinafter referred to as the Grantee, do give, grant, bargain, sell and confirm unto the said STEPHEN WILLIAMS, his heirs, successors and assigns forever an easement (the "Easement Area") for perpetual access through, upon and over that certain piece or parcel of land described in Schedule A attached hereto and made a part hereof.

This easement is for the benefit of the Grantee's land located in Ellington, Connecticut, as further described in a certain Fiduciary's Deed dated December 2, 2021, and recorded in Volume 531, Page 1126 in the Ellington Land Records (the "Williams Land").

The Grantee, his heirs, successors and assigns shall have the right to use said Easement Area as a private driveway to access the Williams Land and to develop up to two (2) single-family residential building lots on the Williams Land; to install public utility lines, or underground utility service, as the utility company determines, in order to service up to a maximum of 2 single-family dwelling units; and for all other associated purposes for which such a private right of way may be used, provided that such use does not unreasonably interfere with the Grantors' use of their remaining property.

This easement is subject to such prior interests, obligations and restrictions as of record may appear including without limitation: the Common Driveway Maintenance Easement dated September 2, 2010, and recorded in Volume 417, Page 16 in the Ellington Land Records; the Amended and Restated Declaration of Common Driveway Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated January 19, 2011, and recorded in Volume 421, Page 967 of the Ellington Land Records; the Second Amended and Restated Declaration of Common Driveway Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated May 7, 2018, and recorded in Volume 494, Page 128 et seq., of the Ellington Land Records (the "Second Amended and

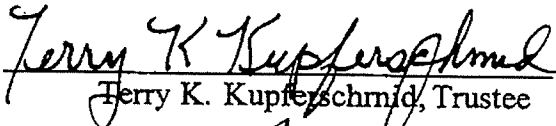
Restated Declaration"); the provisions of the Kupferschmid Stipulated Judgment, the order for which was entered in Case# CV20-6021563, before the Superior Court for the Judicial District of Tolland, at Rockville, on October 4, 2022, a copy of which was recorded on the Ellington Land Records in Volume 541 at pages 978-985; and also the applicable provisions of any further addendum or amendment to the said Second Amended and Restated Declaration that may be forthcoming him Jerry Re: all set for this afternoon at 530. Do you have your witness. I will be the other witness, but we need the 2nd when this let me know thank you Ralph.

This easement shall run with the land and will bind the parties and their respective heirs, successors and assigns.


IN WITNESS WHEREOF the Grantors have hereunto set their hands and seals this 5th day of September, 2023.

Signed Sealed and Delivered in the presence of:


Ralph J. Alexander


Terry K. Kupferschmid, Trustee


Kenneth Tierney


Dennis M. Kupferschmid, Trustee

STATE OF CONNECTICUT

)

) ss. Ellington


September 5, 2023

COUNTY OF TOLLAND

)

Personally appeared, Terry K. Kupferschmid, Trustee and Dennis M. Kupferschmid, Trustee, who subscribed the within instrument and acknowledged that they executed the same for the purposes contained as their free act and deed, before me.

IN WITNESS WHEREOF I hereunto set my hand.


Ralph Alexander
Commissioner of the Superior Court for
the State of Connecticut

Schedule A

That Easement Area in question, is a "portion" of the land which is shown as "50' R.O.W." on the "Map" entitled, "Subdivision Plan Knollwood Section B-3 Town of Ellington, Connecticut Owner: Dennis M. Kupferschmid et ux. Gardner & Peterson Associates 576 Old Post Road Tolland, Connecticut Professional Engineers Land Surveyors Scale 1" = 100' Date 4-22-80 Sheet No. 1 of 1 Map No. 4759 Revisions 7-14-80", said portion being that Easement Area consisting of a 50 foot strip of land running over and along the easterly boundary line of land of the Grantors (sometimes known as 2 Hawks Nest Trail), and the westerly line of land currently of Jennifer A. Magdefrau (being known as 55 Hayes Avenue), from the southerly line of the private road known as Hawks Nest Trail, and continuing in a general southerly direction along the said westerly boundary line of the said Jennifer A. Magdefrau, to the southerly line of the land of the said Grantee herein.

After recording, return to:
Christopher T. Bowen
Kahan Kerensky Capossela LLP
45 Hartford Turnpike, P.O. Box 3811
Vernon, CT 06066

RECEIVED

OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT

3

DRIVEWAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that **DIANE L. GATES and ROBERT A. GATES, JR.**, both of 6 Hawks Nest Trail in Ellington, Connecticut (hereinafter "Grantors"), for the consideration of ONE DOLLAR (\$1.00) AND OTHER VALUABLE CONSIDERATION, received to their full satisfaction of **STEPHEN WILLIAMS**, of 36 Buff Cap Road in Tolland, Connecticut (hereinafter "Grantee"), do give, grant, bargain, sell and confirm unto the said **STEPHEN WILLIAMS**, his heirs, successors and assigns forever, a perpetual access, through, upon and over that certain piece or parcel of land described in Schedule A attached hereto and made a part hereof (hereinafter "Hawk's Nest Trail Easement Area").

This easement is for the benefit of Grantee's land, as further described in a certain Fiduciary's Deed, dated December 2, 2021, and recorded in Volume 531 at Page 1126 in the Ellington Land Records (the "Williams Land").

Grantee, his successors and assigns, shall have the right to use the Hawk's Nest Trail Easement Area as a private driveway to access the Williams Land and develop up to two (2) building lots on the Williams Land; to install public utility lines, or underground utility service, as the utility company determines; and for all other purposes for which a private right of way may be used, provided that such use does not unreasonably interfere with the Grantors' use of the Hawk's Nest Trail Easement Area.

Grantee is accepting this Hawk's Nest Trail Easement Area in as-is condition and will not make any requests that Grantor repair any existing conditions or problems with the Hawk's Nest Trail Easement Area, including without limitation, the existing drainage problem that exists during severe weather events.

This easement is subject to such prior interests and restrictions as of record may appear including without limitation the Common Driveway Maintenance Easement, dated September 2, 2010, and recorded in Volume 417 at Page 0016 in the Ellington Land Records, the Amended and Restated Declaration of Common Driveway Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement, dated January 19, 2011, and recorded in Volume 421 at Page 0967 of the Ellington Land Records; the Second Amended and Restated Declaration of Common Driveway, Maintenance, utility and Drainage Easement and Driveway Maintenance Agreement dated May 7, 2018, and recorded in Volume 494 at Page 128 of the Ellington Land Records; and the Addendum to the Second Amended and Restated Declaration of Common Driveway, Maintenance, utility and Drainage Easement and Driveway Maintenance Agreement dated of even date herewith, and to be recorded in the Ellington Land Records simultaneously herewith.

This easement will run with the land and will bind the parties and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals this 14th day of July, 2023.

Signed, Sealed and Delivered
in the Presence of:

Nicole Tolman
NICOLE TOLMAN

Diane L. Gates
Diane Gates

MERSTAN COLLINS
MERSTAN COLLINS

Robert Gates
Robert Gates

STATE OF CONNECTICUT)
)
COUNTY OF TOLLAND)

Vernon


July 14, 2023

Personally appeared, Diane Gates and Robert Gates, who subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained as their free act and deed, before me.

IN WITNESS WHEREOF, I hereunto set my hand.

Macey Fawcett
Notary Public/
Commissioner of the Superior Court
Comm. Exp: 11/30/2025

Signed, Sealed and Delivered
in the Presence of:



Stephen Williams

Joan Mita

STATE OF CONNECTICUT)
)
COUNTY OF)

Personally appeared, Stephen Williams, who subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained as his free act and deed, before me.

IN WITNESS WHEREOF, I hereunto set my hand.



Notary Public/
Commissioner of the Superior Court

Schedule A

Description of Hawk's Nest Trail Easement Area

Being the north and easterly portion of a 50 foot easement or right of way located on the westerly side of Hayes Avenue in the Town of Ellington, County of Tolland and State of Connecticut as shown on a map entitled: Subdivision Plan Knollwood Section B3 Town of Ellington, Connecticut Owner: Dennis M. Kupferschmid et ux Gardner & Peterson Associates 576 Old Post Road Tolland, Connecticut Professional Engineers Land Surveyors Scale 1"=100' Date 4-22-80 Sheet No. 1 of 1 Map No. 4759", reference to which map is hereby made,

Said portion is more particularly bounded and described as follows:

Beginning at a point on the westerly line of said Hayes Avenue which point marks the northeasterly corner of land now or formerly Jennifer A. Magdefrau and southeasterly corner of the herein described parcel, the lines run;

- | | |
|--------|--|
| Thence | S-79°-03'-48"-W along land of said Magdefrau and land now or formerly of Dennis and Terry Kupferschmidt, partly by each, a distance of 400.00 feet to a point; |
| Thence | N-10°-56'-12"-W, a distance of 50.00 feet to a point and land now or formerly of Edward Sr., Jean and Edward Rothe, Jr. |
| Thence | N-79°-03'-48"-E, along land of said Rothe and other land of the grantor, partly by each, a distance of 413.06 feet to a point on the westerly line of said Hayes Avenue; |
| Thence | along a curve having a chord bearing and distance of S-03°-52'-56"-W and 51.23 feet, a delta angle and radius of 39°-56'-27" and 75.00 feet, a distance of 52.28 feet to the point and place of beginning. |

After recording, return to:
Christopher T. Bowen
Kahan Kerensky Capossela LLP
45 Hartford Turnpike, P.O. Box 3811
Vernon, CT 06066

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OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT

ADDENDUM TO THE SECOND AMENDED AND RESTATED DECLARATION OF COMMON DRIVEWAY, MAINTENANCE, UTILITY AND DRAINAGE EASEMENT AND DRIVEWAY MAINTENANCE AGREEMENT ("Addendum")

This Addendum is made and entered into this 14th day of July, 2023 (the "Effective Date") by Robert A. Gates, Jr. and Diane L. Gates ("Gates"), both of 6 Hawk's Nest Trail, Ellington, County of Tolland and State of Connecticut and Stephen Williams ("Williams"), of 36 Buff Cap Road in Tolland, Connecticut. (Gates and Williams may hereafter be referred to as the "Parties.")

DENNIS M. KUPFERSCHMID and TERRY K. KUPFERSCHMID as trustees of the Terry K. Kupferschmid Living Trust Dated August 11, 1998 ("Kupferschmid") and Williams have entered into a separate settlement of the dispute amongst the parties, and their agreement is reduced to writing elsewhere on the Superior Court docket and on the Ellington Land Records.

WHEREAS, Kupferschmid entered into a Declaration of Common Driveway, Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated September 2, 2010 and recorded in Volume 417 at Page 0016 in the Ellington Land Records (the "2010 Declaration");

WHEREAS Kupferschmid entered into an Amended and Restated Declaration of Common Driveway, Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated January 19, 2011 and recorded in Volume 421 at Page 0967 in the Ellington Land Records (the "First Amendment");

WHEREAS, Kupferschmid and Gates entered into a Second Amended and Restated Declaration of Common Driveway, Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated May 7, 2018 and recorded in Volume 417 at Page 0016 in the Ellington Land Records (the "Second Amendment");

WHEREAS, on or about October 28, 2020, an action was commenced in the Superior Court, Judicial District of Tolland (the "Court") bearing Docket No.: TTD-CV-20-6021563-S (the "Superior Court docket") by Todd Tomasek, Administrator of the Estate of Francis J. Tomasek seeking a decree to determine the rights of the parties to a right of way (the "Action");

WHEREAS, on December 30, 2021, Todd Tomasek, Administrator of the Estate of Francis J. Tomasek sold and conveyed to Williams the piece or parcel of land subject to the Action known as Tripp Road by Fiduciary Deed, as further described in a certain Fiduciary's Deed, dated December 2, 2021, and recorded in Volume 531 at Page 1126 of the Ellington Land Records (the "Williams Land");

WHEREAS, on or about January 14, 2022, a Motion to Substitute Party Plaintiff was filed in the Action by Williams as Entry No. 115.00 on the Superior Court docket, which was granted by the Court;

WHEREAS, on or about September 12, 2022, a Motion for Entry of Stipulated Judgment was filed in the Action by Williams and Kupferschmid as Entry No. 129.00 on the Superior Court docket, which was granted by the Court (the "Kupferschmid Stipulated Judgment");

WHEREAS, on or about January 25, 2023, a Motion for Entry of Stipulated Judgment was filed in the Action by Williams and Gates as Entry Nos. 138.00 and 140.00, which was granted by the Court (the "Stipulated Judgment"); and

WHEREAS, in accordance with the Stipulated Judgment, Gates agreed to grant Williams perpetual access through, upon and over the parcel of land described in Schedule A attached hereto and made a part hereof (the "Hawk's Nest Trail Easement Area"), and Williams agreed to contribute to the maintenance of the Hawk's Nest Trail Easement Area and the easement over that land.

The foregoing recitals and representations are incorporated into and made a part of the terms of this Addendum.

The Parties wish to effectuate the terms included in the Stipulated Judgment through this Addendum as follows:

1. Gates and Williams, as the Declarants of this Addendum, for themselves, and for their respective heirs, successors and assigns hereby agree that their respective ownership interests in 6 Hawk's Nest Trail and the Williams Land (collectively, the "Land") are hereby subject to and the Parties are bound by all the provisions of this Addendum, including, without limitation all rights and obligations set forth in this Addendum, all of which are hereby deemed to be covenants running with the land.
2. The 2010 Declaration, First Amendment and Second Amendment are hereby supplemented by the provisions of this Addendum, from this date forward. It is not the intent of the Parties that either of those driveway agreements or the Stipulated Judgment merge into this Addendum. Rather, the Parties intend that all rights and obligations set forth in those documents shall remain in full force and effect unless specifically amended by this Addendum.
3. The obligations of Williams provided in this section, Section 3, shall only apply to the Hawk's Nest Trail Easement Area.
 - a. Williams shall contribute twenty-five percent (25%) of the costs of maintenance of the Hawk's Nest Trail Easement Area and Gates shall contribute twenty-five percent (25%).
 - b. In the event a subdivision application filed by Williams or his predecessors in title is approved for two residential lots, he or his predecessors shall

contribute 40% of the costs to maintain the Hawk's Nest Trail Easement Area, and Gates shall contribute 20%.

- c. For purposes of this section, Section 3, the costs of normal and routine maintenance of the roadway and/or other improvements within the Hawk's Nest Trail Easement Area, needed to keep the same in a passable condition by pedestrians, automobiles, trucks or snow removal vehicles, shall be shared by the owners of the Williams Land and 6 Hawk's Nest Trail. The cost of all repairs and maintenance of the road portion of the Hawk's Nest Trail Easement Area, including any appurtenant drainage systems located therein, shall be decided upon mutually by the owners of the Lots, provided however, that the Parties shall be obliged at all times: (a) to maintain the surface of the roadway in a reasonably smooth and flat condition; (b) to keep the driveway free from all kinds of obstacles, less the access become obstructed to other persons lawfully using it, including emergency vehicles; and (c) in the winter time, to keep the roadway clear of dangerous accumulations of ice and snow by plowing and/or sanding as is necessary. The Parties shall coordinate snow plowing responsibilities in advance.

The Parties shall have mutual responsibility for the contracting of said maintenance, and shall make reasonable arrangements, as they deem appropriate to assure that said maintenance is performed. The Parties shall each be responsible thereafter to submit copies of invoices and bills from the service providers of the maintenance to each other. The total costs of any such repairs and maintenance shall be shared amongst Kupferschmid, Williams and Gates (pursuant to this Addendum and a separate agreement between Kupferschmid and Williams). Each party shall be entitled to reimbursement from the other party for the costs incurred by the incurring party, which reimbursement shall be paid within 30 days after that party has submitted a written statement for same to the obligated party.

In the event that either party fails to make the reimbursement to the other party entitled thereto, and the collection of such outstanding amount, or amounts, results in legal action by the party or Parties entitled to reimbursement, then in addition to any judgment from the court or other issuing forum, there shall be included all costs of such legal action, including reasonable attorney's fees, and interest thereon at the rate of 12% per annum on all outstanding amounts.

- c. If any damage within the Hawk's Nest Trail Easement Area is caused by the acts of either Gates or Williams, or any family member, agent, servant, employee or invitee thereof, whether through accident, neglect or otherwise, such owner shall repair or cause to be repaired all such damage in a prompt manner at his/her/their/its sole cost and expense, returning said damaged roadway area or other improvements to the condition in which they existed immediately prior to such damage. Since a serviceable roadway and amenities is essential for the protection of life and property, if either party is obligated to make such repair but fails to promptly repair such damage, then

the other party may cause said repairs to be made within the Hawk's Nest Trail Easement Area, and then they may collect from the obligated party the cost of such repairs including the cost of any legal action for said collection, together with reasonable attorney's fees and interest at the rate of 12% per annum.

- d. The Parties hereby agree to indemnify and hold harmless and defend each other from all damages for property damage and or for personal injury occurring within the Hawk's Nest Trail Easement Area caused by that party or any family member, agent, servant, employee or invitee thereof. Williams and Gates shall maintain liability insurance in the minimum amount of \$500,000.00, property damage in the amount of \$125,000.00 and medical payment insurance in the minimum amount of \$5,000.00, to cover the Hawk's Nest Trail Easement Area. Upon request, each party shall provide the other with current certificates for such insurance.
4. Williams and Gates, upon request of the other party to execute the usual easement documents as are customarily utilized by electrical, telephone, and other residential utilities shall do so, so that, to the greatest extent possible, the Parties shall share the use of common utility facilities.
5. Gates and Williams shall include the following language in the deeds of conveyances of land owned subject to this Addendum, which shall bind the grantees therein, their heirs and assigns, to the terms of this Addendum:
 - a. "Said premises are conveyed subject to and together with the provisions of a certain Declaration of Common Driveway, Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated September 2, 2010 and recorded in Volume 417 at Page 0016 in the Ellington Land Records; Amended and Restated Declaration of Common Driveway, Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated January 19, 2011 and recorded in Volume 421 at Page 0967 in the Ellington Land Records; Second Amended and Restated Declaration of Common Driveway, Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement dated May 7, 2018 and recorded in Volume 417 at Page 0016 in the Ellington Land Records; Stipulated Judgment dated January 25, 2023, recorded on April 11, 2023 in Volume 541 at Page 986 of the Ellington Land Records; and this Addendum to the Second Amended and Restated Declaration of Common Driveway, Maintenance, Utility and Drainage Easement and Driveway Maintenance Agreement."
6. The Hawk's Nest Trail Easement Area shall not be used for any commercial purposes, nor for the storage of any trash or other articles thereon, nor any action obstructing or interfering with the use thereof by the Parties, nor any other use constituting a nuisance or annoyance to the owner of any lot. However, notwithstanding any language to the contrary in this Addendum, the easement agreement, the settlement agreement or any related agreements, the Gateses and their predecessors in title may continue to store their garbage and recycling barrels

near the northeast end of the Hawk's Next Trail Easement Area, where it abuts the Hayes Avenue cul-de-sac.

7. This Addendum shall be binding on and benefit Gates and Williams and their heirs, successors and assigns.
8. This Addendum shall not be deemed to have been abrogated or waived by reason of any failure to enforce the same.
9. This Addendum shall be construed and enforced in accordance with the laws of the State of Connecticut.
10. If any provision of this Addendum shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Addendum shall not be affected thereby and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.
11. The Parties have participated in the negotiation and drafting of this Addendum. If an ambiguity or question of intent or interpretation arises, this Addendum shall be construed as if drafted by the Parties jointly and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Addendum.
12. No amendment, modification, termination or waiver of any provision of this Addendum shall be effective unless it shall be set forth in a writing duly executed by the Parties.
13. No waiver by any party of any condition or the breach of any term, covenant, representation or warranty contained in this Addendum, whether by conduct or otherwise, shall be deemed a further or continuing waiver of any condition or covenant, representation or warranty of this Addendum.
14. This Addendum shall be effective as of the date signed by all Parties.

Dated at Vernon, Connecticut this 14th day of July, 2023.

Signed, Sealed and Delivered
in the Presence of:

Nicole Tolman
Nicole Tolman

Robert A. Gates, Jr.
Robert A. Gates, Jr.

Margaret Collins
MARGARET COLLINS

Diane L. Gates
Diane L. Gates

STATE OF CONNECTICUT

:

: ss. Vernon

July 14, 2023

COUNTY OF TOLLAND

:

Personally appeared, Robert A. Gates, Jr. and Diane L. Gates, signers of the foregoing instrument, who acknowledged that they executed the same for the purposes therein contained as their free act and deed before me.

Shirley Jones
Notary Public
Commissioner of the Superior Court
Comm. Exp. 11/30/2025

IN WITNESS WHEREOF, the Grantee has hereunto set his hand and seal this 18th day
of July, 2023.

Signed, Sealed and Delivered
in the Presence of:

Carol Muck

Stephen Williams
Stephen Williams

Joan Mitta

STATE OF CONNECTICUT)
)
COUNTY OF Tolland)

Personally appeared, Stephen Williams, who subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained as his free act and deed, before me.

IN WITNESS WHEREOF, I hereunto set my hand.

Carol Muck
Notary Public/
Commissioner of the Superior Court

Schedule A

Description of Hawk's Nest Trail Easement Area

Being the north and easterly portion of a 50 foot easement or right of way located on the westerly side of Hayes Avenue in the Town of Ellington, County of Tolland and State of Connecticut as shown on a map entitled: Subdivision Plan Knollwood Section B3 Town of Ellington, Connecticut Owner: Dennis M. Kupferschmid et ux Gardner & Peterson Associates 576 Old Post Road Tolland, Connecticut Professional Engineers Land Surveyors Scale 1"=100' Date 4-22-80 Sheet No. 1 of 1 Map No. 4759", reference to which map is hereby made,

Said portion is more particularly bounded and described as follows:

Beginning at a point on the westerly line of said Hayes Avenue which point marks the northeasterly corner of land now or formerly Jennifer A. Magdefrau and southeasterly corner of the herein described parcel, the lines run;

- | | |
|--------|--|
| Thence | S-79°-03'-48"-W along land of said Magdefrau and land now or formerly of Dennis and Terry Kupferschmidt, partly by each, a distance of 400.00 feet to a point; |
| Thence | N-10°-56'-12"-W, a distance of 50.00 feet to a point and land now or formerly of Edward Sr., Jean and Edward Rothe, Jr. |
| Thence | N-79°-03'-48"-E, along land of said Rothe and other land of the grantor, partly by each, a distance of 413.06 feet to a point on the westerly line of said Hayes Avenue; |
| Thence | along a curve having a chord bearing and distance of S-03°-52'-56"-W and 51.23 feet, a delta angle and radius of 39°-56'-27" and 75.00 feet, a distance of 52.28 feet to the point and place of beginning. |

5

GARDNER & PETERSON ASSOCIATES

LAND SURVEYORS • PROFESSIONAL ENGINEERS

EVERETT O. GARDNER, P.E., L.S.
KENNETH R. PETERSON, L.S.
EARL R. KLOTER, L.S.
WILLARD L. ROBINSON

576 OLD POST ROAD
TOLLAND, CONNECTICUT 06084

TELEPHONE 871-0808

January 10, 1979

Harry Friedman, Chairman
Planning & Zoning Commission
Town of Ellington, Conn.

Dear Mr. Friedman:

We hereby apply for a resubdivision of the land located at the southerly end of Hayes Ave. This property contains 21.20 acres of land and is to be subdivided into four lots, the smallest being 3.08 acres. The property is in a residence AA zone and the owners and subdividers are Dennis M. and Terry K. Kupferschmid.

Yours truly,



Kenneth R. Peterson
For Dennis Kupferschmid

RECEIVED

OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT



LEGAL NOTICE

The Town of Ellington Zoning Board of Appeals following a Public Hearing on Monday, January 29, 1979 has acted on the following appeal:

Granted to Dennis Kupferschmid, 11 Greenfield Drive, South Windsor, Connecticut, a variance on a 3.20 acre parcel of land having 151.06 feet of road frontage. Said parcel known as lot #3, Knollwood Section B-3 located in a AA Zone on the Southerly end of Hayes Avenue at the Cul-De-Sac approximately 800 feet distant from the intersection of Hillsdale Drive.

A copy of this notice is on file with the Town Clerk.

Dated at Ellington, Connecticut, this 2nd day of February, 1979.

The effective date of this notice is Friday , February 9, 1979.

Richard Babcock, Chairman
Edwin Finance, Secretary

Joann Plickys, Clerk
ZONING BOARD OF APPEALS

JOURNAL INQUIRER PUBLISH ONE ISSUE

Thursday, February 8, 1979

Ellington, Connecticut

LEGAL NOTICE

The Town of Ellington Planning & Zoning Commission will hold a Public Hearing on Monday, February 5, 1979 at 8:00 P.M. in the Town Hall to hear the following application:

The application of Dennis Kupferschmid, South Windsor, Connecticut seeking re-subdivision approval for 4 lots on a 21.20 acre parcel of land located at the southerly end of Hayes Avenue. This property is located in an AA-Residence Zone.

All those interested may appear and be heard.

A copy of this notice is on file with the Town Clerk.

Dated at Ellington, Connecticut, this 16th day of January, 1979.

Harry Friedman, Acting Chairman



Carol A. Strom, Clerk
Planning & Zoning Commission

JOURNAL INQUIRER: PUBLISH TWO ISSUES

Wednesday, January 24, 1979

Thursday, February 1, 1979

Ellington, Connecticut

LEGAL NOTICE

The Planning and Zoning Commission of the Town of Ellington following a Public Hearing on February 5, 1979 has acted on the following application:

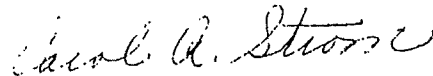
Denied without prejudice the application of Dennis Kupferschmid, South Windsor, Connecticut seeking re-subdivision approval for 4 lots on a 21.20 acre parcel of land off Hayes Avenue. Denial was on recommendation of Town Engineer as plan failed to comply with Section 7-1 (1) of the Subdivision Regulations concerning Streets.

A copy of this notice is on file with the Town Clerk.

Dated at Ellington, Connecticut, this 15th day of March, 1979.

The effective date of this notice is Tuesday, March 20, 1979

Harry Friedman, Chairman



Carol A. Strom, Clerk
Planning and Zoning Commission

JOURNAL INQUIRER: PUBLISH ONE ISSUE

Monday, March 19, 1979

BUCK & BUCK

E N G I N E E R S

98 WADSWORTH STREET, HARTFORD, CONNECTICUT 06108

JAMES A. THOMPSON

ROBINSON W. BUCK

LAWRENCE F. BUCK

HENRY WOLCOTT BUCK
1881-1885

ROBINSON D. BUCK
1885-1889

COMM. 6306-96

March 1, 1979

Mr. Harry Friedman, Chairman
Planning and Zoning Commission,
Town of Ellington,
Town Hall,
Ellington, Connecticut 06029

Reference: Knollwood Section B-3

Dear Mr. Friedman:

As requested I have reviewed the plans of the subject subdivision and submit the following comments.

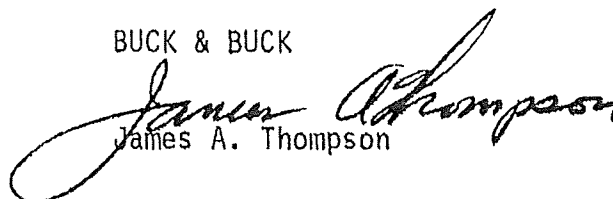
The original approval of Knollwood Section B-2 was made on the basis that the Cul-de-Sac at the end of Hayes Avenue was to be a temporary turn-around. Such a designation indicates that it was the intention of the approving commission that at some time in the future, Hayes Avenue was to be extended and the temporary turn-around removed. This is common practice in the State of Connecticut as it allows orderly, planned development, without placing unnecessary burdens on developers while preventing the creation of land locked parcels.

The subject subdivision plan, as submitted, would make the extension of Hayes Avenue impossible. It would actually convert a temporary turn-around to a permanent turn-around. It would prevent access from Hayes Avenue to lands to the ^{south} of Section B-3 and it would prevent the extension of Hayes Avenue to Wapping Wood Road. There is a large undeveloped area between Hayes Avenue and Wapping Wood Road and, in my opinion, it would be prudent and proper for the Commission to plan for access to the area, both from the north and south. From a public safety standpoint, it is always best to have more than one access to a major developed area.

I, therefore, recommend that the request for re-subdivision of Knollwood Section B-3 be denied, without prejudice.

Sincerely yours,

BUCK & BUCK


James A. Thompson

JAT:fb

cc: Atty. Atherton B. Ryan
✓ Everett C. Paluska,
First Selectman

LEGAL NOTICE

6

The Town of Ellington Planning and Zoning Commission will hold a Public Hearing on Monday, May 5, 1980 at 8:00 p.m. at the Town Hall to hear the following:

The application of Dennis M. Kupferschmid, 11 Greenfield Avenue, South Windsor, Connecticut, seeking resubdivision approval for 4 lots and a 50' ROW on a 21.20 acre parcel of land located in an AA Residence Zone at the Southerly end of Hayes Avenue at the Cul-de-Sac approximately 800 feet distant from the intersection of Hillsdale Drive.

All those interested may appear and be heard.

A copy of this notice is on file with the Town Clerk.

Dated at Ellington, Connecticut, this 21st day of April, 1980.

Harry Friedman, Chairman

Joann Plickys
Joann Plickys, Clerk
Planning & Zoning Commission

JOURNAL INQUIRER PUBLISH TWO ISSUES

Wednesday, April 23, 1980

Wednesday, April 30, 1980

RECEIVED

OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT



LEGAL NOTICE

The Town of Ellington Planning and Zoning Commission at its meeting on Monday, June 2, 1980 has acted on the following:

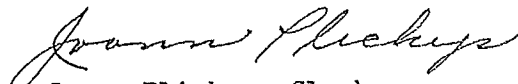
Granted to Dennis M. Kupferschmid, 11 Greenfield Avenue, South Windsor, Connecticut, resubdivision approval for 4 (four) lots and a 50' ROW on a 21.20 acre parcel of land located in an AA Residence Zone at the Southerly end of Hayes Avenue at the Cul-de-sac and further described on a plan entitled, "Subdivision Plan Knollwood Section B-3 owner Dennis M. Kupferschmid, Et Ux, Scale 1"=100', Dated 4-22-80, Map No. 4759, by Kenneth R. Peterson, L.S. 10839".

A copy of this notice is on file with the Town Clerk.

Dated at Ellington, Connecticut, this 6th day of June, 1980.

The effective date of this notice is Thursday, June 12, 1980.

Harry Friedman, Chairman



Joann Plickys, Clerk
PLANNING & ZONING COMMISSION

JOURNAL INQUIRER PUBLISH ONE ISSUE

Wednesday, June 11th

GARDNER & PETERSON ASSOCIATES

LAND SURVEYORS • PROFESSIONAL ENGINEERS

EVERETT O. GARDNER, P.E., L.S.
KENNETH R. PETERSON, L.S.
EARL R. KLOTZ, L.S.
WILLARD L. ROBINSON

576 OLD POST ROAD
TOLLAND, CONNECTICUT 06084

TELEPHONE 871-0808

Abutters

NAME

ADDRESS

Robert L. & Illa Jean Grandy	32 Hillsdale Dr., Ellington, Ct.
Howard T. & Ruth K. Walker	34 Hillsdale Dr., Ellington, Ct.
Leo A. Jr. & Mary A. Miller	36 Hillsdale Dr., Ellington, Ct.
John W. & Ruth T. Wofford	38 Hillsdale Dr., Ellington, Ct.
Richard & Roseanne Copsey	44 Hayes Ave., Ellington, Ct.
Robert A. & Joyce A. Zacca-o	46 Hayes Ave., Ellington, Ct.
John & Janet Batt	51 Hayes Ave., Ellington, Ct.
Francis J. Tomasek	41 Elizabeth St., Vernon, Ct.
Leon & Theodore L. Kaminski	Bellevue Ave., Vernon, Ct.
Henry R. Rothe, Jr.	222 Windsorville Rd., Ellington, Ct.
Gardiner L. Chapman	34 Pinnacle Rd., Ellington, Ct.

*Legal Notice
re: Public Hearing
mailed to abutters*

TOWN OF ELLINGTON
Planning and Zoning Commission
Ellington, Connecticut

TO: James Thompson, Town Engineer
FROM: Harry Friedman, Chairman *H.F.*
DATE: April 21, 1980
SUBJECT: KUPFERSCHMID SUBDIVISION

The Kupferschmids have submitted a revised plan of their subdivision on Hayes Avenue. A Public Hearing is scheduled for Monday, May 5th.

Would you review the plan -- particularly in regards to the ROW. The Commission would like your comments, if possible on or before the Hearing.

Thank you.

BUCK & BUCK

E N G I N E E R S

98 WADSWORTH STREET, HARTFORD, CONNECTICUT 06106

JAMES A. THOMPSON

ROBINSON W. BUCK

LAWRENCE F. BUCK

HENRY WOLGOTT BUCK

1931-1985

ROBINSON D. BUCK

1985-1989

COMM. 6306-96

April 8, 1980

Mr. Harry Friedman, Chairman
Planning and Zoning Commission
Town Hall
Ellington, Connecticut, 06029

Reference: Knollwood Section B-3
Preliminary Plan dated 2/14/80

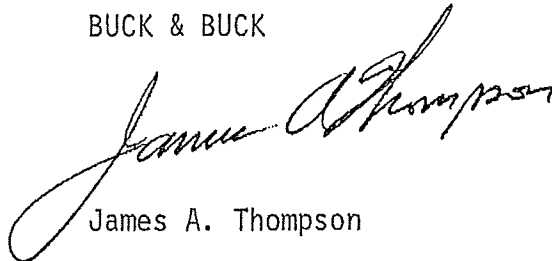
Dear Harry:

I received Carol Strom's letter of April 2, 1980, today and regret that my reply will reach you after tonight's meeting. I do not feel that I have sufficient information on hand to review this preliminary plan. Before proceeding with a review, the Commission and myself should have information from the Sewer Commission as to how this portion of Town is to be sewerred. The proposed street plan for the area should be planned to make sewerred as easy as possible. The Commission should also roughly plan the road network, which connects the present Hayes Avenue cul-de-sac to Wapping Wood Road, to the Town's best advantage.

I also note that the topographic data on the preliminary plan uses the same datum as the old Knollwood Subdivision. I strongly recommend that the Commission require that all topographic maps submitted on this parcel or any other parcel in Town, be based on U.S.G.S. Datum.

Sincerely yours,

BUCK & BUCK



James A. Thompson

JAT/sm

cc: Mrs. Mary Miller
Atty. Atherton Ryan
Gardner & Peterson Assoc.

TOWN OF ELLINGTON
Planning and Zoning Commission
Ellington, Connecticut

April 2, 1980

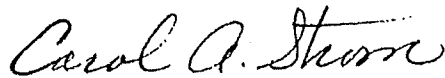
Mr. James Thompson
98 Wadsworth Street
Hartford, Conn. 06106

Re: Resubdivision Plan, Knollwood Section B-3

Dear Jim,

Enclosed please find a 15 lot re-subdivision plan of Dennis M. Kupferschmid's property off Hayes Avenue. The Commission would like your opinion of this plan.

Very truly yours,



Carol A. Strom,
Clerk

BUCK & BUCK

E N G I N E E R S

98 WADSWORTH STREET, HARTFORD, CONNECTICUT 06106

JAMES A. THOMPSON

ROBINSON W. BUCK

LAWRENCE F. BUCK

HENRY WOLCOTT BUCK
1931-1965

ROBINSON D. BUCK
1935-1959

COMM. 6306-99.

May 1, 1980

Mr. Harry Friedman, Chairman
Planning & Zoning Commission
Town Of Ellington
Town Hall
Ellington, Connecticut, 06029

Reference: Knollwood Section B-3

Dear Mr. Friedman:

At your request, I have reviewed the subject re-subdivision plan dated January 6, 1979, with an undated revision which shows a 50' R.O.W. extending 350' westerly from Hayes Avenue along the north bound and then 495.5' southerly to the south bound. I submit the following comments.

I reported on this same plan in a letter to you on March 1, 1979. That report is still valid.

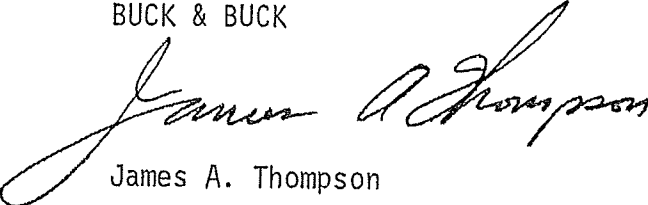
If the R.O.W. added to the subject plan is intended to become a future public road, it's location and configuration are entirely unsuitable. Furthermore, construction of a public road within that R.O.W. will not be possible without drainage rights onto the Rothe property.

With respect to the proposed subdivision itself, I note that there are no construction details of the proposed turn around, or details on sanitary disposal facilities for the lots. There is also a major drainage way that cuts across lots 2 & 3 for which no provisions have been made.

I recommend that the request for re-subdivision of Knollwood Section B-3, be denied.

Sincerely yours,

BUCK & BUCK



James A. Thompson

JAT/sm

cc: Atty. Atherton Ryan
Mrs. M. Miller, First Selectwoman
Gardner & Peterson Assoc.

Ryan and Ryan

ATTORNEYS AT LAW
46 WASHINGTON STREET
MIDDLETOWN, CONNECTICUT 06457
(203) 346-8663

DANIEL B. RYAN
HELEN F. RYAN
JAMES V. GUARINO
PATRICIA C. FARRELL
John L. Boccalatte

EAST HAMPTON OFFICE
THE T.S. BROWN BUILDING
EAST HIGH STREET (ROUTE 66)
EAST HAMPTON, CONN. 06424
(203) 267-4155

PLEASE REPLY TO:
P.O. Box 1238
Middletown

April 11, 1980

Ms. Joann Plickys, Clerk
Ellington Planning & Zoning Commission
55 Main Street
Ellington, Connecticut 06029

Re: Kupferschmid Subdivision

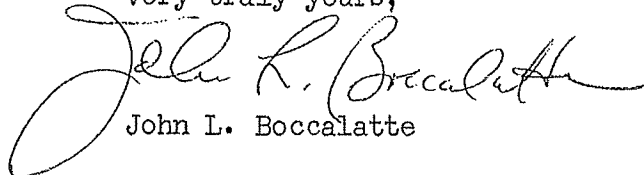
Dear Ms. Plickys,

This office has very recently been retained by Mr. Henry R. Rothe, Jr. of Windsorville Road, Ellington, Connecticut, for the purpose of investigating a possible legal claim to certain lands apparently involved in the above captioned subdivision as presently proposed.

As you know from our discussions at the Town Hall on Thursday, April 10, 1980, I have not had an opportunity to fully investigate this confusing matter. I am aware that there is scheduled for the April 14, 1980 meeting of the P. & Z. Commission some brief, informal discussion as to the proposed subdivision.

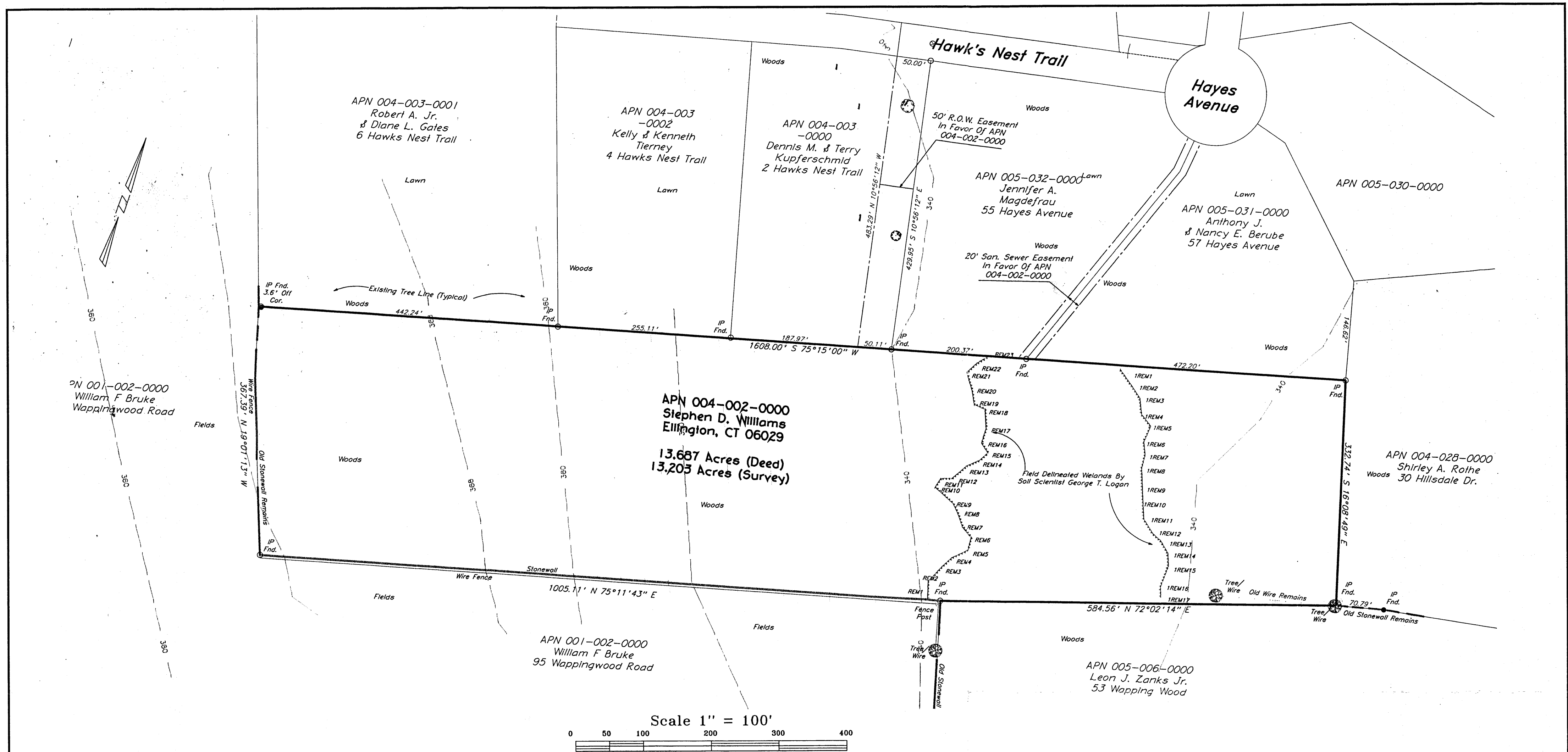
It is my intent in this letter only to put the Commission on notice that Mr. Rothe's claim may affect the propriety of any proposed subdivision plan in the Knollwood - Hillsdale Road - Tripp Road area.

Very truly yours,


John L. Boccalatte

JLB/csb

cc: Henry R. Rothe, Jr.



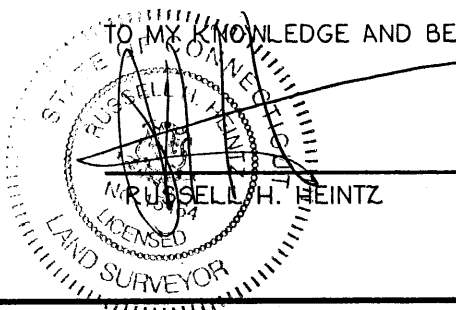
I HAVE REVIEWED THIS PLAN AND FIND THAT THE WETLAND BOUNDARIES DEPICTED HEREIN SUBSTANTIALLY REFLECT THE WETLAND DELINEATIONS CONDUCTED IN THE FIELD IN ACCORDANCE WITH THE CONNECTICUT GENERAL STATUTES, IN APRIL OF 2022.

George T. Logan DATE: 7/19/2022

GEORGE T. LOGAN, MS, PWS, CSE
REGISTERED SOIL SCIENTIST
CERTIFIED PROFESSIONAL WETLAND SCIENTIST

NOTE: THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300b-1 THRU 20-300b-20 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES - "MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ENDORSED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. IT IS A PERIMETER SURVEY BASED ON A DEPENDENT/RESURVEY, CONFORMING TO HORIZONTAL ACCURACY CLASS "A-2", VERTICAL ACCURACY CLASS "D".

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.



L.S. 15464
REGISTRATION NO.

5-30-22
DATE

NOTES: 1. PARCEL APN 004-002-0000 PER VOL. 50 PG. 648, VOL. 32 PG. 518 AND VOL. 21 PG. 21 IS ENCUMBER "WITH A HIGHWAY LAID OVER SAID PREMISES" AS RECORDED.

2. TOPOGRAPHY TAKEN FROM "ELLINGTONCT.MAPGEO.ID."

MAP REFERENCE:

- 1) "PLAN OF LAND OF MR. BERMART SURVEYED JAN. 23-28-31-FEB. 7-8, 1908 CONTAINING BY CALCULATION 113 ACRES + 24 SQ. RODS SCALE 3/16 INCH = 1 CHAIN C.H. BANCROFT, SURVEYOR."
- 2) "MAP SHOWING LAND OF ANNA ZANKS TOWN OF ELLINGTON, CONN. SCALE: 1"=50' CERTIFIED SUBSTANTIALLY CORRECT EVERETT O. GARDNER L S 4395 JULY 20, 1964 ROCKVILLE, CONN."
- 3) "SUBDIVISION PLAN KNOLLWOOD SECTION B-3 TOWN OF ELLINGTON, CONNECTICUT OWNER: DENNIS M. KUPFERSCHMID, ET UX GARDNER & PETERSON ASSOC. 576 OLD POST ROAD TOLLAND TOLLAND CONNECTICUT PROFESSIONAL ENGINEER LAND SURVEYOR SCALE: 1"=100' DATE: 4-22-80 SHEET 10F 1 MAP # 4759 REVISED 7-14-80."
- 4) "PARCEL OF LAND OF HENRY R. ROTHE, JR. ELLINGTON, CONN. ALFRED E. SCHINDLER LAND SURVEYOR ELLINGTON, CONNECTICUT DRAW BY: A.E.S. SCALE: 1"= 100' DATE: 5/19/80 JOB NO. 768-1."
- 5) "RESUBDIVISION PLAN PREPARED FOR DENNIS AND TERRY KUPFERSCHMID # 53 HAYES AVENUE ELLINGTON, CONNECTICUT OWNER/APPLICANT: DENNIS AND TERRY KUPFERSCHMID # 53 HAYES AVENUE ELLINGTON, CONNECTICUT ENGINEERS & SURVEYORS TARBELL HEINTZ & ASSOC., INC. 1227 BURNSIDE AVE. SUITE 8A EAST HARTFORD, CT. SCALE: AS SHOWN DATED 6-27-17 SHEET 1 OF 3."

TOPOGRAPHICAL PLAN

PERIMETER BOUNDARY SURVEY
PREPARED FOR

STEPHEN D. WILLIAMS
HAWKS NEST TRAIL/HAYES AVENUE
ELLINGTON, CONNECTICUT

TARBELL, HEINTZ & ASSOC., INC.
CIVIL ENGINEERS - LAND SURVEYORS

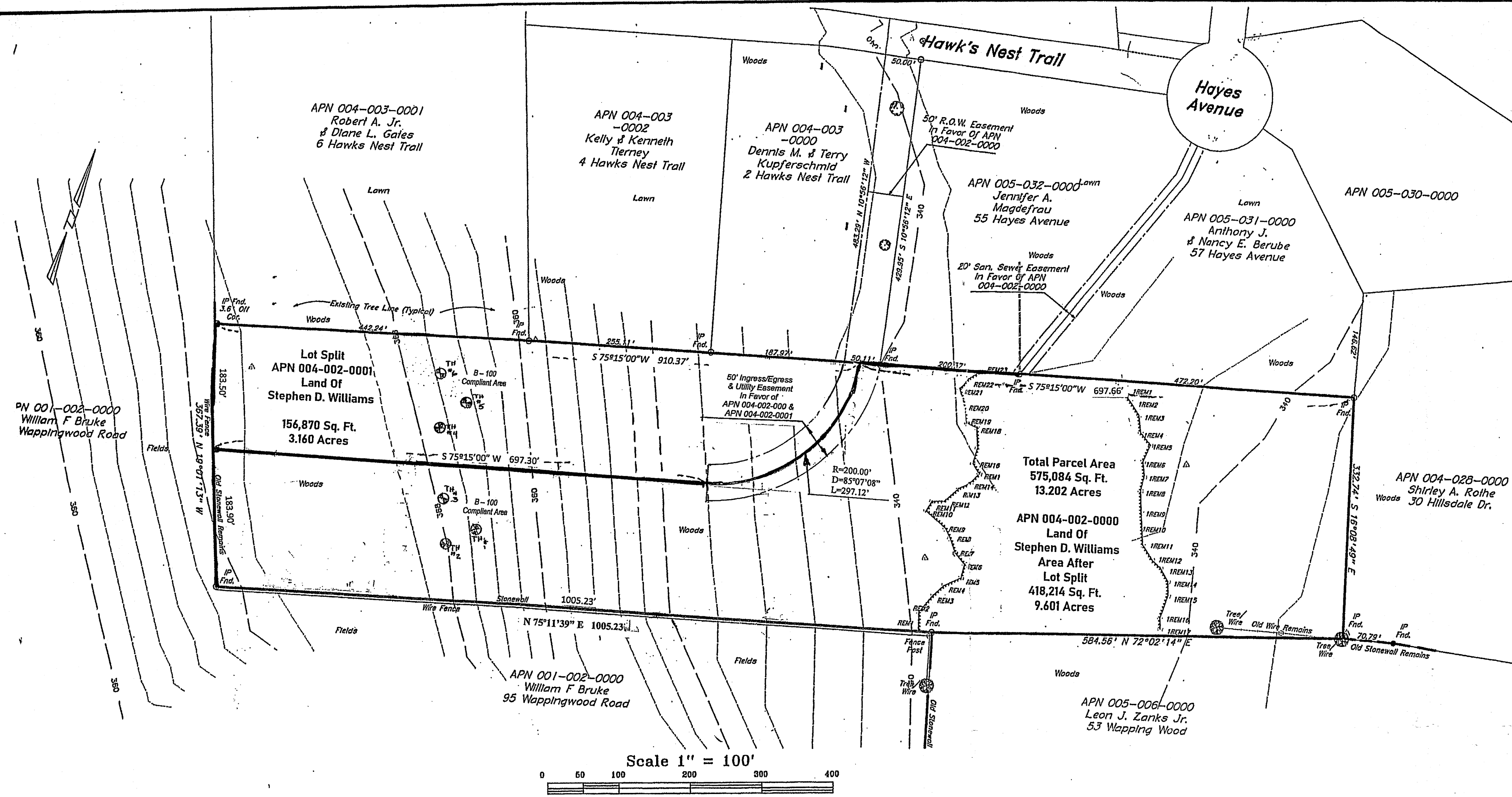
1227 BURNSIDE AVE. SUITE 8A, EAST HARTFORD, CT (860) 528-1810

JOB NO. 1768-TOM	DATE: 5-30-22	SCALE: 1" = 100'	DRAWN BY rhh	SHEET NO: 2 OF 2
---------------------	------------------	---------------------	-----------------	---------------------

RECEIVED

OCT 31 2023

TOWN OF ELLINGTON
PLANNING DEPARTMENT



NOTES: 1. PARCEL APN 004-002-0000 PER VOL. 50 PG. 64B, VOL. 32 PG. 51B AND VOL. 21 PG. 21 IS ENCUMBER "WITH A HIGHWAY LAID OVER SAID PREMISES" AS RECORDED.
2. TOPOGRAPHY TAKEN FROM "ELLINGTONCT.MAPGEO.ID."

MAP REFERENCE:
1) "PLAN OF LAND OF MR. BERMART SURVEYED JAN. 23-28-31-FEB. 7-8, 1908 CONTAINING BY CALCULATION 113 ACRES + 24 SQ. RODS SCALE 3/16 INCH = 1 CHAIN C.H. BANCROFT, SURVEYOR."
2) "MAP SHOWING LAND OF ANNA ZANKS TOWN OF ELLINGTON, CONN. SCALE: 1"=50' CERTIFIED SUBSTANTIALLY CORRECT EVERETT O. GARDNER L.S. 4395 JULY 20, 1984 ROCKVILLE, CONN."
3) "SUBDIVISION PLAN KNOLLWOOD SECTION B-3 TOWN OF ELLINGTON, CONNECTICUT OWNER: DENNIS M. KUPFERSCHMID, ET UX GARDNER & PETERSON ASSOC. 578 OLD POST ROAD TOLLAND TOLLAND CONNECTICUT PROFESSIONAL ENGINEER LAND SURVEYOR SCALE: 1"=100' DATE: 4-22-80 SHEET 1 OF 1 MAP # 4759 REVISED 7-14-80."
4) "PARCEL OF LAND OF HENRY R. ROTHE, JR. ELLINGTON, CONN. ALFRED E. SCHINDLER LAND SURVEYOR ELLINGTON, CONNECTICUT DRAW BY: A.E.S. SCALE: 1"= 100' DATE: 5/19/80 JOB NO. 788-1."
5) "RESUBDIVISION PLAN PREPARED FOR DENNIS AND TERRY KUPFERSCHMID # 53 HAYES AVENUE ELLINGTON, CONNECTICUT OWNER/APPLICANT: DENNIS AND TERRY KUPFERSCHMID # 53 HAYES AVENUE ELLINGTON, CONNECTICUT ENGINEERS & SURVEYORS TARBELL HEINTZ & ASSOC, INC. 1227 BURNBIDE AVE, SUITE 8A EAST HARTFORD, CT. SCALE: AS SHOWN DATED 6-27-17 SHEET 1 OF 3."

NOTE: THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300b-1 THRU 20-300b-20 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES - "MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ENDORSED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. IT IS A PERIMETER SURVEY BASED ON A DEPENDENT/RESURVEY, CONFORMING TO HORIZONTAL ACCURACY CLASS "A-2", VERTICAL ACCURACY CLASS "T-D".

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

L.S. 15464
REGISTRATION NO.
DATE 7-12-23

APN 004-002-0000 - LOT SPLIT
PERIMETER BOUNDARY SURVEY
Prepared For
STEPHEN D. WILLIAMS
HAWKS NEST TRAIL/HAYES AVENUE
ELLINGTON, CONNECTICUT

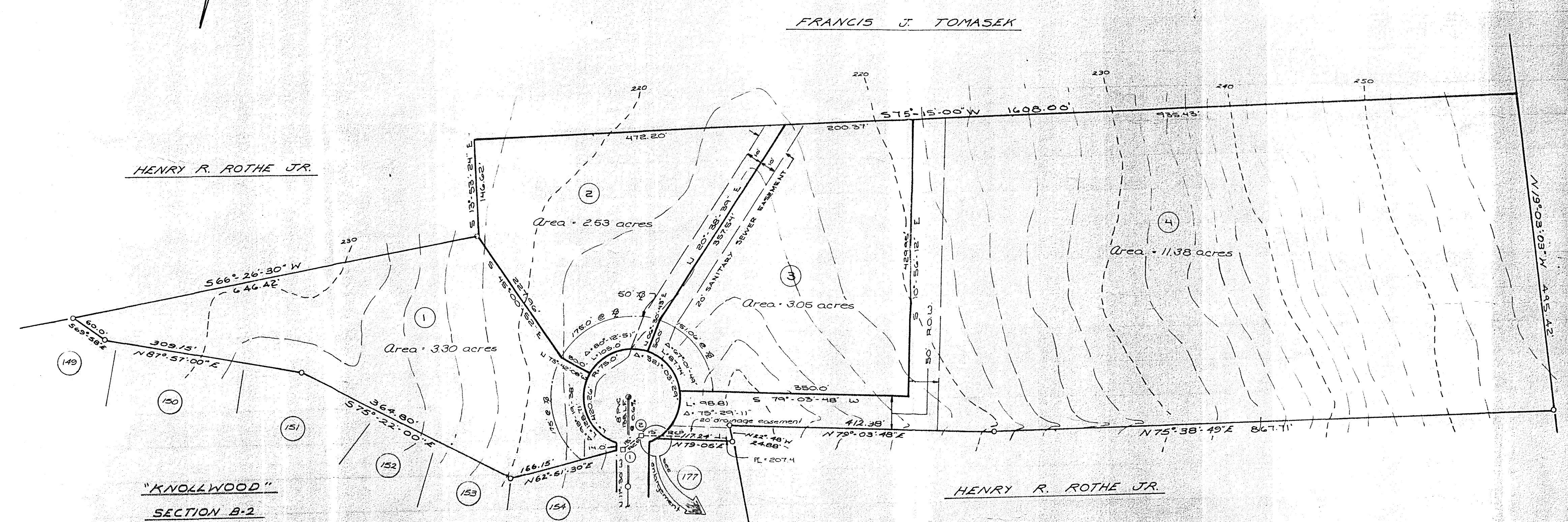
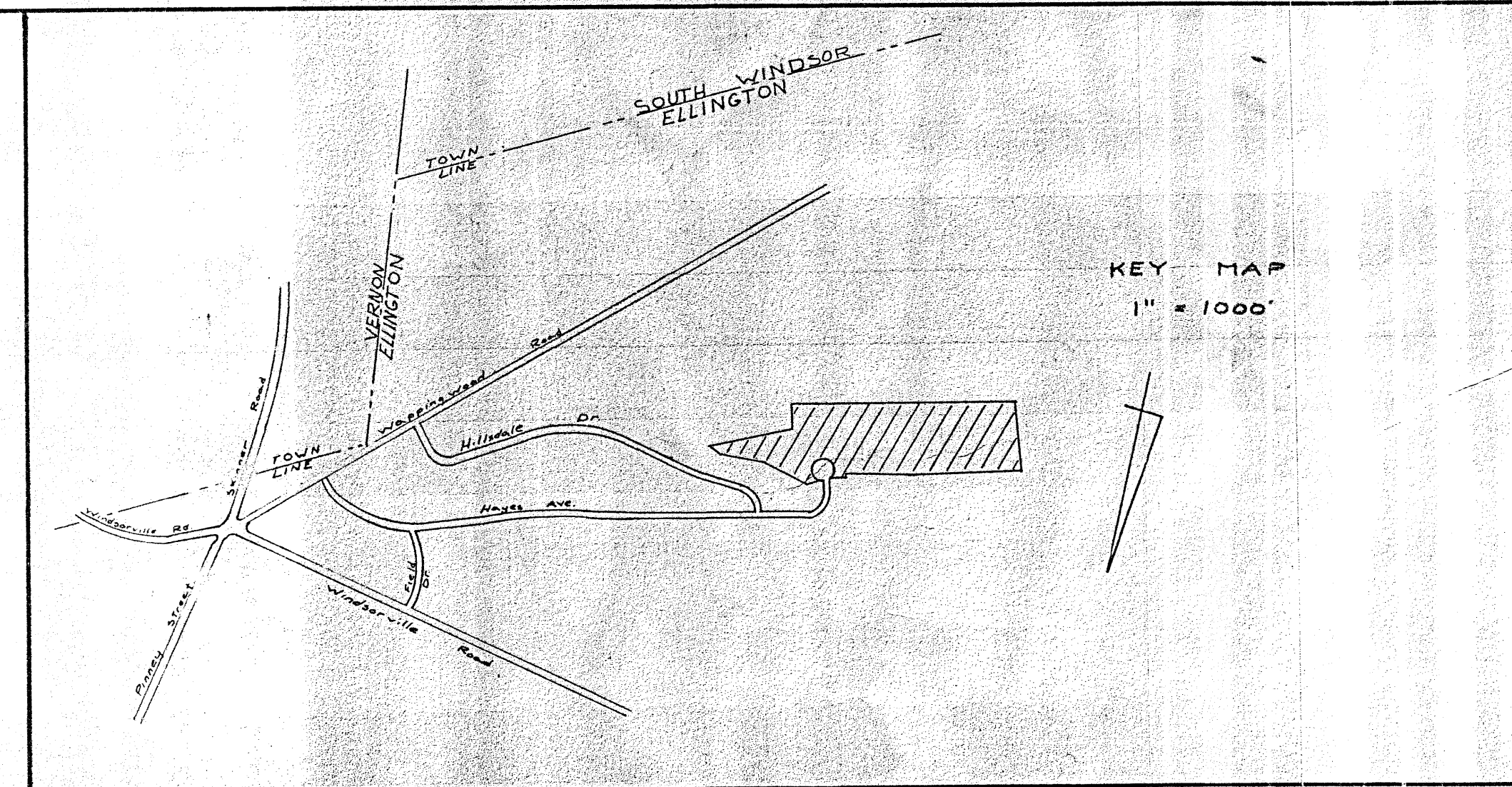
Russell H. Heintz L.S.
Land Surveying - Consulting - Planning
50 Spak Road Willington, CT 06279 (860) 798-6160
Email: mthel@aol.com - rmanus@gmail.com

Job No: 1768.TOM.SPLIT
Date: 7-12-23
Scale: 1" = 100'
Drawn By: RHH
Sheet: 1 of 1

THIS MAP PRODUCED BY
ORIGINAL INK DRAWING
ON MYLAR
PRODUCED BY
ACTION BLUE PRINT
284 BROAD ST.
MANCHESTER, CT 06040

RECEIVED
OCT 31 2023
TOWN OF ELLINGTON
PLANNING DEPARTMENT

575 Windsor Road

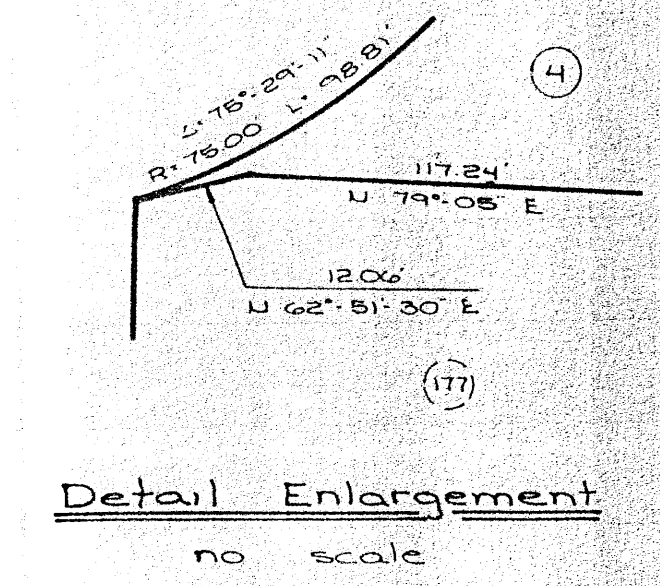


NOTES:
TOTAL AREA: 20.26 ACRES
ZONE: AA-RESIDENCE
IRON PINS TO BE SET AT ALL LOT CORNERS
LOTS TO BE SERVED BY PUBLIC WATER SUPPLY

- LEGEND
- EXISTING CATCH BASIN
 - EXISTING SANITARY MANHOLE
 - PROPOSED SANITARY MANHOLE

APPROVED BY THE
ELLINGTON PLANNING AND ZONING COMMISSION
Harry Friedman CHAIRMAN DATE 7-21-80

SECRETARY



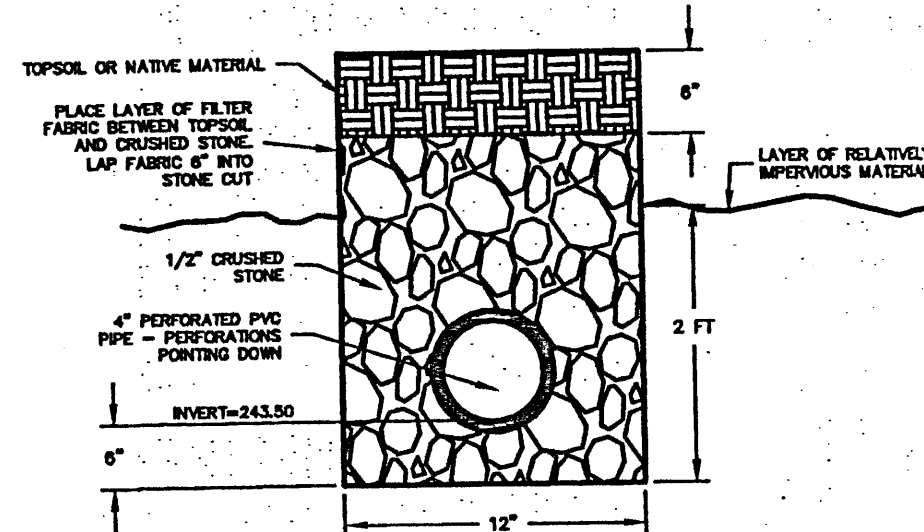
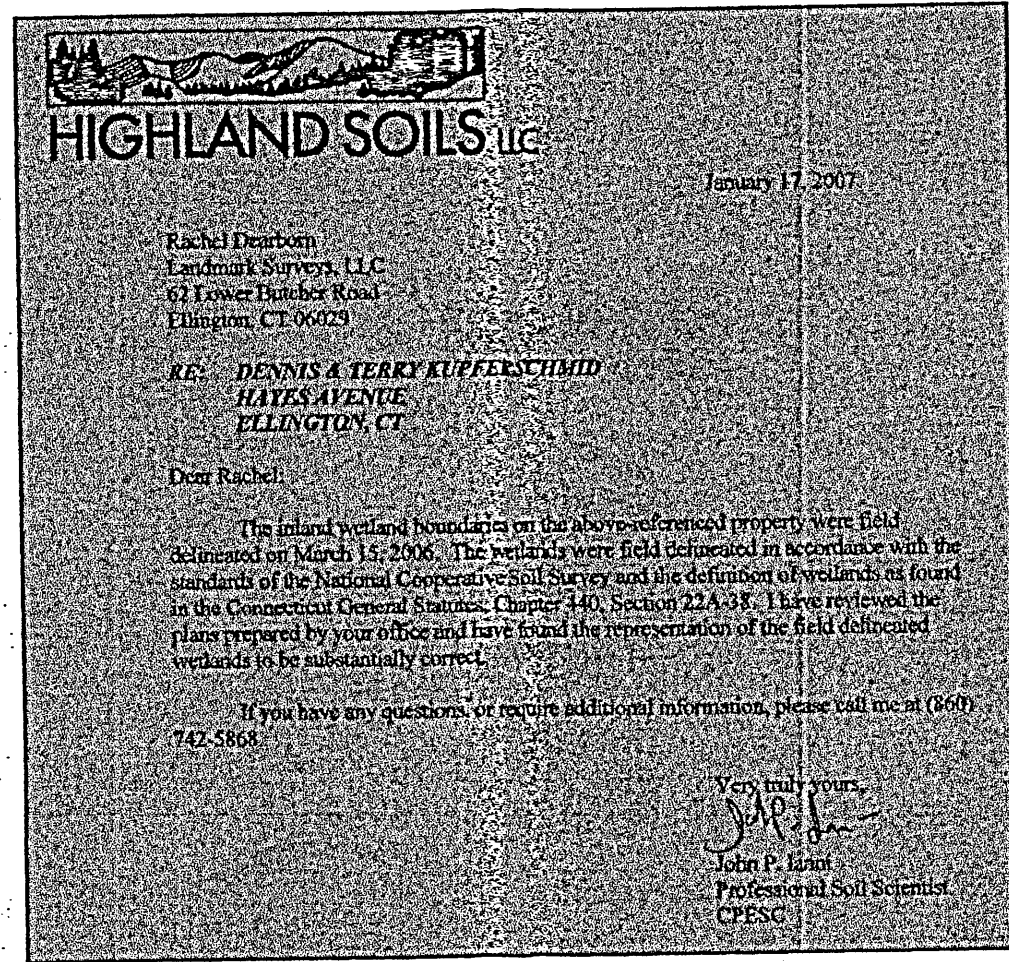
I hereby certify this to be a true copy of
the Document on file in the office of the
Ellington Town Clerk
Date Feb 15 20 22
Danna G. Kopy
Asst. Town Clerk

Received July 21, 1980 at 11:32 a.m.
Attest: *Dorothy B. Mac Intosh*
Town Clerk

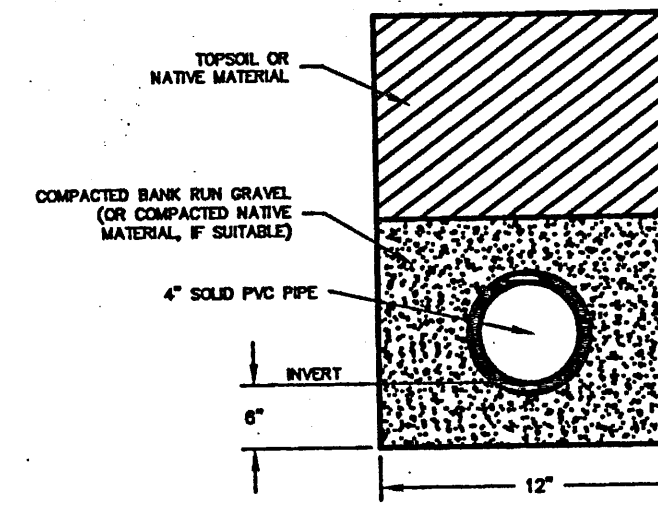
PLANNING
EXHIBIT
3
NO.

CERTIFIED SUBSTANTIALLY CORRECT
CLASS A-2
Harold R. Peterson LS 10839

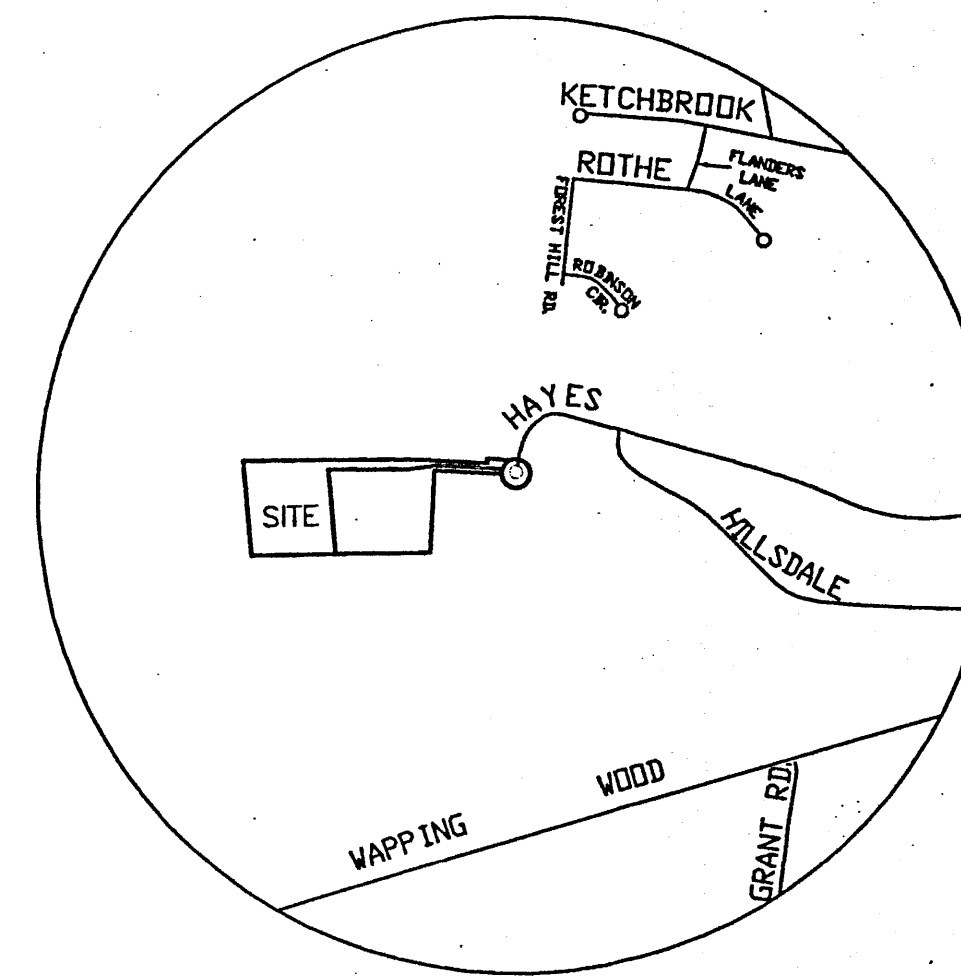
SUBDIVISION PLAN KNOLLWOOD SECTION B-3 TOWN OF ELLINGTON, CONNECTICUT	
OWNER: DENNIS M. KUPFERSCHMID ET UX.	
GARDNER & PETERSON ASSOCIATES 576 OLD POST ROAD TOLLAND, CONNECTICUT PROFESSIONAL ENGINEERS LAND SURVEYORS	
BY	SCALE
	1" = 100'
DATE	4-22-80
SHEET NO.	1 OF 1
MAP NO.	4759



CURTAIN DRAIN DETAIL
(NOT TO SCALE)



OUTLET PIPE DETAIL
(NOT TO SCALE)



LOCATION PLAN 1"=1000'

N/F KAREN
PIZZITOLA
51 HAYES AVENUE
A.P.N.#008-047-0000

HAYES AVENUE

N/F MATTHEW
CHAPMAN
TRIPP ROAD
A.P.N.#007-001-0000

N/F EDWARD, JEAN AND EDWARD JR ROTHE
50 TRIPP ROAD
A.P.N.#008-001-0000

N/F JENNIFER A MAGDEFRAU
55 HAYES AVENUE
A.P.N.#005-032-0000

N/F WILLIAM &
CHRISTA BURKE
95 WAPPING WOOD ROAD
A.P.N.#001-002-0000

LOT 2 CONTAINS
255,458 S.F. OR
5.86 ACRES
53 1/2 HAYES AVENUE
A.P.N.#004-003-0001

LOT 1 CONTAINS
240,068 S.F. OR
5.51 ACRES
A.P.N.#004-003-0000
53 HAYES AVENUE

ENTIRE PARCEL CONTAINS:
495,526 S.F. OR
11.37 ACRES

N/F FRANCIS J TOMASEK
TRIPP ROAD
A.P.N.#004-002-0000

NOTES:

- THIS SURVEY HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300b THRU 20-300b-20 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES - "MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT". IT IS AN IMPROVEMENT LOCATION SURVEY BASED UPON A RESURVEY CONFORMING TO HORIZONTAL ACCURACY CLASS A-2.
- BOUNDARY INFORMATION SHOWN HEREON IS BASED ON THE FOLLOWING SURVEYS:
A. "SUBDIVISION PLAN KNOLLWOOD SECTION B-3 TOWN OF ELLINGTON, CONNECTICUT OWNER: DENNIS M. KUPFERSCHMID ET. UX. GARDNER & PETERSON ASSOCIATES SCALE 1"=100' DATE 4-22-80 SHEET NO. 1 OF 1 MAP NO. 4759"
B. "AS BUILT LOT 4 'KNOLLWOOD' SECTION B-3 PREPARED FOR DENNIS & TERRY KUPFERSCHMID GARDNER & PETERSON ASSOCIATES BY RHH SCALE 1"=40' DATE 1/17/83 SHEET NO. 1 OF 1 MAP NO. 4759-4A"
- PROPERTY IS LOCATED IN AA RESIDENCE ZONE.
- LOT 1 IS SERVICED BY PUBLIC WATER AND SEWER.
- OPEN SPACE - 10% FEE IN LIEU OF IN THE AMOUNT OF \$13,700.00 BE DIVIDED BETWEEN THE TWO LOTS. A FEE OF \$6850 IS DUE AT THE TIME OF CONVEYANCE OF BOTH LOT 1 & 2.
- ACCORDING TO 2007 TOWN OF ELLINGTON ZONING REGULATIONS SECTION 7.9.C BOTH LOTS 1 & 2 FOR-FUTURE DIVISION INTO ADDITION BUILDING LOTS DUE TO THE DECREASE OF THE ACCESS STRIP TO A MINIMUM 25' AS REQUIRED FOR EACH REAR LOT.
- BOTH SIDES OF THE DRIVEWAY TO REMAIN WOODED AREA. AT LEAST TWO TREES 6" OR LARGE WILL BE MARKED TO REMAIN STANDING POST CONSTRUCTION.

RECEIVED
OCT 31 2009

Rec'd June 24, 2009
Diane McKegan, P.C.
H-1004

ENGINEER: JOSEPH E. WARD, P.E.
1200 CONVERSE STREET
LONGMEADOW, MA 01108
TELEPHONE: (413) 567-6560

RESUBDIVISION PLAN

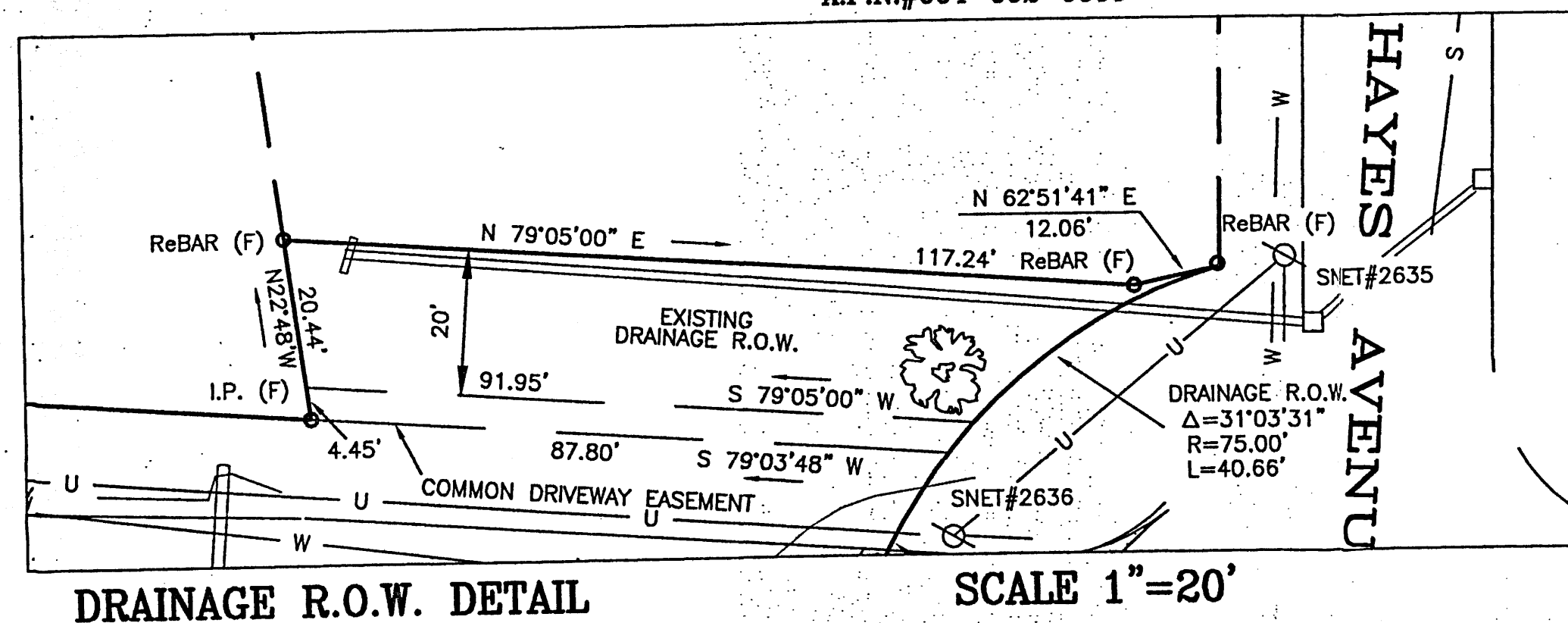
IMPROVEMENT LOCATION SURVEY
PREPARED FOR
DENNIS & TERRY KUPFERSCHMID
53 HAYES AVENUE
ELLINGTON, CONNECTICUT

LANDMARK SURVEYS, LLC
62 LOWER BUTCHER RD ~ 860-875-8204
ELLINGTON, CONNECTICUT

DRAWN BY: M.O.H. SCALE: 1"=50' DATE: 11/7/07 JOB NO.: 20509-10 SHEET NO.: 1 OF 3

LEGEND:
IRON PIPE FOUND
REINFORCING BAR FOUND
REINFORCING BAR SET
UTILITY POLE
CATCH BASIN
TOP OF FRAME
INVERT
MANHOLE
FIRST FLOOR
TOP OF WALL
BASEMENT FLOOR
GARAGE FLOOR
SEWER LINE
WATER LINE
GAS LINE
UTILITY LINE
EXISTING CONTOUR
EXISTING ELEVATION

1"=50'
0 50 100 150 200 FEET
0 25 50 100 150 METERS

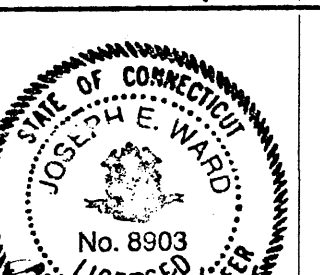
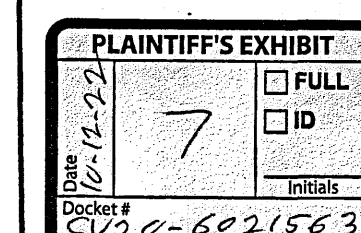


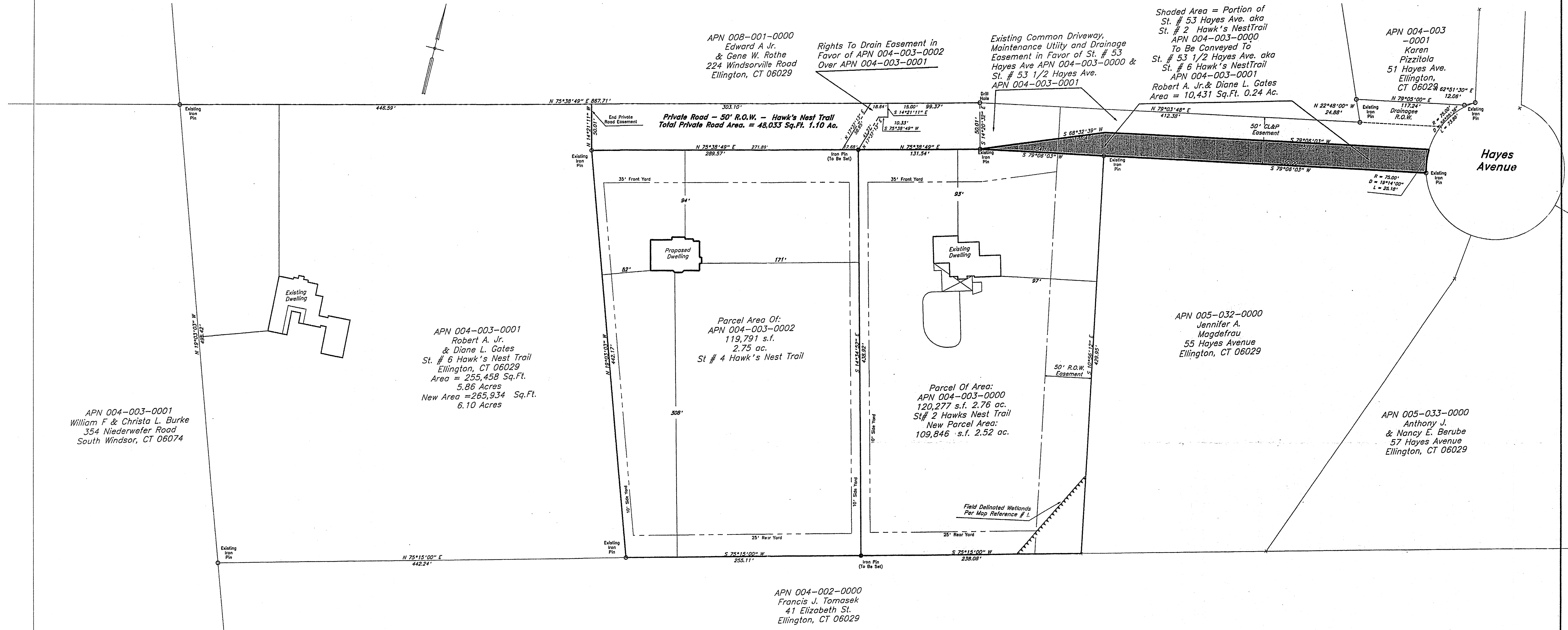
DRAINAGE R.O.W. DETAIL

SCALE 1"=20'

APPROVED BY THE TOWN OF ELLINGTON PLANNING AND ZONING COMMISSION OF THE TOWN OF ELLINGTON ON THIS 27th DAY OF April 2009.
IN ACCORDANCE WITH SECTION 8-26C OF THE CONNECTICUT GENERAL STATUTES, ALL WORK IN CONNECTION WITH SUBDIVISION MUST BE COMPLETE BY April 27, 2014.

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON
Mark D. Hoffman, Licensed Land Surveyor
DATE: 4/14/08 LICENSE NO.: 14439





Received for record June 29, 2018
at 11:41 a.m.
Attest: Donna G. Hoxey, Asst. TC
H-1353

Approved by the Ellington P&Z Commission
Date Approved Nov 27, 2017 Date of Expiration Nov 27, 2021
Carl Hoffman 6/30/2018 Chairman/Secretary
Date Signed

I hereby certify this to be a true copy of
the Document on file in the office of the
Ellington Town Clerk
Date: Oct 11, 2022
Donna G. Hoxey
Asst. Town Clerk

NOTE: THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS
20-300b-1 THRU 20-300b-20 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES -
"MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS
ENDORSED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. IT IS A
SITE SURVEY BASED ON S DEPENDENT RESURVEY, CONFORMING TO HORIZONTAL
ACCURACY CLASS "A-2" AND IS TO BE USED FOR SUBDIVISION APPROVAL AND LAND
CONVEYANCE.
STATE OF CONNECTICUT
LAND SURVEYORS
REGISTERED PROFESSIONAL LAND SURVEYOR
H. HEINTZ
L.S. 15464
REGISTRATION NO.
6-27-17
DATE

RESUBDIVISION PLAN				
PREPARED FOR				
DENNIS & TERRY KUPFERSCHMID				
53 HAYES AVENUE ELLINGTON, CONNECTICUT				
TARBELL, HEINTZ & ASSOC., INC. CIVIL ENGINEERS - LAND SURVEYORS				
1227 BURNSIDE AVE. SUITE 8A, EAST HARTFORD, CT (860) 528-1810				
JOB NO.	DATE	SCALE	DRAWN BY	SHEET NO.
1768	6-27-17	1" = 50'	rh	2 OF 3

THIS MAP PRODUCED BY
ORIGINAL LNK DRAWING
ACTION BLUE PRINT
MANCHESTER, CT 06040



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

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

ZONING BOARD OF APPEALS REGULAR MEETING MINUTES MONDAY, OCTOBER 2, 2023, 7:00 PM

IN PERSON ATTENDANCE: TOWN HALL ANNEX, 57 MAIN STREET, ELLINGTON, CT
REMOTE ATTENDANCE: ZOOM MEETING
(ATTENDEES BELOW WERE IN PERSON UNLESS OTHERWISE NOTED)

PRESENT: Chairman Art Aube, Vice Chairman Sulakshana Thanvanthri, Regular members Ken Braga, Subhra Roy and Alternates Rodger Hosig and Ron Stomberg (arrived 7:13 pm)

ABSENT: Regular member Katherine Heminway and Alternate Ron Brown

STAFF

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

I. CALL TO ORDER: Chairman Art Aube called the Zoning Board of Appeals (ZBA) meeting to order at 7:00 pm.

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

III. PUBLIC HEARINGS:

1. V202310 – Beth Gottier, owner/ Bruce Gottier, applicant, request for variances of the Ellington Zoning Regulations Section 3.2.3 – Minimum Yard Setback: to reduce the northern side yard setback from 10ft to 8ft, the southern side yard setback from 10ft to 9ft, and the front yard setback from 35ft to 9ft; and Section 3.2.4.2 – Maximum Lot Coverage: to increase lot coverage to from 25% to 27% to rebuild an existing home and add a one-car garage at 14 Private Grounds 1, APN 148-062-0000 in a Lake Residential (LR) zone.

Time: 7:01 pm

Seated: Aube, Thanvanthri, Braga, Roy and Hosig

Beth Gottier, 244 Windsorville Road and was present to represent the application.

Beth Gottier stated she recently purchased the house and would like to rebuild the dwelling and add a one-car attached garage. Beth stated a couple of changes have been made to the site plan since the original submission. Beth provided the revised plans to the Board. Beth noted there will be a right of way easement on the property which has been moved on the revised plan dated October 2, 2023, by Gardner & Peterson Associates, LLC.

Beth explained the overall lot is non-conforming and they are planning to rebuild the dwelling on the existing foundation. The northern boundary setback requirement is 10 feet and the proposed dwelling with the overhang will extend out to 8 feet. The southern side boundary

setback currently is at 6.6 feet where the stairs are located, but the stairs will be removed with the new plan and the dwelling will be 9 feet from the southern property line.

Beth showed the Board the front property line of the parcel, which is oddly shaped and does not curve with the existing road. Beth noted the front yard setback requirement is 35 feet and the proposed garage will be 26 feet from the existing road, although with the oddly shaped front property line the request is for a 10-foot front yard setback.

Vice Chairman Thanvanthri asked Beth Gottier if the increase in lot coverage is still being requested. Beth noted they revised the plan and will be at 23% lot coverage, so they no longer are requesting a variance for a lot coverage increase.

Chairman Aube asked if the house will be 38' x 18' plus the stairs and a new foundation for the garage, Beth agreed. John Colonese stated the project will need North Central District Health Department's approval.

MOVE (BRAGA), SECONDED (ROY) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202310.

MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO APPROVE W/CONDITION(S) V202310 – Beth Gottier, owner/ Bruce Gottier, applicant, request for variances of the Ellington Zoning Regulations Section 3.2.3 – Minimum Yard Setback: to reduce the northern side yard setback from 10ft to 8ft, the southern side yard setback from 10ft to 9ft, and the front yard setback from 35ft to 9ft to rebuild an existing home and add a one-car garage at 14 Private Grounds 1, APN 148-062-0000 in a Lake Residential (LR) zone.

Condition(s):

- Health Department approval shall be required prior to issuance of a zoning permit.

Hardship: Lot configuration

IV. ADMINISTRATIVE BUSINESS:

1. Approval of the September 11, 2023, Regular Meeting Minutes.

MOVED (BRAGA), SECONDED (THANVANTHRI) AND PASSED UNANIMOUSLY TO APPROVE SEPTEMBER 11, 2023, REGULAR MEETING MINUTES AS WRITTEN.

2. Correspondence/Discussion:

- a. FEMA draft data review notice to Town of Ellington dated September 27, 2023, in the Thames and Shetucket Watersheds.

John Colonese stated he attended a Federal Emergency Management Agency (FEMA) work map meeting on June 20, 2023, and worked with the town's GIS consultant to overlay FEMA draft map data on an aerial view around Crystal Lake. The Thames and Shetucket Watershed in Ellington is generally east of Crystal Lake School. John completed a cursory review of the draft map, and some properties may now have a Special Flood Hazard Area designation. The information will be sent to the Town Engineer for review. John will update the Board with additional information from FEMA as it becomes available.

3. Commissioner training pursuant to Public Act 21-29.

This item was tabled to next month's meeting.

V. ADJOURNMENT:

**MOVED (BRAGA), SECONDED (HOSIG) AND PASSED UNANIMOUSLY TO ADJOURN
THE ZBA MEETING AT 7:28 PM.**

Respectfully submitted,

Barbra Galovich, Recording Clerk

STATE OF CONNECTICUT – COUNTY OF TOLLAND
INCORPORATED 1786



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ZONING BOARD OF APPEALS DRAFT - 2024 MEETING SCHEDULE

All meetings are held in the Town Hall Annex at 7:00 PM

1/08

2/05

3/04

4/01

5/06

6/03

7/01

8/05

9/09

10/07

11/04

12/02