

# **TOWN OF EAST WINDSOR ZONING BOARD OF APPEALS**

## **REGULAR MEETING**

**Monday, November 8, 2021  
7:00 p.m.**

Meeting available via remote ZOOM Teleconference  
Meeting ID: 714 897 1799

### **Meeting Minutes**

*\*\*\* These Minutes are not official until approved at a subsequent meeting\*\*\**

#### **Zoning Board of Appeals**

Jose Giner, Chairman  
Nolan Davis, Vice Chairman  
Mystica Davis  
Dan Noble  
Steve Smith  
Kurt Kebschuell

**ATTENDANCE:** Director of Planning and Development/Zoning Enforcement Officer Ruthanne Calabrese hosted the remote meeting. Also in attendance for a portion of the meeting was Planning Consultant Michael D'Amato. Chairman Jose Giner, Vice Chairman Nolan Davis, Commissioner Mystica Davis, Commissioner Steve Smith, and Altrnate Commissionr Kurt Kebscull were present at the Call to Order.

**ABSENT:** Commissioner Dan Noble did not attend.

**GUESTS/SPEAKERS signing in to teleconference remotely:** Rick and Laurie Zitkus, Joe, Cheryl French, Joseph Flynn, Attorney for Mark O'Neill/Hamlet Homes/Harvest View Subdivision, Mark O'Neill, developer for Hamlet Homes/Harvest View Subdivision; sudvidision; Jsc4erry (Jerry) Rudolf, Selechman Muska, Selectman Nordell.

#### **I. TIME AND PLACE OF MEETING:**

Chairman Giner called the November 8, 2021 Regular Meeting of the East Windsor Zoning Board of Appeals to Order at 7:02 p.m. via remote access..

#### **II. ESTABLISH A QUORUM:**

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Chairman Giner requested Town Planner Calabrese call the roll of members present via remote access. Town Planner Calabrese called the roll as follows:

Jose Giner – here  
Steve Smith - here  
Nolan Davis - here  
Mystica Davis – here  
Kurt Kebschull – here  
Dan Noble - absent

Chairman Giner noted the Board has established a quorum with four Regular members and one Alternate Member present remotely at the Call to Order.

Chairman Giner described the process for this application, which will be a presentation made by the applicant, followed by Commission questions, and public input. The Board will close the Public Hearing, and a vote on the application presented will follow. According to State Statutes the Board needs a 4 to 1 vote to approve the variance. If the vote was 3 to 2 the variance would fail.

**III. PLEDGE OF ALLEGIANCE:**

Chairman Giner led the Board in the Pledge of Allegiance.

**IV. NEW HEARINGS:**

**ZBA-2021-05 Applicant/Owner: Town of East Windsor.** Request for 12 variances on property consisting of 16 single-family homes located on South and Phelps Road and more particularly described as MBL: 042-20-053, A-1 Zone. Variances to Section 401 of the East Windsor Zoning Regulations concerning Bulk and Area Requirements are being sought for all 16 individual dwellings as described below:  
(Application includes a table listing the standard bulk requirements):

Chairman Giner requested Town Planner Calabrese to read the Legal Notice for the record.

**LEGAL NOTICE**

**EAST WINDSOR ZONING BOARD OF APPEALS**

The East Windsor Zoning Board of Appeals will hold a public hearing on Monday, November 8<sup>th</sup> at 7:00 p.m. at the East Windsor Town Hall, 11 Rye Street, Broad Brook, CT to consider the following application:

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**ZBA-2021-05** Applicant/Owner: Town of East Windsor. Request for 12 variances on property consisting of 16 single-family homes located on South and Phelps Road and more particularly described as MBL: 042-20-053, A-1 Zone. Variances to Section 401 of the East Windsor Zoning Regulations concerning Bulk and Area Requirements are being sought for all 16 individual dwellings as described below:

Section 401 Standard	A-1 Zone Requirement	Variance Request
Frontage	175 ft	42ft
Lot Width	150 ft	42ft
Lot Depth	150 ft	65ft
Buildable Area	43,560 sf	6,300sf
Front Yard Setback	50 ft	20ft
Side Yard Setback	10 ft	3ft
Rear Yard Setback	30 ft	30ft
Density Factor	0.5	4.02
Building Coverage	15%	30%
Impervious Coverage	25%	40%
Access. Structure Rear	10ft	2ft
Access. Structure Side	10ft	2ft

A full copy of the application is available in the Planning & Development Office at East Windsor Town Hall and will be posted online with the Commission's Agenda at [www.eastwindsor-ct.gov](http://www.eastwindsor-ct.gov). At this meeting, interested persons may be heard and written communications received. Information for how to attend this meeting will be published on the Commissions' website and meeting agenda a minimum of 24 hours before the meeting.

Chairman Giner requested the applicant begin the presentation.

Planning Consultant D'Amato referenced his Staff memo dated November 4, 2021, noting that the Town is currently the owner of a property which was a former Federal Government development constructed in the 1950s; the property contains 16 single family homes situated on 4 acres. The parcel subsequently became a property managed by a non-profit organization. There were income restrictions so it was considered deed restricted properties. Upon foreclosure of the non-profit the Town became owner of the property. The Town owns the underlying land on which these 16 single family homes sit on.

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Planning Consultant D'Amato suggested the Town isn't set up to be, nor does it desire to be, a landlord, so the Planning Office has been working to divest the land on behalf of the Town and go through the subdivision process to have a more traditional subdivision where the homes will sit on what would be considered traditional lots.

Planning Consultant D'Amato reported that East Windsor currently has more than 10% of deed restricted housing, which is a target set by the State. During the last Legislature session the affordable restrictions were removed from the property. We are currently pursuing the subdivision process but because the parcels are what equates to four times what's allowed in the underlying zone we can't go through the subdivision process because we can't create compliant lots. They are non-conforming in regards to bulk standards in 12 ways, which was described in the table included in the Legal Notice. The goal is to get variances for all 16 homes sitting on the one parcel so they all have the same standards. We wanted to create uniformity within the development even though there are no other properties in East Windsor like this. Planning Consultant D'Amato suggested they didn't want to create inconsistencies within the 16 units for a number of reasons, both from an enforcement and design perspective, but they also wanted to create a community for the residents who live there that's useable.

The variance requests before the Board tonight have been derived from looking at the most non-conforming aspects of the property and using that as the request. That way, everything becomes conforming and there's some buffer in there if someone wants to install a shed or deck; there's some flexibility there.

Planning Consultant D'Amato cited they are asking for variances tonight. They believe that the property is unique for the following reasons:

- the property was built by the Federal Government
- the property subsequently went to a non-profit which was foreclosed on by the Town,
- the property is four times the density of any other property in Town,
- the property may have been built before zoning.

Planning Consultant D'Amato indicated for these reasons they think the property is unique and would meet the strict level of a variance by demonstrating a hardship exists. Planning Consultant D'Amato noted he's also referenced the case of Adolphson vs. the Fairfield ZBA which essentially says a ZBA can approve a variance without looking for a strict demonstration of hardship if the ZBA feels that it will result in a reduction of the non-conforming situation. Because this property is moving in the direction that the POCD and the Zoning Regulations envision even if certain things are non-conforming because it's going to be a reduction in the non-conformity you don't need to find that same strict level of scrutiny.

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Planning Consultant D'Amato concluded his presentation.

Chairman Giner noted he was the Planner when the Government gave up the property and it went to the non-profit. It was a good idea at the time to provide some level of affordable housing. The property was built by the U.S. Army, which didn't have to follow local Zoning Regulations. They had a number of these properties which they were divesting themselves of. Chairman Giner questioned if one motion, or multiple motions would be appropriate?

Planning Consultant D'Amato suggested that even though they're individual homes they are all known of as one map/block/lot. As long as the minutes reflect that you've discussed this and feel you're comfortable with all 12 then one motion would be appropriate. Town Planner Calabrese shared the bulk table on screen.

Chairman Giner polled the members for comments.

**Nolan Davis**, indicated he had no questions at this time.

**Mystica Davis**, indicated she had no comments at this moment.

**Steve Smith**, indicated he had no questions.

**Kurt Kebschull**, questioned if the residents have any say in this process?

Planning Consultant D'Amato noted the beginning of this process started with a community meeting with all of the residents, the First Selectmen's Office, Planning Consultant D'Amato, the Town Attorney, and Michael Sentora from the State Department of Housing. The residents were informed of this process. Planning Consultant D'Amato believes First Selectman Bowsza informed the residents of this meeting; he suggested the residents have been kept informed about the various stages of the process because the goal is for the project to work for the residents. Chairman Giner suggested there would be an opportunity for the public to speak. He questioned that they had all received notices regarding this proposal; Town Planner Calabrese replied affirmatively.

Chairman Giner queried the public for comments.

**Jerry Rudolph, 11 South Road**: Mr. Rudolph indicated they have been working with the Town for nearly five years; this is the culmination of five years of hard work for the Town, First Selectman Bowsza, and First Selectman Bob Maynard before him. The residents feel it will be beneficial not only for the residents but for the past several years when the Town has been collecting the rent and being responsible for everything outside the rooflines of our houses and it has cost the Town many thousands of dollars, which he's sure the Town would be glad to get rid of.

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**Selectman Nordell:** Addressing Planning Consultant D’Amato, Selectman Nordell questioned how the properties will be “labeled” for the future so 50 years down the road, these properties will have special boundaries and “special treatment”; how will our people know that? Will there be a special label assigned to these properties? Planning Consultant D’Amato indicated if this application is approved the Town Staff will have to file a Subdivision Plan in the Town Clerk’s Office which will lay out the lots and the extent of the property lines and set backs. He’s also recommended in his suggested conditions is that “the Certificate of Variance will be incorporated into a Variance Plan to be filed on the Land Records and that such Certificate and Plan shall include sufficient language ensuring that the variances granted clearly apply to each of the 16 individual lots.” We’re creating a trail in the Land Records so when Title Searches are done it will be clear that this is NOT a non-conformity situation. Chairman Giner concurred; all variances must be filed on the Land Records so in the future people will know the story of how these lots were created. The Minutes get filed with the Town Clerk as well; they’ll be a paper trail for Title Searchers going forward.

Town Planner Calabrese suggested Rick and Laurie Zitkus also raised their hand to speak. Mr. Zitkus indicated they’ve signed in for the second item on the agenda; he was just raising his arm earlier.

Chairman Giner noted he had to sign out of this meeting at 7:30 to attend another meeting; he asked if the Board was ready to close the Public Hearing?

**MOTION: To CLOSE THE HEARING on ZBA-2021-05 Applicant/Owner: Town of East Windsor. Request for 12 variances on property consisting of 16 single-family homes located on South and Phelps Road and more particularly described as MBL: 042-20-053, A-1 Zone. Variances to Section 401 of the East Windsor Zoning Regulations concerning Bulk and Area Requirements are being sought for all 16 individual dwellings as described in the Legal Notice.**

**Smith moved/Nolan Davis seconded/DISCUSSION:** None.

**VOTE: In Favor: Giner/Nolan Davis/Mystica Davis/Smith/Kebschull  
(No one opposed/No abstentions)**

Planning Consultant D’Amato shared his proposed motion with the Board.

Chairman Giner called for a motion.

**MOTION TO APPROVE:**

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**Application # ZBA 2021-05:** Applicant/Owner: Town of East Windsor. Request for 12 variances on property consisting of 16 single-family homes located on South and Phelps Road and more particularly described as MBL: 042-20-053, A-1 Zone.

This approval is granted subject to the conformance with the application materials (as may be modified by the Commission and this approval) and the following conditions/modifications.

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**Referenced Plans:** “Conceptual Subdivision Plan” Property of Town of East Windsor, South Rd. 10-22-2021. Prepared by J.R. Russo & Associates, LLC. Sheet 1 of 1.

**Findings:**

1. The Board finds that the applicant has adequately demonstrated that the unique and peculiar characteristics of this property and development warrant the approval of the requested variances.
2. The Board finds that the approval of the requested variances will result in an overall reduction in the non-conformities on the property as supported by CT Supreme Court

Case Adolphson v. Fairfield ZBA

**Conditions:**

1. The Certificate of Variance shall be incorporated into a “Variance Plan” to be filed on the land records. Such Certificate and Plan shall include sufficient language ensuring that the variances granted clearly apply to each of the 16 individual dwellings. The Certificate of Variance Plan shall be subject to review by the Town Attorney prior to filing.

**Nolan Davis moved/Kebschull seconded/DISCUSSION:** None.

<b>VOTE by rollcall:</b>	<b>In Favor:</b>	<b>Nolan Davis:</b>	<b>Aye</b>
		<b>Mystica Davis:</b>	<b>Aye</b>
		<b>Steve Smith:</b>	<b>Aye</b>
		<b>Kurt Kebschull:</b>	<b>Aye.</b>
		<b>Jose Giner:</b>	<b>Aye.</b>
	<b>Opposed:</b>	<b>No one</b>	
	<b>Abstained:</b>	<b>No one</b>	

Chairman Giner declared the motion passed 5 to 0.

Chairman Giner left this meeting at 7:28 p.m.; Vice Chairman Davis took over the Chair.

**IV. NEW HEARINGS:**

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**ZBA-2021-04 Application of Hamlet Homes, Mark O’Neill, for variance request of 45.8 feet where 50 feet is required per section 401 of the East Windsor Zoning Regulations” 18 Jessie Lane. (Map 050 Block 82 Lot 002-12), Zone R-3.**

Commissioner Kebschull read the Legal Notice.

Joining the Board to present this application was Attorney Joseph Flynn, of the law firm of Alfano and Flynn in Suffield, representing the applicant, Hamlet Homes/Mark O’Neill. Although most of the presentation was made by Attorney Flynn, Mark O’Neill offered assistance during discussion of the “maps”.

Attorney Flynn indicated the property under discussion is a fully constructed residential house located at 18 Jessie Lane, a/k/a Lot 12 of the Harvest View Subdivision (Hamlet Homes), which is a 22-lot residential subdivision. Lot 12 is a lot recently completed, and the client went in for a CO (Certificate of Occupancy). There were some complications, so they have submitted this request for a variance. Attorney Flynn suggested there is conflicting evidence, so they may not really have a “violation”; he suggested there is some concern as to the variance actually being needed.

Attorney Flynn noted their application included four exhibits numbered 1, 2A, 2B, and 3. Attorney Flynn directed the Board to Exhibit 2A, which shows the existing foundation on the parcel. He indicated Jessie Lane is a cul-de-sac. Attorney Flynn directed the Board to look at the lower right-hand corner of the foundation; he suggested they would see a line measured to 45.8 feet, which is the line from the southeasterly corner of the house to the outer edge of a sidewalk easement, which was part of the original subdivision approval 14 years ago.

Attorney Flynn indicated they’ve engaged an engineer who feels that the strict approach is what’s necessary. Attorney Flynn indicated the background on this subdivision is that the applicant started building on this subdivision 3 years ago. When they went back to the Town to implement the subdivision approval the Planning and Zoning Commission decided to accept a Fee-In-Lieu of sidewalks at each closing. They believe the sidewalk easement is no longer relevant in terms of measuring the setback. They feel that in accordance with the East Windsor Regulations the frontage setback is defined as a point that follows the normal course of access directly to the street.

Attorney Flynn referenced Exhibit 2B, which is an expansion of the map to show the measurement more easily – he suggested they were in excess of 50 feet if you just take the measurement closest to the street but eliminate the 5 foot sidewalk easement. Attorney Flynn indicated that when the As-Built was submitted there was a refusal to



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grant the CO on the basis that the 45.8 is less than 50 and therefore Staff felt they were stymied on taking any action. Attorney Flynn suggested they're in a conflict of time; they're looking to understand why the As-Built as submitted was denied showing the 45.8 feet to the sidewalk easement and not considering the fact that the 5 foot sidewalk easement is no longer in play, which would give them the 50 feet. Attorney Flynn is seeking guidance from the Board that, in accordance with your regulations, the line for measuring a frontage setback would be from the house along the access to the street line and not to a sidewalk line. They would therefore meet the 50 feet, and would also avoid having to consider a variance.

Attorney Flynn indicated he understood the lack of continuity of Planning staff and with a 14 year old subdivision you have different regulations at different times. He indicated they're in the middle of the advice of their engineer and the Planning staff as to what needs to be done regarding the denial of the CO. Attorney Flynn indicated their other option is to make the variance presentation.

Vice Chairman Davis asked Town Planner Calabrese if what Attorney Flynn is speaking of is something the ZBA can do? Town Planner Calabrese indicated the application before the Board is for a variance; she believed the Board can appeal a decision formally and get on the agenda to do that.

Town Planner Calabrese explained that when she received the As-Built drawing she then pulled out the approved Subdivision Plan, which is the plan used when the Zoning Permit was issued. That plan showed that the house was to be built at 50.5 feet off of the setback line, which is typically the property line. The permit application was approved to be at 50.5 feet from the setback line, which is also included in that map. When the As-Built came in the house was shown to be into that setback 45.8 feet rather than the 50 feet that was in the original document. Also, the plan came with a zoning bulk requirement block with a notation that showed that there was a variance of an encroachment into the setback, so, she couldn't sign off for the CO for Zoning.

Attorney Flynn questioned if an As-Built was presented to the street instead of to the easement area would that be sufficient? Vice Chairman Davis indicated Town Planner Calabrese could answer Attorney Flynn's question.

Town Planner Calabrese suggested the setbacks are from the front property line, which is 50 feet, which were drawn on the plans submitted for Zoning Permits; they were drawn on this plan as well. Town Planner Calabrese suggested she didn't feel setbacks are measured from an easement. Attorney Flynn questioned that they could use the street line; Town Planner Calabrese clarified that it would be the property line. Attorney Flynn suggested the street line and property line would be the same thing for their purposes. If

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you take it from the property line/street line then it would be over 50 feet. Town Planner Calabrese clarified she would have to see that because on the As-Built it looks like the 45.8 goes all the way to the “hard” line all around Jessie Lane.

Attorney Flynn indicated he’s relying on the engineer, who would only draw the 45.8, which is the outer edge of the easement. He referenced Exhibit 2A, which shows the easement as being 5 feet; he then read the notation as “45.8 measured to the back side of the eliminated sidewalk.” Attorney Flynn suggested if you measure it to the street you’re over 50 feet. Town Planner Calabrese suggested it would be the property line. Discussion followed regarding the interpretation of street line vs. property line.

Commissioner Smith asked if Town Planner Calabrese could clarify for him if the property line is defined as the “hard black line” from the street or the easement back from the sidewalk; he’s hearing two different terms. Attorney Flynn cited information online from the Zoning Regulations is the zoning definition of setback, as “the line parallel to the front property line ‘street line’”, at a distance equal to the required front yard. He also referenced information regarding cul-de-sacs, “for lots built on a public cul-de-sac, turn around, or outside curve of a public street, the lot frontage can be measured from...” Attorney Flynn indicated he’s looking for confirmation that it’s the “street line” which he felt would be the same as the property line and what is owned in the lot is the same thing because we’re talking about an easement (which doesn’t convey title, it just conveys use). The lot extends to the street; there was a 5 foot easement which was terminated because the applicant has paid the Fee-In-Lieu. Attorney Flynn suggested they’re trying to confirm for our engineer that East Windsor uses the street line, which in this case would go over the 5 foot area that was utilized for a sidewalk easement.

Town Planner Calabrese shared the Location Plan online, noting various points on the plan for setbacks and the sidewalk easement. Attorney Flynn indicated that As-Built Plan was prepared by their engineer, which shows the nearest point on the street from the corner of the foundation. Attorney Flynn suggested he felt that was one issue that was contrary to the East Windsor Regulations; Attorney Flynn suggested the Regulations also talk about a line parallel to the front of the property which he felt in this case was the driveway. That line from the foundation to the street is in excess of 50 feet. Attorney Flynn suggested if the Board is uncomfortable with that guidance they can proceed with the full variance presentation.

Commissioner Smith asked Town Planner Calabrese if the 50 foot setback was on the original set of Subdivision Plans? Town Planner Calabrese replied affirmatively. Commissioner Smith suggested if those plans were in existence prior to the start of the development 14 years ago, they were presented at that time. Attorney Flynn suggested the plans were approved but were amended over time. Commissioner Smith questioned

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the last date of amendment? Attorney Flynn suggested it was when they asked the Planning and Zoning Commission if they wanted sidewalks or the Fee-In-Lieu of sidewalks. He believed that to be 2017. Commissioner Smith questioned that the 50 foot setback was on that plan already? Attorney Flynn suggested the 50 foot setback has always been the setback “number”. Commissioner Smith indicated he understood the number, but on the series of maps for that property, did that exist before the house was started? Attorney Flynn indicated he couldn’t answer that question; Town Planner Calabrese indicated that the map that was submitted with the Zoning Permit application shows the 50 foot setback with the house being at 50.5 feet on a map dated September 1, 2020. Commissioner Smith questioned if that was prior, or after the easement was changed? Attorney Flynn cited they went to the Town in 2017 to change the sidewalk easement. Commissioner Smith suggested if the map already existed with the easement approved, if you’re telling me the easement was terminated in 2017, and the plans were submitted September 1, 2020, construction of the house occurred when? He suggested if things were amended and updated relative to the start of that property did someone screw up where the house was to be built in the first place? Mr. O’Neill offered Attorney Flynn additional information; Mr. O’Neill suggested if you go to the original Subdivision Map you’ll find that that line went all the way to the street. Attorney Flynn suggested the applicant is saying the line on the Subdivision Plan is not drawn to the nearest point on the cul-de-sac. It goes from the foundation to the street edge. He referenced his Exhibit 1.

Commissioner Smith cited the various measurements on the plan, and the confusion in terms of the property line definition. Commissioner Smith questioned is the property line defined as being from the easement back or the street back? Town Planner Calabrese cited “the front yard, an open space extending the full width of the lot between the street line and parallel line set back a distance equal to the front yard requirement.” Commissioner Smith questioned if the existing information was on prior maps; was the house built in the wrong spot? Town Planner Calabrese clarified the map being reviewed was submitted with the Zoning Permit application; this is NOT an As-Built Plan. Commissioner Smith suggested the map being reviewed shows you’re within the hard black line so it requires a variance. He felt the Board should follow the process; this is what’s on the application; that’s what he would expect the house to be built to with the 50 feet. Attorney Flynn indicated the house is built that way; it's built more than 50 feet from the street line.

Discussion continued for some time, reviewing the various maps and an As-Built submitted, and language specified on the engineer’s Plan. Attorney Flynn indicated the Town does not have an As-Built that shows 50 feet drawn in accordance with your Regulations. Discussion continued regarding the interpretation of the various lines depicted on the drawings. Attorney Flynn continued his contention that they really don’t

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need a variance, but the issue is actually an interpretation of the Zoning Regulations as they relate to 18 Jessie Lane.

Commissioner Smith asked Town Planner Calabrese to share the plan submitted with the application. He questioned what the center line, with the squares shown on it, represented? Mr. O'Neill noted the reference on the plan describing that line as the utility easement. Commissioner Smith then questioned what the line with the "x's" represented? Is that the street line? Mr. O'Neill referenced an area on the map showing yard drains, he suggested if you go "two spaces to the right, those are the catch basins in the road." He felt the regulations require them to measure from the corner of the house straight out the driveways to where the street line is, which, in this case is greater than 50 feet. Mr. O'Neill suggested as you go back from the street line you get into the easement, the sidewalk; the heavy dark line is to the utility easement, the lighter line to the left of that is where the sidewalk easement line is. Commissioner Smith then questioned why the 45.8 feet was measured from the corner of the house to the utility line? Mr. O'Neill suggested that was due to the interpretation of another Planner.

Discussion continued regarding the measurements in various locations on the plan. Commissioner Smith noted he understands what he's reading but he's not a Planner. He questioned Town Planner Calabrese - the property line starts where under East Windsor Regulations? At the street, or after the 5 foot easement? He noted he lives on a cul-de-sac on Chamberlain Road; if he measured from the southeast corner of his house to the road, is that his property line? Town Planner Calabrese replied not necessarily. Commissioner Smith questioned then what is the property line as defined in Town Regulations in layman's terms? He's hearing property line and street line and doesn't understand. Attorney Flynn suggested they contend they are the same. Commissioner Smith indicated he wanted Town Planner Calabrese to clarify the terms. Town Planner Calabrese indicated she didn't see the property line as being at the edge of the road; the property line is the legal description of your property. Attorney Flynn suggested the legal description on the Land Records will include the easement; it's not ownership, it's use. If you look at the subdivision as it's been built everything is graded to the street line. Town Planner Calabrese suggested the lot line is defined, under property line, as "the division line between adjoining properties or a public street." When reviewing the map before everyone, Commissioner Smith referenced the area on the map at the location of the double catch basins in the street as being the street line. Mr. O'Neill and Attorney Flynn concurred. Commissioner Smith questioned if there was 5 feet between the street line and the utility line; Mr. O'Neill concurred. Commissioner Smith then suggested the distance is over 50 feet; he indicated he had no problem proceeding with the variance request. Discussion continued regarding the map being reviewed; Commissioner Smith reiterated he felt this meets the criteria.

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Vice Chairman Nolan indicated he shared Commissioner Smith's belief. He queried the other Board members for comments. No one raised any comments.

Attorney Flynn felt there was an obligation on the applicant's part to provide Town Planner Calabrese with something that shows 50.8 feet or 52.8 feet. Attorney Flynn indicated their suggestion would be to continue the application, and have their engineer prepare an As-Built in accordance with the Regulations and submit that to Town Planner Calabrese.

Commissioner Smith indicated he was fine with that. Vice Chairman Davis questioned that the Board would continue this meeting; he agreed it was appropriate to have everything proper and in place before ruling on the application. Vice Chairman Davis indicated the Hearing will be left open until a future date when the As-Built is submitted. Town Planner Calabrese suggested the Board move to leave the Public Hearing open until the next scheduled meeting, and if the applicant withdraws the application in the meantime then it can be removed from the agenda.

**MOTION: To LEAVE THE PUBLIC HEARING OPEN on Application ZBA 2021-04 until an IMPROVEMENT PLAN has been submitted for 18 Jessie Lane has been appropriately updated reflecting the correct dimensions, instead of to the utility line make it to the appropriate road in accordance with East Windsor Regulations.**

**Smith moved/Kebschull seconded/DISCUSSION: None**

**VOTE: In Favor: Nolan Davis/Mystica Davis/Smith/Kebschull  
(No one opposed/No abstentions)**

Vice Chairman Davis indicated the Board would wait for advisement from Town Planner Calabrese regarding continuance of this application.

Mr. Rick Zitkus, a member of the public signed in remotely, asked if the Board would take public comment regarding this application? Vice Chairman Nolan queried the Board for opposition to allowing Mr. Zitkus to speak; no one raised any opposition.

**MOTION: To SUSPEND this part of the Meeting for discussion on 18 Jessie Lane to take public comments.**

**Smith moved/Mystica Davis seconded/DISCUSSION: None.**

**VOTE: In Favor: Nolan Davis/Mystica Davis/Smith/Kebschull  
(No one opposed/No abstentions)**

Vice Chairman Davis reopened the Public Hearing to take public comments.

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**Mr. Rick Zitkus:** Mr. Zitkus reported he and his wife are the perspective buyers of 18 Jessie Lane. He questioned the anticipated timeframe from the time that Attorney Flynn and Hamlet Homes submits revised paperwork and the next meeting review? Are they looking at another month or could it be resolved by an internal review and Hamlet Homes and the Town of East Windsor can move forward to issue a CO?

Town Planner Calabrese suggested if the applicant withdraws before the close of the Public Hearing that would end the cycle. Otherwise, you'd have to meet to officially close the Public Hearing. If she receives a revised As-Built that she's able to sign off on she could do that administratively; then it would move on to the Building Official.

Mr. Zitkus questioned if Attorney Flynn and Hamlet Homes were able to provide Town Planner Calabrese with a new As-Built tomorrow what's the estimated timeframe for the next steps? Town Planner Calabrese indicated she'd could review the plan for Zoning compliance and sign off within a couple of days. The review would then go on to the Building Department. She would anticipate Attorney Flynn would then submit a request to withdraw the variance application. Mr. Zitkus asked if the Town could then issue the CO? Town Planner Calabrese replied affirmatively.

Mrs. Zitkus questioned if a two week window would be realistic? Town Planner Calabrese explained her review process after receiving the As-Built plan, which includes a site visit and review of the plans. She noted she's one step in a series; the Building Official would follow her sign-off. Mr. Zitkus thanked everyone for letting them ask their questions.

**MOTION: To OPEN THE MEETING BACK UP to 18 Jessie Lane discussion.**

**Smith moved/Kebschull seconded/DISCUSSION:** None.

**VOTE: In Favor: Nolan Davis/Mystica Davis/Smith/Kebschull  
(No one opposed/No abstentions)**

**V. OTHER BUSINESS:** None.

**VI. PUBLIC PARTICIPATION:**

Vice Chairman Davis noted asked if anyone signed in remotely would like to speak? No one requested to be acknowledged.

**VII. APPROVAL OF MINUTES/A August 2, 2021:**

Vice Chairman Davis asked if anyone had any edits or comments regarding the Minutes for August 2, 2021? No one raised any comments.

**TOWN OF EAST WINDSOR  
ZONING BOARD OF APPEALS  
Regular Meeting – November 8, 2021  
ZOOM Teleconferenc  
Meeting ID: 714 897 1799  
MEETING MINUTES**

**MOTION: To APPROVE the Minutes of the August 2, 2021 Minutes of the East Windsor Zoning Board of Appeals as presented.**

**Kebschull moved/Mystica Davis seconded/DISCUSSION: None.**

**VOTE (by a show of hands):**

**In Favor: Nolan Davis/Mystica Davis/Smith/Kebschull  
(No one opposed/No abstentions)**

**VIII. ADJOURN:**

**MOTION: To ADJOURN the meeting at 8:40 p.m.**

**Kebschull moved/Smith seconded/DISCUSSION: None.**

**VOTE (by a show of hands):**

**In Favor: Nolan Davis/Mystica Davis/Smith/Kebschull  
(No one opposed/No abstentions)**

Respectfully submitted

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Peg Hoffman, Substitute Recording Secretary, East Windsor Zoning Board of Appeals