

**TOWN OF EAST WINDSOR
ZONING BOARD OF APPEALS
11 RYE STREET
BROAD BROOK, CT 06016**

MINUTES OF REGULAR MEETING

Monday, April 4, 2022

*****These minutes are not official until approved at a subsequent meeting*****

Zoning Board of Appeal

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

Alternates

Kurt Kebschull
David Swaim
Scott Morgan

Join Zoom Meeting

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Meeting ID: 714 897 1799

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ATTENDANCE: Zoning Enforcement Officer Ruthanne Calabrese hosted the hybrid meeting—in person and via Zoom. Chairman Jose Giner (in person), Vice Chairman Nolan Davis (via Zoom), Regular Member Mystica Davis (via Zoom), Regular Member Steve Smith, Regular Member Dan Noble, and Alternate Commissioner Kurt Kebschull (via Zoom), David Swaim and Scott Morgan were present at the Call to Order.

ABSENT: None

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GUESTS/SPEAKERS signing in to teleconference remotely: Some Zoning Board of Appeal Members noted above; Town Engineer Robert Arsenault, and David Blackwell, representing Arvind Persuad, Arvind Persuad, the applicant.

I. TIME AND PLACE OF MEETING:

Chairman Giner called the April 4, 2022 Regular Meeting of the East Windsor Zoning Board of Appeals to Order at 7:00 p.m. in person and via Zoom.

II. ESTABLISH QUORUM:

Chairman Giner noted the Board has established a quorum with four all Members present in-person and via Zoom at the Call to Order.

III. PLEDGE OF ALLEGIANCE:

Chairman Giner led the Board in the Pledge of Allegiance.

IV. NEW HEARING: ZBA #2022-01: Applicant/Owner: Arvind Persuad, is requesting relief from the East Windsor Zoning Regulations Section 600.2 Landscape Buffer Requirements for property located at 298 South Main St, East Windsor CT and more particularly described as MBL: 002-05-099, B-2 Zone.

Chairman Giner requested Ruthanne Calabrese, Director of Planning and Development/Town Planner, read the legal notice.

Chairman Giner requested Town Engineer, Robert Arsenault to be ready to answer questions.

Chairman Giner explained the role of the ZBA and what it means to the strict letter of Zoning Variance. He ensured that Mr. Robert Arsenault would answer any questions for the record. He detailed that the variance would not substantially affect the comprehensive Zoning plan and its adherence to the strict letter of the Zoning ordinance. He has reviewed the comprehensive Zoning plan both Zoning regulations and plans for Conservation and Development and shared the copies of the relevant portions. He found that there was no specific language either recognizing the need for the requested relief or discouraging it. He pointed to page 31 of the Zoning regulations that related to a non-conforming lot with a footnote for non-conforming lots with less than required frontage allowing for side yard requirement and 10 percent or 10 feet whichever is greater. There was also a note about the outdoor storage being buffered from residential zones with a 20-foot-wide landscape buffer which might not be applicable here. There is a buffer requirement at issue. In the plan of Conservation and Development, he focused on relevant portions on pages 47-59 where he found no specific language discouraging the

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requested relief. He believes that the requested relief does not substantially affect the comprehensive building plan either Zoning regulations favorably or unfavorably or the Plan of Conservation and Development. The other part of it, is the adherence to the strict letter of the Zoning ordinance. It must be shown to cause unusual hardship and this is where the Chairman requested Mr. Robert Arsenault to join in.

Robert Arsenault, Professional Engineer: I am familiar with this site at 298 S. Main Street including the appropriate Zoning regulations related to it. It has 15 parking spaces. The buffer requirement in section 600.2 call for a 100 foot with a possible reduction to 50 foot but both of those would hurt the property. If 100-foot buffer is applied to this site then it would completely take up almost 80 percent of the property. If 50-foot buffer is applied then it would wipe out all of the parking space including the entrance drive coming into the property. It would also render the site unusable as far as for the purpose intended. Moreover, there is no way to reconfigure this site to meet the requirements. I have considered different scenarios and this is the only one that works because it is a very small parcel of 0.53 acres. It was a vacant land and the requirements would create exceptional difficulties including unusual hardship for the applicant.

Chairman Giner has asked Mr. Arsenault if granting the variance requested what would the minimum variance structure for this property be?

Robert Arsenault: It would be 15-foot with the fence.

Chairman Giner stated that the property was 152.04-foot-wide at its widest. Strict adherence to the landscape requirement takes up two-third of the lot or 80 percent of the entire property that runs directly through the proposed building. The required buffers on the south boundary would literally overlap and planting of a row of arborvitae trees required by the South Windsor Town Planner. Additionally, there is a trailer park to the north of the property with residential units making it a b-2 zone. Mr. Persuad was approved for a certificate of location by this ZBA back in July of 2016 to obtain a CT automobile dealers license from the Department of Motor Vehicles for which a site drawing k-93 was prepared in accordance. However, the k-93 plan did not and was not intended to meet the regulations of the Town of East Windsor. Instead, it was meant to demonstrate to the CT DMV that the site was suitable for the use intended and to induce Mr. Persuad to purchase the land for that use. Therefore, he submits for all these reasons, the applicant meets the 2nd part of the test which adherence to the strict letter of the zoning regulation. He concludes that strict compliance of the buffer requirements of the East Windsor Zoning regulation or even a partial compliance with a 50 reduction of the buffer requirement creates such a hardship that the property would be rendered unusable and that the lot is too small for any reconfiguration.

Ruthanne Calabrese: The site was approved as concept for the certificate of location intended for the CT DMV purposes only.

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Chairman Giner queried the remaining ZBA Members for comments.

Nolan Davis commented on the Town of South Windsor requiring the planting of a tree line and not a fence. However, the plan seems to show that there is a fence.

Robert Arsenault: The tree line on the plan is to the north where there is already a tree line. The fence would be on the south of the existing tree line.

Chairman Giner asked if anyone from the public wished to comment.

William Kelleyr, 2045 John Fitch Boulevard, South Windsor, representing himself and his neighbor Corey Bailey at 2085, John Fitch Boulevard, South Windsor. He is the landowner on the west side of the CT River basin. He has 67 acres in East Windsor and 25 acres on South Windsor. He asked the percentage of the impervious pavement. And, what material would the garage be built of as he believed that it should fit in with the residential area.

Robert Arsenault responded that 65 percent was required and they have 48 percent. The garage is aluminum based.

Chairman Giner stated that the site is a b-2 zone that applies to mixed residential and business areas. Therefore, it was not required of the applicant to adhere to the residential building requirements.

Chairman Giner again queried the Board for comments; no one raised any questions. Chairman Giner called for a motion to close the Public Hearing.

MOTION: To CLOSE THE PUBLIC HEARING on ZBA #2022-01: Applicant/Owner: Arvind Persuad, is requesting relief from the East Windsor Zoning Regulations Section 600.2 Landscape Buffer Requirements for property located at 298 South Main St, East Windsor CT and more particularly described as MBL: 002-05-099, B-2 Zone.

Scott Morgan moved/Mystica Davis seconded/DISCUSSION:

Nolan Davis suggested to add fencing around the borders as requested by neighbors.

VOTE by a show of hands:

**In Favor: Nolan Davis/Mystica Davis/Steve Smith/Jose Giner/Kurt Kebschull/Scott Morgan/Dan Noble/ David Swaim
(No one opposed/No abstentions)**

Chairman Giner called for a motion of approval.

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MOTION: To APPROVE as proposed and according to the plan submitted with suggested border fencing and for a relief from the East Windsor Zoning Regulations Section 600.2 Landscape Buffer Requirements for property located at 298 South Main St., East Windsor, CT and more particularly described as MBL: 002-05-099 B-2 Zone.

Nolan Davis moved/Mystica Davis seconded/DISCUSSION: None
VOTE by a show of hands:
In Favor: Nolan Davis/Mystica Davis/Steve Smith/Jose Giner/Kurt Kebschull/Dan Noble/David Swaim
(No one opposed/No abstentions)

Mr. Arvind Persuad thanked the Board for their approval.

V. OTHER BUSINESS:
None

VI. PUBLIC PARTICIPATION:
None

VII. APPROVAL OF MINUTES:

A. December 6, 2021:

Vice Chairman Davis questioned if anyone had any comments, or edits, to the Minutes for December 6, 2021 as presented? No one requested any changes.

Vice Chairman Davis called for a motion of approval.

MOTION: To APPROVE the Minutes of the Zoning Board of Appeals dated December 6, 2021 as presented.

Nolan Davis moved/Mystica Davis seconded/DISCUSSION: None.
VOTE by a show of hands:
In Favor: Nolan Davis/Mystica Davis/Steve Smith/Kurt Kebschull (No one opposed/ David Swaim and Scott Morgan abstained.

VIII. ADJOURN:
MOTION: To ADJOURN the meeting at 8:00 p.m.

Scott Morgan moved/David Swaim seconded/DISCUSSION: None.
VOTE by a show of hands:

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

Respectfully submitted,
Sabo Maniscalco, Recording Secretary, East Windsor Zoning Board of Appeals