

Agenda
Tolland Zoning Board of Appeals
21 Tolland Green, Tolland, CT
Thursday, February 23, 2023 at 7:00 p.m., 6th floor – Council Chambers

1. Call to Order
2. Seat Alternate(s)
3. Public Hearing(s)
 - 3.1. **ZBA #23-1, 56 Skungamaug Road** – Request for a variance to reduce the required lot size from 15,433s.f. to 15,093s.f. where 87,120s.f. is required in conjunction with CT DOT Project 142-152 per Tolland Zoning Regulations Section 5-3.A.1. Zone: Residential Design District. Applicant: State of Connecticut Department of Transportation
4. Business Meeting
 - 4.1. Commissioner Training
5. Approve Minutes - October 27, 2022 Regular Meeting
6. Other Business
7. Adjournment

To join the Zoom Meeting, either click:

<https://us02web.zoom.us/j/8608713602?pwd=cXZLNQ9SWVlvNkNjZU9NYUxCd2xiUT09>

One tap mobile: +16469313860,,8608713602#,,, *06084#

Or call: 1-929-205-6099 and input:

Meeting ID: 860 871 3602

Passcode: 06084



TOWN of TOLLAND/ 21 tolland green, tolland connecticut 06084

Zoning Board of Appeals

LEGAL NOTICE
TOLLAND ZONING BOARD OF APPEALS

The Zoning Board of Appeals will hold a public hearing on February 23, 2023 at 7:00 p.m to consider the following application:

ZBA #23-1, 56 Skungamaug Road – Request for a variance to reduce the required lot size from 15,433s.f. to 15,093s.f. where 87,120s.f. is required in conjunction with CT DOT Project 142-152 per Tolland Zoning Regulations Section 5-3.A.1. Zone: Residential Design District. Applicant: State of Connecticut Department of Transportation

A copy of the application is on file and available for review in the Planning and Building Department at 21 Tolland Green. At this hearing, public comments will be heard and written communications received. Details regarding the location and how to attend this meeting will be published on the Commission's Agenda.

To be advertised twice in the Journal Inquirer:

Once on: Thursday, February 9, 2023

Once on: Monday, February 20, 2023



TOWN OF TOLLAND APPLICATION FOR VARIANCE

Zoning Board of Appeals

App. # 23-1

Property Information	
Property Address:	<u>56 Skungamaug Road</u>
Property Owner:	<u>Raymond Zabilansky</u>
Zone: <u>RDD</u>	Map/Block/Lot: <u>22/C/004</u>

Applicant Information	
Name: (if different than above)	<u>Connecticut Department of Transportation</u>
Address: (if different than above)	<u>2800 Berlin Turnpike, Newington, CT 06131</u>
Phone Number: <u>860-594-2459</u>	Email Address: <u>matthew.geanacopoulos@ct.gov</u>

Variance Requested
Describe variance being requested and hardship (self-created, financial or cosmetic issues are not hardships):
<u>In conjunction with State Project 142-152, Replace Bridge No. 01120 Over Sungamaug River, The Department of Transportation (DOT) proposed to acquire 350± sq. ft from the subject property, as shown on the attached map. As a result, the DOT is seeking a variance to allow a lot size of 15,093 sq. ft. in lieu of the required 2 acres. Pursuant to CGS 48-24, the DOT must obtain a variance if, subsequent to an acquisition, the remaining lot size is less than the zoning minimum.</u>
Section of Zoning Regulations to be Varied: <u>5-3 (A)(1)</u>

All of the above statements and the statements contained in any documents and plans submitted herewith are true to the best of my knowledge:	
Applicant Signature: <u>[Signature]</u>	Date: <u>1-25-23</u>
Owner Signature: <u>See Exhibits A+B</u>	Date: _____
<small>A separate letter or email from owner authorizing permission to apply for a variance is also acceptable.</small>	

The fee in the amount of \$260 plus \$60 State fee (Residential) or \$360 plus \$60 State fee (Non-Residential) must be submitted to be considered a complete application.

9 copies of a sketch / plot plan clearly showing the proposed location of the structure, property lines, and distance to property lines must accompany this application along with the appropriate fee. Please consult with staff.

OFFICE USE ONLY

Fee Amount: <u>\$320.00</u>	Official Date of Receipt: _____
Form of Payment: <u>Check</u>	Public Hearing Set for: _____
Date Submitted: _____ (stamp)	Decision Date: _____ Decision: _____

Return to:

Raymond J. Zabilansky
56 Skungamaug Road
Tolland, CT 06084

STATUTORY FORM WARRANTY DEED

I, **DOROTHY MASTERSON** of the Town of Tolland, County of Tolland and State of Connecticut, in consideration of the sum of **TWO HUNDRED SEVEN THOUSAND AND NO/100 (\$207,000.00) DOLLARS**, do give, grant, bargain and confirm unto **RAYMOND ZABILANSKY** of the City of Rockville, County of Tolland and State of Connecticut with **WARRANTY COVENANTS**

A certain piece or parcel of land more particularly described on Schedule A attached hereto, and known as 56 Skungamaug Road, Tolland, Connecticut.

Being the same premises conveyed to the grantor herein by Deed recorded August 19, 2009 in Book 1155 at Page 149 of the Tolland Land Records.

Said premises are conveyed subject to:

1. Any and all provisions of any ordinance, municipal regulation, public or private law; declarations, restrictions, covenants, and easements of record; any state of facts an accurate survey or personal inspection of the property might reveal; provided that none of the of the above interfere with the present location of any building now located on the property, prevent use of the property as a residence, or render title to the property unmarketable.
2. Taxes due the Town of Tolland on the List of October 1, 2020 and thereafter, which taxes the grantee herein assumes and agrees to pay as part consideration for this deed.

\$ 1552.50 State Conveyance Tax

\$ 517.50 Town Conveyance Tax


Kathleen Pagan
Town Clerk of Tolland

Signed this 26th day of March, 2021

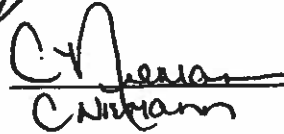
Witnessed by:



Jason E. Doucette



Dorothy Masterson



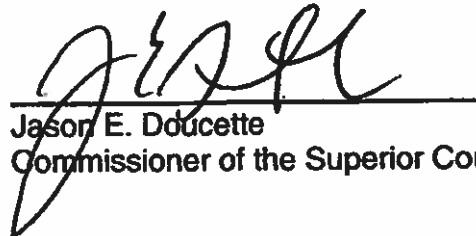
C. Niemann

STATE OF CONNECTICUT)

) ss. South Windsor
COUNTY OF HARTFORD)

March 26th, 2021

Personally appeared Dorothy Masterson, signer of the foregoing instrument,
and acknowledged the same as her free act and deed, before me.



Jason E. Doucette
Commissioner of the Superior Court

PINNEY, PAYNE, VAN LENTEN, BURRELL, WOLFE & DILLMAN, P.C.

ATTORNEYS AT LAW

26 WEST STREET

POST OFFICE BOX 650

DANBURY, CONNECTICUT 06810

(203) 743-2721

NEW MILFORD OFFICE
46 MAIN STREET
NEW MILFORD, CONNECTICUT 06776
(203) 356-1181

RIDGEFIELD OFFICE
401 MAIN STREET
RIDGEFIELD, CONNECTICUT 06877
(203) 438-3726

COUNSEL
THOMAS L. CHENEY

A. SEARLE PINNEY
BOBBY S. PAYNE
THOMAS W. VAN LENTEN
HUGH A. BURRELL
ROBERT J. WOLFE
JOHN M. DILLMAN
WILLIAM S. STEELE, JR.
JEFFREY S. SIENKIEWICZ
TED D. BACKER**

JAMES H. MALONEY
MICHAEL S. MCKENNA
ALFRED P. FORINO

Nancy R. Sienkiewicz

January 24, 1986

PLEASE REPLY TO: New Milford

*ALSO ADMITTED IN VA

**ALSO ADMITTED IN D.C. AND NY

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

RE: Notification of Property Owners of
Variable Application by DOT

Dear Mr. Sullivan:

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

The remaining issue in this appeal is the plaintiff's claim that the granting of a variance without their consent violates their constitutional right to just compensation by forcing them to assume the financial risk of structural alteration or sale of property subject to a variance. We disagree. The plaintiffs' claims for consequential damages to the remaining land resulting from the partial taking could be considered by a trier of fact under General Statutes Section 13a-76. Damages would be calculated by subtracting the

PINNEY, PAYNE, VAN LENTEN, BURRELL, WOLFE & DILLMAN, P. C.

George R. Sullivan, Jr.

-2-

January 23, 1986

market value of the remainder after the taking from the market value of the property just prior to the taking. Laurel, Inc. v. State, 169 Conn. 195, 205, 362 A.2d. 1383; Meriden v. Highway Commissioner, 169 Conn. 655, 660, 363 A.2d. 1094.

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

Sincerely,
Jeffrey B. Sienkiewicz
New Milford Town Counsel

By _____
Nancy R. Sienkiewicz

NRS/lc

cc: Douglas Hummel

State of Connecticut



JOSEPH I. LIEBERMAN
ATTORNEY GENERAL

Office of The Attorney General
90 BRAINARD ROAD
HARTFORD, CT 06114

Telephone: 566-2257

February 28, 1986

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

Dear Mr. Hummel:

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

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

Very truly yours,

JOSEPH I. LIEBERMAN
ATTORNEY GENERAL

BY: 

Paige Everin
Assistant Attorney General

PE:rw

Sec. 48-24. Condemning authority to obtain zoning variance for portion of property not taken or take entire unit. A condemning authority, if acquiring less than the total amount of a single unit of contiguous property, shall, if the remaining portion of such property does not conform to the area requirements of existing zoning regulations, obtain a zoning variance for such remaining portion of property from the local zoning board of appeals before condemning any portion of such property. If such variance is not obtained prior to the taking by the condemning authority, the owner or owners of such single unit of contiguous property shall be reimbursed for the total amount of such unit and the condemning authority shall take title in fee simple to the entire unit of contiguous property.

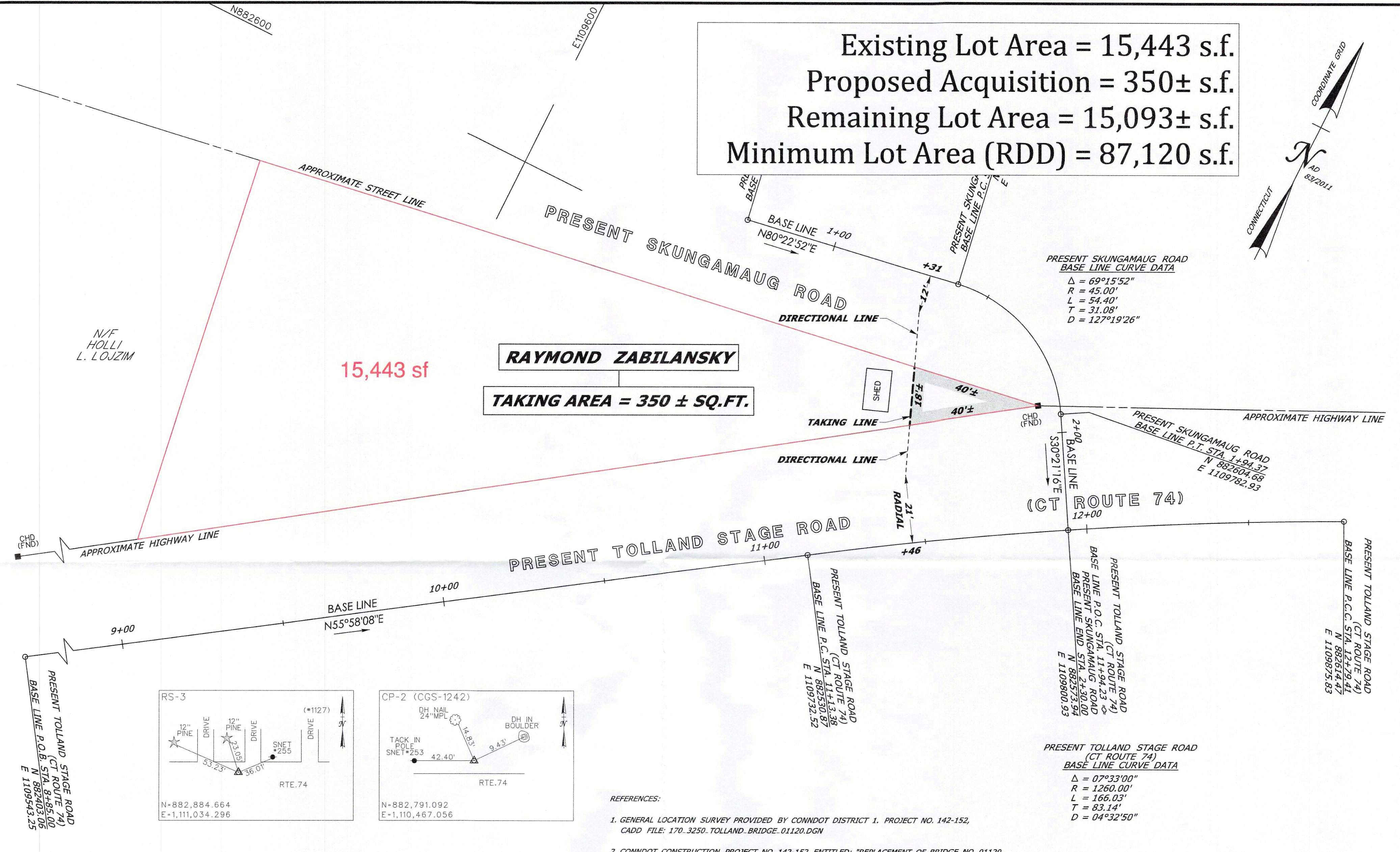
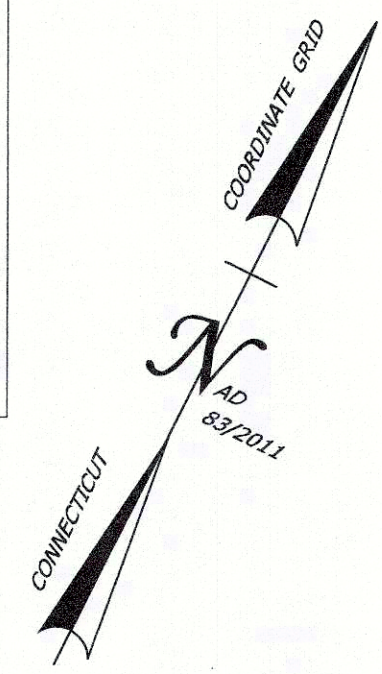
(1961, P.A. 387; 1963, P.A. 79; 1971, P.A. 208, S. 1.)

History: 1963 act specified that condemning authority takes title in fee simple to entire unit of contiguous property where variance is not obtained before condemning authority takes occupancy; 1971 act required that variance be obtained for portion of property not to be taken before any of the property is condemned rather than before any of the property is occupied.

Cited. 168 C. 194. Interpretation of "area requirements" in section. 169 C. 195. Cited. 174 C. 323; 203 C. 675.

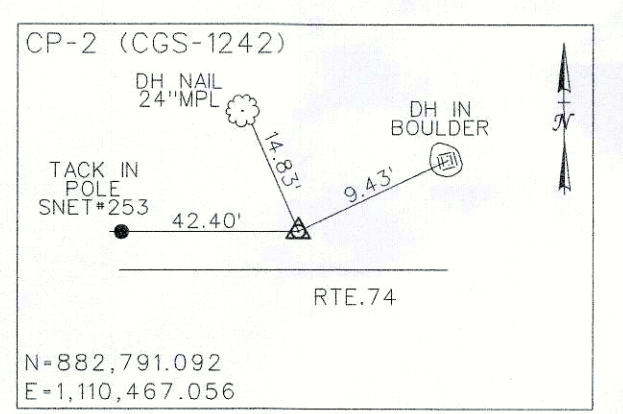
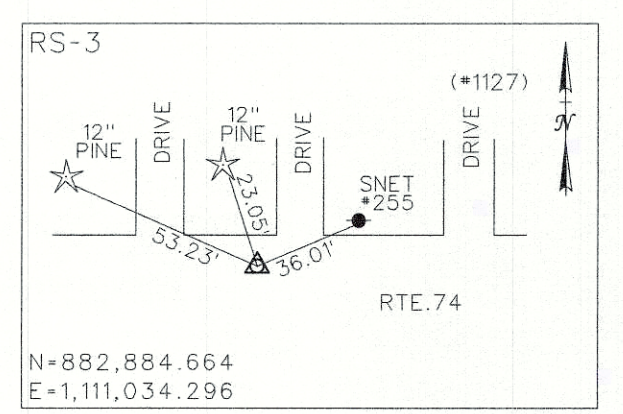
Setback violation does not trigger statute, only an area violation does. 46 CS 355.

Existing Lot Area = 15,443 s.f.
 Proposed Acquisition = 350± s.f.
 Remaining Lot Area = 15,093± s.f.
 Minimum Lot Area (RDD) = 87,120 s.f.



PRESENT SKUNGAMAUG ROAD
 BASE LINE CURVE DATA
 $\Delta = 69^\circ 15' 52''$
 $R = 45.00'$
 $L = 54.40'$
 $T = 31.08'$
 $D = 127^\circ 19' 26''$

PRESENT TOLLAND STAGE ROAD
 (CT ROUTE 74)
 BASE LINE CURVE DATA
 $\Delta = 07^\circ 33' 00''$
 $R = 1260.00'$
 $L = 166.03'$
 $T = 83.14'$
 $D = 04^\circ 32' 50''$



- REFERENCES:
- GENERAL LOCATION SURVEY PROVIDED BY CONNDOT DISTRICT 1, PROJECT NO. 142-152, CADD FILE: 170.3250.TOLLAND_BRIDGE.01120.DGN
 - CONNDOT CONSTRUCTION PROJECT NO. 142-152, ENTITLED: "REPLACEMENT OF BRIDGE NO. 01120, ROUTE 74 OVER SKUNGAMAUG RIVER"
 - VOL. 1550, PG. 74 (WARR.)
 - CONNDOT BRC FILE 142-MISC-1A

- NOTES:
- THIS SURVEY AND MAP HAVE BEEN PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES, SECTIONS 20-300B-1 THROUGH 20-300B-20, THE "MINIMUM STANDARDS OF ACCURACY, CONTENT & CERTIFICATION FOR SURVEYS AND MAPS," AS AMENDED OCTOBER 26, 2018. IT IS A RIGHT OF WAY SURVEY AND IS INTENDED TO DEPICT THE LIMITS OF THE PROPERTY TRANSACTION FOR THE PROJECT REFERENCED HEREON. THE BASE LINE FROM WHICH THIS PROPERTY TRANSACTION IS REFERENCED CONFORMS TO CLASS A-2 HORIZONTAL ACCURACY.
 - THE FEATURES DEPICTED ARE THE RESULT OF THE GENERAL LOCATION SURVEY FOR THE PROJECT OR AS REFERENCED HEREON.
 - THE PROPERTY AND STREET LINES DEPICTED CONFORM TO CLASS D ACCURACY. THEY HAVE BEEN COMPILED FROM VARIOUS SOURCES AND ARE NOT TO BE CONSTRUED AS NECESSARILY BEING THE RESULT OF A FIELD SURVEY, NOR DO THEY REPRESENT A PROPERTY/BOUNDARY OPINION.
 - CT ROUTE 74 IN THIS AREA HAS NOT BEEN MAPPED BY CTDOT.

SCALE IN FEET

DATE	REVISION	REQ. BY

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

VOID WITHOUT LIVE SIGNATURE AND EMBOSSED SEAL

TOWN NO. 142

PROJECT NO. 142-152

SERIAL NO. 4

SHEET 1 OF 1

DATE

PLS #18823

CHRISTINE E. AUBREY, P.L.S.

MANAGER - SURVEY OPERATIONS

DRAWN BY: SEB
 DATE: 8/1/2022
 CHECKED BY: SAE
 DATE: 8/3/2022

RIGHT OF WAY SURVEY

TOWN OF TOLLAND
 MAP SHOWING LAND ACQUIRED FROM
 RAYMOND ZABILANSKY

BY
 THE STATE OF CONNECTICUT
 DEPARTMENT OF TRANSPORTATION

REPLACEMENT OF BRIDGE NO. 01120,
 ROUTE 74 OVER SKUNGAMAUG RIVER

SCALE 1" = 20' SEPTEMBER 2022

SCOTT A. HILL, P.E.
 CHIEF ENGINEER - BUREAU OF ENGINEERING AND CONSTRUCTION

UConn

COLLEGE OF AGRICULTURE, HEALTH, AND NATURAL RESOURCES

Center for Land Use Education and Research



Land Use Commissioner Training

Land Use Commissioner Training

CT DEEP Training / Certificate Courses

UConn CLEAR Training Courses

CLEAR Webinar Library

Connecticut Land Use Commissioner Training Calendar

As of January 1, 2023, planning and zoning commissioners in the State of Connecticut are required to attend **4 hours of training each year**. For more information on these requirements, review the **CT Office of Policy and Management (OPM) guidelines here**.

UConn CLEAR, in collaboration with OPM, has set up a statewide **Land Use Commissioner Training Calendar** (right column) to help towns and commissioners locate training opportunities in line with these requirements. This includes events from providers throughout the state. There are also **ongoing virtual trainings offered by CLEAR & CTDEEP** that may meet training requirements (see below).

If you are a **training provider** and would like to add events to this calendar, **please fill out this form** and your event will be added.

Please note: there is no certification process for these trainings. It is left up to individual town commissions to determine which trainings meet the guidelines.

Explore the **CT DEEP and UConn CLEAR training tabs** above for self-paced online training courses and other opportunities.

CT Land Use Commissioner Training

Today Thursday, February 16 Print Week Month Agenda

Thursday, February 16 Loading...

4:00pm Affordable Housing - CLEAR Land Use Academy Advanced Trai

Thursday, February 23

7:00pm Freedom of Information Act Training - In-person

Saturday, March 11

9:00am CT Land Use Law for Municipal Land Use Agencies, Boards, Co

Showing events until 8/31. [Look for more](#)

Virtual Advanced Land Use Academy Training: 2/2/2023 – 2/16/2023

This February (2023), CLEAR's Land Use Academy is offering a virtual version of our “Advanced Training” for land use commissioners. The training will be offered over three consecutive Thursdays in February. All sessions are from 4pm - 5:30pm.


The sessions will include:

- **Bias, Predisposition, and Conflicts**, presented by Richard P. Roberts (Feb. 2);
- **Running a Meeting and Making a Decision**, presented by Kenneth R. Slater, Jr. (Feb. 9); and
- **Fair and Affordable Housing**, presented by Mark Branse (Feb. 16).


If a land use commissioner attended all 3 sessions they could meet most of their training requirement for the year, at least theoretically – it is ultimately up to each town to determine whether the statutory requirements are met.

Folks can register for one or all of those sessions (they are **FREE**) here: <https://uconn-edu.zoom.us/meeting/register/tJcqduCopjgrE9ZzoALssHlaA6zw7cZrZsog>

CONTACT

 860-345-4511

 clear@uconn.edu

 UConn Center for Land Use Education & Research
Middlesex County Extension
PO Box 70, 1066 Saybrook Road
Haddam, CT 06438

STAY IN TOUCH



FUNDERS AND PARTNERS

CLEAR is a partnership of the Department of Extension and the Department of Natural Resources and the Environment at the College of Agriculture, Health and Natural Resources, and the Connecticut Sea Grant College Program. Support for CLEAR comes from UConn and from state and federal grants.

The University of Connecticut supports all state and federal laws that promote equal opportunity and prohibit discrimination.

**ZONING BOARD OF APPEALS
TOLLAND, CONNECTICUT
REGULAR (HYBRID) MEETING MINUTES OF OCTOBER 27, 2022**

MEMBERS PRESENT: Claudette Morehouse, Chair
Ben Chevalier, Vice Chair
Bob Burns (remote)
Mike Martel (remote)
Jean Fiske, Alternate (remote)

OTHERS PRESENT: Michael D'Amato, AICP, CAZEO
Derek Beebe, Stafford Pool, LLC (applicant)
Greg Hall, property owner
Public

1. CALL TO ORDER

Claudette Morehouse, Chair, called the hybrid meeting to order at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

Recited. A moment of silence was observed for the Bristol police officers killed in the line of duty.

3. SEAT ALTERNATES

Claudette Morehouse, Chair, seated alternate member Jean Fiske for Nate Carlson.

4. PUBLIC HEARING

- 4.1 **ZBA #22-3 – 53 Justin Way** – Request a variance of 9 feet to construct an in-ground swimming pool 16 feet from the side yard setback where 25 feet is required under Section 17-2.C of the Tolland Zoning Regulations, Applicant: Stafford Pool, LLC.

MOTION: Ben Chevalier/Claudette Morehouse to open the public hearing for ZBA #22-3. All were in favor. Motion carried.

Bob Burns read the legal notice. Claudette Morehouse explained the two-part process of the public hearing.

The applicant, Derek Beebe of Stafford Pool, attended the meeting with the property owner, Greg Hall. He submitted a letter from Mike Wilmes, the closest neighbor at 61 Justin Way. Ben Chevalier read the letter into the record, in which Mike Wilmes said he had no objections to the variance request.

Derek Beebe said he is requesting a 9 foot variance to allow the in-ground pool to be 16 feet from the side yard setback. The shell of the pool is presently in the ground and all the pipes are in, which would make it difficult to move at this point. He apologized saying he originally thought Tolland had only a 15 foot setback requirement (not 25 feet) when he began installing the pool and learned he was out of compliance with the zoning regulations when the building inspector came out to the property. The installation was stopped at that point.

Derek Beebe said he had chosen the location for the pool based, in part, on the location of the property owner's existing deck and stairs which were intended to lead to the pool. He needed to shift the pool to accommodate the stairs. The real hardship, however, was due to the steep slope of the lot and the fact that the pool could not be installed on the other side of the property due to the well and septic system being located on that side.

The public hearing was opened to public comment. Mike Wenz, another neighbor, attested to the heavy slope of the lot, adding that several truckloads of dirt needed to be brought in.

There were no other questions or comments from the public, nor from the Board.

MOTION: Ben Chevalier/Claudette Morehouse to close the public hearing and open the Business meeting. All were in favor. Motion carried.

5. BUSINESS MEETING

There was agreement by the Board that the chosen location for the pool was the only logical place to put it due to the topography of the site and the location of the well and septic system on the site.

MOTION: Ben Chevalier/Bob Burns to approve ZBA #22-3 to allow the construction of an in-ground swimming pool at 53 Justin Way no closer than 16 feet from the side yard setback where 25 feet is required under Section 17-2.C of the Tolland Zoning Regulations, the hardship due to the topography of the site and the location of the well and septic system on the site. All were in favor. Motion carried.

Mr. Chevalier advised the applicant to return the sign and that the Zoning office would be in touch with him about next steps.

5.1 Approval of 2023 Meeting Schedule

MOTION: Claudette Morehouse/Ben Chevalier to approve the 2023 Meeting Schedule as presented. All were in favor. Motion carried.

6. **APPROVAL OF MINUTES** – May 26, 2022 Regular Meeting

MOTION: Claudette Morehouse/Ben Chevalier to approve the May 26, 2022 Regular Meeting minutes as presented. All were in favor. Motion carried.

7. **ADJOURNMENT**

MOTION: Ben Chevalier/Mike Martel to adjourn the meeting and pay the clerk at 7:24 p.m. All were in favor. Motion carried.

Respectfully submitted,

Annie Gentile
Clerk