

**Agenda**  
**Tolland Zoning Board of Appeals**  
**21 Tolland Green, Tolland, CT**  
**Thursday, October 27, 2022 at 7:00 p.m., 6<sup>th</sup> floor – Council Chambers**

---

1. Call to Order
2. Pledge of Allegiance
3. Seat Alternate(s)
4. Public Hearing(s)
  - 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
5. Business Meeting
  - 5.1. Approval of 2023 Meeting Schedule
6. Approve Minutes – May 26, 2022 Regular Meeting
7. Other Business
8. Adjournment

To join the Zoom Meeting, either click:

<https://us02web.zoom.us/j/8608713602?pwd=cXZLNQ9SWV1vNkNjZU9NYUxCd2xiUT09>

**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 October 27, 2022 at 7:00 p.m to consider the following application:

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

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: October 12, 2022

Once on: October 24, 2022



**TOWN OF TOLLAND**  
**APPLICATION FOR VARIANCE**  
Zoning Board of Appeals

App. # \_\_\_\_\_

**Property Information**

Property Address: \_\_\_\_\_

Property Owner: \_\_\_\_\_

Zone: \_\_\_\_\_ Map/Block/Lot: \_\_\_\_\_

**Applicant Information**

Name: (if different than above) \_\_\_\_\_

Address: (if different than above) \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

**Variance Requested**

Describe variance being requested and hardship (*self-created, financial or cosmetic issues are not hardships*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Section of Zoning Regulations to be Varied: \_\_\_\_\_

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: Derek Beebe Date: \_\_\_\_\_

Owner Signature: Megan [Signature] Date: 9/15/22

A separate letter or email from owner authorizing permission to apply for a variance is also acceptable.

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.

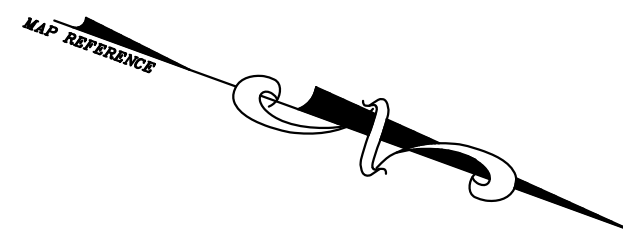
-----  
**OFFICE USE ONLY**

Fee Amount: \_\_\_\_\_ Official Date of Receipt: \_\_\_\_\_

Form of Payment: \_\_\_\_\_ Public Hearing Set for: \_\_\_\_\_

Date Submitted: \_\_\_\_\_ Decision Date: \_\_\_\_\_  
(stamp) Decision: \_\_\_\_\_

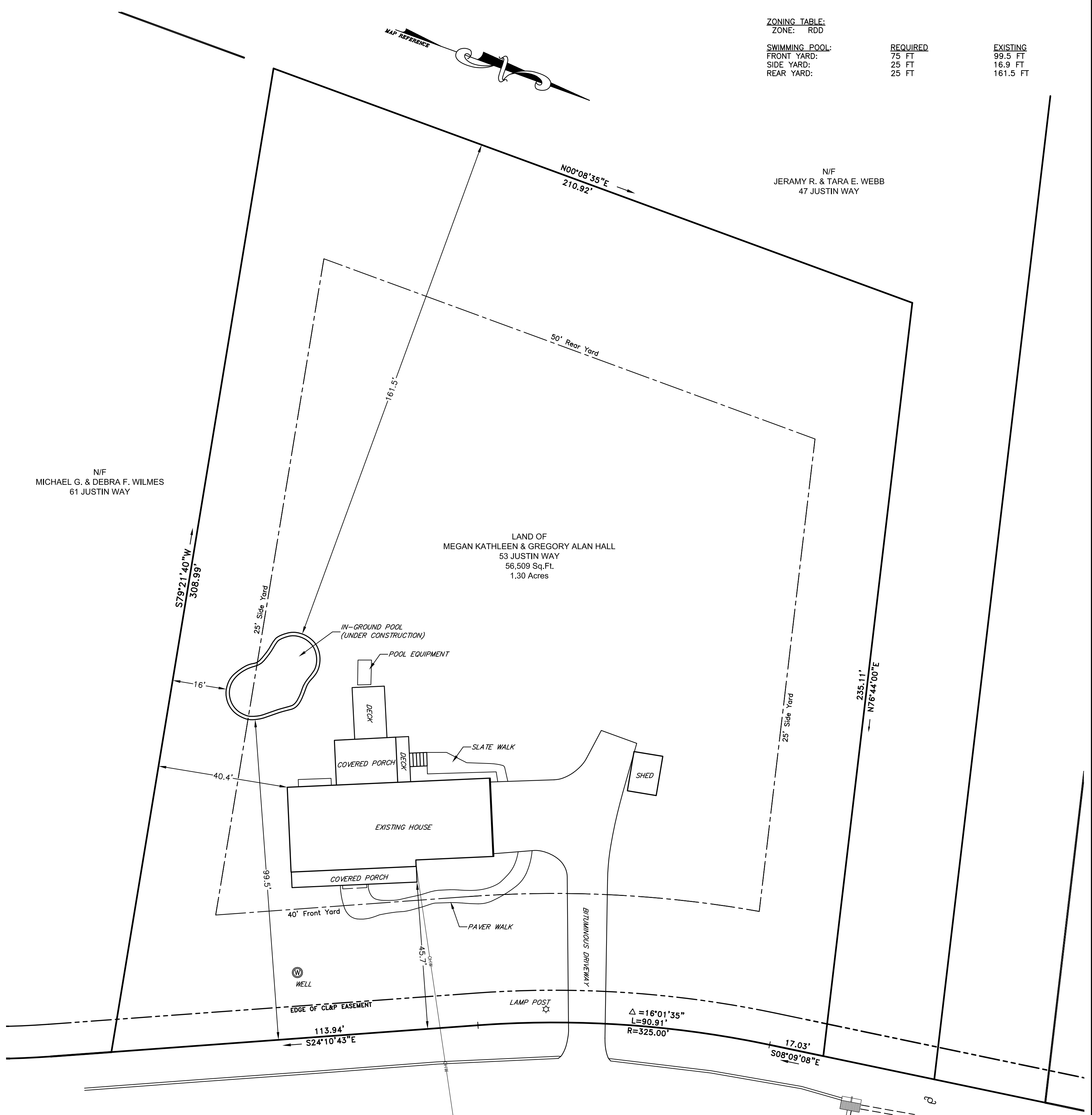
|                |          |          |
|----------------|----------|----------|
| ZONING TABLE:  |          |          |
| ZONE: RDD      |          |          |
| SWIMMING POOL: | REQUIRED | EXISTING |
| FRONT YARD:    | 75 FT    | 99.5 FT  |
| SIDE YARD:     | 25 FT    | 16.9 FT  |
| REAR YARD:     | 25 FT    | 161.5 FT |



N/F  
JERAMY R. & TARA E. WEBB  
47 JUSTIN WAY

N/F  
MICHAEL G. & DEBRA F. WILMES  
61 JUSTIN WAY

LAND OF  
MEGAN KATHLEEN & GREGORY ALAN HALL  
53 JUSTIN WAY  
56,509 Sq.Ft.  
1.30 Acres

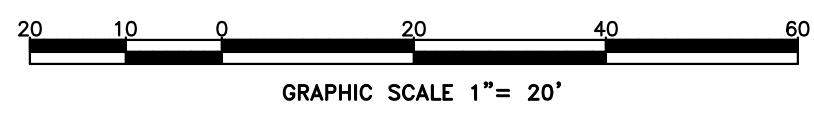


JUSTIN WAY

NOTES:

- THIS MAP AND SURVEY HAVE BEEN PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES, SECTIONS 20-300b-1 THROUGH 20-300b-20. THIS IS A PROPERTY SURVEY BASED ON AN DEPENDANT RESURVEY CONFORMING TO HORIZONTAL ACCURACY CLASS A-2.
- BEARINGS DEPICTED ON THIS PLAN ARE BASED ON THE SURVEY REFERENCED IN NOTE 3.A.
- MAP REFERENCES:  
A. "RESUBDIVISION PLAN STONEBRIDGE TOLLAND, CONNECTICUT DATE: AUGUST 30, 1996 REVISED TO FEBRUARY 27, 1997 BY: GARDNER & PETERSON ASSOCIATES.  
B. "COMPILATION PLAN MAP SHOWING EASEMENT AREA TO BE GRANTED TO THE CONNECTICUT LIGHT AND POWER COMPANY ACROSS THE PROPERTY OF STONEBRIDGE TOLLAND, CONNECTICUT" BY GARDNER & PETERSON ASSOCIATES. DATE: 7-24-97. FILE NO.: E-7067.
- THIS PROPERTY IS LOCATED IN THE RDD ZONE.
- UNDERGROUND UTILITY, STRUCTURE AND FACILITY LOCATIONS DEPICTED HEREON HAVE BEEN COMPILED, IN PART, FROM RECORD MAPPING AND OTHER DATA SUPPLIED BY THE RESPECTIVE UTILITY COMPANIES, GOVERNMENTAL AGENCIES AND/OR OTHER SOURCES. THESE LOCATIONS MUST BE CONSIDERED APPROXIMATE IN NATURE. ADDITIONALLY, OTHER SUCH FEATURES MAY EXIST ON THE SITE, THE EXISTENCE OF WHICH ARE UNKNOWN TO GARDNER & PETERSON ASSOCIATES, LLC. THE EXISTENCE, SIZE AND LOCATION OF ALL SUCH FEATURES MUST BE DETERMINED AND VERIFIED IN THE FIELD BY THE APPROPRIATE AUTHORITIES PRIOR TO CONSTRUCTION. CALL BEFORE YOU DIG 1-800-922-4455.

I HEREBY DECLARE THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.



| LEGEND |                      |
|--------|----------------------|
|        | PROPERTY LINE        |
|        | ZONING SETBACK       |
|        | EASEMENT             |
|        | UTILITY POLE         |
|        | OVERHEAD WIRES       |
|        | CATCH BASIN/DRAINAGE |

PROPERTY SURVEY  
PROPERTY OF  
MEGAN & GREGORY HALL  
53 JUSTIN WAY  
TOLLAND, CONNECTICUT

GARDNER & PETERSON ASSOCIATES, LLC

178 HARTFORD TURNPIKE  
TOLLAND, CONNECTICUT

|           |                        |        |            |           |                |  |
|-----------|------------------------|--------|------------|-----------|----------------|--|
| REVISIONS | PROFESSIONAL ENGINEERS |        |            |           | LAND SURVEYORS |  |
|           | BY                     | SCALE  | DATE       | SHEET NO. | MAP NO.        |  |
|           | E.R.P.                 | 1"=20' | 09-14-2022 | 1 OF 1    | 9376-25        |  |

*Eric R. Peterson*  
ERIC R. PETERSON

L.S. 23430  
REGISTRATION NO.

G:\1Plot\9376\Lot25\Survey\09-14-2022\9376-25.pdf  
9376-25.dwg 9376-25.dwg

**2023**  
Tolland Zoning Board of Appeals  
Meeting Schedule

| Regular Meeting Dates |     | Save the date for Site Walk Dates |    | Application Deadline |   |
|-----------------------|-----|-----------------------------------|----|----------------------|---|
| January               | 26  | January                           | 22 | January              | 5 |
| February              | 23  | February                          | 19 | February             | 2 |
| March                 | 23  | March                             | 19 | March                | 2 |
| April                 | 27  | April                             | 23 | April                | 6 |
| May                   | 25  | May                               | 21 | May                  | 4 |
| June                  | 22  | June                              | 18 | June                 | 1 |
| July                  | 27  | July                              | 23 | July                 | 6 |
| August                | 24  | August                            | 20 | August               | 3 |
| September             | 28  | September                         | 24 | September            | 7 |
| October               | 26  | October                           | 22 | October              | 5 |
| November              | 30* | November                          | 26 | November             | 2 |
| December              | 28  | December                          | 17 | December             | 7 |

The Zoning Board of Appeals regular meetings will be held at **7:00 p.m.** on the 4<sup>th</sup> Thursday of each month and will remain hybrid. Meetings are held in-person, they will be in the 6<sup>th</sup> level Council Chambers of the Hicks Memorial Municipal Center at 21 Tolland Green and via Zoom, unless otherwise posted.

Site Walks, if needed, will be posted as a Special Meeting. Time and locations for the Site Walks will be posted on the agenda.

Any party need an accommodation should contact the Development Office at 860-871-3601.

Check the Town website for meeting cancellations or special meetings.

\*Meeting is not held on the 4<sup>th</sup> Thursday of the month.

**ZONING BOARD OF APPEALS  
TOLLAND, CONNECTICUT  
REGULAR (HYBRID) MEETING MINUTES OF MAY 26, 2022**

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

**OTHERS PRESENT:** Michael D’Amato, AICP, CAZEO  
Kevin & Jayme Luginbuhl & Family, Applicants  
Peter DeMallie, President & Principal of Design Professionals,  
representing the applicants  
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 victims of the Uvalde, Texas school shooting.

**3. SEAT ALTERNATES**

A full quorum was in attendance, so an alternate did not need to be seated.

**4. PUBLIC HEARING**

Claudette Morehouse explained the two-part process of the public hearing.

4.1 **ZBA #22-2 – 274 Buff Cap Road** – Request a variance of 25 feet to construct a detached accessory dwelling unit 27 feet from the side yard setback where 50 feet is required under Section 5-3 of the Tolland Zoning Regulations. Applicant: Kevin Luginbuhl

**MOTION:** Claudette Morehouse/Ben Chevalier to open the public hearing for ZBA #22-2. All were in favor. Motion carried.

Bob Burns read the legal notice.

Peter DeMallie, President and Principal of Design Professionals, representing the applicant Kevin Luginbuhl, introduced Kevin's family—his wife Jayme, their twin two-year olds, and grandparents Karen and Barry Lanz who the proposed accessory dwelling unit (ADU) would be for.

Peter DeMallie said when the subdivision the Luginbuhls live in was first created, the homes were built in accordance with the then-sideyard setback requirements of 25 feet. The sideyard setback requirements have now been changed to 50 feet and his applicant is asking for a variance of that requirement. He noted the Luginbuhl's home was built in 1986 and sits on an approximately six-acre lot. The lot is on the north side of Buff Cap Road and set back from the road hundreds of feet. The lot narrows to the north.

Peter DeMallie said the existing house was approved by the sanitarian for four bedrooms, but the Luginbuhls converted it from four bedrooms to three bedrooms. The proposed cottage would have one bedroom and the Luginbuhls confirmed with Eastern Highlands Health District sanitarian Holly Hood that the existing septic system will support the one-bedroom house.

The ADU will be built by Kloter Farms and will be a 1,000 square foot home on a slab. The addition of it will have minimal intrusion on the surrounding neighborhood. It will be dark brown and blend into the surrounding wooded area. Peter DeMallie provided a rendering of the cottage.

One of the major hardships is that wetlands take up about 38 percent of the existing property. He noted that Ian Cole, a professional soils scientist, was hired and found that there are more wetlands on the property than is reported on the GIS maps. The wetlands have been flagged and they did a boundary survey. All abutters have been approached and the Luginbuhls received no objections to their plans.

Peter DeMallie said the proposed location for the ADU was chosen in part to provide privacy for each family. The entire parcel is topographically higher on the east side. The Luginbuhls do not want the ADU built out in any open area and they are also proposing adding a larger shed to replace their existing one in order to store their tractor and truck.

The proposed ADU would be 27 feet at its closest point from the property line. The abutter to the east is some distance away and the area is wooded. The closest neighbor is 324 feet away. That neighbor sent a letter of support for the variance request. (Other letters of support were also included in the packet.)

Peter DeMallie provided drawings and pointed out the locations of the existing driveway and house, the detached shed which is to be replaced, the wooded area, the proposed ADU and proposed driveway off the main drive, existing animal sheds, the garden area and area they use for breeding Labrador retrievers. He also provided several photos of the property and noted there are over 2.4 acres of wetlands on the property.

*May 26, 2022 Zoning Board of Appeals*

Peter DeMallie reviewed areas where the ADU could be placed without need of a variance but why they would not be appropriate. The location of the septic system, the upland review area for wetlands, the driveway location to access the property and the existing location of the Luginbuhl house each create hardships for placing the ADU in a location that meets the 50 foot sideyard setback.

Claudette Morehouse asked if the wetlands exist year round. Kevin Luginbuhl said they pretty much do. Peter DeMallie said the proposed ADU is over 50 feet from the wetlands, which meets town regulations.

Mike Martel asked what was it in the top right of the property that would prohibit the ADU from being placed there. Peter DeMallie said that is the area where they have a garden and animal enclosures and while the two families felt locating the ADU there would not afford both families the privacy they want, it would also be problematic because they would then need to put a driveway through the septic area.

Mike Martel asked if the 25 foot sideyard setback could be grandfathered. Mike D'Amato said grandfathering applies to existing structures that are there before the regulations change, so while it would apply to the Luginbuhl's house, it would not apply to any proposed new structure.

Claudette Morehouse said she would not think a desire for privacy would qualify as a hardship. Nate Carlson said the better argument is the locations of the leech field, reserve leech field and wetlands.

Peter DeMallie provided an exhibit prepared by Suzanne Choate, a professional engineer with his firm, showing the limited areas where the ADU could be located.

Nate Carlson asked if this would need to go before the Planning & Zoning Commission. Mike D'Amato said it would not. He noted the PZC adopted ADU regulations earlier this year in February.

There were no further questions from the Board and none from the public.

**MOTION:** Claudette Morehouse/Ben Chevalier to close the public hearing. All were in favor. Motion carried.

## **5. BUSINESS MEETING**

**MOTION:** Ben Chevalier/Nate Carlson to approve ZBA #22-2 at 274 Buff Cap Road for a variance of 25 feet to construct a detached accessory dwelling unit no closer than 27 feet from the side yard setback where 50 feet is required under Section 5-3 of the Tolland Zoning Regulations, the hardship due to the topography of the lot, the location of the wetlands and location of the leech fields. All were in favor. Motion carried.

Ben Chevalier reminded the applicant to return the signs to the Planning office.



6. **APPROVE MINUTES** – March 24, 2022 Regular Meeting.

**MOTION**: Claudette Morehouse/Nate Carlson to approve the March 24, 2022 Regular Meeting minutes as written. All were in favor. Motion carried.

7. **OTHER BUSINESS**

Mike Martel asked if a second alternate would be joining the Board. Ben Chevalier said they are still working on it.

8. **ADJOURNMENT**

**MOTION**: Ben Chevalier/Nate Carlson to adjourn the meeting and pay the clerk at 7:46 p.m. All were in favor. Motion carried.

Respectfully submitted,

Annie Gentile  
Clerk