



**AMENDED AGENDA**  
Zoning Board of Appeals  
Regular Meeting  
Monday, May 9, 2016 at 7:30 p.m.  
Community Center, Room B  
40 Dyer Avenue, Canton, Connecticut

**CALL TO ORDER:**  
**ROLL CALL:**

**PUBLIC HEARING**

1. **File #2015-11**; 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

**REGULAR MEETING**

**PUBLIC HEARING ACTIONS:**

1. **File #2015-11**; 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

**NEW BUSINESS:**

1. Consideration of possible refund for File #2016-1; 20 Canton Springs Road; Assessor's Map 35; Parcel 1640020; Zone I; Appeal the decision of the Zoning Enforcement Officer from the Observation of Violation regarding unapproved vehicular storage, dated January 15, 2016; Steven Lingenheld, applicant; Kings Highway Associates, LLC, owner

**OTHER BUSINESS:**

1. Approval of Meeting Minutes from March 14, 2016 and April 11, 2016
2. Staff Report

**ADJOURNMENT:**

Exhibit List for:

**File #2015-11;** 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

**List as of May 2, 2016**

Drawings:

1. Sheet 1; Site Feasibility Plan; 137 Cherry Brook Road; Prepared for Russell Richardson; Prepared by Shannon Engineering Associates, Inc.; dated 7/29/97
2. Sheet 2; Sanitary System Design; 145 Cherry Brook Road; Prepared for Mr. & Mrs. Maglietti; Prepared by Shannon Engineering Associates, Inc.; dated 2/27/98
3. Sheet 3; Survey & Site Plan for Proposed Garage; 145 Cherry Brook Road; Prepared by Robert Hiza; Prepared for Mr. & Mrs. Maglietti; dated 3/17/16
4. Sheet 4; Survey & Site Plan for Proposed Garage; 145 Cherry Brook Road; Prepared by Robert Hiza; Prepared for Mr. & Mrs. Maglietti; dated 3/17/16; revised 4/19/16
5. Sheet 5; Subdivision Plan; 137 Cherry Brook Road; Prepared for Russell Richardson; Prepared by Nascimbeni & Jahne Surveyors, P.C.; dated July 1997

Correspondence:

1. File #2015-11; 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners.
2. Copy of payment; check # 7546
3. Assessor's card for 145 Cherry Brook Road
4. Aerial view of 145 Cherry Brook Road
5. Approval from the Farmington Valley Health District (2 pages); received on 12/29/15
6. Copy of the abutter notice, notifying them of the upcoming Public Hearing on 2/8/16
7. List of abutters
8. Certification of Notice for posting of Public Hearing sign per Section 9.9.F of Zoning Regulations
9. 1998 Existing Building Location Survey
10. Copy of Certified Mail receipts
11. Email from the Weakley Family to Renee Narducci regarding the application; dated 1/8/16
12. Town of Canton legal notice
13. Proof of legal notice from the Hartford Courant; dated 1/21/16
14. Public hearing sign affidavit; dated 1/26/16
15. Property photos (11 total); submitted to the Land Use Office on 1/26/16
16. Agenda for the February 8, 2016 regular meeting
17. Email from Renee Narducci to applicant regarding outstanding items; dated 2/4/16
18. Public hearing notice of postponement; dated 2/8/16
19. Email from Renee Narducci to applicant regarding rescheduling of public hearing; 2/17/16
20. Agenda for the February 22, 2016 special meeting
21. Staff memo regarding the application; dated 2/22/16
22. Approved minutes from the 2/22/16 special meeting
23. Connecticut Noble Tree information
24. Consent for extension of statutory time (CGS, Chapter 8-7d) signed by Renata Maglietti; received by the Land Use Office on 3/9/16
25. Consent for extension of statutory time (CGS, Chapter 8-7d) signed by Renata Maglietti; received by the Land Use Office on 4/8/16
26. Letter from Peter Hiza to the Zoning Board of Appeals regarding the proposed garage; dated 4/8/16
27. Company brochure for Peter Hiza Builder, LLC; received on 4/22/16
28. Warranty Deed information; Volume 226; Page 284; received on 4/22/16
29. Letter from Peter Hiza to the Zoning Board of Appeals regarding the proposed garage; dated 4/19/16; received on 4/22/16
30. Photo depicting proposed garage; received on 4/22/16

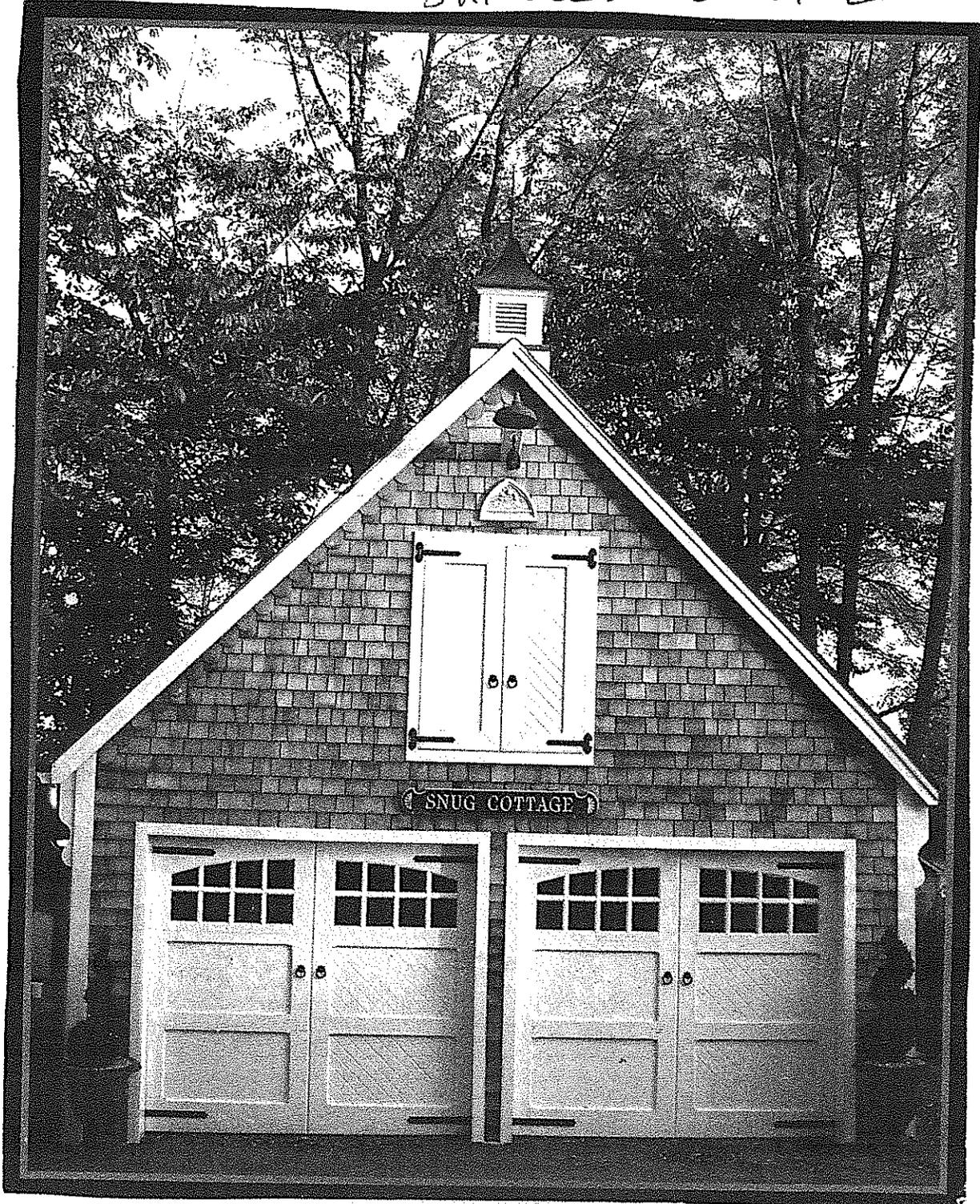
CANTON TOWN HALL  
LAND USE OFFICE

GARAGE - EAST ELEVATION #3

APR 22 2016

DATE OF RECEIPT IN OFFICE

- o 24'x24' 2 BAY GARAGE
- o 12/12 ROOF, 21 FT TALL MAX
- o CEDAR CLAP BOARD OR CEDAR SHINGLES - EAST ELEVATION.



#24

To: Zoning Board of Appeals, Canton, CT

From: Peter Hiza, agent for R. and R. Maglietti, 145 Cherry Brook Rd, Canton, CT

Re: Continuation of ZBA public Hearing (Feb 22, 2016; side yard set-back variance (3.4 E.2) , height of accessory structure variance on proposed new garage (3.4 G.2).

Date: April 19 , 2016

CANTON TOWN HALL  
LAND USE OFFICE

APR 22 2016

ZBA Members,

DATE OF RECEIPT IN OFFICE

Please find enclosed additional documentation and information in support of the Maglietti's requested side yard set-back and accessory structure height variances regarding proposed 24ft by 24ft detached garage. The proposed garage would be regulated as part of the "accessory structure" regulations. ( 15 ft min side yard setback and 1 story, 12 foot height requirement) . Documentation relies upon existing plans ; ( A-2 " Existing building location survey" (May 1998), " Site feasibility plan" (July 1997), "Sanitary system design" (Feb, 1998) and deed available at Canton Town Hall as well as documents available from FVHD. Additionally, please find enclosed an A-2 survey as prepared by Robert Hiza, PE (March, 2016). The survey locates the proposed garage with respect to the properties' critical landmarks ; ( house, well, sideyard , Right of way to rear lot, septic system and remaining rear foundation wall of historic barn) . Information and documentation are in direct answer to ZBA Commission questions and concerns expressed after initial public hearing. ( ZBA minutes, Feb22, 2016 and in summary form- R Narducci, Land Use Coordinator, email to Maglietti on Feb 4 , 2016).

Briefly , we are requesting; 1) relief from side yard set-back requirement (3.4 E.2) proposed garage foundation would be a minimum 12.5 ft from boundary therefore we are asking for a 2.5 foot encroachment beyond the setback and 2) relief from height requirement (3.4 G.2) (proposed garage would be 1 story and 21ft high, accessory structure requirement of 1 story and 12 feet high) therefore we are asking for 9 feet of relief on height requirement. Proposed garage would be 9.5 feet minimum from ROW. Hardship presented is limited reasonable buildability of lot (approx 1/3 of lot is flat (front yard), 2/3 very steep and rocky (rear yard)). ( refer to topo details in the "Site Feasibility Plan" in appendix). Well placement also severely limits garage site choices.

Additionally, we feel that this garage proposal satisfies the spirit of the zoning regulation preamble (section 3.1 "Purposes"; "development appropriate to the environmental characteristics of the land and character of the neighborhood."

Please note that application has been submitted to and approved by FVHD.

Finally, find enclosed an elevation of the Maglietti's proposed garage. ( to be built substantially similar), the view from Cherry Brook Rd.

A handwritten signature in black ink, appearing to read 'P. Hiza', written over the text 'Peter J Hiza'.

Respectfully submitted, Peter J Hiza

#20

WARRANTY DEED (Survivorship)

11455



VOL. 226 - PAGE 284

To all People to whom these Presents shall come, Greeting:

KNOW YE, THAT I, RUSSELL J. RICHARDSON, II, of the Town of Canton, County of Hartford and State of Connecticut,

for the consideration of FIFTY-EIGHT THOUSAND (\$58,000.00) DOLLARS,

received to my full satisfaction of RUSSELL V. MAGLIETTI and RENATA P. MAGLIETTI, both of the Town of Avon, County of Hartford and State of Connecticut,

do give, grant, bargain, sell and confirm unto the said Russell V. Maglietti and Renate P. Maglietti,

and the survivor of them, and the heirs and assigns of the survivor of them forever a certain piece or parcel of land situated on the easterly side of Cherry Brook Road in the Town of Canton, County of Hartford and State of Connecticut, known as #137 Cherry Brook Road, and shown as LOT NO. 1 on a map entitled: Subdivision Plan Prepared for Russell J. Richardson II 137 Cherry Brook Road Canton, Connecticut Scale 1" = 40' July, 1997 Certified Substantially Correct Nascimbeni & Jahne, L.S., which map is on file in the Town Clerk's Office in said Town of Canton. Said premises are bounded and described as follows:-

Beginning at a point on the easterly side of the assumed highway line of Cherry Brook Road, which point marks the northwesterly corner of the within described premises; thence S 58° 29' 32" E, 226.71 feet to an iron pin; thence in the same course, 265.19 feet to an iron pin; thence in the same course, 94.89 feet to a point; thence S 34° 03' 52" W, 150.00 feet to a point; thence N 58° 29' 32" W, 587.00 feet to the assumed highway line of said Cherry Brook Road; thence N 34° 03' 52" E, along the assumed highway line of Cherry Brook Road, 135.28 feet to a point; thence Northeasterly in a curve to the right with a radius of 503.05 feet, 14.73 feet to the point or place of beginning.

Said premises are conveyed subject to a Right-of-Way to land of Wallace Riiska as shown on said map.

Said premises are conveyed subject to the rules and regulations of the Canton Historical District.

Said premises are conveyed subject to taxes on the List of October 1, 1997 to the Town of Canton, which taxes the Grantees herein assume and agree to pay as part consideration for this deed.

Said premises are conveyed subject to any and all provisions of any ordinances, municipal regulations or public or private laws, including zoning, planning and inland wetlands regulations of the Town of Canton.

CANTON TOWN HALL  
LAND USE OFFICE

APR 22 2016

2278

DATE OF RECEIPT IN OFFICE

#251

Peter Hiza Builder, LLC  
Canton, CT

860-906-4605

[peterhiza.wix.com/builder](http://peterhiza.wix.com/builder)

[peterhiza@snet.net](mailto:peterhiza@snet.net)



#26

To: Zoning Board of Appeals, Canton, CT

From: Peter Hiza, agent for R. and R. Maglietti, 145 Cherry Brook Rd, Canton, CT

Re: Continuation of ZBA public Hearing (Feb 22, 2016; side yard set-back variance on proposed garage)

Date: April 8, 2016

ZBA Members,

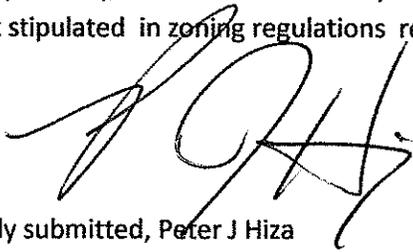
Please find enclosed additional documentation and information in support of the Maglietti's requested side yard set-back variance regarding proposed 24ft by 24ft detached garage. The proposed garage, though detached, would be regulated as part of the "principal" structure of the property and clearly not "accessory" ("subordinate and clearly incidental to") to the house. Documentation relies upon existing plans ; ( A-2 " Existing building location survey" (May 1998), " Site feasibility plan" (July 1997), "Sanitary system design" (Feb, 1998) and deed available at Canton Town Hall as well as documents available from FVHD. Additionally, please find enclosed an A-2 survey as prepared by Robert Hiza, PE (March, 2016). The survey locates the proposed garage with respect to the properties' critical landmarks ; ( house, well, sideyard , Right of way to rear lot, septic system and remaining rear foundation wall of historic barn) . Information and documentation are in direct answer to ZBA Commission questions and concerns expressed after initial public hearing. ( ZBA minutes, Feb22, 2016 and in summary form- R Narducci, Land Use Coordinator, email to Magliettis on Feb 4 , 2016).

Briefly , we are requesting relief from side yard set-back requirement ( proposed garage foundation would be a minimum 12.5 ft from boundary, roof soffit would be 12 ft from boundary. Proposed garage would be 9.5 feet minimum from ROW). Hardship presented is limited reasonable buildability of lot (approx 1/3 of lot is flat (front yard), 2/3 very steep and rocky (rear yard)). ( refer to topo details in the "Site Feasibility Plan" in appendix). Well placement also severely limits garage site choices.

Additionally, we feel that this garage proposal satisfies the spirit of the zoning regulation preamble (section 3.1 "Purposes"); "development appropriate to the environmental characteristics of the land and character of the neighborhood."

Please note that application has been submitted to and approved by FVHD.

Finally, find enclosed an elevation of the Maglitti's proposed garage. ( to be built substantially similar), the view from Cherry Brook Rd. Maximum height, 21 feet. ( Well within 35 ft height limit stipulated in zoning regulations regarding" principal structures". )



Respectfully submitted, Peter J Hiza

April 8, 2016

#25

By April 8

Introduction

Definitions

Residential (R)  
Districts

Business  
Districts

Design  
Districts

Other  
Districts

Basic  
Standards

Special  
Regulations

Procedures/  
Appendix



# TOWN OF CANTON

4 Market Street  
PO Box 168  
Canton, CT 06019

## Land Use Department

(860) 693-7856  
(860) 693-7884 (fax)

### CONSENT FOR EXTENSION OF STATUTORY TIME CGS, CHAPTER 8-7d

Name of Application: Variance from section 3.4.E.2, minimum side yard setback for accessory structure

Application # 2015-11

Applicant: Renata Maglietti

Extension requested for (check one):

- Deadline for commencement of public hearing \_\_\_\_\_
- Deadline for closure of public hearing X
- Deadline for action \_\_\_\_\_
- General extension \_\_\_\_\_

Number of days granted \_\_\_\_\_ OR, date to which extension granted: 5/9/16

→ Date of authorization: 4-5-16

→ Authorizing agent signature: Renata Maglietti

→ Authorizing agent name (Printed) Renata Maglietti

CANTON TOWN HALL  
LAND USE OFFICE

APR 08 2016

DATE OF RECEIPT IN OFFICE

#24



# TOWN OF CANTON

4 Market Street  
PO Box 168  
Canton, CT 06019

CANTON TOWN HALL  
LAND USE OFFICE

MAR 09 2016

Land Use Department

(860) 693-7856  
(860) 693-7884 (fax)

DATE OF RECEIPT IN OFFICE

## CONSENT FOR EXTENSION OF STATUTORY TIME CGS, CHAPTER 8-7d

Name of Application: Variance from Section 3.4.E.2, minimum side yard setbacks for accessory structures

Application # 2015-11

Applicant: Mrs. Renata Maglietti

Extension requested for (check one):

- Deadline for commencement of public hearing \_\_\_\_\_
- Deadline for closure of public hearing X
- Deadline for action \_\_\_\_\_
- General extension \_\_\_\_\_

Number of days granted \_\_\_\_\_ OR, date to which extension granted: April 11, 2016

Date of authorization: 3-5-16

Authorizing agent signature: Renata Maglietti

Authorizing agent name (Printed) Renata P. Maglietti

#23

# Connecticut's Notable Trees



- Home
- CHAMPION TREES
  - by Scientific Name
  - by Common Name
  - Our National Champions
  - Without Champions
- LEGENDARY TREES
  - 1902 Pin Oaks
  - Charter Oak Descendants
  - Matthies's Book
- RECORDS
  - for a Species
  - for a Town
  - Full List by Town
  - Full List by Species
  - Biggest Trees
  - Tallest Trees
  - Largest-Trunked Trees
- ABOUT
  - Measuring & Reporting
  - Links
  - Contact Us

ID: 225088  
 Scientific Name: *Betula papyrifera*  
 Common Name: Paper Birch  
 Town: Canton  
 Points: 225  
 Circumference: 119 in  
 Height: 91 ft  
 Average Spread: 60 ft  
 Nominated by: Scott Perry (Sep 6, 2009)  
 Measured by: Ed Richardson (Sep 28, 2009)  
 Notes: ~~xxx~~ This tree is a Connecticut co-champion.

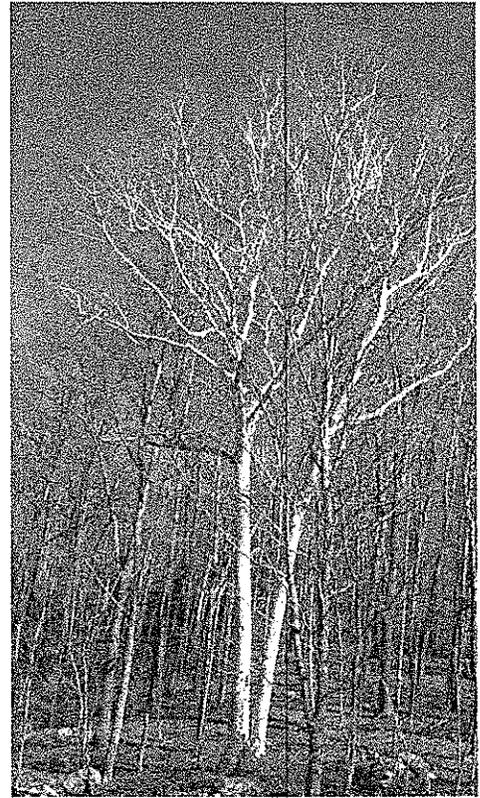
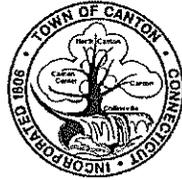


Photo by Renee & Russell Maglietti (May 31, 2012)



#22

**APPROVED MINUTES**  
Zoning Board of Appeals  
Special Meeting  
Monday, February 22, 2016 at 7:30 pm  
Library Community Center, Room F

**CALL TO ORDER:** Chairman Brainard called the Special Meeting of February 22, 2016 to order at 7:30 p.m.

**PRESENT:** Robert Brainard, Christopher Kerr, Guerry Dotson, Gary Adajian, and Walter LeGeyt (Alternate)

**ALSO PRESENT:** Zoning Enforcement Officer Emily Anyzeski and Recording Secretary Jennifer Scott

Mr. LeGeyt was seated as a Regular Member by R. Brainard.

A quorum of the Commission is present.

**MODIFICATION TO THE AGENDA:**

**MOTION:** Mr. Brainard moved to modify the agenda to include a discussion of ex parte communication and recusal under Other Business of the Regular Meeting. Mr. Adajian seconded the motion, which passed unanimously, 5-0-0.

**REMARKS BY CHAIR:** None

**PUBLIC HEARING**

**READING OF THE LEGAL NOTICE:** Read by Mr. Brainard

1. **File #2015-11;** 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

Commissioners Seated: Robert Brainard, Christopher Kerr, Guerry Dotson, Gary Adajian, and Walter LeGeyt

Renata and Russell Maglietti were in attendance to present their application. Mr. Brainard advised Mr. and Mrs. Maglietti that there are several items missing from the property map that was included within their application. He said that the items they are missing include boundaries, the width of an existing right of way, measurements reflecting the distance from the existing right of way to the location of the proposed garage, measurements reflecting the distance from the garage to the house, measurements for the location of the well and septic tank, measurements for the location of the stone wall, and the exact location of the proposed garage. Mr. Brainard said that the Zoning Board of Appeals must work with facts. He added that if a variance were granted, they must know specifically where on the lot the proposed garage will be located.

Ms. Anyzeski said that Mrs. Maglietti was sent an email by the Land Use office on February 6, 2016 that stated that her application was missing some items. Mrs. Maglietti replied that she did not receive such an email. Mr. Brainard advised the applicants that they would need to obtain a survey of their property because their application contains so many "unknowns" as it currently stands.

He said that the survey should include all of the items they have been advised are missing as well as the location of the proposed garage in relation to those items. Mr. Brainard told Mr. and Mrs. Maglietti that the Board could not grant their variance at this time but they could grant a continuance in order for a survey of their property to be completed. Mr. and Mrs. Maglietti opted for a 60-day continuance to give them sufficient time to have their property surveyed.

Ms. Anyzeski stated that she would re-forward the email sent to Mrs. Maglietti by the Land Use office on February 6, 2016 which contains the list of items she needs in order to complete her application. Ms. Anyzeski said she would also mail a hard copy of the list to the applicants' residence. Mr. Brainard recommended that in addition, Mr. and Mrs. Maglietti go to the Land Use office in person to find out exactly what items are outstanding.

**MOTION:** Mr. Brainard moved to continue the Public Hearing for File #2015-11; 145 Cherry Brook Road to the May 9, 2016 regular Meeting. Mr. Kerr seconded the motion, which passed unanimously, 5-0-0.

## REGULAR MEETING

### PUBLIC HEARING ACTIONS:

1. **File #2015-11; 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners**

### OTHER BUSINESS

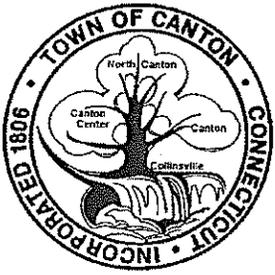
1. **Approval of Meeting Minutes from November 9, 2015 and November 30, 2015**

**MOTION:** Mr. Adajian moved to approve the meeting minutes from November 9, 2015 as presented. Mr. Kerr seconded the motion, which passed unanimously, 5-0-0.

**MOTION:** Mr. Dotson moved to approve the meeting minutes from November 30, 2015 as presented. Mr. Adajian seconded the motion, which passed unanimously, 5-0-0.

2. **Discussion of Ex Parte Communication and Recusal** – Mr. Brainard updated the members on a discussion he recently had with the Land Use office regarding what qualifies as ex parte communication as it relates to a ZBA member. Mr. Brainard shared the Town Attorney's recommendations relating to communications between members of the ZBA and members of the public. He said that the recommendation was that the ZBA members should advise members of the public (with or without current applications) to direct any and all inquiries to the Land Use office. Mr. Brainard also discussed situations where a conflict of interest may arise and it would be appropriate for a ZBA member to recuse themselves.
3. **Discussion of Standard Enforcement Zoning Procedures** – Ms. Anyzeski relayed that the PZC has elected not to make any additional changes to the Standard Enforcement Zoning Procedures at this time pursuant to the opinion of the Town Attorney.
4. **Staff Report** – Ms. Anyzeski advised Mr. LeGeyt that the applicable paperwork has been submitted and his status as Alternate Member should be changed to Regular Member very soon. She also said that there are currently two potential candidates looking to join the ZBA as Alternate Members.

**AJOURNMENT:** Mr. Adajian moved to adjourn the Special Meeting of the Zoning Board of Appeals at 8:14 p.m. Mr. Kerr seconded the motion. The motion passed unanimously, 5-0-0.



## LAND USE OFFICE

**Canton, Connecticut INC. 1806**

**4 Market Street, Canton, Connecticut 06019**

#21

To: Zoning Board of Appeals

From: Emily Anyzeski  
Assistant Town Planner, ZEO, IWWA 693-7892

Re: **File #2015-11**; 145 Cherry Brook Road; Assessor Map 22; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks, Accessory Structures, for reduction of 15' side yard setback by 7'; Maglietta, applicant/owner.

Date: February 22, 2016

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### Background

Applicant is looking to place a garage at the end of the existing driveway on the property. A 7 foot variance is being sought out because of the location of the existing well, an existing barn, and steep slopes.

### Statutory Time

The statutory date of the receipt is February 22, 2016. Per Section 9.6.D.8, the public hearing shall commence within 65 days after receipt of the application (April 27, 2016). The hearing must close within 35 days (June 1, 2016) unless the applicant grants and extension. The decision can be rendered up to 65 days after the hearing is closed.

Abutter notices required under Section 9.6.D.4.b were confirmed on October 13, 2015. The Certificate of Notice (posting of sign), required under Section 9.6.D.4.c was posted on January 10, 2016.

Date legal notices were run on Tuesday, January 26, 2016 and Tuesday, February 2, 2016.

### Zoning Reference

In reviewing a Variance Application, the Board should review Section 9.6 of the Zoning Regulations with particular consideration to Section 9.6.E, Decision Considerations.

### Standards for the Granting of a Hardship

In reviewing this variance request the Board should consider the following standards for determining whether a statutorily supported hardship exists:

1. The hardship must arise from conditions that are unique to the individual property rather than conditions found in the district in general (topography, unusual shape, etc.).
2. The hardship must be related to the property rather than the individual.
3. The hardship cannot be financial.
4. The hardship cannot be self-imposed.

5. If the regulations were strictly imposed, the property owner would not have practical use of the property; imposition of the regulations would amount to a confiscation of the property.

**Staff Comments**

The board should be advised that after review of the file by staff and the ZBA Chairman, it was determined that there is missing information for this application. The following information is unknown:

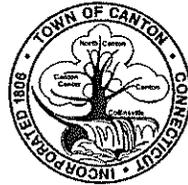
1. The boundaries and width of the existing Right of Way (ROW);
2. There are no measurements reflecting the distance from the ROW to the proposed location of the garage;
3. There are no measurements reflecting the distance from the proposed garage to the house;
4. The location of the well is not depicted on the drawing;
5. The location of the septic is not depicted on the drawing; and
6. The location of the stone is not depicted on the drawing.

**On February 4, 2016, the applicant was made aware of these missing items. The Land Use Office received no relevant documents following this contact.**

It should be noted that should the Board be inclined to act favorably on the variance request it should carefully consider the wording of its approval as it will be narrowly reviewed in future instances in how it creates or restricts the owner's ability to use their property. The Board should review Section 9.6.G. Action Documentation, prior to the issuance of any decision. The Board, after some deliberation, may also request one or more Draft Motions to be prepared by staff for consideration by the Board.

Under Section 9.6.E.4, applicable by CGS 8-6, the concurring vote of 4 members of the ZBA shall be necessary to vary the application of these regulations.

#20



**AGENDA**  
Zoning Board of Appeals  
Special Meeting  
Monday, February 22, 2016 at 7:30 p.m.  
Community Center, Room F  
40 Dyer Avenue, Canton, Connecticut

**CALL TO ORDER:**  
**ROLL CALL:**

**PUBLIC HEARING**

1. **File #2015-11;** 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

**REGULAR MEETING**

**PUBLIC HEARING ACTIONS:**

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**OTHER BUSINESS:**

1. Approval of Meeting Minutes from November 09, 2015 and November 30, 2015
2. Discussion of Standard Enforcement Zoning Procedures
3. Staff Report

**ADJOURNMENT:**

#19

**Narducci, Renee**

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**From:** Narducci, Renee  
**Sent:** Wednesday, February 17, 2016 8:55 AM  
**To:** 'fourrsmag@msn.com'  
**Subject:** Rescheduled ZBA Meeting  
**Attachments:** 02-22-16 ZBA Special Meeting Agenda.pdf

Good Morning Mrs. Maglietti,

The February 8, 2016 ZBA meeting has been rescheduled for Monday, February 22, 2016 at 7:30 p.m.; agenda attached.

Thank you – Renee

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*Renee Narducci  
Land Use Coordinator  
Town of Canton  
P.O. Box 168  
Collinsville, CT 06022  
860-693-7856*

The Canton Zoning Board of Appeal's  
Public Hearing scheduled for February 8, 2016 for

*File #2015-11; 145 Cherry Brook Road;  
Assessor's Map 322; Parcel 1850145; Zone R-2;  
Variance from Section 3.4.E.2, Minimum Yard  
Setbacks for Accessory Structures; Reduction of  
side yard setback by seven feet for a 576 +/-  
square foot detached garage; Renata Maglietti,  
applicant; Renata and Russell Maglietti, owners*

has been postponed until further notice. The Public  
Hearing will occur at 7:30 p.m. in Room B of the  
Canton Community Center, 40 Dyer Avenue,  
Canton, CT.

#17

**Narducci, Renee**

---

**From:** Narducci, Renee  
**Sent:** Thursday, February 04, 2016 3:45 PM  
**To:** 'fourrsmag@msn.com'  
**Subject:** ZBA Application Review - Comments

Good Afternoon Mrs. Maglietti,

After review of your file by staff and the ZBA Chairman, a few questions were raised regarding your requested variance. The following information is unknown:

1. The boundaries and width of the existing Right of Way (ROW);
2. There are no measurements reflecting the distance from the ROW to the proposed location of the garage;
3. There are no measurements reflecting the distance from the proposed garage to the house;
4. The location of the well is not depicted on the drawing;
5. The location of the septic is not depicted on the drawing; and
6. The location of the stone is not depicted on the drawing.

With the submission of these items, the hardship presented will be more accurately depicted and understood, allowing for a more thorough review of your application.

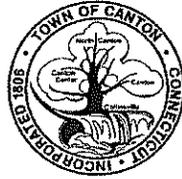
Please contact the Land Use Office with any questions.

Thank you,  
Renee

---

*Renee Narducci  
Land Use Coordinator  
Town of Canton  
P.O. Box 168  
Collinsville, CT 06022  
860-693-7856*

#116



**AGENDA**

Zoning Board of Appeals  
Regular Meeting  
Monday, February 8, 2016 at 7:30 p.m.  
Community Center, Room B  
40 Dyer Avenue, Canton, Connecticut

**CALL TO ORDER:  
ROLL CALL:**

**PUBLIC HEARING**

1. **File #2015-11**; 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

**REGULAR MEETING**

**PUBLIC HEARING ACTIONS:**

1. **File #2015-11**; 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

**OTHER BUSINESS:**

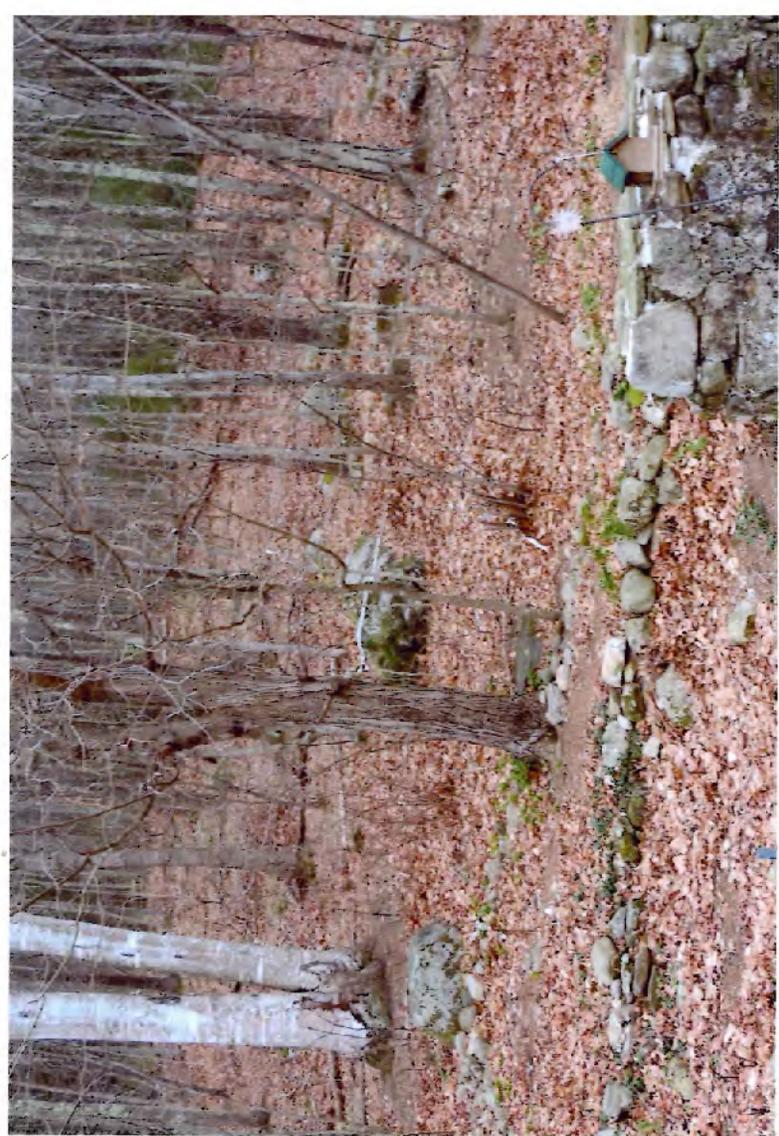
1. Approval of Meeting Minutes from November 09, 2015 and November 30, 2015
2. Discussion of Standard Enforcement Zoning Procedures
3. Staff Report

**ADJOURNMENT:**











#14

**NOTICE TO APPLICANTS**

THIS AFFIDAVIT IS REQUIRED FOR ALL APPLICATIONS REQUIRING A PUBLIC HEARING BY THE ~~PLANNING & ZONING COMMISSION~~

Zoning Board of Appeals

**NOTE: PUBLIC HEARING SIGNS MUST BE POSTED ON THE SUBJECT PROPERTY 15 DAYS PRIOR TO THE PUBLIC HEARING DATE.**

**THIS FORM (SIGNED AND NOTARIZED) MUST BE PRESENTED AT THE PUBLIC HEARING.**

**AFFIDAVIT**

STATE OF CONNECTICUT

Ss:

COUNTY OF HARTFORD

I, Renata P. Maglietti of Canton, CT  
(Applicant) (City, State)

Being duly sworn, make oath and say that I have maintained sign(s) as required by the Canton Planning & Zoning Regulations, stating that a Planning & Zoning Commission application is pending for the following property:

145 Cherry Brook

(Location of Property)

DATE: 1-25-16

[Signature]

(Signature of Applicant)

Renata P Maglietti  
(Type or Print Name of Applicant)

Subscribed and sworn to before me this 26<sup>th</sup> day of January, 2016

[Signature]

(Notary Public)

My Commission Expires on 10/31/2017

Land Use Office-(860) 693-7856  
Facsimile- (860) 693-7884

[www.townofcantonct.org](http://www.townofcantonct.org)

M,T,Th 8:15-4:30  
Wed 8:15-6:45  
Fri. 8:15-Noon

#13



PUBLISHING  
DIGITAL

Order ID: 3913443

Printed: 1/21/2016 2:15:07 PM

Page 2 of 2

GROSS PRICE \* : \$135.82

\* Agency Commission not included

PACKAGE NAME: Legal Notice  
Zoned Daily

Legal Notice  
Town of Canton  
Zoning Board of Appeals

The Canton Zoning Board of Appeals will hold a public hearing at a regular meeting on Monday, February 8, 2016 at 7:30 p.m., in Room B of the Community Center, 40 Dyer Avenue, Canton, CT for the following application:

File #2015-11; 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2. Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

This application is on file and available for public inspection in the Land Use Office, Canton Town Hall, 4 Market Street, Collinsville, CT, telephone 860.693-7856.

Dated at Canton, Connecticut, this 21st day of January 2016.

Robert Bralnard, Chairman

To be published twice in the Hartford Courant on Tuesday, January 26, 2016 and Tuesday, February 2, 2016.

#12

**Legal Notice**  
Town of Canton  
Zoning Board of Appeals

The Canton Zoning Board of Appeals will hold a public hearing at a regular meeting on Monday, February 8, 2016 at 7:30 p.m., in Room B of the Community Center, 40 Dyer Avenue, Canton, CT for the following application:

**File #2015-11;** 145 Cherry Brook Road; Assessor's Map 322; Parcel 1850145; Zone R-2; Variance from Section 3.4.E.2, Minimum Yard Setbacks for Accessory Structures; Reduction of side yard setback by seven feet for a 576 +/- square foot detached garage; Renata Maglietti, applicant; Renata and Russell Maglietti, owners

This application is on file and available for public inspection in the Land Use Office, Canton Town Hall, 4 Market Street, Collinsville, CT, telephone 860-693-7856.

Dated at Canton, Connecticut, this 21<sup>st</sup> day of January 2016.

Robert Brainard, Chairman

To be published twice in the Hartford Courant on Tuesday, January 26, 2016 and Tuesday, February 2, 2016.

Town of Canton Account Number: CU00254181

#11

**Narducci, Renee**

---

**From:** Weakley Family <weakleyfamily@comcast.net>  
**Sent:** Friday, January 08, 2016 7:24 PM  
**To:** Narducci, Renee  
**Subject:** Variance 3.4.E.2 File # 2015-11

Re: Variance to Section 3.4.E.2  
File #2015-11  
154 Cherry Brook Road  
Applicant/Owner: Russell and Renata Maglietti

I am writing to support Russel and Rene Maglietti in their petition for permission to build a garage at the end of their driveway.

The Magliettis are highly responsible property owners and citizens of the town, as well as wonderful neighbors. Their home is immaculately kept and their gardens are beautiful. They have appreciation and respect for the historical nature of the area, and strive to keep their home in the same character. I have every confidence that their planned garage will not only be appropriate to the historical nature of the neighborhood, but also an asset to their property value and that of the neighborhood. In fact there is a detached garage across the street from our/their home which is lovely and adds character. I am sure that the Maglietti's garage will likewise enhance the neighborhood. Furthermore, an attractive, enclosed garage will be more attractive then cars parked in the open. Please approve the variance as stated.

Respectfully,

Sharon and Chris Weakley  
141 Cherry Brook Road, Canton

7015 1730 0000 3090 2840

**U.S. Postal Service**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**CANTON, CT 06019**

Certified Mail Fee \$3.45

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.00

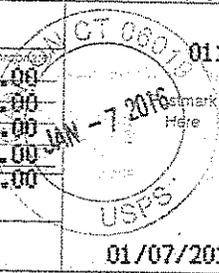
Total Postage and Fees \$3.45

Sent To **Douglas Gnazzo**

Street and Apt. No. or PO Box No. **130 Cherry Brook Rd**

City, State, ZIP+4® **Canton, CT 06019**

PS Form 3800, April 2015 PSN 7530-0200-9001 See Reverse for Instructions



#10

7015 1730 0000 3090 2832

**U.S. Postal Service**  
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For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**CANTON CENTER, CT 06020**

Certified Mail Fee \$3.45

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.49

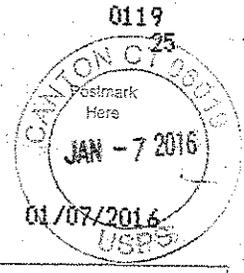
Total Postage and Fees \$3.94

Sent To **L Perry**

Street and Apt. No. or PO Box No. **P.O. Box 1**

City, State, ZIP+4® **Canton Center, CT 06020**

PS Form 3800, April 2015 PSN 7530-0200-9001 See Reverse for Instructions



7015 1730 0000 3090 2826

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**CANTON, CT 06019**

Certified Mail Fee \$3.45

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.49

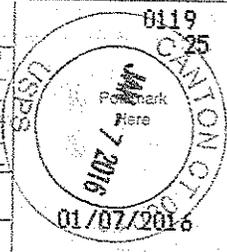
Total Postage and Fees \$3.94

Sent To **Bowen**

Street and Apt. No. or PO Box No. **144 Cherry Brook Rd**

City, State, ZIP+4® **Canton, CT 06019**

PS Form 3800, April 2015 PSN 7530-0200-9001 See Reverse for Instructions



7015 1730 0000 3090 2844

**U.S. Postal Service**  
**CERTIFIED MAIL® RECEIPT**  
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For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**CANTON, CT 06019**

Certified Mail Fee \$3.45

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.49

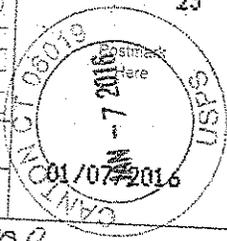
Total Postage and Fees \$3.94

Sent To **M M Kempe**

Street and Apt. No. or PO Box No. **150 Morgan Rd**

City, State, ZIP+4® **Canton, CT 06019**

PS Form 3800, April 2015 PSN 7530-0200-9001 See Reverse for Instructions



7015 1730 0000 3090 2857

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**CERTIFIED MAIL® RECEIPT**  
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For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**CANTON, CT 06019**

Certified Mail Fee \$3.45

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.49

Total Postage and Fees \$3.94

Sent To **Weakley**

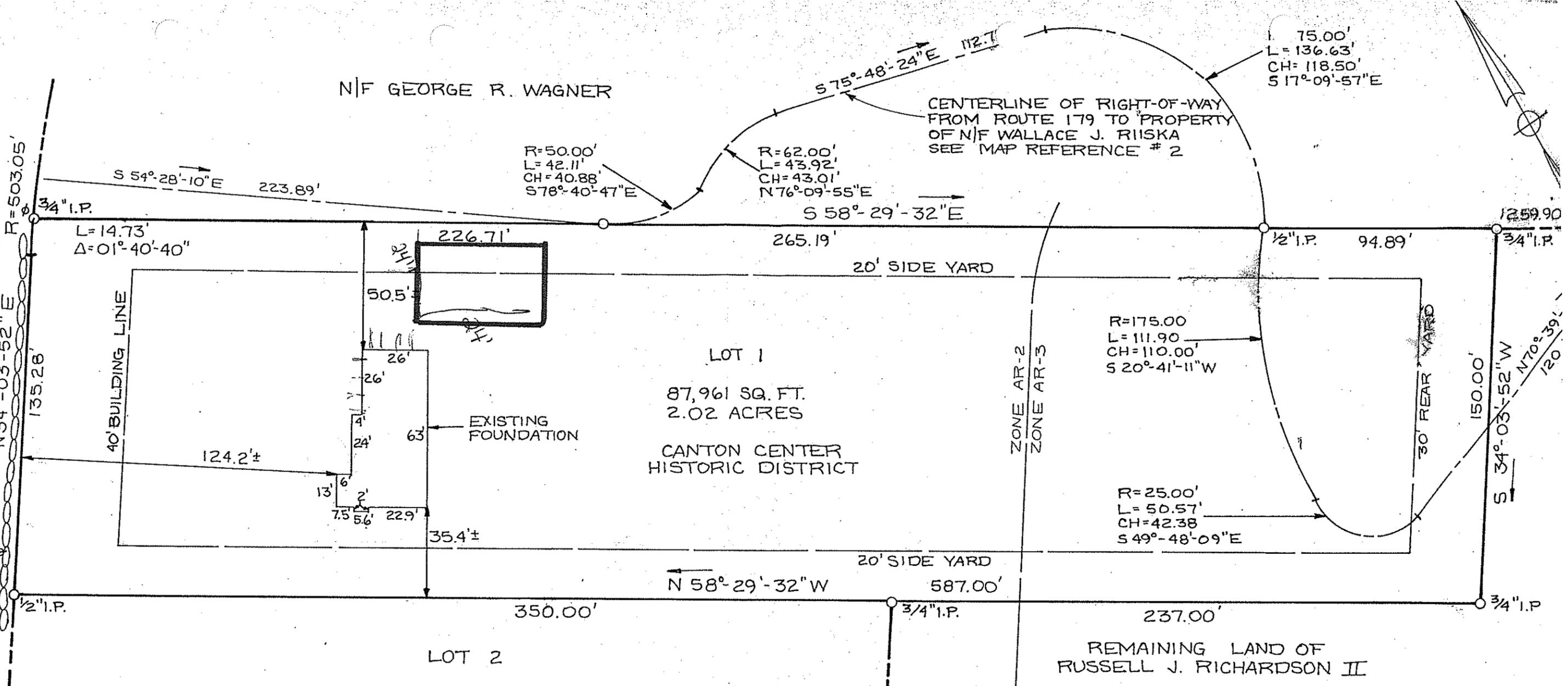
Street and Apt. No. or PO Box No. **141 Cherry Brook Rd**

City, State, ZIP+4® **Canton, CT 06019**

PS Form 3800, April 2015 PSN 7530-0200-9001 See Reverse for Instructions



CHERRY BROOK ROAD CT. RT. 179



**MAP REFERENCE:**

- 1) SUBDIVISION PLAN PREPARED FOR RUSSELL J. RICHARDSON II 137 CHERRY BROOK ROAD CANTON, CONNECTICUT SCALE 1"=40' JULY, 1997 NASCIMBENI & JAHNE SURVEYORS, P.C. AVON, CT.
- 2) MAP SHOWING RIGHT OF WAY FROM ROUTE 179 TO PROPERTY OF WALLACE J. RIISKA, ROUTE 179 CANTON, CONNECTICUT SCALE 1"=50' JAN., 1983 ROGER DIETLIN, SURVEYOR

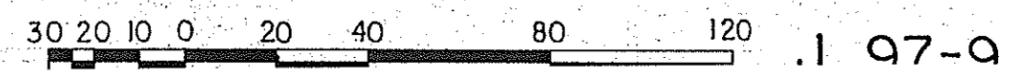
THIS SURVEY AND MAP HAS BEEN PREPARED PURSUANT TO THE REGULATIONS OF CONNECTICUT STATE AGENCIES SECTIONS 20-300b-1 THRU 20-300b-20 AND THE STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1996.  
IT IS AN EXISTING BUILDING LOCATION SURVEY CONFORMING TO HORIZONTAL ACCURACY CLASS A-2

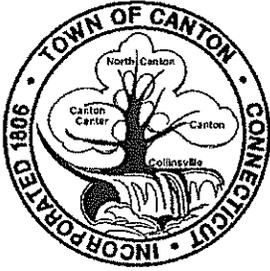
TO MY KNOWLEDGE AND BELIEF THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

*B. Nascimbeni*

NOT VALID UNLESS LIVE SIGNATURE AND EMBOSSED SEAL IS AFFIXED.  
NASCIMBENI & JAHNE SURVEYORS, P.C.  
220 WEST MAIN STREET AVON, CONNECTICUT

EXISTING BUILDING LOCATION SURVEY  
PREPARED FOR  
**RENE MAGLIETTI**  
CHERRY BROOK ROAD  
CANTON, CONNECTICUT  
SCALE: 1"=40' MAY, 1998





TOWN OF CANTON  
**LAND USE OFFICE**

4 Market Street, Collinsville, Connecticut 06022

CERTIFICATION OF NOTICE

Planning & Zoning Commission: File Number: \_\_\_\_\_  
Application Number: \_\_\_\_\_

Zoning Board of Appeals: File Number: 2015-11

I certify that as per Section 9.9.F, Notice of Public Hearing Signs, of the Canton Zoning Regulations, I have posted at: 145 Cherry Brook Road a sign reading:

"ZONING APPLICATION PENDING ON THIS PROPERTY. FOR MORE INFORMATION CONTACT THE LAND USE DEPARTMENT AT TOWN HALL (860) 693-7856."

For fifteen (15) continuous days beginning on 1/10/16 and ending on 1/25/16 prior to a public hearing scheduled for 2/8/16.

Name of Applicant: Renata P Maglietti  
Signature of Applicant: [Handwritten Signature]  
Date: 1-6-16

KEMPE KENNETH N &  
150 MORGAN ROAD  
CANTON, CT 06019

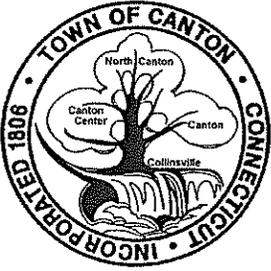
MAGLIETTI RUSSELL V AND  
145 CHERRY BROOK ROAD  
CANTON, CT 06019

WEAKLEY SHARON J &  
141 CHERRY BROOK ROAD  
CANTON, CT 06019

GNAZZO DOUGLAS V  
130 CHERRY BROOK RD  
CANTON, CT 06019

PERRY LANSFORD W  
P.O. BOX 1  
CANTON CENTER, CT 06020

BOWEN JOHN &  
144 CHERRY BROOK ROAD  
CANTON, CT 06019



TOWN OF CANTON  
LAND USE OFFICE

4 Market Street, Collinsville, Connecticut 06022

CERTIFIED MAIL/RETURN RECEIPT

Dear Neighboring Property Owner:

An application to the Canton Zoning Board of Appeals (ZBA) for a Variance (3.4.E.2) has been filed with the Canton Land Use Office for the following property:

Location: 145 Cherry Brook Road

Applicant: Renata Maglieth

Property Owner: same

The variance requested is to Section 3.4.E.2 of the Canton Zoning Regulations and is for the following activity:

Detached 24 x 24 garage  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A copy of the application has been included with this correspondence. A Public Hearing for this application is scheduled for February 8, 2016

The meeting will be held at the Canton Community Center located at 40 Dyer Avenue, Canton, and is scheduled to begin at 7:30 p.m.

At this hearing public testimony will be accepted. If you are unable to attend this meeting but wish to express your thoughts and concerns, please direct them by email to: Renee Narducci, Land Use Coordinator at [rnarducci@townofcantonct.org](mailto:rnarducci@townofcantonct.org) or by mail to the following address:

Town of Canton  
Land Use Office  
4 Market Street  
Canton, CT 06019

Please be sure to reference the above application in the subject line.

Sincerely,

[Handwritten Signature]  
Signature

1-6-16  
Date



# Farmington Valley Health District

95 River Road, Suite C • Canton, CT 06019 • Phone (860) 352-2333 • Fax (860) 352-2542

Avon • Barkhamsted • Canton • Colebrook • East Granby • Farmington • Granby • Hartland • New Hartford • Simsbury

### APPLICATION FOR ADDITION

PROPERTY OWNER: Russell + Penita Maglietti PHONE # (H): 860-693-1243  
 ADDRESS: 145 Cherry Brook Rd TOWN: Canton PHONE # (Work/Cell): 860-965-8565  
 CONTRACTOR: self PHONE #: 860-693-1243

### TYPE OF PROPOSAL

Building Addition &/or  Interior Renovation (describe) \_\_\_\_\_

Number of bedrooms in existing house \_\_\_\_\_ Number of bedrooms after addition \_\_\_\_\_

- Detached Structure  Shed  Barn  Garage  Propane  Generator Pad  Other (describe) w/ floor build out
- Swimming Pool  In-ground  Above ground (filter type \_\_\_\_\_) heated y/n Deck provided  Yes  No w/ 3/4 bath room
- Building Conversion - Change in use (describe) \_\_\_\_\_
- House Teardown, Replacement: Using existing foundation \_\_\_\_\_ New foundation \_\_\_\_\_  
 # Bedrooms in existing house \_\_\_\_\_ # Bedrooms in proposed house \_\_\_\_\_

### PLEASE COMPLETE

Will the addition have: Heat  Yes  No Plumbing  Yes  No Exterior sewer pipe/pump needed?  Yes  No  
Interior sewage pump needed?  Yes  No

Full foundation  Frost Wall  Slab  Piers  Other \_\_\_\_\_

Footing Drains  yes (show on plan)  no Cuts in grade <50' downhill of septic system?  yes  no

Distance of proposed addition from: Septic tank 75 ft Leaching system 75 ft Well 5 ft  
Any sewage backups, overflows or other problems noted with the existing septic system? Yes  No

\*\* PROVIDE A SKETCH SHOWING THE LOCATION OF THE ADDITION RELATIVE TO THE WELL & SEPTIC \*\*

**FVHD ASSUMES NO RESPONSIBILITY FOR PRESENT/FUTURE OPERATION OF SEPTIC SYSTEM OR FOR ANY DAMAGE TO THE SEPTIC SYSTEM CAUSED BY THE NEW CONSTRUCTION OR ANY NECESSARY TESTING.**

I certify that I'm the owner or owner's contractual representative & that the information above is accurate to the best of my knowledge. I also acknowledge that I'm responsible for securing any required approvals from other town/state agencies (Bldg, Wetlands, Zoning, etc.)

Signature: Russell Maglietti DATE: 12-21-15

THE APPROVAL WILL BE FAXED TO TOWN BLDG DEPT. FVHD WILL CALL ONLY IF QUESTIONS ARISE.

(OFFICE USE ONLY)

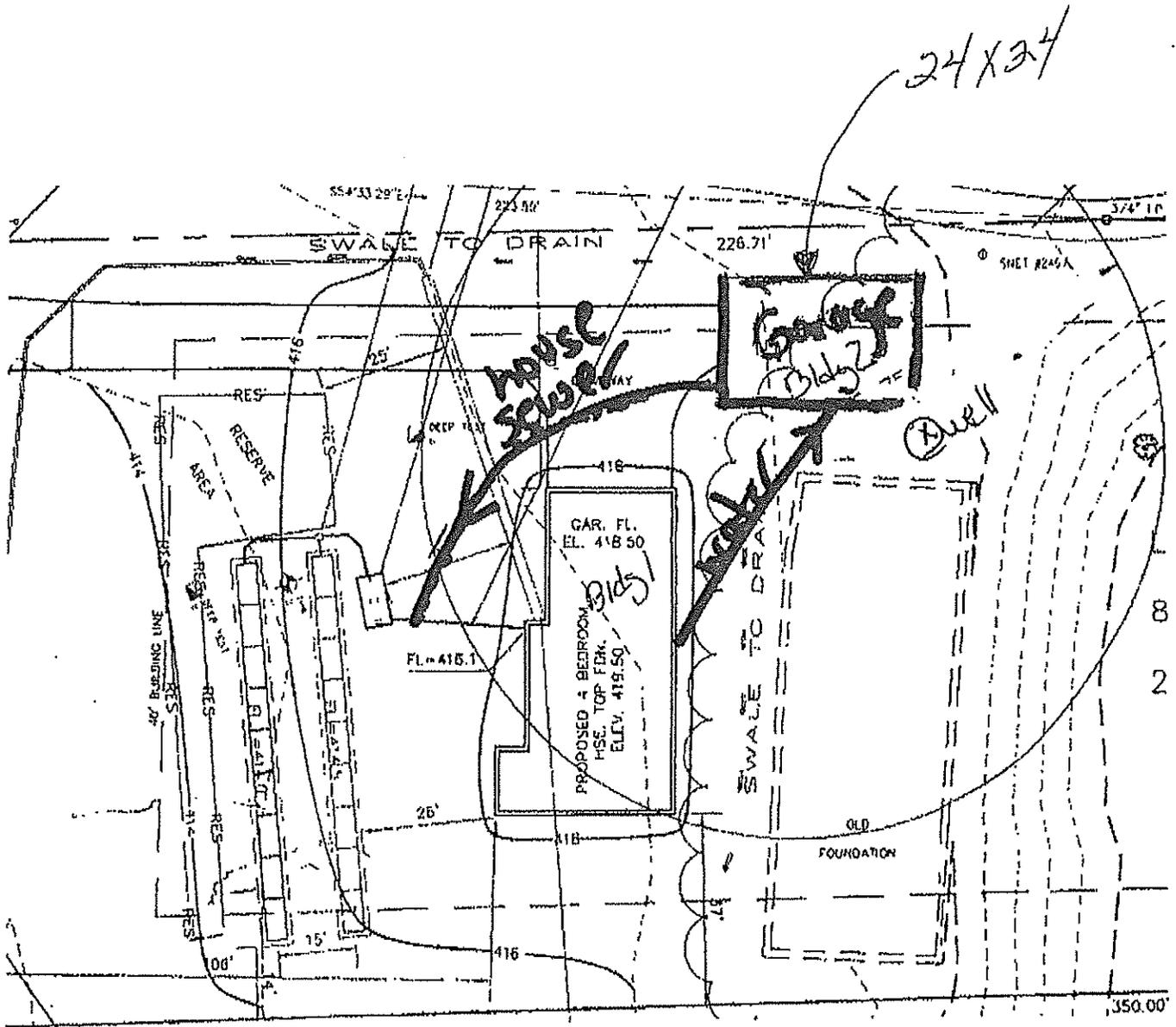
FVHD APPROVED \_\_\_\_\_

DENIED \_\_\_\_\_

Date: 12-21-15

COMMENTS:

FVHD permit + inspection required for installation of new house sewer pipe from Garage to septic tank.  
And return signed acknowledgement of exception form



145 Cherry Brook Rd. Canton



# Aerial View of 145 Cherry Brook Road



1 inch = 71 feet



The Town of Canaan, CT, shall assume no liability for any omissions, or inaccuracies in the information provided regardless of how caused or any decision made or action taken or not taken by reader in reliance upon any information or data furnished hereunder.

Administrative Information

Owner name: MAGLIETTI RUSSELL V AND  
 Second name: RENATA P  
 Address: 145 CHERRY BROOK ROAD  
 City/state: CANTON CT Zip: 06019

Location Information

Lot: 1850145 Map: 22 Neigh.: Zone: Clerk map: Callback? Vol: 226 Page: 284

Assessments

Assmt category	Qty	Amount	Exempt	Cat	Amount	Last sale
Resident Land	1.00	66,500				20-FEB-98
Resident Excess	1.02	2,140				Sale price: 58,000
Resident Dwelling	1.00	161,880				Sale valid: Y

Summary

Utilities	Water	Well	Septic	None	Mkt value	Cost value	Sales ratios
Total assessments	230,520				329,310		
Total exemptions							
Net assessment	230,520						

Land Information

Type	Use	Acres/Sqft	Rate	Total	Infl	Fact	Value	70% Value
PRIM	11	1.000	95,000	95,000			95,000	66,500
RES	12	1.020	3,000	3,060			3,060	2,140
Residual		44,431						
				2.0200 acres	Total	Land value	98,060	68,640

Building Valuation Summary

Dwelling	Frame	2 story w/bsmt	Area	Value
Basement	Full		1,162	214,770
Heating	Yes	A/C No		
Plumbing	2 F/B	1 H/B	1 Add'l fix.	Wh/p
Attic	None			Saunas
Other Features	WB Stks		Unfin	3,500
Sub-Total	C+	Factor 1.0800		267,670
Grade		C&D Factor 1.00		289,080
CDU		20 %		289,080
Depreciation		Computed cost value @ 70%		231,260
				161,880

Building additions

Category	Type	Area	Value
G Garages	FR	Attached frame LE	65
P Porches, Patios, Decks	FOFF	Frame open first flo	204
L Living Area	FRFF	Frame first floor	78
L Living Area	BSMT	Basement addition	78
P Porches, Patios, Decks	DECK	Wood deck	294
Total additions			41,400

Residential Dwelling Information

Subject	Code	Description	Condominium
Style	04	Colonial	
Exterior Walls	04	Vinyl Siding	
Roof Material	01	Asphalt Shingles	
Roof Type	01	Gable	
Foundation	01	Poured Concrete	
Interior Walls	02	Drywall	
Floors	98	Other	
Heating System	01	Hot Water	
Fuel	01	Oil	
Attic	99	None	
Grade	33	C+	
Garage	22	Attached 2 car	
Area Over Gar.	99	None	
Basement	01	Full	
Bsmt Fin Qual	01	Unfinished	
Air Condition	99	None	
Interior Cond	05	Good	
Exterior Cond	05	Good	
Total Rooms			8
Bedrooms			4
Family Rooms			2
Full Baths			1
Half Baths			1
Addn'l fixtures			1
Whirlpools			1
Saunas			1
M/F stacks			1
W/B stacks			1
W/B openings			1
Living area			2,402
# Living Units			1
Actual Year Built:			1998

RUSSELL V. MAGLIETTI  
RENATA P. MAGLIETTI  
145 CHERRY BROOK RD.  
CANTON, CT 06019

7546

51-72182211  
175

12-29-15  
Date

Pay to the  
Order of

Town of Canton  
One Hundred Sixty Five Dollars

\$160.00

Peoples United Bank

Peoples United Bank  
peoples.com

Renata Maglietti

For

⑆ 221172186⑆ 0570026968⑆ 7546



**TOWN OF CANTON**

4 Market Street  
PO Box 168  
Canton, CT 06019

CANTON TOWN HALL  
LAND USE OFFICE

DEC 29 2015

Land Use Department  
(860) 693-7856  
(860) 693-7884 (fax)

DATE OF RECEIPT IN OFFICE

**OFFICE USE ONLY**

FILE #: 2015-11

FEE AMOUNT: \$160.00

CASH / CHECK

DATE SUBMITTED: 12/29/15

**ZONING BOARD OF APPEALS APPLICATION**

APPLICATION FEE: **\$160.00** (includes \$60.00 State Surcharge)  
Please make checks payable to "Town of Canton"

**THIS APPLICATION CANNOT BE APPROVED UNTIL ALL REQUIRED INFORMATION IS PROVIDED AND ANY ADDITIONAL REQUIRED APPROVALS ARE OBTAINED.**

PLEASE PRINT LEGIBLY

Property Address: 145 Cherry Brook Rd  
Assessor's Map: 221/195/0145 Parcel: \_\_\_\_\_ Zone: AR-2 Lot Size: 2.02 acres  
Land Record Reference to Deed Description: Volume: 226 Page: 284  
Property Owner: Russell + Renata Maglietti Phone: 860 693 1243  
Applicant/Agent: owners Phone: 860 693 1243  
Mailing Address: 145 Cherry Brook Rd cell 860 965-8535  
Email Address: fourrsmag@msn.com

**ACTION REQUESTED:**

Variance from Section 3.4.E.2 of the Zoning Regulations

Appeal from decision of the Zoning Enforcement Officer

Approval of Motor Vehicle Department

License/Location:  New Car  Used Car  Repairer  Limited Repairer

**VARIANCE INFORMATION:**

The variance relates to:  yard dimension  height  number of family units  
 street frontage  area  other side yard

Describe briefly: There is an existing driveway. Would like to place a garage to the end of existing driveway. There is a right of way which also goes through our property, used 0-1 times per year. The amount we need is 7 feet to property but Right of way

- (a) Strict application of the regulations would produce undue hardship because: We would not be able to build any garage because of lot shape, well location, wall from old barn and steep hill side.
- (b) The hardship created is unique and not shared by all properties alike in the neighborhood because: Steep hillside, and stone foundation from old tobacco barn.
- (c) The variance would not change the character of the neighborhood because: The garage would be a barn like structure.

**APPEAL INFORMATION:**

The decision of the Zoning Enforcement Officer dated \_\_\_\_\_ is APPEALED because:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**APPROVAL OF MOTOR VEHICLE DEPARTMENT INFORMATION:**

Describe briefly: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

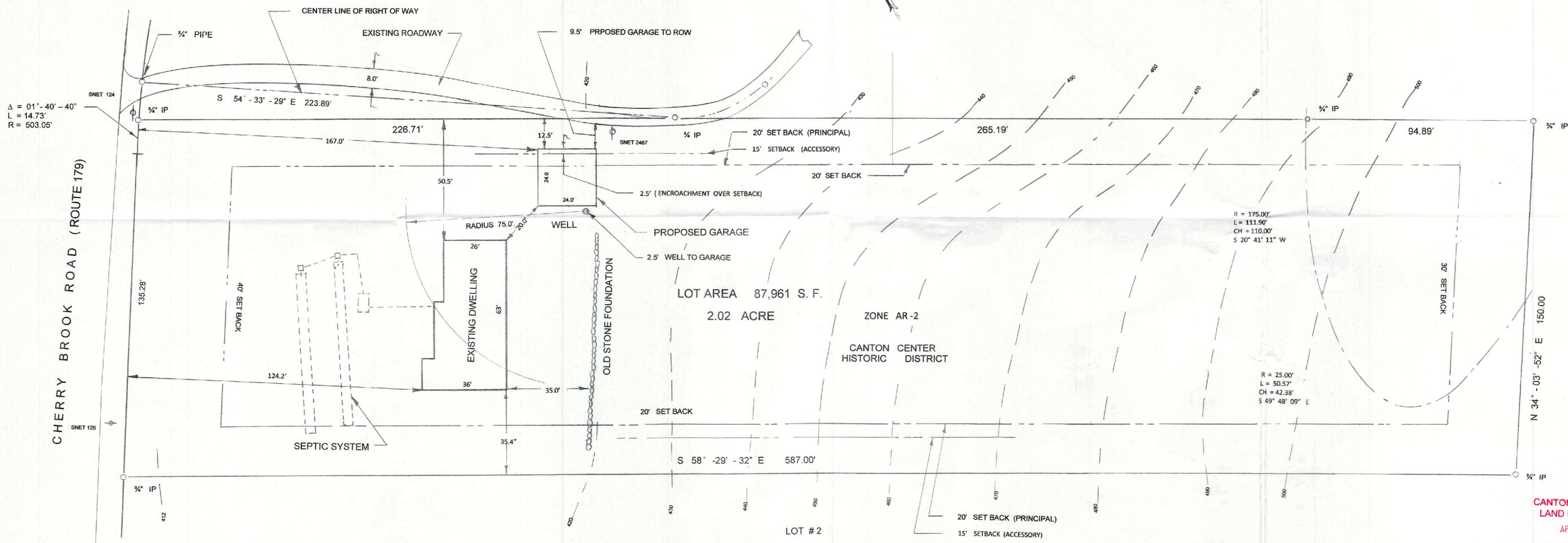
Previous applications have been filed with respect to these premises as follows: \_\_\_\_\_  
 \_\_\_\_\_

*Russell Maglietti*  
 Owner Name: *Renata Maglietti*  
 Date: 12-29-15  
 Applicant Name: Renata Maglietti  
 Date: 12-29-15

Owner Signature: *Russell Maglietti*  
 Applicant Signature: *Renata Maglietti*

**PLEASE NOTE:**

- Application will not be accepted unless:
- A. It is signed by the applicant or agent.
  - B. It is accompanied by the proper filing fee: \$160.00 (\$100 + \$60.00 State of Connecticut surcharge).
  - C. It is accompanied by three copies of certified plot plan if required.
  - D. It is accompanied by Motor Vehicle Department forms if applicable.
  - E. Requirement for abutter notices and land use sign for items requiring a public hearing.



CHERRY BROOK ROAD (ROUTE 179)

$\Delta = 01^\circ - 40' - 40''$   
 $L = 14.73'$   
 $R = 503.05'$

LOT AREA 87,961 S. F.  
2.02 ACRE

ZONE AR-2  
CANTON HISTORIC CENTER DISTRICT

CANTON TOWN HALL  
LAND USE OFFICE  
APR 22 2016  
DATE OF RECEIPT IN OFFICE

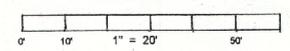
MAP REFERENCES

1. SUBDIVISION PLAN PREPARED FOR RUSSELL J. RICHARDSON II, 137 CHERRY BROOK ROAD, CANTON CONN. SCALE 1" = 40' JULY 1997, NASCIMBENI & JAHNE SURVEYORS, AVON CONN.
2. MAP SHOWING RIGHT OF WAY FROM ROUTE 179 TO PROPERTY OF WALLACE J. RIISKA, ROUTE 179 CANTON, CONN. SCALE 1" = 50' JAN 1983 ROGER DIETLIN, SUREYOR.

THIS MAP AND SURVEY HAS BEEN PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES, SECTIONS 20-300B-1, THRU 20-300B-20, "THE MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT", AS ENDORSED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1996 AND CONFORMS TO THE STANDARDS OF ACCURACY OF A CLASS A-2 SURVEY. IT IS INTENDED TO DEPICT THE BOUNDARY OF THE PARCEL IN RELATION TO EXISTING MONUMENTATION AND IMPROVEMENTS.  
TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

*Robert J. Hiza* 4-20-16  
ROBERT J. HIZA CT. LS # 6288 DATE

GRAPHIC SCALE



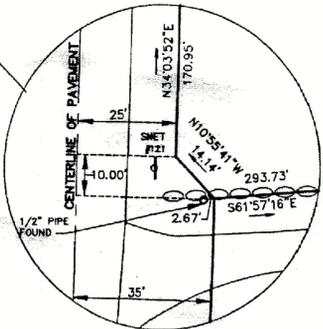
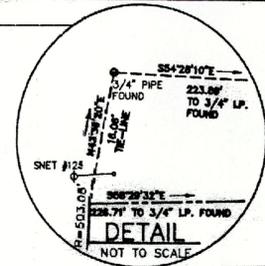
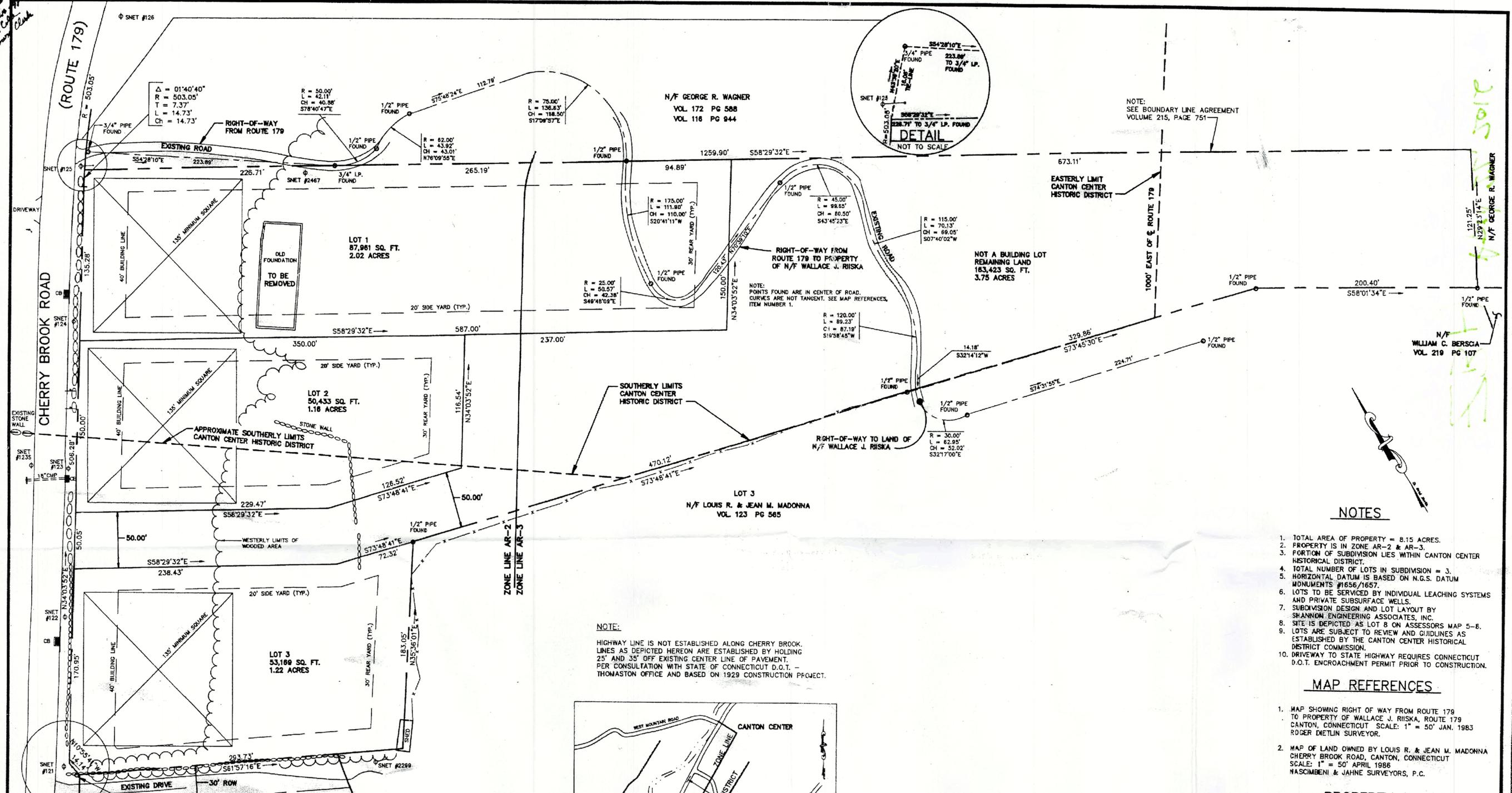
ROBERT J. HIZA, PE  
Civil Engineer & Land Surveyor  
ORANGE, CONNECTICUT

SURVEY & SITE PLAN FOR  
PROPOSED GARAGE  
PROPERTY OF  
MR. & MRS. MAGLIETTI  
LOT #1 CHERRY BROOK ROAD  
CANTON, CONN.

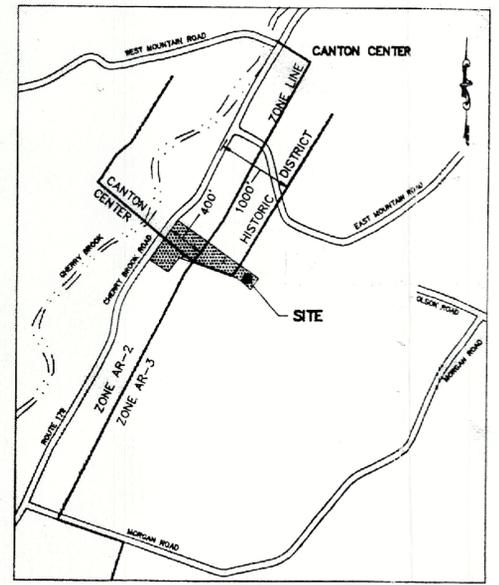
SCALE 1" = 20'

MARCH 17, 2016

Handwritten notes in top left corner.



NOTE: HIGHWAY LINE IS NOT ESTABLISHED ALONG CHERRY BROOK...



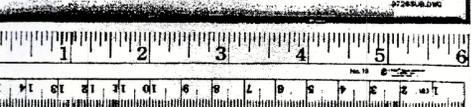
CREST REPROGRAPHICS FIXED LINE MYLAR

APPROVED BY THE PLANNING COMMISSION OF THE TOWN OF CANTON AT ITS MEETING ON DATE October 1, 1997...

REVISIONS: THIS SURVEY HAS BEEN PREPARED PURSUANT TO THE REGULATIONS OF CONNECTICUT STATE AGENCIES...

PROPERTY OWNER: RUSSELL J. RICHARDSON II APPLICANT: RUSSELL J. RICHARDSON II

Table with columns for SCALE (1"=40'), DATE (JULY 1997), SHEET NO. (1 OF 1), and M97-26.



- NOTES: 1. TOTAL AREA OF PROPERTY = 8.15 ACRES. 2. PROPERTY IS IN ZONE AR-2 & AR-3. 3. PORTION OF SUBDIVISION LIES WITHIN CANTON CENTER HISTORICAL DISTRICT.

MAP REFERENCES

- 1. MAP SHOWING RIGHT OF WAY FROM ROUTE 179 TO PROPERTY OF WALLACE J. RUSKA, ROUTE 179 CANTON, CONNECTICUT SCALE: 1" = 50' JAN. 1983 ROGER DIETLIN SURVEYOR.

**Archived:** Monday, May 02, 2016 3:07:18 PM  
**From:** TOWSTAR TOWING  
**Sent:** Tue, 12 Apr 2016 14:07:43  
**To:** Narducci, Renee  
**Subject:** Re: 4-11-16 ZBA Meeting Agenda  
**Importance:** Normal

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I would like to request a refund of our \$160.00 application fee for the Z.B.A meeting and also a copy of the legal notice on their decision to uphold our appeal. Check should be made out to Kings Highway Assoc. L.L.C, 20 Canton Springs Rd and the legal notice can be emailed back to me. Thanks for your help. Steven Lingenheld

Sent from my iPad

On Apr 6, 2016, at 9:43 AM, Narducci, Renee <[RNarducci@TownofCantonCT.org](mailto:RNarducci@TownofCantonCT.org)> wrote:

Good Morning Mr. Lingenheld,

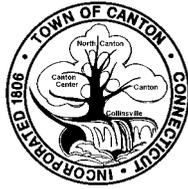
Here is the agenda for next week's ZBA meeting.

Thank you,  
Renee

---

*Renee Narducci  
Land Use Coordinator  
Town of Canton  
P.O. Box 168  
Collinsville, CT 06022  
860-693-7856*

<04-11-16 ZBA Regular Meeting Agenda.pdf>



## DRAFT MINUTES

Zoning Board of Appeals  
Regular Meeting  
Monday, March 14, 2016 at 7:30 pm  
Library Community Center, Room F  
40 Dyer Avenue, Canton, Connecticut

**CALL TO ORDER:** Chairman Brainard called the Regular Meeting of March 14, 2016 to order at 7:30 p.m.

**PRESENT:** Robert Brainard, Christopher Kerr, Guerry Dotson, Gary Adajian, Walter LeGeyt and Lucien Rucci (Alternate).

**ALSO PRESENT:** Zoning Enforcement Officer Emily Anyzeski and Recording Secretary Jennifer Scott

A quorum of the Commission is present.

### MODIFICATION TO THE AGENDA:

**MOTION:** Mr. Brainard moved that the agenda be modified so that File #2016-2; 146 Powder Mill Road under "New Business" is addressed prior to opening the Public Hearing. Mr. LeGeyt seconded the motion, which passed unanimously, 5-0-0.

**REMARKS BY CHAIR:** None

## REGULAR MEETING

### NEW BUSINESS:

- File #2016-2; 146 Powder Mill Road; Assessor's Map 25; Parcel 4310146; Zone I; Section 9.7, Motor Vehicle Location Approval, Used Car Dealer and General Repairer License; Collinsville Auto Repair, LLC, applicant; Sack Properties, LLC, owner**

Commissioners Seated: Robert Brainard, Christopher Kerr, Guerry Dotson, Gary Adajian, and Walter LeGeyt

Michael and Jennifer Rindflesh of 152 Carpenter Rd, New Hartford, CT and owners of Collinsville Auto Repair, LLC were in attendance to present their application. Mr. Rindflesh stated that they have outgrown their current location and are looking to move to a new location at 146 Powder Mill Road. Although the property is zoned for Industrial, per Section 9.7.A.1, "In accordance with CGS Section 14-54, the ZBA shall have the power and duty to determine location approval for dealing and/or repairing motor vehicles defined under CGS Section 14-1." The listed activity at this site will be auto repair, used car sales, and towing operations.

Mr. Brainard stated that it appears that the applicants have completed all the necessary steps as required by the Land Use office. He also said that in 2010, a Special Permit was issued for this location for automotive use which would include a used car dealer's license. He added that there are no other neighboring facilities that would make this location unsuitable for dealing or repairing motor vehicles.

**MOTION:** Mr. Brainard moved that the property located at 146 Powder Mill Road, Unit A be approved for a Used Car Dealer and General Repairer License for use by Collinsville Auto Repair, LLC. Mr. Adajian seconded the motion, which passed unanimously, 5-0-0.

## **PUBLIC HEARING**

**READING OF THE LEGAL NOTICE:** Read by Mr. Brainard

- 1. File #2016-1; 20 Canton Springs Road; Assessor's Map 35; Parcel 1640020; Zone I; Appeal the decision of the Zoning Enforcement Officer from the Observation of Violation regarding unapproved vehicular storage, dated January 15, 2016; Steven Lingenheld, applicant; Kings Highway Associates, LLC, owner**

Commissioners Seated: Robert Brainard, Christopher Kerr, Guerry Dotson, Gary Adajian, and Walter LeGeyt

Steven Lingenheld of 98 Morgan Road and Anthony Potamitis of 20 Canton Springs Road came before the Board to present their application. Mr. Brainard, Mr. Kerr, Mr. LeGeyt, and Mr. Adajian all stated for the record that they know Mr. Lingenheld, but not to the extent that it would influence their decision on this matter. Mr. Dotson said that he knows Mr. Potamitis but not to the extent that it would influence his decision on this matter.

Ms. Anyzeski provided a brief history of the case for the group. She said that the Land Use office received a complaint on November 20, 2015 regarding concerns of an increased number of vehicles being stored on the grass at 20 Canton Springs Road. Ms. Anyzeski said she observed the site condition on November 24, 2015 and reviewed the applicable zoning regulations. Pursuant to town regulations, both current and as far back as 1958, parking more than 5 motor vehicles and more than 3 commercial vehicles is permitted in light industrial and industrial zones so long as site plan approval or a zoning permit is obtained. Ms. Anyzeski stated that the town does not have a site plan on record requesting or approving large quantity vehicular storage on the grass at this location. She said that unless vehicles were being stored there prior to 1958 in which case the use would be considered "grandfathered", approval is required. She said that the earliest she could find photographic evidence of vehicular storage at the property was 2010. Ms. Anyzeski advised that she issued an "Observation of Violation" to Mr. Lingenheld to open a dialogue about the site condition. She said that she asked Mr. Lingenheld to provide her with evidence that might disprove a violation exists and to date he has not responded to that request.

Mr. Lingenheld began by saying that he spoke with Mr. Ernie Smith, the son-in-law of the founder of M. Swift & Sons who previously owned the property in question. Mr. Lingenheld said that Mr. Smith told him that the grass lot was used as the main parking area for the Swift factory from 1955 to the late 1960's when the parking lot was paved. He went on to list several other examples of how the grass lot has been used to park vehicles for dozens of years including Lobsterfest, Sam Collins Day, and other festivals. He stated that Canton Village Construction used the lot to park their construction equipment and said the area was rented to a fleet of airplane deicers. Finally, he said that the lot has had boats, trailers, and trucks parked there for approximately 15 years without any complaints. He said that the recent complaint came about after Kings Highway Associates leased the lot to a car dealership that is using the area to park their overflow inventory. He said his position is that historically, the grass area has always been utilized for parking and that there has been no change in use. Mr. Lingenheld added that Kings Highway Associates has resurrected this property from a state of vacancy and disrepair. He commented that they currently have five or six businesses leasing space at this building.

Mr. Brainard referenced a site plan for the property that was issued to Towstar several years earlier when the property was still owned by M. Swift & Sons. Towstar is another company owned by Mr. Lingenheld that continues to lease space and operate at 20 Canton Springs Rd. Mr. Brainard asked if Towstar ever received permission from M. Swift & Sons, as the prior owner, to use the grass lot for

parking. Mr. Lingenheld answered that it was assumed Towstar would use the grass lot for parking because it had always been used for parking. Therefore, he said that formal approval was not given or required.

Ms. Anyzeski spoke saying that if cars were parking on the grass lot in 1955, she encourages the ZBA members to consider obtaining proof. She also said that town approval would be required pursuant to the regulations for any vehicle or special event parking at the location. In her research, she said that the matter of special event parking had surfaced before and she found that the First Selectman at the time did not feel the need to enforce for one day events such as Lobsterfest and Sam Collins Day. The only means of enforcement would be a Notice of Violation which allows for a 30 day timeframe for removal of any vehicles. She said although it lacks approval, they have received guidance not to enforce for these events because of the difficulty involved. Mr. Lingenheld replied that the cars there now are rotated on a very regular basis implying that no car on the lot is there longer than 30 days. Ms. Anyzeski replied that even if they are changed out, there are cars continually parked in the lot.

Mr. Brainard asked Mr. Lingenheld if he thought that Mr. Smith would give him a notarized letter that states that cars were parked on the grass lot when M. Swift & Sons began operations back in 1955. Mr. Lingenheld stated that he is confident that he can obtain such a letter from Mr. Smith. Mr. Brainard explained that the regulation states that approval would be needed "before any land or structures are devoted to a new or changed use." He said if M. Swift & Sons was using the lot for parking prior to the 1958 regulations, there is no new or changed use. Mr. Brainard also said that he located a map from 1965 that was filed with the State that shows "things in rows" drawn in the area in question. Mr. Lingenheld commented that he believes the map is showing Swift trucks which contained surplus machinery from their Hartford location.

Mr. Brainard clarified with Mr. Lingenheld that M. Swift & Sons ceased operations around 1976 and was storing items there until Kings Highway Associates purchased the property in 2008. Mr. Brainard asked Mr. Lingenheld if he had always been using the grass lot for parking since Towstar began leasing space at the property in 1998. Mr. Lingenheld replied that Towstar has been utilizing the grass lot for parking without interruption since he has been there.

Next, Mr. Brainard asked if any members of the public wished to speak.

- Dr. Richard Abraham has lived at 19 Pond Rd, a neighboring residence, since 1976. He said that back when M. Swift & Sons was still operating at the site, they were using organic industrial solvents that contaminated the surrounding air and ground. He said that the concern of the residents at the time was that the aquifer and surrounding well water would be contaminated also. He said that the concern now is not just about aesthetics but more so about the possibility of contamination of the ground water with transmission oil or other organic products associated with automobiles and trucks.

Mr. Lingenheld responded that all of the cars stored there now are brand new making the chances of an oil spill unlikely. In addition, he said that even if the cars were parked on the asphalt and a leak happened to occur, a rainstorm would likely cause the oil to run into the grass anyway. He pointed out that the cars driving along Canton Springs Road could leak oil that could get into the aquifer as well. Mr. Lingenheld noted that before Kings Highway Associates purchased the property in 2008, there was a thorough environmental study completed where no issues were identified. He added that they are very vigilant about protecting the aquifer and keeping the property free from any environmental concerns.

- David Evans of 30 Canton Springs Road is the abutting property owner to the south side of the site and has lived there since 1960. Mr. Evans spoke in favor of allowing the applicant to park cars on his grass lot. He said he thinks that Mr. Lingenheld has done a great job improving the property which had previously been foul-smelling and an eyesore in the neighborhood. He

commented that Kings Highway Associates is a good neighbor and he does not find the cars being parked there intrusive or bothersome.

- Teresa Barger of 8 Pond Rd started by saying she has no objection to special event parking at the site. She said that the applicant is in violation of the current regulations and feels it is irrelevant if cars have been parked on the lot all of these years.

Mr. Brainard explained to Ms. Barger that M. Swift & Sons started using the property in 1956 which was prior to zoning. He said that Kings Highway Associates is “grandfathered” because there has been no change in use at the property. Dr. Abraham spoke up saying that M. Swift & Sons had not had cars parked there since 1976 when the company ceased operations. Mr. Brainard replied that if there was equipment, vehicles, etc. on the grass, they did not abandon the use. There would have to be “intent to abandon” and at this point it does not appear there was. Ms. Anyzeski responded that the site would be considered pre-existing non-conforming if there were vehicles being stored on the grass lot prior to the 1958 regulations. However, there is no evidence to prove when vehicles actually began being parked there.

- Michael Campbell of 9 Pond Road said that this is an issue of grave concern to the neighborhood. He urged the members to do what is “right” and considers the grandfather provision to be a technicality. He said that the residents would like to work together with neighboring businesses to resolve conflicts peacefully as they have done in the past. He asked that the members listen to and consider the residents’ concerns.

Mr. Brainard stated that the ZBA acts as a quasi judicial body that makes decisions based on the law and the evidence presented. Mr. Rucci asked if Mr. Brainard could expound upon non-conforming prior use statutes for the benefit of the record. Mr. Brainard explained that the CT state statute says that if you change regulations, you cannot prevent a person from continuing to do something they were doing prior to the regulation change. He added that pre-existing non-conforming use remains with the property until such time as someone abandons that use. He said that unless there is “intent to abandon”, the use continues whether it conforms to today’s regulations or not. Mr. Brainard went on stating that if Mr. Smith’s letter says that cars were parked in the grass lot, more than likely that non-conforming use will be continued on to today.

- Suzanne Gerber of 24 Pond Rd, an abutting property owner since 2005, shared her concerns about the parked vehicles contaminating the soil. She said that it is much more difficult to be vigilant about what might leak onto a grass surface versus a paved surface. She said that residents and businesses should follow the rules and that it concerns her that Kings Highway Associates will not submit for site plan approval with the town.
- Ed Gabowski of 22 Pond Rd is an abutting property owner since 2002. Mr. Gabowski stated that no vehicles were being stored on the grass at the property for about 5 years up until 2009 / 2010 when the automotive repair shop took occupancy. He shared his concern that the vehicles stored on the grass lot will kick up dust and dirt that will blow toward the neighboring landowners’ properties. He stated that in 2010, the town Planning & Zoning Commission required that all the tenants of 20 Canton Springs Road park their cars on paved surfaces. Mr. Gabowski said the applicant should obtain site plan approval pursuant to today’s zoning regulations if they wish to continue storing vehicles on the grass area.

Ms. Anyzeski referenced a 1970 approved site plan for the property. She stated that it would be reasonable to assume that if the lot was being used for vehicle storage prior to the 1958 regulations the subsequent 1970 approved site plan would indicate that existing non-conforming condition. The members did not necessarily agree arguing that it could have just been an error or oversight.

Mr. Brainard directed Mr. Lingenheld to obtain a notarized letter from Mr. Smith stating that the grass lot in question was being used for vehicle storage prior to 1958 and submit the letter to the Land Use office prior to next month's regular meeting.

**MOTION:** Mr. Brainard moved to continue the Public Hearing for File #2016-1; 20 Canton Springs Road to the April 11, 2016 regular Meeting. Mr. LeGeyt seconded the motion, which passed unanimously, 5-0-0.

## **REGULAR MEETING**

### **PUBLIC HEARING ACTIONS:**

1. **File #2016-1; 20 Canton Springs Road; Assessor's Map 35; Parcel 1640020; Zone I; Appeal the decision of the Zoning Enforcement Officer from the Observation of Violation regarding unapproved vehicular storage, dated January 15, 2016; Steven Lingenheld, applicant; Kings Highway Associates, LLC, owner** – Continued to the next regular meeting on April 11, 2016.

### **OTHER BUSINESS**

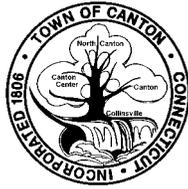
1. **Approval of Meeting Minutes from February 22, 2016**

**MOTION:** Mr. Brainard moved to approve the meeting minutes from February 22, 2016 as presented. Mr. Dotson seconded the motion, which passed unanimously, 5-0-0.

2. **Staff Report** – None

### **AJOURNMENT:**

**MOTION:** Mr. Adajian moved to adjourn the Regular Meeting of the Zoning Board of Appeals at 8:55 p.m. Mr. Kerr seconded the motion. The motion passed unanimously, 5-0-0.



## DRAFT MINUTES

Zoning Board of Appeals  
Regular Meeting  
Monday, April 11, 2016 at 7:30 p.m.  
Community Center, Room B  
40 Dyer Avenue, Canton, Connecticut

**CALL TO ORDER:** Chairman Brainard called the Regular Meeting of April 11, 2016 to order at 7:30 p.m.

**PRESENT:** Robert Brainard, Christopher Kerr, Gary Adajian, Walter LeGeyt, Lucien Rucci (Alternate) and Bob Celmer (Alternate).

**ABSENT:** Guerry Dotson

**ALSO PRESENT:** Zoning Enforcement Officer Emily Anyzeski and Recording Secretary Jennifer Scott

Mr. Rucci was seated as a Regular Member by R. Brainard.

A quorum of the Commission is present.

**MODIFICATION TO THE AGENDA:** None

**REMARKS BY CHAIR:** None

## PUBLIC HEARING

**READING OF THE LEGAL NOTICE:** Read by Mr. Brainard

1. **File #2016-1;** 20 Canton Springs Road; Assessor's Map 35; Parcel 1640020; Zone I; Appeal the decision of the Zoning Enforcement Officer from the Observation of Violation regarding unapproved vehicular storage, dated January 15, 2016; Steven Lingenheld, applicant; Kings Highway Associates, LLC, owner

**Commissioners Seated:** Robert Brainard, Christopher Kerr, Gary Adajian, Walter LeGeyt and Lucien Rucci

Mr. Brainard stated that prior to the last meeting, he was not given enough time to sufficiently review the documentation related to this case. As a result, he said that he discovered two errors that he made. The first was that he learned the aerial map he used at the last meeting was not of the M. Swift and Sons factory, but of the cemetery to the north of the property. The second error was that the parking situation at 20 Canton Springs Road was characterized at the last meeting as having a possible pre-existing, non-conforming use. In reality, Mr. Brainard said that it has a possible pre-existing use because when the 1958 regulations were adopted, the parking of more than 5 motor vehicles or more than 3 commercial vehicles was a permitted use at the property. The regulations at that time required a permit for this use, but it was in fact allowable. Pursuant to today's regulations, it is still a permitted use so long as a site development plan is submitted through the Planning & Zoning Commission for their approval prior to getting a zoning permit. He said that the same question of whether more than 5 motor vehicles or more than 3 commercial vehicles were being parked at this property prior to zoning still remains.

He added that if the ZBA finds that vehicle parking was not being done prior to zoning regulations, the applicant would have to submit a site development plan to Planning & Zoning, go through the approval process and be issued a permit. If they find it to be a pre-existing use, the owner may continue to park vehicles anywhere on the property with the exception of the area for AA Automatic & Brake. Mr. Brainard said that because they had considered the property to have a pre-existing, non-conforming use, it was requested at the last meeting that Mr. Lingenheld obtain a letter from the prior owner stating what vehicles were parked on the lot prior to 1958. He said that Mr. Lingenheld submitted a notarized letter from Mr. Ernest Smith who is the son-in-law of the prior owner of M. Swift & Sons. The letter simply stated that cars were parked in the grassy lot on the southerly side of the property. Mr. Brainard then advised that Mr. Lingenheld brought with him this evening a second notarized letter from Mr. Smith dated March 30, 2016 which Mr. Brainard read aloud to the group. The letter was more detailed than the first and stated that the factory's 15 to 20 employees began parking their vehicles in the grass lot south of the building beginning in the early 1950's when the factory was built as this was the only available place for them to park.

Steven Lingenheld of 98 Morgan Road and Anthony Potamitis of Winsted, CT came before the Board to continue with the presentation of their application. Mr. Lingenheld stated that to the best of his knowledge, Mr. Ernest Smith is the sole authority on the history of this property. He contested a photo of the property from 1959 that does not show cars parked in the area in question. Mr. Lingenheld argued that there are no cars parked anywhere in the photo which would be odd for a fully operational factory. He said that the conclusion he drew is that the photo was taken on a weekend or off hours when no one was there. Next, Mr. Lingenheld referenced a photo of the property taken in 1968. He said that while the photo does not depict any parked cars, a defined parking area and driveway can be seen as well as a pathway for employees to walk from their cars to the factory. Mr. Lingenheld reasoned that any car parked at the property would have to have been parked on the grass prior to the installation of a paved parking area in the early 1970's. He added that because the 4.2 acre lot is contiguous, it does not matter in this case where on the property the vehicles were parked. Finally, Mr. Lingenheld rejected the concern that oil from the cars currently parked on his lot may leak into the soil saying it is unlikely because all of the vehicles are brand new. He added that they do not want the soil to be contaminated either which is why they go to great lengths to eliminate that risk. Mr. Lingenheld ended by reiterating that vehicles have continuously been parked on the property since the early 1950's.

Ms. Anyzeski informed the members that she is just learning of the second letter from Mr. Smith despite it being dated March 30, 2016. She stated that she as town staff and the public are entitled to have an opportunity to review new information as it becomes available. She commented that the second letter does provide more detail in comparison to the first letter that she considered somewhat vague. Ms. Anyzeski referenced the Google Earth aerial photographs she presented at the last meeting. As a result of the reliability and credibility of those photos being taken into question, she said she obtained several aerial photographs of the property between 1968 and 2012 from the Nationwide Environmental Title Research who partners with the United States Department of Agriculture and the United States Geological Survey. She also presented an aerial from 1959 from the Town Assessor's office. Ms. Anyzeski stated that while it is reasonable to argue that some of the photographs could have been taken on a weekend or during off hours, it is unlikely that is the case for all 10 of the aerial photographs she has obtained. None of them show cars parked in the area in question until 2012.

Mr. Lingenheld countered that the aerial photographs of the property presented by Ms. Anyzeski are irrelevant as the question is whether or not vehicles were parked at the property before 1958. Ms. Anyzeski responded that if the members decide that there is insufficient evidence to prove vehicles were parked on the lot prior to 1958, the 2012 aerial supports that the property is in violation of zoning regulations as it shows cars parked there without approval. Ms. Anyzeski addressed concerns that the members had with the acceptability of the site plan she discussed at the last meeting that was originally dated 1971 and revised in 1993. Ms. Anyzeski stated that this site plan is the approved site plan the town has on file for 20 Canton Springs Road and it gives no indication that parking was ever approved in the area where cars are currently being parked. Mr. Lingenheld stated that since he began operations at the property in 1990, he has always had cars parked on the grass.

Mr. Brainard asked Ms. Anyzeski what concerns she has with Mr. Smith's second letter and what she would have done had she received it earlier. She said she does not have concerns with the letter's content but feels the public should have been given the opportunity to see it when it became available. Mr. Lingenheld said that unfortunately he only received the letter yesterday.

Mr. Adajian raised the concern that none of the new aerials presented have a specified date or time. He said he cannot accept them as evidence without that information which may or may not prove if the photographs were taken on a weekday or weekend or before, during, or after work hours.

Mr. Brainard stated that the permitted use stays with the property and that it does not come and go. Whether the use is utilized is immaterial. He said if vehicle parking was permitted at the property on the first day of zoning, it's a permitted use today. He next asked if there were any members of the public who wished to speak in favor or against upholding the appeal.

- Suzanne Gerber of 24 Pond Rd, an abutting land owner, asked if there were not any cars parked on the grass between 1959 and 2009, would it still be a permitted use according to the regulation. Mr. Brainard explained that if the property were characterized as having a pre-existing non-conforming use and at some point there was intent to abandon that use, it would no longer be permitted. He added that in that scenario, it would also have to be proven that the use was abandoned. He reiterated that the property in this case is not a pre-existing, non-conforming use. It is a pre-existing use that was permitted when zoning regulations were put in place.

Ms. Gerber added that there must be concerns associated with parking more than 5 vehicles on a grass lot for today's zoning regulations to require site plan approval. She added that she does not believe that the members are seriously considering the potential risks associated with this activity. Mr. Ricci explained that people can not be penalized retroactively if they are doing something that is permitted and then the regulations change.

- Sandy Marinan of 6 Evens Dr spoke next against the applicant's appeal. She said that when she purchased her property in 2005 she was informed by Town Hall that no more than 5 vehicles could park on the grass lot at 20 Canton Springs Rd. Mr. Brainard said she must have been misinformed. Mr. Rucci read the 1958 regulation to Ms. Marinan that states that the parking of more than 5 motor vehicles or more than 3 commercial vehicles is permitted in that district. Ms. Anyzeski argued that it is permitted with a zoning permit which has never been issued for this location.
- Glenn Barger of 8 Pond Rd said that he is concerned that the issue at the last meeting is no longer the issue at this meeting. He feels what is being ruled on has suddenly changed and is discouraged that there is a second letter being presented as evidence that the public has not had a chance to review. He stated that some of the members appear confused by the documentation related to this case which does not give him much confidence in their ability to rule at this time. He added that he does not think that Mr. Smith's letter is adequate proof that cars were parked on the lot prior to 1958.

Mr. Brainard responded that the only issue that has changed from the last meeting is that the property went from being viewed as pre-existing, non-conforming use to pre-existing use. Either way, they would have to determine whether vehicles were parked on the site prior to 1958. Mr. Brainard asked Mr. Barger what it is that is contained in Mr. Smith's second letter that he would like an opportunity to review. Mr. Barger said that it is not so much the content as it is the concern that the letter is coming in last minute and no one has had a chance to look at it. He stated that he does not feel it is appropriate for the commission to rule when the public has not had an opportunity to review all of the evidence.

Ms. Gerber spoke saying that it would be nice for the interested members of the public to have an opportunity to present their evidence as well that may challenge the information included in Mr. Smith's letter. Mr. Brainard said that they were given the 30 days between last meeting and tonight's meeting to gather any relevant evidence.

- Michael Campbell of 9 Pond Rd commented that he was disappointed by what he views as the members' disrespectful attitudes toward the Zoning Enforcement Officer. He added that the preponderance of the evidence as presented in numerous aerials indicates that no vehicles were parked on the lot for 40 or 50 years. Mr. Brainard said that the members have a duty to scrutinize evidence presented by both Ms. Anyzeski and Mr. Lingenheld. He said that their intention was never to be disrespectful and regrets if it was interpreted in that way.

Ms. Anyzeski pointed out that the aerial photographs she presented at tonight's meeting were dismissed because they were not date and time stamped. She noted that the aerials she presented at the last meeting were dated but those were also dismissed as unreliable because they came from Google Earth. Mr. Rucci responded that none of the aerial photographs presented at this meeting or the last meeting are germane because of the corrected interpretation of the property having a conforming use versus a non-conforming use prior to 1958. Ms. Anyzeski countered that in her professional opinion, the property is non-conforming because sufficient evidence does not exist to prove that vehicles were parked on the lot prior to zoning. According to Ms. Anyzeski, the fact that vehicles are being parked there now and no permit has ever been issued makes it non-conforming. Mr. Brainard replied saying that if they find that the property did not have a pre-existing use, the owner would be in violation for not having a permit, but it would not make the use non-conforming because the use is allowed.

While Mr. Brainard said that he believed the violation was for parking more than 5 vehicles on the lot, Ms. Anyzeski provided clarity stating that she issued the violation because the cars are being parked on an area that did not meet town standards for parking vehicles. Mr. Lingenheld said that from the early 1950's to 1968 there was no paving on the property and the only place the cars could park was on the grass. Ms. Anyzeski agreed but then said paved parking was applied for on a portion of the property but not for the grassy lot. She added that the approved site plan that was issued when parking was applied for specifies the southern lot as grass with no indication that parking took place there. Mr. Lingenheld restated that in the 1950's and 1960's, the employees must have parked on the grass because there was no pavement during that time.

Mr. Rucci referenced the 1970 map that is considered the approved site plan for the property. He noted that it specifically states that it is a layout showing building numbers in Canton and is not a site plan. Ms. Anyzeski said that it is the only map the town has on file for the property which therefore makes it site plan.

- Royce Christensen of 4 Evens Dr said that he has lived at that location for 11 years and stated that until recently, he has never seen cars parked in the grassy lot with the exception of Lobsterfest.

**MOTION:** Mr. Adajian moved to close the Public Hearing for File #2016-1; 20 Canton Springs Road. Mr. Kerr seconded the motion, which passed unanimously, 5-0-0.

## **REGULAR MEETING**

### **PUBLIC HEARING ACTIONS:**

1. **File #2016-1;** 20 Canton Springs Road; Assessor's Map 35; Parcel 1640020; Zone I; Appeal the decision of the Zoning Enforcement Officer from the Observation of Violation regarding unapproved vehicular storage, dated January 15, 2016; Steven Lingenheld, applicant; Kings Highway Associates, LLC, owner

**Commissioners Seated:** Robert Brainard, Christopher Kerr, Gary Adajian, Walter LeGeyt and Lucien Rucci

Mr. Brainard asked the members if they think that Ms. Anyzeski or the public has been denied anything by not getting to review Mr. Smith's second letter prior to tonight's meeting. He also wanted to know their general opinions about the case following the discussions that were had at the public hearing.

Mr. Celmer said that he is familiar with the property and has parked there for special events. He commented that unfortunately the only pieces of evidence they have to work with to prove that cars were or were not parked at the property prior to zoning are Mr. Smith's two notarized letters.

Mr. LeGeyt and Mr. Adajian stated that they accept Mr. Smith's second letter as sufficient evidence that cars were parked on the property prior to 1958. Mr. Kerr agreed adding that there was no pavement until the 1970's so parking would have had to have occurred on the grass.

Mr. Rucci stated that the only relevant evidence is the letter stating that there was a company at 20 Canton Spring Rd from the early 1950's and they parked their cars on site. He said that since parking more than 5 vehicles is a conforming use in that zone, evidence that explicitly excludes their ability to do so would have to be presented in order for them to lose it. He continued saying that in lieu of any counter evidence, there is no other recourse than to allow them to continue storing vehicles because the use predates zoning regulations.

Mr. Brainard said that regardless if we were looking at a pre-existing non-conforming use or a pre-existing use, they need the same information in order to come to a decision. He added that he does not feel that there is anything contained in the letter that could have been further researched. Mr. Rucci said that someone could conceivably have brought forward a notarized letter saying something different. Mr. Brainard said they had 30 days to bring forth that evidence.

**MOTION:** Mr. Brainard moved that the appeal for File #2016-1; 20 Canton Springs Road; Kings Highway Associates, LLC be upheld. The information provided by the applicant in the form of a notarized letter from Mr. Ernest Smith dated March 30, 2016 is the only evidence provided in the affirmative that parking of five or more vehicles occurred at 20 Canton Springs Road prior to the 1958 zoning regulations. No contradictory evidence pertaining to the use was presented. Parking of more than five vehicles may occur anywhere on the property with the exception of the area for File #288, Application #1275 as depicted on the map labeled Sheet L-3; Layout and Materials Plan; 20 Canton Springs Road; Prepared by LADA, PC; Prepared for AA Automatic & Brake; dated 1/12/10; revised 3/31/10 which may have restricted parking on it. Mr. Adajian seconded the motion, which passed unanimously, 5-0-0.

#### **OTHER BUSINESS:**

1. **Approval of Meeting Minutes from March 14, 2016** – This item will be included on the agenda for the next Regular Meeting.
2. **Staff Report**
  - a. **New Policy Regarding Audio Recordings on the Town Website** – Ms. Anyzeski informed the members that pursuant to a recent vote by the Board of Selectmen, as of April 4, 2016, the audio recordings for all applicable town agency meetings will be made available on the town website.

#### **AJOURNMENT:**

**MOTION:** Mr. Adajian moved to adjourn the Regular Meeting of the Zoning Board of Appeals at 9:05 p.m. Mr. LeGeyt seconded the motion. The motion passed unanimously, 5-0-0.