

FILED

**EAST LYME ZONING BOARD OF APPEALS
PUBLIC HEARING I AND REGULAR MEETING
MONDAY, OCTOBER 5th, 2020
MINUTES**

Oct 14 2020 AT 3:55 AM/PM
[Signature]
EAST LYME TOWN CLERK

A Public Hearing and Regular Meeting of the East Lyme Zoning Board of Appeals was held on Monday, October 5, 2020 at 6:30 PM at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT. The Hearing was opened at 6:42 PM.

PRESENT: Steve Carpenteri, Chairman, John Smith, Secretary, Wayne Blair, alternate, Debbie Jett Harris, David Schmidt, Alternate

ALSO PRESENT: Attorney Theodore Harris, Representing the Applicant Robert & Nadine Fulton, Applicants

ABSENT: Mike Foley, Kevin Mace

1. Call Regular Meeting to Order

Chairman Carpenteri called the Regular Meeting to order at: 6:42 PM. The Pledge was observed.

2. Read Notice of Public Hearing

Mr. Carpenteri asked Mr. Smith, Secretary, to read the Agenda call of Case #4-2020 of the Public Hearing.

Mr. Smith, Secretary read the following:

Case No. 4-2020: Application of Robert E. Fulton, Jr, and Nadine D. Fulton, for a variance of Section 7.3.3 Setback for property identified as 12 Morton Street, East Lyme, Connecticut to demolish and reconstruct a larger garage. Said parcel appears on the East Lyme Assessor's Map 17.3, Lot 152.

The Public Hearing notice was sent to the New London Day for publication on 9/24/2020 and 10/1/2020.

Mr. Carpenteri introduced the Board members and polled each for any conflict of interest. Hearing no conflicts of interest from the members, he explained the rules of the meeting, noted that notices had been sent to abutters and asked that anyone speaking please stick to the subject matter of the application.

Mr. Carpenteri then called for the applicant or their representative to make their presentation.

Attorney Theodore Harris, place of business 251 Main Street, representing the applicant noted the exhibits that he had provided (Attached) and explained that this is a pre-existing non-conforming R-10 lot. They are requesting a setback variance to allow reconstruction of a garage dating to the 1930's. A previous application for this was denied as it increased the coverage on the lot. The proposal tonight is to lengthen the garage with a small increase in the rear and side yards. In order to maintain existing coverage, the overall size of the garage is maintained however; the shape has been altered to allow practical use to fit an automobile. The lot is undersized by 2800 sq. ft.; if it met the required lot size then this would have been allowed. He said that the hardship is as was cited in the Judelson v. Madison Board of Appeals 2006 case where the parcel also predated current zoning regulations and the Court held that the change in regulations over time created the hardship. Of note here is that the overall lot coverage will be maintained. The area of the garage that lies outside of the building line has been reduced by approximately 40% which more than balances the small extensions of existing non-conforming side and rear yard setbacks to allow the garage to be squared off. He noted that as part of this proposal there would be upgrades to the septic system to maintain appropriate separation distances – this has been approved by Ledge Light Health.

Mr. Carpenteri recalled that the issue that they had in the previous application was one of lot coverage; here the lot coverage will stay the same.

Mr. Carpenteri asked if there were any comments from the public –

Hearing none –

He asked if the Board members had any further questions.

Hearing none –

Mr. Carpenteri closed this Public Hearing at 6:52 PM.

Mr. Carpenteri said that they would now deliberate and make a decision on the application.

Mr. Carpenteri explained that the only comments that they can take now are from the applicant and only if they have technical questions that they need answered. He also informed the applicant that in the event that they wish to contest the decision that they have 15 days in which to appeal it to the Superior Court.

REGULAR MEETING

Mr. Carpenteri opened the Regular Meeting at 6:52 PM.

Case No. 4-2020: Application of Robert E. Fulton, Jr, and Nadine D. Fulton, for a variance of Section 7.3.3 Setback for property identified as 12 Morton Street, East Lyme, Connecticut to demolish and reconstruct a larger garage. Said parcel appears on the East Lyme Assessor's Map 17.3, Lot 152.

Mr. Carpenteri called for discussion on the application.

Mr. Schmidt said that there was a question (in the previous application) about the shed on the property and a suggestion that it be removed to accommodate the larger garage. He asked if it would remain.

Attorney Harris said that it would.

Mr. Carpenteri added that nothing is changing but the shape of the garage.

Mr. Carpenteri asked if they were ready to make a motion.

****MOTION (1)**

Mr. Smith moved to APPROVE the Application of Robert E. Fulton, Jr, and Nadine D. Fulton, for a variance of Section 7.3.3 Setback for property identified as 12 Morton Street, East Lyme, Connecticut to demolish and reconstruct a larger garage. Said parcel appears on the East Lyme Assessor's Map 17.3, Lot 152.

Ms. Jett-Harris seconded the motion.

Mr. Carpenteri said that the current non-conformity would not be increased and that the change in zoning over time had contributed to this.

Vote: 5 – 0 – 0. Motion passed.

ADJOURNMENT

Mr. Carpenteri called for a motion to adjourn.

****MOTION (2)**

Mr. Smith moved to adjourn Case #4-2020 of the East Lyme Zoning Board of Appeals at 6:55 PM.

Ms. Jett-Harris seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

**ROBERT FULTON
12 MORTON STREET, NIAN TIC, CT**

REQUEST SUMMARY

	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>	<u>Section</u>
1. Side yard	4.2 ft.	4.1 ft.	7.9 ft. *	Side yard Section 7.3.3
2. Rear yard	2.1 ft.	2.1 ft.	9.9 ft. *	Rear yard Section 7.3.3

* Increase in length/height of pre-existing non-conformity.

Return To:
Robert E. Fulton, Jr.
102 Bailey Road
Rocky Hill, CT 06067

WARRANTY DEED

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, THAT I, **Marcie M. Cunningham** presently of 3 Regatta Drive, of the Town of Niantic (East Lyme), County of New London and State of Connecticut (hereinafter called the "Grantor"), for the consideration of Four Hundred Eighty Thousand and 00/100 dollars (\$480,000.00) having received to my full satisfaction of **Robert E. Fulton, Jr. and Nadine D. Fulton** presently of 102 Bailey Road, of the Town of Rocky Hill, County of Hartford and State of Connecticut, (hereinafter called the "Grantees") do give, grant, bargain, sell and confirm unto the said Grantees, and unto the survivor of them, and unto such survivor's heirs and assigns forever, all that certain piece or parcel of real property, located in the Town of Niantic (East Lyme), County of New London, and State of Connecticut known as 12 Morton Street, as more particularly bounded and described in "Schedule A", attached hereto and made a part hereof and being the same premises described in a Quit Claim Deed dated December 28, 2007, recorded in Volume 793, Page 123 of the Town of East Lyme Land Records.

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereof, unto the said Grantees, to and for their proper use and behoof. And also, the said Grantor does for herself, her executors, administrators, and successors, covenant with the said Grantees that at and until the ensembling of these presents, she is well seized of the premises, as a good indefeasible estate in Fee Simple; and has good right to bargain and sell the same in manner and form as is above written and that the same is free from all encumbrances whatsoever, except as hereinbefore mentioned.

AND FURTHERMORE, I the said Grantor do by these presents bind myself and my successors and assigns forever to Warrant and Defend the above granted and bargained premises to the said Grantees against all claims and demands whatsoever, except as hereinbefore mentioned.

Signed this 14th day of May, 2017
And delivered May 15, 2017

Witnessed by:

William Mountzoures
William Mountzoures

Marcie M. Cunningham
Marcie M. Cunningham

Janet L. Berry
Janet L. Berry

CONVEYANCE TAXES COLLECTED
\$3600.00 \$1200.00
Lesley A. Blais
TOWN CLERK OF EAST LYME

STATE OF CONNECTICUT)
) ss. at East Lyme, this 14th day of May, 2017
COUNTY OF NEW LONDON)

The foregoing Instrument was acknowledged before me this 14th day of May, 2017 by **Marcie M. Cunningham** as her free act and deed.

William Mountzoures
William Mountzoures
Notary Public
My Commission Expires 06-30-2020



The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.

3/2/2020 8:53:34
 Scale: 1"=23'
 Scale is approximate

Case 4-2020
 ZBA

10/5/2020 subject

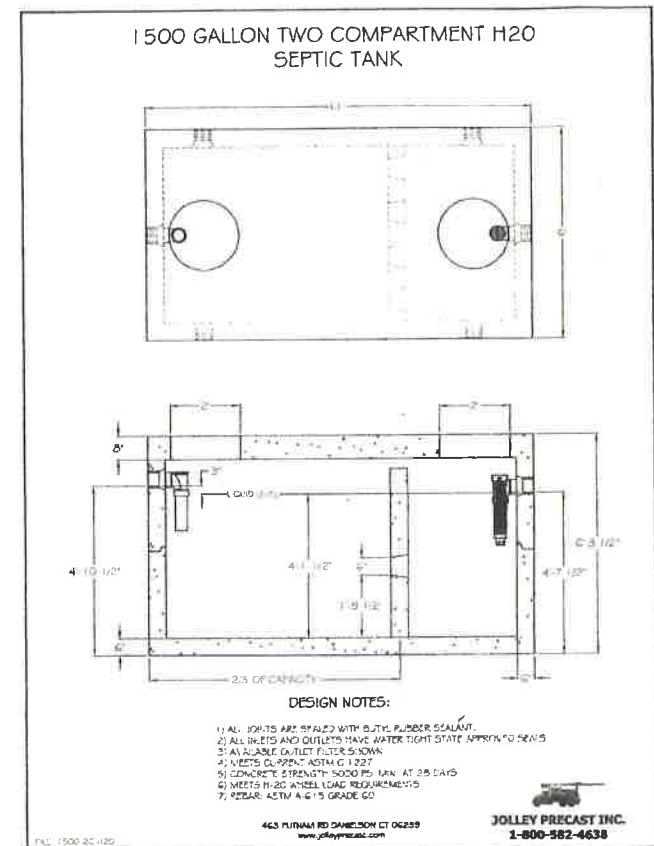




Case 4-2020
FSA
10/15/2020

DESIGN NOTES:

1. BASIS OF SANITARY DESIGN = 4 BEDROOM HOUSE WITH 1-10 MIN./IN. PERC. RATE.
USE MIN. 1250 GALLON SEPTIC TANK WITH MANTIS AS SHOWN ON EACH LOT.
TOTAL LEACHING AREA REQUIRED = 577.5 S.F.
AREA PROVIDED = 2-10'x10' DRYWELLS=2x3.14x10x10=628 S.F.
2. WATER SUPPLY BY CITY WATER.
3. CODE COMPLYING AREA WILL CONSIST OF 23' OF GST 6236 AS SHOWN FOR FUTURE SYSTEM USE IF NEEDED.
4. BUILDING DOES NOT HAVE ANY FOOTING DRAINS.
5. ALL ABUTTING PROPERTIES ARE SERVICED BY CITY WATER.
6. NEW TANK SHALL BE INSTALLED AS PART OF THE NEW GARAGE PERMIT AND WILL BE REQUIRED TO BE H-20 RATED.
7. ALL EXISTING PROPERTY LINES AND BUILDING LOCATION BASED ON A-2 SURVEY BY DAVID COONROD L.S. TITLED "PROPERTY SURVEY 12 MORTON STREET NIANITC, CONN PREPARED FOR DANIEL & MARCIE CUNNINGHAM DATED APRIL 17, 1987.
8. VARIANCE FOR SETBACKS AND FOR COVERAGE WILL BE NEEDED FOR ZONING APPROVAL

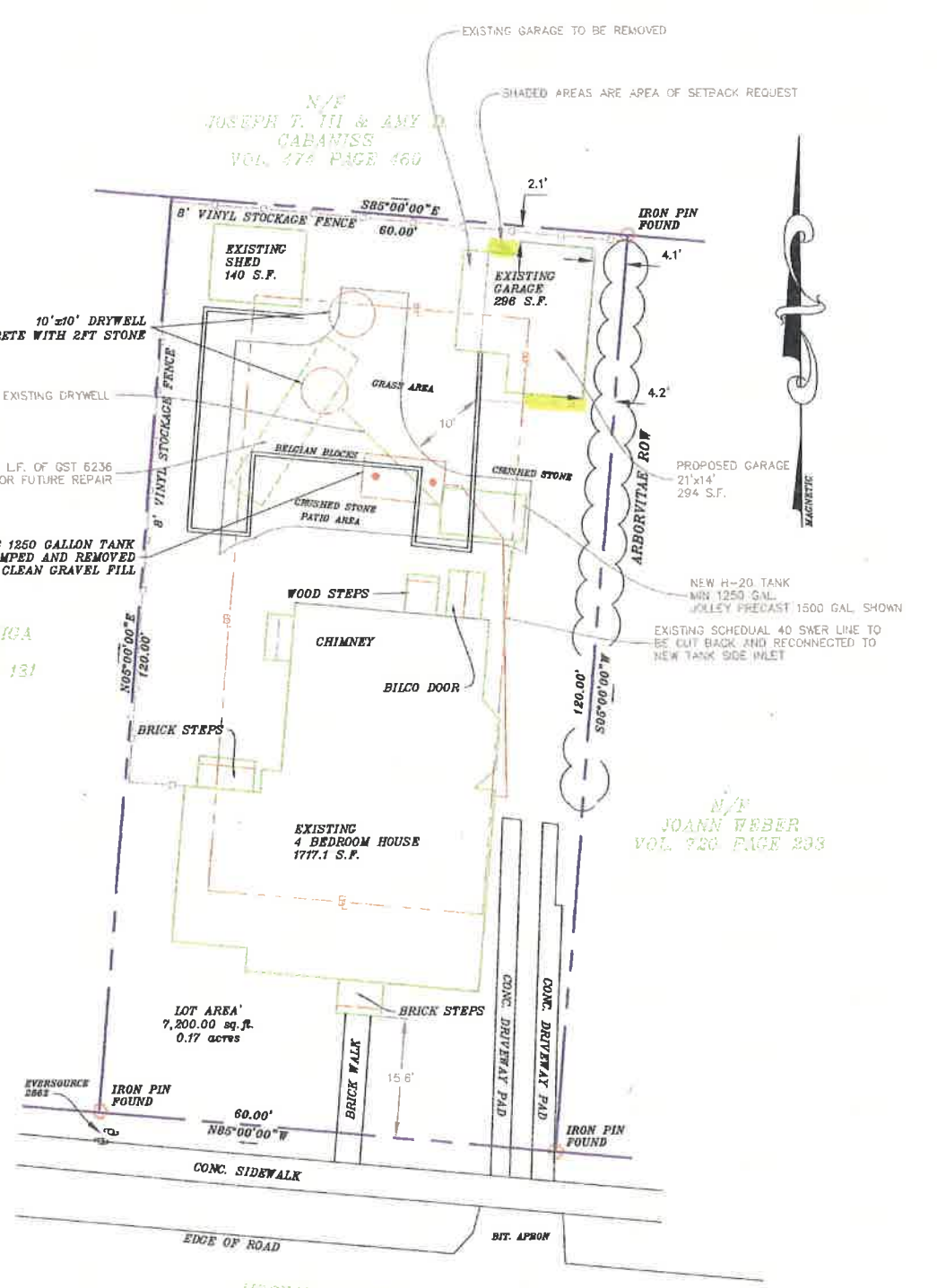


ZONING COMPLIANCE CHART

ZONE = R-10	REQUIRED	EXISTING	PROPOSED
MINIMUM LOT SIZE	10,000 S.F.	7,200 S.F.	7,200 S.F.
MINIMUM FRONTAGE	80 FT.	60.00 FT.*	60.00 FT.*
MINIMUM FRONT YARD	30 FT.	15.6 FT.*	15.6 FT.*
MINIMUM SIDE YARD	12 FT.	4.1 FT.*	4.1 FT.**
MINIMUM REAR YARD	12 FT.	2.1 FT.*	2.1 FT.**
MAXIMUM BUILDING COVERAGE	25 %	29.5%*	29.9%*

* PRE-EXISTING NON-CONFORMING
 ** VARIANCE REQUESTED
 REAR YARD VARIANCE REQUESTED FOR 9.9'
 SIDE YARD VARIANCE REQUESTED FOR 7.9'

ZBA
Case 4-2020 10/15/2020



THESE PLANS ARE THE SOLE PROPERTY OF J. ROBERT PFANNER & ASSOCIATES P.C. AND HAVE BEEN PREPARED SOLELY FOR THE OWNER ON THIS DATE AND NO REPRODUCTION OF THESE PLANS WITHOUT WRITTEN PERMISSION FROM A SURVEYOR OR AN ASSOCIATE P.C. MAY BE IN VIOLATION OF THE FEDERAL COPYRIGHT ACT.	DRAWN BY: RDP DATE: AUGUST 26, 2019	J. ROBERT PFANNER & ASSOCIATES, P.C. CIVIL ENGINEERS & LAND SURVEYORS 37 GRAND STREET NIANITC, CONNECTICUT 06357 TEL. 860-739-6216 FAX 860-739-0693		GRAPHIC SCALE (IN FEET) 1 inch = 10 ft.	TITLE: PLOT PLAN PREPARED FOR ROBERT FULTON LOCATION: 12 MORTON ST NIANITC, CONNECTICUT	SHEET NUMBER 1 OF 1 18024.DWG
	NO. DATE DESCRIPTION BY					