

**EAST WINDSOR TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MINUTES OF AUGUST 19, 2021**

The meeting of the East Windsor Township Zoning Board was held on Thursday, August 19, 2021, in the East Windsor Township Municipal Building, 16 Lanning Boulevard, East Windsor, New Jersey, 08520. Chairperson Shelley Shifman called the meeting to order at 8:00 p.m.

**STATEMENT OF ADEQUATE NOTICE**

Pursuant to the Sunshine Law, a notice of this meeting's date, time, place, and agenda was sent on August 13, 2021 to the Trenton Times, filed in the office of the Municipal Clerk and posted on the East Windsor Municipal Building and the Township website. All requirements of the Open Public Meetings Act have been satisfied.

**ROLL CALL**

Members Present: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman

Members Absent: Mr. Cosenza

Professionals and Staff Present: Lori Bivona, Board Administrative Secretary  
Lawrence B. Sachs, Zoning Board Attorney  
David Novak, Board Planner  
Dan Dobromilsky, Board Landscape Architect  
Joe Lalka, Zoning Officer

**NEW AND REAPPOINTED MEMBERS**

Mr. Larry Sachs swear in the following new and reappointed members:

Anthony Rago, Term Expires: December 31, 2023  
David Absalom, Term Expires: December 31, 2024  
Richard Baumann, Term Expires: December 31, 2022

**ELECTION OF OFFICERS:**

**Nomination/Election of Chairperson for 2021**

**Mr. Primiano nominates Ms. Shifman as Chairperson**

MOTION TO APPROVE BY: Mr. Primiano

MOTION SECONDED BY: Mr. Rago

**ROLL CALL**

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman  
NAYES: None

ABSTAIN: None

### **Nomination/Election of Vice-Chairperson for 2021**

Ms. Shifman nominates Mr. Joe Primiano for Vice Chairperson.

MOTION TO APPROVE BY: Ms. Shifman

MOTION SECONDED BY: Mr. Rago

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman

NAYES: None

ABSTAIN: None

### **REPORTS/CORRESPONDENCE/ANNOUNCEMENTS**

#### **PUBLIC FORUM**

Chairperson Shifman opened the meeting to the public. There being no public comment, the public forum was closed.

#### **MINUTES**

#### **RESOLUTIONS**

##### **Resolution 2021-01 Approval of Annual Meeting Calendar for 2021**

MOTION TO APPROVE BY: Mr. Absalom

MOTION SECONDED BY: Mr. Rago

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman

NAYES: None

ABSTAIN: None

##### **Resolution 2021-02 Designation of Official Newspaper/Notice of Meetings and Fees for 2021**

MOTION TO APPROVE BY: Mr. Absalom

MOTION SECONDED BY: Mr. Rago

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman  
NAYES: None  
ABSTAIN: None

**Resolution 2021-03 Adoption of Rules and Regulations**

MOTION TO APPROVE BY: Mr. Absalom

MOTION SECONDED BY: Mr. Rago

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman  
NAYES: None  
ABSTAIN: None

**Resolution 2021-04 Appointment of Administrative Secretary to Zoning Board of Adjustment**

MOTION TO APPROVE BY: Mr. Primiano

MOTION SECONDED BY: Mr. Absalom

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman  
NAYES: None  
ABSTAIN: None

**Resolution 2021-05 Appointment of Attorney to the Zoning Board of Adjustment**

MOTION TO APPROVE BY: Mr. Rago

MOTION SECONDED BY: Mr. Primiano

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman  
NAYES: None  
ABSTAIN: None

**Resolution 2021-06 Confirmation of Zoning Board of Adjustment Landscape Architect**

MOTION TO APPROVE BY: Mr. Rago

MOTION SECONDED BY: Mr. Primiano

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman

NAYES: None

ABSTAIN: None

**Resolution 2021-07 Confirmation of Zoning Board of Adjustment Planner**

MOTION TO APPROVE BY: Mr. Rago

MOTION SECONDED BY: Mr. Primiano

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman

NAYES: None

ABSTAIN: None

**Resolution 2021-08 Confirmation of Zoning Board of Adjustment Engineer**

MOTION TO APPROVE BY: Mr. Rago

MOTION SECONDED BY: Mr. Primiano

ROLL CALL

AYES: Mr. Absalom, Mr. Baumman, Mr. Primiano, Mr. Rago, Ms. Shifman

NAYES: None

ABSTAIN: None

## **APPLICATIONS**

**EWT File #ZB21-001    Mark Cordero**

12 Wayne Way

Block 72, Lot 20

Bulk Variance for Building Coverage

Mr. and Mrs. Cordero are sworn in by Mr. Sachs. Mr. Sachs swears in Mr. Novak and Mr. Lalka. Mr. David Novak states is a professional planner with Burgis & Associates. Mr. Joe Lalka states he is a zoning officer for East Windsor Township. Mr. Cordero is representing himself. Mr. Sachs states he needs to go over the planning and testify to what Mr. Cordero is requesting, and why the zoning board should grant this variance. Mr. Cordero states he purchased the enclosure for his pool, primary use is for his wife, who is disabled and handicapped. Mr. Cordero states the best therapy for his wife is the swimming pool, so he purchased the enclosure to extend the months his wife can use the pool to do exercises to help with her hip and back. The company he purchased the enclosure from was supposed to get all the necessary paperwork and install it. Mr. Cordero states they did not do that, and he installed himself not knowing the proper permits were not in place. Mr. Cordero states had he known the proper paperwork wasn't completed, he would have done so. Mr. Cordero states he added an addition to his home, and had the necessary paperwork for that project. Mr. Cordero states he was not trying to skip any permits.

Mr. Sachs asks Mr. Cordero to describe the size of the pool and information. Mr. Cordero states he has a 20 x 40, he added a 50 x 30 retractable enclosure over the pool. In summer it opens, and closes in winter. It is fastened to concrete w lags and bolts, made of a poly carbonated glass with rust proof aluminum and is insulated. Mr. Sachs asks to see a presentation of pictures of the structure. Mr. Cordero states his copies were submitted to the zoning board secretary. Mrs. Cordero states it is kind of like a greenhouse, but instead of glass, it is polycarbonate. Ms. Shifman asks when it was installed. Mr. Cordero states two years now. Ms. Shifman asks why it took two years to come to the zoning board. Mr. Cordero states he thought the company he ordered from took care of it all. Mr. Cordero states they delivered it and he had to install himself. Two years passed, and the Township come to me asking about permits. Mr. Cordero states he thought the company took care of the permits. Mr. Cordero states he tried to reach out the company for the installation and there was no answer. Mr. Sachs asks if the Township has inspected the structure at any time. Mr. Cordero states no.

Mr. Rago asks how the enclosure over the pools works. Mr. Cordero states it a manual push enclosure. Mr. Cordero states it on track attached to the concrete and it takes two people to push on each side. Mr. Rago asks if there is any electricity. Mr. Cordero states there are GFI protected electric outlets that were done by Mr. Cordero as part of the self-install kit. Ms. Shifman asks if Mr. Cordero is done with his presentation. Mr. Cordero states he guesses he is done and thought him handing in the packet was enough. Mr. Cordero has the survey and he followed instructions. Mr. Cordero states this is all new to him since he has never done anything like this before. Ms. Shifman asks the name of the company Mr. Cordero ordered the structure from. Mr. Cordero states it is a company in China. Mr. Cordero states he didn't know the company was from China, he states he hates to order things online. They came the first week and started to put it together. Mr. Cordero states he watched them do the work, but they never came back after that and he completed the work himself.

Mr. Novak, from Burgis & Associates states he is filling in for Mr. Ed Snieckus, and will review the report from June 21, 2021. The building improvement coverage allotted in this zoning district is about 15%. Mr. Novak states Mr. Cordero is around 20.12 percent, which is a little over 1040 square foot over the allotted percentage. Mr. Novak states building coverage helps determine how much mass can be on a particular lot. Mr. Novak states the applicant needs a C variance for building coverage. Mr. Novak states Mr. Snieckus review the statutory criteria is what an applicant needs to prove in order to grant a variance, being either C1 or C2 variance. Mr. Novak states the property doesn't not qualify for C1. As far as the C2 variance is possible when the use proves it advances the intents and purposes of the municipal land use law. The applicant needs to also prove the benefits of this proposed benefits outweighs the negative. The benefits need to be for the public not just for the property owner. The applicant needs to demonstrate the negative criteria and establish there is no substantial detriment to the public good or substantial impairment to the master plan and zoning ordinance.

Mr. Cordero states in defense of the ordinance this brings a sense of safety, because the structure has doors that lock and the pool is enclosed. Mr. Cordero states it brings safety to the neighborhood and protects from drowning in a pool. Mr. Cordero states the rest of neighborhood has only four foot fences that anyone can jump over and get into the pool. Mr. Cordero states he feels the appearance of the structure makes the neighborhood look nicer. Mr. Cordero states it brings up the value of the neighborhood and it doesn't look like junk. Ms. Shifman asks for Board comments. Mr. Primiano asks Mr. Novak about the proposed building coverage at 4088 square feet. Mr. Novak states the original number was 2312 square feet and that Mr. Cordero is compliant for improvement coverage and that building coverage requires a variance. Mr. Novak states the numbers are based on the survey. Mr. Primiano states he see multiple sheds and feels the survey is inaccurate. Mr. Primiano states he has an aerial view that are things missing from the survey and affecting coverage numbers. Mr. Novak compares the aerial to the survey from April 2021 and agrees with Mr. Primiano. Mr. Cordero states there is a stone dog run and a pond that is missing from the survey. Mr. Cordero states his surveyor he was doing total coverage, impervious and building, together. Mr. Cordero states he thought the survey covered the entire property. Mrs. Cordero states she has dogs, all licensed, and that is where they go to the bathroom. Mr. Primiano states he understands and the purpose of the ordinance is to prevent too much happening on one lot or to create storm water management issues.

Mr. Primiano states we don't have the proper numbers in front of us because it doesn't list the sheds, pond, or dog area. Mr. Primiano states we need a better look at what actual coverages are happening. Mr. Primiano states if this were to be approved, he recommended a drywell system be installed and typically an engineer calculations may be necessary for this structure. This is a large structure, it's bigger than a home. Mr. Sachs asks Mr. Cordero is he has consulted an attorney when filing this. Mr. Cordero states he did but that everyone told him her could do it himself. Mr. Sachs states in a normal experience when adding a deck on your house or new porch, that probably do it yourself. Mr. Sachs states Mr. Primiano has made valid points, that we need to see more accurate information on exactly what is on the property and its true size. Measurements of the shed in rear, side of house, accurate measurements of pool, the pond, the dog run. Mr. Cordero states he asked the surveyor to measure the pool area. Mr. Sachs states we need a complete and accurate survey with measurements. We would have a better idea of lot coverage.

Mr. Sachs reiterates Mr. Primiano comments on drywell and engineering calculations for storm water. Mr. Sachs also states he is concerned there is the pool structure up with no inspection, we have no idea if this is safe. Mr. Sachs mention to Mr. Cordero he may not want to proceed tonight with such gaps in information. Mr. Sachs states Mr. Cordero he doesn't fit into a C1 variance, but maybe a C2 variance, but that requires planning testimony, analysis of neighborhoods and what lot coverages are present. Mr. Sachs states if Mr. Cordero has a land use attorney, you would have some of this information. Mr. Sachs states he would not want Mr. Cordero to spend unnecessarily but that he needs to justify the planning under a C2 analysis and the testimony of Mr. Cordero may not be enough. That is for the Board to decide.

Mr. Cordero asks if he can postpone to get a current survey and retain a land use attorney. Mr. Sachs states he can talk to an attorney or planner and we will see how it goes. Mr. Sachs opens comment to the public. Ms. Bivona opened the meeting for public comments, but no one asked to be heard and public forum was closed. Mr. Sachs states Mr. Cordero will be carried to the next Zoning Board meeting of September 23, 2021. Ms. Bivona states it can be carried with no further notice to the September 23, 2021 meeting.

Mr. Primiano states he wants to be clear on what Mr. Cordero needs. Mr. Primiano states an updated survey with everything on it, with no missing permanent structures with dimensions, break downs of each structures and with calculations, also an engineer needs to do a drywell design. With the increased percentage, it may be helpful to keep the numbers even and ensure the system can capture the water, taking all the rainwater with just the pool having an increase. Mr. Primiano states that is up to the applicant. Mr. Cordero states he understands the drywell request to compensate for the pool structure. Mr. Primiano states this is non-permitted use with the pool structure that has not been inspected and are concerned with the safety of the pool structure. Ms. Shifman concurs, stating it has been up a long time.

Mr. Joe Lalka, Zoning Officer states there were no zoning application at all on this address and the structure was observed. Mr. Lalka states both the pool structure and the pump shed were constructed without permits and without inspection. Mr. Cordero states he was told by the town anything less than 8 x 12 doesn't require a permit. Mr. Lalka asks Mr. Cordero who he spoke to and also states any structure housing utilities isn't a shed, it's a building. Mr. Lalka states just having electric run requires a permit. Mr. Lalka states Mr. Cordero did apply for permit for this particular structure but zoning calculations bore out that we are not able to execute the permit and it was referred to the zoning board. Mr. Lalka states usually the applicant would apply for permits and zoning officer would approve if it can even proceed. Mr. Lalka states he has numerous conversations with Mr. Cordero, and that initially Mr. Cordero insisted he didn't need permits and that this was a portable structure. Mr. Lalka states he wanted to share this background information as to not go astray.

Mr. Rago asks Mr. Cordero where the pool filter backwash go. Mr. Cordero states out on the street. Mr. Rago states that may need to be outlined on survey too. Mr. Rago stresses the survey has to be completely accurate. Mr. Rago states having a lawyer and an engineer, armed with everything needed so the Board can make a decision. Mr. Primiano states we need more pictures with the overall idea of what is happening in the yard. Ms. Shifman states pictures that helps explain what is happening there. Mr. Primiano states whether close-u, far away, off of Google or a drone, it is up to the applicant to have more pictures of it all. Mr. Novak recommends a zoning table in addition to a complete survey.



Mr. Novak encourages Mr. Cordero to focus on the C2 criteria and what the negative criteria would be. Mr. Cordero asks what C2 means. Mr. Sachs recommends Mr. Cordero use a land use attorney who would understand, and also a planner to help determine your lot conformance to the rest of your neighborhood. Mr. Sachs states Mr. Cordero has created his own hardship, so a planner and engineer may be required. Mr. Sachs states obtaining these professionals would help.

Mr. Primiano asks Mr. Lalka if someone came to zoning for this type of structure, would it require grading and topography. Mr. Lalka states anything that changes grading would require engineering review. The pool first place would have but a structure over a pool probably would add to the topography. Mr. Primiano states a topography and grading study would be expensive and is probably not necessary at this point. Mr. Lalka states drywell is in the same vein of those studies and if the structure was approved, it would be with those caveats. Chairperson Shifman agrees to carry this matter to September 23, 2021. Mr. Cordero asks if he can use his old survey to show the grading. Mr. Primiano states he can just to show grading. Anything he can add to the packet would be helpful. Mr. Primiano states a full grading and topography survey probably isn't necessary but the drywell design is. Ms. Shifman states the Board has so little information. Mr. Cordero asks when this would due and getting survey done and copies. Mr. Sachs states the information is due ten days before so if you aren't able to get it by then we can move to October 21<sup>st</sup>, 2021 instead. Mr. Sachs states this cannot be stretched out too far. If your application is denied, the town will need to move on that, and if it is approved, the township will need to inspect to see if installed properly. Mr. Sachs asks Chairperson Shifman to keep this on a short leash. Ms. Shifman asks for a motion to carry.

MOTION: Mr. Rago

MOTION SECONDED: Mr. Primiano

ROLL CALL

AYES: Mr. Absalom, Mr. Bauman, Mr. Primiano, Mr. Rago, Ms. Shifman  
NAYES: None  
ABSTAIN: None

### **ADJOURNMENT OF MEETING**

There being no further business, the meeting was adjourned at PM.

MOTION: Mr. Rago

MOTION SECONDED: Mr. Primiano

ROLL CALL

AYES: Mr. Absalom, Mr. Bauman, Mr. Primiano, Mr. Rago, Ms. Shifman  
NAYES: None  
ABSTAIN: None



**CERTIFICATION OF SECRETARY**

I, undersigned, do hereby certify;

That I am the Zoning Board of Adjustment Secretary of the Township of East Windsor Zoning Board of Adjustment and that the foregoing minutes of the Zoning Board of Adjustment, held on August 19, 2021 constitute a true and correct copy of the minutes of the said meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my name of said Zoning Board of Adjustment this 17<sup>th</sup> day of February, 2022.

*Lori Bivona*

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Lori Bivona, Board Administrative Secretary  
East Windsor Township