



# Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

Office of Community Planning and Development

**To:** Simsbury Zoning Board of Appeals

**From:** Joseph Hollis, Code Compliance Officer

**Date:** August 23, 2023

**RE:** **Application ZBA #23-06** Andrew & Amelia Dalton Owners/Applicants, for a  $\pm 25'$  variance to reduce the side yard setback from 40' to 15', pursuant to the Simsbury Zoning Regulations Section 3.9 for the construction of a 512 sq. ft. inground pool on the property located at 12 Browngate Lane (Assessor's Map C04, Block 203, Lot 043), zone R-800S.

**Description of Variance:**

The applicant is requesting a  $\pm 25'$  variance to reduce the side yard setback from 40' to 15', pursuant to the Simsbury Zoning Regulations Section 3.9 for the construction of a 512 sq. ft. inground pool on the property located at 12 Browngate Lane (Assessor's Map C04, Block 203, Lot 043), zone R-800S.

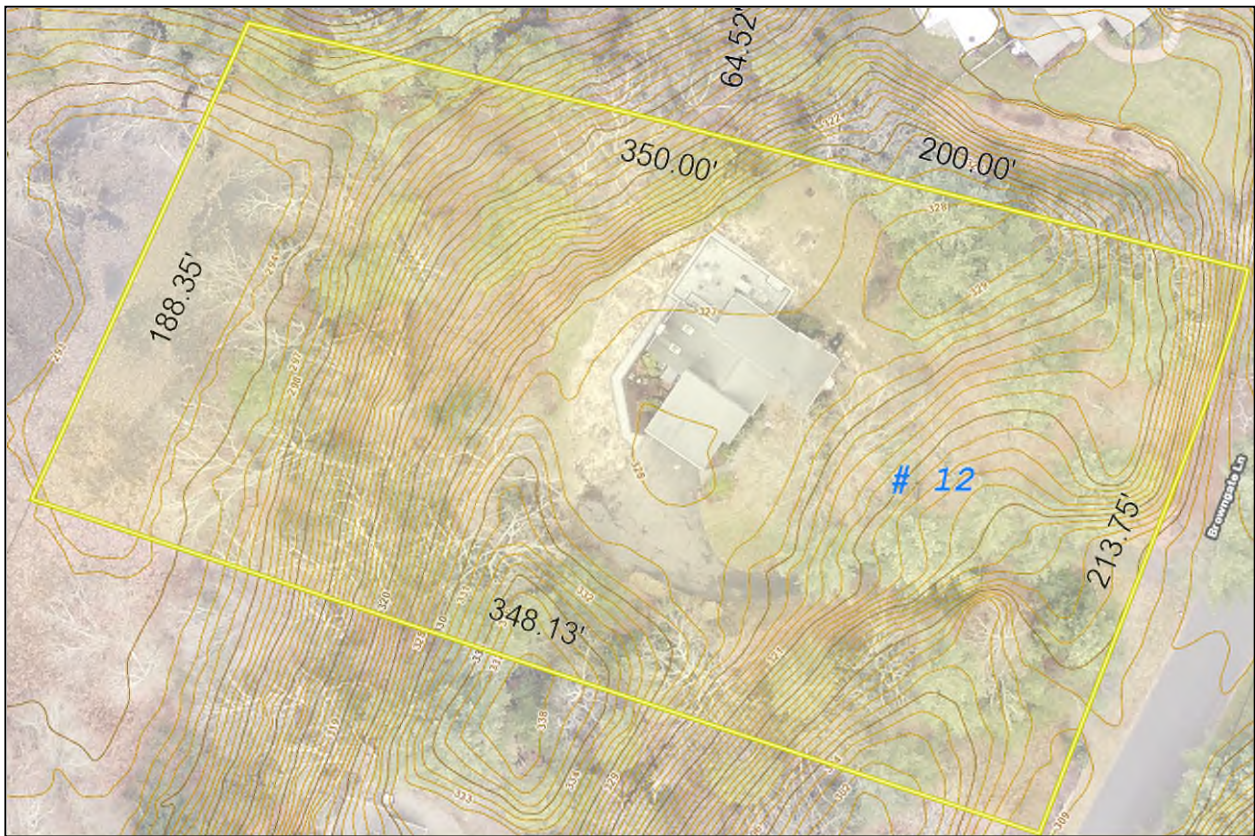
The subject lot is a 1.71-acre lot located within the R-800S zoning district with the primary structure consisting of a 2,064 sq. ft., single-family, contemporary house built in 1980. Graphic 1 shows a view of the property from the street.

**Graphic 1 (below):** Street view of the existing conditions on the property.

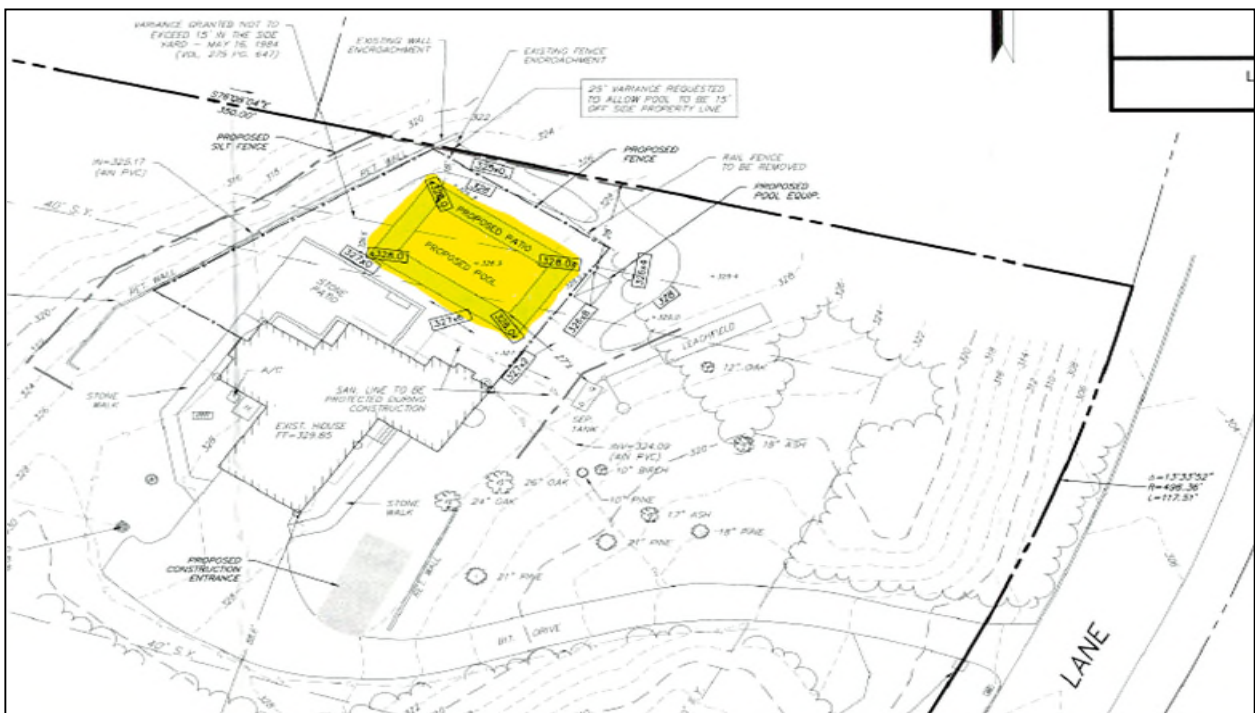


Due to the lot topography, home orientation, and driveway positioning, grounds for a variance are met. Graphic 2 shows the topography, home orientation, and driveway location on the lot. Graphic 3 depicts the proposed pool location submitted by the applicant.

**Graphic 2 (below):** Topographic Map of 12 Browngate Lane



**Graphic 3 (below):** Plot Plan for Inground Pool Proposal at 12 Browngate Lane. The proposed is highlighted in yellow.



### **Analysis**

The proposed inground pool encroaches 25 feet within the required 40-foot side yard setback, as stated in Section 3.9 of the Zoning Regulations, Dimensional Requirements. The Board should review the variance application against the criteria for variances below.

A previous variance was granted in 1984 at the subject property, 12 Browngate Lane. This approval was for a smaller 15-foot variance to the same side yard setback for the installation of an inground pool in which the Board found the topography of the land, home orientation on the lot, and septic location as the grounds for the approval.

### **Notice Requirements**

The public hearing notice was published in the Hartford Courant on both August 9, 2023 and August 16, 2023. The public hearing notice sign was posted on the property as specified in the Simsbury Zoning Regulations Section 16.C.2, Public Information Notice Sign.

### **Criteria for Variance Review:**

Pursuant to Section 16.C, Variances, a variance from the terms of these regulations shall not be granted by the Board of Appeals unless and until the Board shall make a written finding in its minutes as to all of the following:

1. That special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the area;
2. That these special circumstances relate to the condition of the land or parcel;
3. That the special conditions and circumstances are not related to the circumstances of the applicant and have not resulted from the actions of the applicant or the predecessor in title;
4. That the special circumstances constitute an exceptional difficulty or unusual hardship not of the applicant's making and are not solely a financial detriment;
5. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district;
6. That granting the variance requested will not confer upon the applicant any special privilege or use that is denied by these Regulations to other lands, structures, or buildings in the same district;
7. That these circumstances justify the granting of the variance;
8. That the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
9. That the granting of the variance will be in harmony with the general purpose and intent of these Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Staff has provided a sample motion for discussion purposes only as Exhibit A:

**Exhibit "A"**  
**Wednesday, August 23, 2023**  
**Simsbury Zoning Board of Appeals**

MOVED, the Zoning Board of Appeals approves Application ZBA #23-06 Andrew & Amelia Dalton Owners/Applicants, for a  $\pm 25'$  variance to reduce the side yard setback from 40' to 15', pursuant to the Simsbury Zoning Regulations Section 3.9 for the construction of a 512 sq. ft. inground pool on the property located at 12 Browngate Lane (Assessor's Map C04, Block 203, Lot 043), zone R-800S, based upon the following findings: (to be determined by the Zoning Board of Appeals)