

**TOWN OF HADDAM
INLAND WETLANDS COMMISSION
TOWN HALL
21 FIELD PARK DRIVE, HADDAM, CT
MONDAY, 21 MAY 2018
PUBLIC HEARING AND MEETING
APPROVED MINUTES
*Approved as Amended at the 18 June 2018 Meeting***

ATTENDANCE

X	Paul Best, Secretary
X	Curt Chadwick
X	Jeremy DeCarli
X	Dan Iwanicki, Vice Chairman
X	Joe Stephens
X	Mark Stephens, Chairman
A	Tom Worthley
X	Dave Costa, Alternate - Seated
A	Gail Reynolds, Alternate
X	Matthew Willis, Esq., Land Use Counsel
X	Jim Puska, Wetlands Enforcement Officer
X	Bunny Hall Batzner, Recording Clerk

1. Call to Order & Attendance/Seating of Alternates

Mr. M. Stephens, chairman, called the meeting to order at 7:00 p.m. and all regular and alternate members were seated.

2. Additions/Corrections to the Agenda

The Commission approved the 21 May 2018 agenda as submitted.

3. Public Comment

None.

4. Old Business

None.

5. New Business

None.

6. Public Hearing (Continued)

Application for Wetlands Permit #IW016678 for Activity in the Upland Review Area on Property Located at 81 Arkay Drive, Haddam, CT and Shown on Assessor's Map #36, Assessor's Lot #7-12.

Michael Sciascia, applicant/owner and Jamie Sciascia, owner; Paul Geraghty, Esq., representing the Haddam Land Trust, and William Cowan, President, Haddam Land Trust, were present.

This is a continuation from Thursday, 16 April 2018.

Mr. M. Stephens reported the hearing was started last month in order for the applicant's counsel to attend the hearing; and asked Mr. Sciascia if his attorney was present. Mr. Sciascia stated they decided to go ahead without counsel.

Mr. M. Stephens read the Legal Notice, as published in Haddam News, on 5 April and 12 April 2018, into the record.

Mr. M. Stephens stated this is a continued hearing and everything heard is what the Commission will base their decision on. Mr. M. Stephens also stated this is the time for Commissioners to ask any questions regarding this matter; and if someone is a professional or expert, to please indicate as such so credentials can be reviewed.

Mr. Sciascia stated everyone had an opportunity to look at the site during the site walk (Saturday, 7 April 2018); and in taking into consideration what wasn't said at the site walk, but was said previously in other meetings, they have come up with a plan on how they would like to proceed hoping they can take care of everybody's concerns. Mr. Sciascia outlined the plan: 1) create an access area from behind their garage down to the lower area to clear trees that were used as part of the fill in some of the areas; 2) remove a half dozen or so trees that were covered by the fill; 3) remove existing silt fence, clear any of the material that is on the Land Trust property, and install new silt fence with hay bales in front of it; 4) move material up the slope, stabilize any material, remove some of the wood chips in order to install erosion blankets and vegetation (germination) blankets across the back of the bank; 5) install a berm at the top of the bank with silt fence and wood chips to prevent surface water from running off and down the bank; and 6) come part way up the property – equal with the corner of the house – install a berm to alleviate any water run off going down towards the back. Mr. M. Stephens asked as suggested by the town engineer with Mr. Sciascia stated yes.

Mr. M. Stephens stated a plot plan would be nice. Mr. Puska handed Mr. M. Stephens a GIS map. Mr. M. Stephens asked Mr. Sciascia if he had contemplated other alternatives such as the use of rip rap. Mr. Sciascia stated another idea was along the property line to install 4 x 4 or 6 x 6 vertically and 2 x 6 horizontal across them creating a barrier between their property and the Land Trust's property of something four to six feet in height so that if any spillage came off their property this would stop the spillage from going onto the Land Trust's property. Mr. M. Stephens stated this is not in the current plan. Mr. Sciascia stated it's another option that they have discussed.

Mr. Puska asked about the slope – is it 2:1. Vincent Madore, contractor for the Sciascias, and Mr. Sciascia both stated 2:1. Mr. Puska asked if there was any chance in relaxing the grade a little bit. Mr. Madore stated the slope is stabilized, noting the amount of rain of late, and to go to a 2:1 slope is not out of the question. Mr. Madore also stated if they can eliminate a lot of the surface water from the top from going over, maybe a little rip rap at the bottom if a barrier isn't installed although he felt vegetation is much better than rip rap. Mr. Puska asked about a vegetated blanket. Mr. M. Stephens stated it was mentioned. Mr. Madore stated the slope isn't going anywhere (pretty much a stable material as its all rock) and that the least amount of disturbance is the best. Mr. Puska stated the main concern at the time was there were areas of spillage and people from the Land Trust had noted that. Mr. Madore agreed and stated this matter is in regard to a wetlands issue and has nothing to do with the Land Trust.

Mr. Sciascia stated the areas in questions where there was some spillage were areas that they went back through and removed all the soils from the Land Trust property. Mr. Sciascia also stated the main area around the corner where the biggest spillage took place, that they had substantially taken the bank back - it was a lesser of a slope, but took most of the material back because it was inadvertently placed it on Land Trust property. Mr. M. Stephens stated that's where it looks like a much steeper slope with Mr. Sciascia stating correct.

Mr. M. Stephens stated a lot of the material underneath is flat rocks and different pieces of stuff and asked if a pad will work as it usually goes on top of a some decent loam or topsoil. Mr. M. Stephens asked if a pad would stick with rock underneath it. Mr. Madore stated the wood chips will compost

into topsoil and germination will take place on it; however, if the Commission wants topsoil on a hill. Mr. M. Stephens stated what needs to be talked about is what was seen during the site walk – a lot of bare ground and it was probably washed down from other attempts that had been made because there's a lot of flat rock. Mr. M. Stephens stated it was his understanding from a discussion with Mr. Puska that a layer of soil was to be placed down; and asked if there are any plans to do so. Mr. Puska stated that was discussed back in November. Mr. Madore talked about erosion issues with topsoil v. rock. Mr. M. Stephens stated there's been discussion about vegetation mats; however, it's still unclear if they will work. Mr. Sciascia stated the town engineer was on site and said it would work. Mr. M. Stephens stated the town's engineer suggested it, but it was not part of a plan or an engineering report. Mr. M. Stephens also stated if the applicant would like to talk more to the town's engineer about the matter, because there have to be some assurances that the material will not slough off. Mr. Madore asked if the Commission would like to put a bond in place for a year. Mr. M. Stephens stated a bond is an interesting idea to consider going forward as it is considered during similar situations.

Mr. M. Stephens reported there was a letter from Attorney Paul Geraghty to Attorney Scott Carlson, applicant's counsel, dated 10 April 2018; and asked Mr. Sciascia if it had been shared with him. Mr. Sciascia stated it was not sent to Mr. Carlson, but to the Wetlands Commission. Mr. M. Stephens agreed that it had been sent to him, but was cc'd to his attorney; and asked if they had been able to go through the seven items noting that some items had been addressed a little bit. Mr. Sciascia stated some of them are a little reaching and some of them are civil issues. Mr. M. Stephens asked about the engineering part. Mr. Sciascia asked that the parts concerning the engineer be read into the record. Mr. M. Stephens read Item #3 "Given that the slope on the property is steep and appears to be about 1:1 maybe 1:2 slope, we would request that an engineer review the design and certify to its stability." Mr. M. Stephens stated the certification of stability is what the Commission is looking for. Mr. Sciascia asked that Item #6 be read. Mr. M. Stephens read Item #6 "I would also ask that you adopt the recommendations of the town's engineer, Nathan L. Jacobson & Associates, Inc. as part of any approval process in addition to any further comments they may have once the application is resubmitted by the home owner." Mr. Sciascia stated it's contradictory to say to adopt this engineer's report yet another engineer's report is wanted. Mr. M. Stephens stated these are recommendations and that's what is clearly written. Mr. M. Stephens also stated the Commission needs an engineer that will say the plan will work and that's something the applicant needs to do.

Mrs. Sciascia asked if Mr. M. Stephens was saying that the recommendations in the report are just recommendations and that you don't trust what's being recommended. Mr. M. Stephens stated Mr. Jacobson does not state that the slope will stay, there are no numbers to back it up, and that an engineer's report usually has those numbers, the type of slope required, etc. Mrs. Sciascia asked why the town's engineer can't be asked to come back out to look at the site as he was the original one to do so. Mr. M. Stephens stated if he were the Sciascias, he probably would be contacted Mr. Jacobson; however, that would be up to Mr. Jacobson and the town as to whether he wants to back the Sciascias up like that. Mr. Best asked if the town's engineer can do that for a private party. Mr. M. Stephens stated he made the recommendation, but he doesn't know now he works that way. Mr. Best asked if he didn't submit a formal certified letter/report. Mr. M. Stephens stated no. Mr. DeCarli stated he thought the applicant could reach out to the town's engineer, but he doesn't believe they're going to get the town's engineer to tell them what to do without hiring him individually.

Mr. Best asked where the water that is going to be deflected by the proposed berms will go to. Mr. Madore stated off to the side where it wouldn't go over a steep part (can be run to the side of the property line where the pine trees are located; to the right side, to the back; install rip rap). Mr. Madore noted that water comes down in this area from multiple properties. Mr. M. Stephens stated he believes this is what the town engineer was alluding to in his report.

Mr. M. Stephens asked if permission from the Haddam Land Trust has been asked for in order to do the work. Mr. Madore stated that bridge will be crossed once the Commission has made a decision. Mr. M. Stephens stated the plan Mr. Sciascia had outlined to the Commission was the need for access to the

bottom of the property. Mr. Sciascia stated access would come off of his property. Mr. M. Stephens asked if everything can be pulled off from his property. Mr. Sciascia stated yes; and that all work will be done with either a micro or mini excavator from his property. Mr. M. Stephens stated there is still more material to be removed; and asked the Sciascias if they recognize that. Mr. Sciascia stated yes.

Mr. Best stated assuming the material is pulled out he would still want to see an engineer's report stating this angle/slope is going to hold and the material will not go down. Mr. Best also stated the town's engineer is not going to provide that kind of report to the applicant unless he's going to hire him independently. Mr. Puska asked Mr. Sciascia if he was interesting in consulting with the town's engineer. Mr. Sciascia stated he's interested in doing what needs to be done to resolve the whole wetlands issue.

In terms of getting an engineer to provide a report that the material will not slide, Mr. Sciascia stated everyone has seen time and time again that workmanship can fail (structures, slopes, etc.). Mr. Sciascia noted that he builds berms for a living and is aware of what will and will not hold. Mr. Madore stated he's been in construction for 30 years and he's seen engineered and non-engineered projects fail. Mr. Madore also stated everyone wants the same thing, for the bank to remain in place, and it's a matter of finding the best solution.

Mr. M. Stephens stated there have been recommendations which have not been fulfilled yet and the plan is not fulfilled yet. Mr. M. Stephens also stated there still has to be a consideration of the Commission that an engineer provides a report regarding the slope.

Mr. Madore asked if they come to the next hearing with an stamped engineer's drawing, the Commission will approve it. Mr. M. Stephens stated it would go a long way, but would not say how the individual Commissioners would vote on the matter. Mr. M. Stephens again stated there is not a written plan before the Commission. Mr. Madore asked if they decide not to do anything at all to the bank, will the Commission issue a Cease and Desist Order. Mr. M. Stephens stated the Commission would have to.

Mr. Willis stated he felt people were getting ahead of themselves noting there is an application in front of the Commission. Mr. Madore stated a permit was issued. Mr. Sciascia stated the frustration in this matter is that some of the work was done without a permit, then a permit was filed for and granted; however, there was an issue with it not being published in the paper and that's what brings everyone here. Mr. Sciascia also stated had the approval of the permit been published in the paper, there would be no issue. Mr. Sciascia stated everything they have been asked to do, they've done; and how much more money does he need to throw at an engineer to come back before the Commission and possibly not get an approval. Mr. M. Stephens stated if an application comes through and is approved with conditions, as long as the conditions are followed the matter is closed. Mr. M. Stephens stated if anyone from the Haddam Land Trust had seen the Notice of Decision, they would have had their time to appeal the matter. Mr. Sciascia asked why when the original permit was filed in October/November, there was no talk of it until mid-January. Mr. M. Stephens stated there was discussion with Mr. Sciascia asking where that information is. Mr. M. Stephens read the Chronology of Events.

Mr. Sciascia stated the area is not a wetland area according to the town maps. Mr. M. Stephens stated the maps are an approximation and that a wetlands soil scientist would need to come out and make that determination.

Mr. M. Stephens stated when the work was done it was dry. Mr. Sciascia stated incorrect. Mr. M. Stephens stated it was wet and that he (Sciascia) was bumping up against wetlands. Mr. Sciascia stated yes, but it was raining when the work was done. As there was a bit of confusion as to what was being talked about, Mr. M. Stephens clarified that he was talking about the swamp that's behind the Sciascias. Mr. Sciascia stated it's completely dry. Mr. M. Stephens stated if the work had been done properly, Mr. Sciascia may have been asked to retain a wetlands soil scientist to delineate the area to know whether there were wetlands or not. Discussion followed at length in regard to whether or not skunk cabbage was visible and if the Commissioners had walked from one pin to the other. Mr. DeCarli and Mr. M. Stephens stated they walked almost from one pin to another.

Mr. DeCarli asked Mr. Sciascia how long he has lived on the property. Mr. Sciascia stated six or seven years (owned; rented before that). Mr. Sciascia explained why he asked if anyone walked from one pin to the other. Mr. Sciascia stated the purpose for the work was to make sure their house did not fall off the cliff. Mr. Sciascia stated the area was a dumping ground for the previous owners and others in the area and that they cleaned the whole area up.

Mr. M. Stephens stated with the slope that's out there, there is a 150 foot setback (regulated area) and the point is that the applicant is within the upland review area at the very least. Mr. Sciascia asked what's the recommendation to get this matter corrected. Mr. M. Stephens stated an engineer's report would help.

Discussion followed in regard to making sure the slope is stabilized, that the previous work will be pulled off the property line so there is no longer any encroachment on the Land Trust property (aware it's a civil matter), and submitting a plan. Mr. DeCarli stated the State of Connecticut gives them, as Commissioners, the job that the wetlands start here and that an applicant is not in the wetlands. Mr. DeCarli also stated it's the goal of the Commission to make sure the slope doesn't move an inch and the typical way of doing that is that the applicant comes in with a plan put together by an engineer showing the type of fill, work to be done (grading, compaction, etc.), and that plan can be sent to the town's engineer for verification. Mr. DeCarli stated currently everything is out of order. Mr. DeCarli explained that he does the same work as Mr. Puska in a different town. Mr. Madore explained what has taken place to date.

Mr. M. Stephens asked Mr. Sciascia if he will provide the list (plan) as he previously described it. Mr. Sciascia stated yes.

Mr. Puska stated everyone is just looking for someone with credentials to say to the best of their knowledge this will support what is trying to be done. Mr. Puska also stated no one can say 100 percent that the slope will stand up for the next 25 years; however, recommendations can be made.

Mr. Geraghty stated if the applicant is willing to adopt some of the recommendations from the Jacobson report, that would be great; but there's an issue in that there's a lack of detail right now (how long and high are the berms, what are the berms constructed of; how much matting will be put down). Mr. Geraghty also stated he doesn't know how the Commission would make a decision based on the lack of information. Mr. Geraghty stated he would doubt Mr. Jacobson would agree to represent and advise the Sciascias as it poses a conflict for him as the town's engineer. Mr. Geraghty also noted the work was done prior to pulling a permit which would have pulled all of the safe guards and put them in place with all parties involved. Mr. Geraghty stated the Land Trust is happy to work with the applicant to get the material off the property, and believes the applicant is right that the only way to remove the material is through their (the Sciascias) property, but there needs to be more detail as to what work will be done and that the slope is stabilized as erosion in the center of slope was clearly visible during the site walk.

Mr. Iwanicki apologized for having not been at all of the meetings and being only able to refer back to the minutes; but asked if the Commission has a plan in front of them. Mr. M. Stephens stated there is no written plan only a verbal plan. Mr. Iwanicki stated having been chairman of the Commission previously a written plan needs to be in front of them in order to even continue to the public hearing. Mr. Willis stated an application has been filed. Mr. Iwanicki asked if it has the ways and means or if the procedures have been used. Mr. Willis stated that's why there's a public hearing; and if Mr. Iwanicki is asking is it complete, can it be better, maybe. Mr. Iwanicki asked Mr. Willis if it was a complete application. Mr. Willis stated it's for the Commission to determine. Mr. Iwanicki asked Mr. M. Stephens to ask the Commission whether or not it's received a complete application; and if not, as past chairman, he would close the hearing and reject it. Mr. Iwanicki stated Mr. Willis has also suggested to allow the applicant to go forward with more details and information so the Commission can have a complete application to make a decision. Mr. Willis stated people are talking, there appears to be progress, and that it would behoove everyone if there was a detailed plan because everyone would know what is being looked at. Whereas, to deny the application without prejudice, everyone will end up back here with another application.

Mr. Sciascia asked where does it say you have to have x, y, and z. Mr. Willis stated there are regulations. Mr. Sciascia stated the Town of Haddam doesn't explain the process; and if they had known they were supposed to have put the decision in the paper, they wouldn't be before the Commission now. Mr. Iwanicki stated if there's a violation of a wetlands going on during an activity, then they would all still be here. Mr. Iwanicki also stated if there was impact to an adjacent property owner with the activity they were doing and the wetlands were impacted as well, a Cease and Desist would be issued, he'd be before the Commission, and would need to come up with a plan.

Mr. Willis stated the past can't be changed; but an application has been filed. Mr. Willis suggested the hearing be continued to allow Mr. Sciascias to submit a complete plan for the Commission to consider.

Mrs. Sciascia asked if they got an engineer, would the permit be 100 percent approved. Mr. Willis and the Commission stated no, that they cannot do that. Mr. M. Stephens stated the Sciascias can hear how the discussion is moving. Mrs. Sciascia asked if the Commission can understand their frustration. Mrs. Sciascia stated they've put together a plan; she knows it's not in writing, but it's not a problem; however, now they're being told to do more. Mr. M. Stephens stated he had mentioned when the hearing was continued on 16 April 2018 that at this time a lawyer will be with you who will step you through the process and that the Commission usually approves a proper plan and that he made that very clear at the last meeting. Mr. Sciascia stated he understands what was made clear, but he doesn't understand how someone who has not been to the meetings or a site walk would even interject on how things have gone. Mr. M. Stephens stated Mr. Iwanicki knows the rules and the laws. Mr. Willis stated it's a public hearing and anyone can speak. Mr. Sciascia stated he understood that.

Peter Smith, Haddam resident, asked about the white oily substance that's visible towards the bottom. Mr. M. Stephens stated it's noted on his paperwork and that this substance is often seen on waters where there is decay, etc. Mr. M. Stephens also stated he's assuming its decay, etc., as he did not obtain a sample and that it may even be coming off the chips. Mr. M. Stephens stated, personally, he wasn't going to ask the Sciascias to get a soil scientist out there, because everybody is talking about the same line (the desire to get the line clear is a good one). Mr. M. Stephens also stated along with the white substance there is also a bit of rainbow colored substance visible. Mr. Madore stated the substance is the natural oil/sap from the wood chips that were asked to be installed and it is not rotting from beneath the fill. Mr. M. Stephens agreed with Mr. Madore's statement.

Mr. J. Stephens stated based on everything that has been discussed, the Commission would be much more comfortable with the application with a detailed engineer's report, it's not a guarantee, but it needs to specify all the items alluded to in a way that it can be measured. Mr. J. Stephens also stated he's all about the details – a detailed drawing/layout of the proposal and a detailed sequence of events – will go a long way. Mr. M. Stephens stated he's on record at the last meeting that when the Commission has a good plan in front of them they approve it. Mr. J. Stephens stated the Commission wants this matter to be rectified. Mr. M. Stephens stated the Commission has a good record of approval.

Helen Gaynier, 75 Arkay Drive, asked what are the steps required and once the plan is put together, who would it be distributed too. Mr. M. Stephens stated the plan is a public document. Ms. Gaynier asked once the information is compiled, who would it be issued too. Mr. M. Stephens stated it would come into the Land Use Dept. Mr. Puska explained the process of receipt and distribution. Ms. Gaynier then asked the time frame after receipt/distribution. Mr. M. Stephens explained the continued hearing process and the acceptance of new information.

Mr. Iwanicki stated if the applicant would allow the continuation of the public hearing, it would behoove the applicant to do so in order to complete their plan and provide a complete application with the necessary information that the applicant thinks is required to give them approval. Mr. Willis asked the next date the Commission will meet. Mr. M. Stephens stated 18 June 2018. Mr. Iwanicki stated the hearing can be extended as long as the applicant is acceptable to that. Mr. DeCarli stated the matter

would have to be closed within 35 days unless an extension is given by the applicant. Mr. Iwanicki stated if the verbal outline comes onto a piece of paper of what the applicant wants to do and the Commission can review it and say yea or nay, but the information has to be before the Commission in order to make that decision.

Mr. M. Stephens asked Mr. Sciascia if he would extend the hearing to the next meeting. Mr. Sciascia stated if an engineer has to be involved, he believes more time will be required. Addressing the applicant, Mr. Iwanicki stated an engineer is not necessarily needed as the Commission has always tried to make it easier for people to come to the Commission without a lot of lawyers, engineers, etc., and asked Mr. and Mrs. Sciascia to present a decent plan with a decent site plan and with some background as to what will be done and then the laypeople will make a decision based on that information. However, if it becomes a very specific matter, such as road plans, drainage, etc., then an engineer is required as it's a whole different matter. Mr. Iwanicki stated the information has to be, must be, in writing. Mr. Sciascia requested an extension to 18 June 2018.

MOTION: Paul Best moved to continue the public hearing until Monday, 18 June 2018, 7:00 p.m., Town Hall, 21 Field Park Drive, Haddam to allow the applicant, Michael Sciascia, to supply the necessary information to complete the application. Joe Stephens second. Motion carried unanimously.

Mr., Iwanicki asked Mr. Sciascia to make his submittals including any site plan to the Commission as soon as possible for review. Mr. M. Stephens stated he believes the law requires 10 days before a hearing. Mr. Sciascia stated sure.

7. Public Meeting

Application for Wetlands Permit #IW016678 for Activity in the Upland Review Area on Property Located at 81 Arkay Drive, Haddam, CT and Shown on Assessor's Map #36, Assessor's Lot #7-12

Item continued until Monday, 18 June 2018.

8. Wetlands Enforcement Officer's Report

A brief discussion followed in regard to agent approvals and protecting the WEO by bringing matters before the Commission. Mr. Puska reported on the following:

New House, Horton Road – The new house, which will be built near the river, has received Gateway Commission approval, and all work is outside of 100 feet of a wetland.

Shed, Beaver Meadow Road – Initially recommended by a staff member that a permit was needed; however, after further review, the site location was not within 100 feet of a wetland. The applicant was reimbursed the permit fee.

Stonewall Spillway – Rocks within a stonewall spillway are deteriorating and the property owner would like to repair it. Mr. Iwanicki asked where the water comes from. Mr. Puska stated a stream. Mr. M. Stephens stated he would call it maintenance. Mr. Iwanicki agreed.

Gateway Commission – Mr. Best asked if the Gateway Commission really does anything. Mr. Puska stated yes, they do.

9. Approval/Correction of the Minutes

MOTION: Paul Best moved to approve the 16 April 2018 minutes as submitted. Joe Stephens second. Motion carried unanimously.

10. Adjournment

MOTION: Jeremy DeCarli moved to adjourn. Dave Costa second. Motion carried unanimously.

The meeting was adjourned at 8:13 p.m.

Respectfully Submitted,

Bunny Hall Batzner

Bunny Hall Batzner
Recording Clerk

The next meeting is scheduled for Monday, 18 June 2018.