

**TOWN OF HADDAM
PLANNING AND ZONING COMMISSION
PUBLIC MEETING/HEARINGS
TOWN HALL
21 FIELD PARK DRIVE, HADDAM, CT 06438
THURSDAY, 7 APRIL 2022
UNAPPROVED MINUTES
*Subject to Approval by the Commission***

ATTENDANCE

X	Gina Block
X	Steven Bull, Secretary
X	Michael Farina
A	Jamin Laurenza, Vice Chairman
X	Wayne LePard
X	Dan Luisi
X	Edward Wallor, Chairman
X	Alan Chadwick, Alternate
X	Larry Maggi, Alternate – Seated
X	Tim Teran, Alternate
X	Robert McGarry, First Selectman
X	Kate Anderson, Selectwoman
X	Bill Warner, AICP, Town Planner
X	Bunny Hall Batzner, Recording Clerk

1. Call to Order

Mr. Wallor, Chairman, called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance

The pledge was recited.

3. Attendance/Seating of the Alternates

Attendance was taken and all regular members, as well as alternate member, Mr. Maggi, were seated.

4. Additions/Corrections to the Agenda

The agenda stood as submitted.

5. Public Comments

There was no one in the audience who commented.

Prior to opening the public hearing, Mr. Wallor explained the hearing and meeting process to those in attendance.

6. Public Hearing/Public Meeting

a. Special Permit Request for an Addition to 1572 Saybrook Road for Office, Retail, and Professional Services. Applicant: DBP, LLC – Map 49, Lot 69

Lisa Wadge, Member, DBP, LLC, Roger Nemergut, P.E., Nemergut Consulting, and George Fellner, Architect, Fellner Associates Architects, were present.

This is a continuation of the public hearing from Thursday, 17 March 2022.

Hearing: Mr. Wallor opened the hearing at 7:01 p.m.

Using a rendering, Mr. Fellner pointed out various details addressing the Commission's concerns regarding the proposed parking area in front of the existing house. The elevations from Saybrook Road up to the finished porch deck (street – 69 feet, sidewalk – 70 feet, edge of parking lot – 71 feet, parking lot – 72 feet, close to porch edge – 73 feet, porch deck – 77 feet). To minimizing the visual impact propose the installation of a four (4) foot high rail fence at the edge of the sidewalk and planting a four (4) foot high hedge at the edge of the parking lot. The entire house will be visible while these two items block the majority of the cars (see just the tops of them).

Mr. Bull asked if they had or could cut into the elevation. Mr. Nemergut stated it could be cut, but the plan is to keep the parking lot at existing grade as it's rather flat. Mr. Nemergut noted after the last hearing, he parked his vehicle on the yard and it did not obscure the building. Mr. Nemergut stated the fencing, hedges, and the elevation differences will screen the vehicles while allowing the house to be seen.

Mr. Fellner stated the down side of cutting into the area is: 1) a greater differential to access the building, 2) the need to add a ramp for pedestrians, and 3) would create other architectural concerns. Mr. Bull stated that had been discussed previously. Mr. Fellner also stated they are trying to minimize the changes to the existing house. Mr. Farina stated any additional cutting would create difficulties for people with disabilities (extra steps at the front of the porch and a longer ramp). Ms. Wadge noted there is also a septic tank in the area.

Mr. Wallor stated if the area where cut, it would create a watershed problem off the parking. Mr. Nemergut stated currently everything sheet flows from the building and if the area is cut too much, it would create a low point. Mr. Nemergut stated although it could be cut slightly, the area mimics the profile of Brookes Court (dead flat) and a cut would make the parking area lower than Brookes Court. Mr. Farina stated cutting into the area would also cut/damage the tree roots. Mr. Nemergut and Ms. Wadge agreed.

Mr. Bull requested that the existing grades be maintained should the Commission approve the application. Mr. Bull asked about the "gravel parking" as shown on page 1 of 6. Mr. Nemergut stated the gravel parking currently exists to the back of the house and the proposal calls for it to be removed, top soiled, and seeded.

Mr. Farina stated he feels they have done an excellent job in alleviating the initial concerns of the Commission. Mr. Luisi stated it's the perfect plan to create a walking village – people can leave their cars and immediately walk Saybrook Road as well as the back of the property. Ms. Wadge stated Mr. Fellner and Mr. Nemergut have done a great job. Mr. Warner stated the large apartment building and the clubhouse are also close to Brookes Court which will assist in creating the streetscape.

In regard to a comment from the last hearing about parking on Brookes Court, Mr. Nemergut stated backing out into traffic would be safety issue. Mr. Warner stated the Board of Selectmen (BOS) would need to be consulted as the parking would be on town property. Ms. Wadge stated Brookes Court is a narrow road with drainage and there is no room for backing out onto the road.

Mr. Teran asked what the site/parking area will look like at night. Mr. Nemergut stated the lighting that has been selected will confine illumination to the area wanted with hooded fixtures that meet dark sky friendly requirements. Mr. Nemergut noted the lighting of the parking lot is for safety reasons. Mr. Fellner stated there are a series of porches that wrap around the building and they will have recessed lights (light seen will result from the light and not the actual fixture). Mr. Warner stated it's important to remember that the lighting will be a design element for all of Tylerville as the apartments, the State (Saybrook Road and roundabouts), Bridge Road, and the apartments on Bridge Road will all be using the proposed fixture.

Mr. Bull asked how people will enter the property from the sidewalk along Saybrook Road. Mr. Nemergut stated they would have to go along the edge of Brookes Court as there is not a sidewalk proposed from the Saybrook Road sidewalk to the building. Mr. Warner stated an existing sidewalk is on the north side of Brookes Court and from there people would cross Brookes Court to enter the existing house property.

Mrs. Block asked what the proposed hedge will be. Ms. Wadge stated Nancy Ballek recommended an Inkberry (native species and will handle the sandy soils) as it's similar to a boxwood, but is softer and grows bigger. Ms. Wadge noted the plants fill in as they mature. Mr. Nemergut stated the plants will be spaced two (2) feet on center and will take time to grow in.

In regard to the curb cut, Mrs. Block asked if DOT has responded. Mr. Nemergut stated no, noting that DOT wants proof of town approval before they will move forward.

Ms. Wadge stated Mr. Nemergut has provided all the detailed information as requested by Jeff Jacobson, P.E., Nathan L. Jacobson & Associates, town's engineer. Mr. Nemergut pointed out an area where a rain garden is proposed (area to be slightly excavated and planted with plants that will survive in any environment). Mr. Nemergut characterized Mr. Jacobson's comments in that the detail was filled in in the respect that it didn't change anything substantially (no relocation of buildings or parking) and that Mr. Jacobson was looking for clarification from a construction aspect. The plans as submitted, revised 6 April 2022, are the final plans that address Mr. Jacobson's comments. Do not anticipate any other revisions. Mr. Warner noted those plans were emailed to Commissioners.

Mrs. Block asked if there would be any foundation plantings. Mr. Nemergut stated plantings and a list of plantings (combination of trees, shrubs, and bulbs) and their quantity are on the plans. Mr. Nemergut stated all the plantings were selected by Nancy Ballek and were selected for the soil type as well as being native species.

Mr. Bull asked Wayne Ruty, Architectural Review Committee (ARC) member, if the committee had reviewed the parking. Mr. Ruty stated yes, they had discussed shielding the area with trees and the lighting, and that the applicant met all of the requirements. Mr. Ruty stated the applicant and her representatives were very cooperative and did everything ARC asked of them.

Mr. Nemergut stated as part of the application, they had asked for a waiver on the setback – minimum is ten (10) feet and they're asking for five (5) feet – a function of the building being confined. Mr. Nemergut stated the regulations allow that waive as long as it's not more than 50 percent. Mr. Nemergut also stated they have asked for a lot line revision that would be shifted slightly toward Lot 3. Mr. Nemergut stated they would like the motion's wording to reflect those two requests.

Mrs. Block asked if DOT did not approve their curb cut request, would it change their desire to modify the lot line. Mr. Nemergut stated no, as the lot line revision is due to insufficient space between the original lot line and the building.

Mr. Bull stated there needs to be a better way for P&Z and ARC to communicate. Mr. Ruty suggested a meeting between P&Z and ARC be set up to discuss the matter.

Mark Lundgren, Higganum, stated the developer has a very good track record in town as well as her team. Mr. Lundgren noted that Mr. Nemergut was once the town's engineer.

Mr. Wallor reviewed the motion prior to closing the hearing to make sure the wording met everyone's concerns. Mr. Warner suggested the wording "sideline modification and lot line revision" to cover the requests.

As there were no further questions/comments from the Commission or the public, Mr. Wallor closed the public hearing at 7:37 p.m.

Meeting: Mr. Wallor opened the meeting.

MOTION: Steve Bull motioned to approve the special permit request to build an addition for office, retail and professional service. **Location:** 1572 Saybrook Road – Map 49, Lot 69. **Conditions:** a) Subject to comments and final approval from Town Engineer. b) Sideline modification and lot line revision. Michael Farina second. Motion carried unanimously.

b. Amendment to Special permit for The Truck Bar to Allow Change in Business Hours to Monday -Thursday 8:00 a.m.-10:00 p.m., Friday-Saturday 8:00 a.m.-Midnight, and Sunday 8:00 a.m.-8:00 p.m. Applicant: Merle McKenzie, 66 Killingworth Road, Map 14, Lot 29-1

Merle McKenzie, applicant/owner, was present.

Hearing: Mr. Wallor opened the hearing at 7:38 p.m.

Mr. Warner clarified that the request before the Commission is to allow the Truck Bar to be opened on Mondays.

Mr. McKenzie stated the request is to open on Mondays 8:00 a.m.-10:00 p.m., Tuesday, Wednesday, Thursday, Friday, Saturday, and Sunday – already open, but looking to open at 8:00 a.m. as well. Mr. McKenzie stated most of the time, they will not be open; however, it's for the occasional special party that may come in at a different or odd time. Mr. Warner asked Mr. McKenzie to explain who might want to come in at 8:00 or 9:00 a.m.

Mr. McKenzie stated to date he has turned down the H-K Rec Dept. wanted to come in on a Wednesday at 11:00 a.m., the Special Olympics wanted to come in during the day, H-K high school basketball team who wanted to come in on a Wednesday early, turned down numerous industry types who are in the same line of business as they usually have Monday nights off, these are the most recent requests, but there have been more.

Mrs. Block asked for an estimate of frequency of special events. Mr. McKenzie stated he doesn't have one as it would be as people call – sometimes there's nothing, sometimes there's a lot.

Mr. Farina asked about the number of people his facility can accommodate. Mr. McKenzie stated the biggest problems are Saturday night, but noted most people are looking to hold a birthday or retirement party or bring 20 kids from a local program. Mr. McKenzie noted he does have a larger location in Berlin that can house large events.

Mr. Teran congratulated Mr. McKenzie on his new location; and asked how he feels about the dynamics with the neighbors. Mr. McKenzie stated since 2012 when he put a Cross Fit gym in the building there have been a litany of complaints and most of them not founded. Mr. McKenzie stated he is not aware of a noise ordinance in Haddam. Mr. McKenzie stated there is no outside activity other than people coming or going which is no different from any other bars that exist in town (noted two bars in town that are open until 2:00 a.m.). Mr. McKenzie stated he's looking to have normal operating hours.

Mr. McKenzie stated he's sure there are some valid complaints and he's done his best to mitigate them such as an \$8,000 fence on the back of the property, \$2,000 for stones on another property, and has hired a person to patrol the parking lot. Mr. McKenzie stated he's done what is reasonable to ask.

Mr. Bull stated the 8:00 a.m. start time is concerning. Mr. McKenzie stated he had a regional cornhole event with people showing up at 8:00 a.m. and the town contacted him regarding the complaints of working outside of the hours. Mr. McKenzie stated the likelihood of the 8:00 a.m. opening will be very rare especially with the new location; however, he is requesting a reasonable amount of hours at a reasonable time of day.

Mr. LePard asked Mr. McKenzie if he wants to open his business during the day like everyone else. Mr. McKenzie stated yes.

Mr. McKenzie stated when complaints are made known to him he has tried to correct the matter; however, he cannot correct every instance of stupidity. Mr. McKenzie acknowledged that there is a parking issue on occasion and apologized for it, but noted it's beyond his control as he has no authority. Mr. McKenzie stated if a cornhole event is hosted, that's when they might be open at 8:00 a.m. and they are not allowed to sell alcohol until 10:00 a.m. Mr. McKenzie noted the building was a commercial structure when he bought it. Mr. McKenzie stated he did not move the entrance to the property (relocation impossible) and alcohol is not limited to one small room and was not presented as such.

Addressing the parking issue, Bob McGarry, First Selectman, stated he had made the offer over two months ago that he would post "No Parking" signs on Lake Avenue; however, he wanted concurrence from the residents that it is what is wanted as it will potential impact the area residents as well. Mr. McGarry stated this matter can be discussed further and the offer is still on the table. Ms. Bazazi stated she would prefer to not have the "No Parking" signs, but to have "Residents Parking Only".

Mr. Teran asked how the Commission can help the neighborhood as well as Mr. McKenzie to control actions that are not within his control. Mr. McKenzie stated he appreciates Mr. Teran's level headiness, but during COVID he paid to have what was thought to be alternatives (fencing, placement of stones, parking lot issues) to help with the complaints, but the complaints still come; and he cannot control the Lake Avenue parking issue.

Mr. LePard stated it was his understanding the Commission was here to consider the business opening during the day time, but he's hearing about a number of unresolved complaints that take place during the evening hours. Mr. LePard stated in talking to Mr. Warner, Town Planner, that there have been no violations of the zoning permit and there is no reason for the Commission to listen to matters that are not zoning related. Mr. LePard asked Mr. Wallor to keep the matter to zoning issues.

Ms. Bazazi stated Section 15 address what a non-conforming use is in a residential area. Mr. Wallor stated the Commission has her letter and that the Commission is dealing with the application that's before them. Mr. Wallor stated an application was approved in the past and a new application requesting an amendment to hours of operation is before the Commission.

MOTION: Mr. LePard moved the question (to close the hearing). Dan Luisi second. Motion denied by a vote of 2 to 5.

Prior to the vote on the above motion, discussion followed. Mr. Wallor stated he felt the hearing should remain open. Mr. Bull asked Mr. Warner if the new application gives the Commission the authority to open up the entire matter – to enforce issues that have arisen or put in conditions that weren't put in place initially. Mr. Warner stated no, the Commission cannot take away what has already been permitted, but reasonable conditions could be added. Mr. LePard asked for a resolution to the motion.

The following individuals spoke against the change in hours as well as other issues such as garbage, noise (people, music, cars burning out), drinking, light pollution, public safety: Richard Hajek, High Street; Kara Duch, 5 Lake Avenue; Liz Bazazi, 3 Lake Avenue (read a letter into the record, on file); Neal Sakash, 11 Lake Avenue; Joe Rizzo, 60 Dublin Hill Road; and Katie Packtor, 6 Parsonage Road;

The following individuals spoke in favor of the change in hours: Matt Boule, 44 Morris Road; Mark Lundgren, 40 Hickory Lane; Jody Lynn, 888 Saybrook Road; Chris Turkington, 8 South Dish Mill Road; and Kate Anderson, 477 Chamberlain Hill Road (speaking on her own personal beliefs);

Kate Wessling, Gunger Hill Road, asked the resident trooper what his experience has been in what helps with crowd control or bad behavior once patrons leave a business. The resident trooper stated the

troopers ride through the area as much as possible and signage could help. Noted that he does not deal with riot or crowd control, he cannot control other people's actions.

Sandra McCurdy, 59 Christian Hill Road, asked if the early hours were requested for the Berlin facility. Mr. McKenzie stated the hours for his Berlin facility are Mondays-Thursdays – 4:00 p.m. -11:00 p.m., Fridays and Saturdays 4:00 p.m. -1:00 a.m. with the exception of when there are large cornhole events that start at 8:00 a.m. and ended at 10:00 p.m. Mr. McKenzie stated the way the Truck Bar earns money is through the sale of alcohol and there is no other bar in town that has restricted hours. Mr. Bull asked why the Berlin hours wouldn't work here in Higganum. Mr. Wallor asked if there is any restriction as to when the Berlin facility can open. Mr. McKenzie stated no, there is no restriction.

Peter Baird, Saybrook Road, suggested a gate be installed which may help to keep people out during off hours.

Mr. Wallor closed the hearing at 8:31 p.m.

Meeting: Mr. Wallor opened the meeting. Mr. Warner noted that the alternates that are not seated cannot discuss the matter.

Mr. Farina stated he doesn't want a businessman to lose money, but understands the neighbors' hardship. Mr. Warner stated there cannot be a conditional special permit. Mr. LePard asked for clarification of what is being voted on. Mr. Wallor stated its hours in the morning, additional opening on Monday. Mr. Farina asked what recourse the residents will have. Mr. LePard stated the other issues have nothing to do with the Commission. Mr. Warner stated they have been dealing with one neighbor for a year and Mr. McGarry and the resident troopers have been very good about being available (sitting across the place at night, going to the place at night, going through the parking lot at night, and have patrolled the area without any issues), the applicant would need to violate the conditions as set forth by the Commission. Mr. Warner stated the noise, parking lot issues, etc., are a police matter. Mrs. Block stated one of the conditions of the original approval was there was a guarantee of no outdoor activity – no doors or windows open and no patrons drinking outside. Mr. Warner stated someone drinking in their car is not a violation of the businessowner. Mr. Bull stated the problems all seem to be occurring at night and suggested the garbage be picked up on a daily basis, the lights turned off when the business is closed, install "No Parking" signs, and clear the parking lot when closed. Mr. Warner stated the only thing the first selectman can address is the "No Parking" signs. Mrs. Block asked if the Commission isn't to take into consideration their regulations as it does public input. Mr. Wallor stated the Commission needs to address what's in front of them. Mr. Maggi stated the applicant is asking for morning hours and he cannot control what is taking place at night and shouldn't be penalized for that. Mrs. Block asked for an explanation between the initial approval with conditions and an amended approval. Mr. Warner stated there must be a link between the two items (earlier hours v. conditions). Mrs. Block stated the Commission should consider Section 15.

MOTION: Michael Farina motioned to approve an amendment to the special permit for The Truck Bar to allow change in business hours to Monday-Thursday 8:00 a.m.-10:00 p.m., Friday-Saturday 8:00 a.m.-12:00 a.m. (midnight), and Sunday 8:00 a.m.-8:00 p.m. The current hours are: Monday – closed, Tuesday-Thursday 1:00 p.m.-10:00 p.m., Friday-Saturday 1:00 p.m.-12:00 a.m. (midnight), and Sunday 1:00 p.m.-8:00 p.m. **Location:** 66 Killingworth Road, Map 14, Lot 29-1. Wayne LePard second. Motion carried with Mrs. Block abstaining.

7. Approval /Correction of Minutes

MOTION: Ed Wallor motioned to table the approval of the 17 February 2022 and 17 March 2022 minutes. Wayne LePard second. Motion carried unanimously.

8. Chairman's Report

Mr. Wallor had nothing new to report at this time.

Recommendation Letter, The Truck Bar, 66 Killingworth Road - Mr. Bull, secretary, spoke in regard to the submission of a recommendation letter to the BOS pertaining to the issues that were heard during the hearing. Discussion followed in regard to garbage cleanup (Mr. McKenzie's property is kept clean; not his responsibility to go on other people's property to clean up); on street parking (request BOS have "No Parking" signs installed on Lake Avenue; noted that the residents still want on street parking); outside lighting (request lights be turned off at end of business hours; noted that lights cannot be turned off until everyone has vacated the parking lot and that there have been no complaints about the lights); security issue (security person(s) at the door and in the parking lot to address issues that occur); and with the new Berlin facility large scale tournaments will probably be moved there. Mr. Bull asked Mr. Warner to draft a letter and possibly set up a meeting. Mr. Wallor stated this matter is unfortunate and he can't have a fund raising event stop at a business in town because of the neighbors. Mr. Farina stated some of these issues need to be addressed. Mr. Warner stated the State Police have been to the site over 35 times and when they get there they are not identifying any problems. Mr. Chadwick suggested the town's attorney be asked about this matter.

9. Scheduling of Hearings

Mr. Warner reported there are no hearings scheduled at this time.

10. Town Planner's Report

ZEO's Report - Mr. Warner distributed copies of ZEO Leon Mularski's report.

WFS Earth Materials, Cedar Lake Road – Mr. LePard asked for an update in regard to the regrading and restoration of the site. Mr. Warner stated the regrading has not been done and that Doug Anderson, owner, has been before the Commission as recently as 17 February 2022 and several times before that with concept plans for the property; and at no time did the Commission tell Mr. Anderson they wanted him to adhere to the Stipulated Judgement. Mr. Warner stated it makes no sense for him to do the final grading and then rework the land for a project. Discussion followed at length in regard to the Stipulated Judgement. Mr. Warner will research the matter, consult with the town's engineer and report back.

11. Adjournment

MOTION: Steve Bull motioned to adjourn. Dan Luisi second. Motion carried unanimously.

The meeting was adjourned at 9:18 p.m.

Respectfully Submitted,
Bunny Hall Batzner
Bunny Hall Batzner, Recording Clerk

The next meeting is scheduled for Thursday, 21 April 2022.