

**TOWN OF HADDAM  
ZONING BOARD OF APPEALS  
PUBLIC HEARING/MEETING  
TOWN HALL  
21 FIELD PARK DRIVE, HADDAM, CT  
TUESDAY, 22 NOVEMBER 2016  
APPROVED MINUTES  
*Approved as Submitted on 26 January 2017***

**ATTENDANCE**

A	Margo Chase-Wells
X	Marjorie W. DeBold, Vice Chairman (7:40 p.m.)
X	Mary Hickish (7:40 p.m.)
X	Robin Munster, Chairman
A	Kenneth Wendt
X	Thomas Berchulski, Alternate - Seated
X	Anthony Matterazzo, Alternate - Seated
X	Neal Perron, Alternate - Seated
X	Liz West Glidden, Town Planner
X	Bunny Hall Batzner, Recording Clerk

**1. Call to Order**

Mrs. Munster, chairman, called the meeting to order at 7:32 p.m.

**2. Attendance/Seating of the Alternates**

Attendance was taken and all regular and alternate members were seated.

**3. PUBLIC HEARING**

**A Variance to Allow a Detached Accessory Building (Shed) to be Located Within 2 Feet to the Side Property Line and 6 Feet from the Rear Property Line Where 10 Feet is Required Per Section 4, Table 1, of the Town of Haddam Zoning Regulations for Property Show on Tax Map 72A3 Lot 42 and Known as 25 Shore Drive in Higganum.**

Dale and Melody Clegg, owners/applicants, were present.

This is a continuance from 29 September 2016.

When asked if an A2 survey had been obtained, Mr. Clegg stated no. Mrs. Munster asked Mrs. Glidden how to proceed, since the survey has not been done. Mrs. Glidden stated the Board could continue the hearing and hold a site walk or they could deny the application without prejudice and Mr. Clegg could reapply.

Mr. Matterazzo asked Mr. Clegg if he assumed the property lines to be correct. Mr. Clegg began to explain why he was before the Board. Mr. Matterazzo asked Mr. Clegg if he accepted the property lines as presented by the Porriello's. Mr. Clegg stated he agrees with one property line, but not the other.

Mr. Clegg stated his shed is located on his property and has been there for two years. Mr. Clegg also stated the Porriello's have a shed on their property as do others. Mrs. Glidden stated the Porriello's shed

is grandfathered and explained the state statute that allows for a structure to be grandfathered in (non-conforming) if it has been in place for more than three years. Mr. Clegg stated he was not aware of the state statute.

Mr. Clegg stated the only reason he's before the Board is due to his request for help from the Land Use Office in regard to the road (Hidden Lake Association road) being slowly encroached upon. Mrs. Glidden stated he was before the Board as a complaint was filed. Mr. Clegg stated his complaint regarding the encroachment of the road has not been resolved.

Mrs. Munster reviewed the 29 September 2016 minutes, specifically page 6, paragraph three. Mrs. Munster also reviewed the options Mrs. Glidden had previously discussed and asked Mr. and Mrs. Clegg how they would like to proceed. Mr. Berchulski explained to Mr. and Mrs. Clegg that the options being presented are to accommodate them in a better time line to get an A2 survey done.

Mrs. Clegg stated she didn't understand why they had to get an A2 survey and spend the money for a survey, due to a neighbor filing a complaint and not substantiating their claim. Mrs. Clegg also stated they are not saying they won't get the survey, but they do not understand why they have to. Mrs. Munster stated the survey presented at the 29 September 2016 hearing was not filed with the Land Use Office. Mrs. Glidden reported the Porriello's have recorded the survey done by Bill Bergen that shows the line closer. Mr. Clegg stated he had asked Mr. Bergen if he needed a survey and Mr. Bergen stated no. Mrs. Glidden stated the Porriello's are claiming the property line is different from what the Cleggs are claiming. Mrs. Clegg stated there is a fence between the two properties and that Mr. Bergen has stated the back of the fence is true, but the front of the fence is a little off. Mrs. Clegg also stated the shed is in the back yard.

Mr. Matterazzo asked Mr. Clegg why he hasn't approached Mr. Bergen to request he verify either via a letter or in person that the fence is the line. Mr. Clegg asked why he should have to. Mr. Matterazzo stated if Mr. Bergen were to verify the line, he believes the matter would be easier to resolve. Discussion followed at length.

Discussion followed in regard to the possibility of moving the shed with Mr. Clegg stating he explained at the last hearing why he cannot move the shed. Mr. and Mrs. Clegg continued to say they didn't understand why they had to get a survey. Mr. Clegg again stated he had originally filed a complaint in regard to the road encroachment with no resolution to date.

For clarification purposes for the applicants, Mr. Berchulski explained they (the Cleggs) are asking the Board for a variance from the setback which is determined by the property line; and if they (the Cleggs) cannot tell exactly where the property line is, the Board cannot approve a variance. Mrs. Clegg stated the property line is two feet based on the fence. Mr. Berchulski stated there's a disagreement as to where the line is and an A2 survey will rectify the matter. Mr. Clegg stated they will have the survey done, but they have been consumed with other issues; and the surveyor they have contacted is away on a hunting trip.

Mrs. Munster stated if there is no further information, perhaps the hearing should be closed. Mrs. Glidden explained if the hearing is closed, no further information can be received. Mrs. Munster asked Mr. Clegg if he intends to obtain an A2 survey. Mr. Clegg stated yes, but the survey will not be back until the end of winter. In response to a question from Mr. Perron, Mrs. Glidden explained the time frame in which the public hearing can remain open. Mrs. Glidden encouraged the Board to deny the application without prejudice and allow the applicants to resubmit.

Mr. Matterazzo asked if the Board could accept an affidavit from Mr. Bergen, as he was the original surveyor, in regard to the property line. Mrs. Glidden stated she didn't see why not; however, voiced concern over whether or not he's still a licensed surveyor. Ms. Hickish asked if it would matter since he was licensed at the time he did the survey. Mrs. Glidden stated she would need to get legal clarification.

Mr. Clegg asked if there was any question in regard to Mr. Bergen's credentials when the survey was filed. Mrs. Glidden stated no, as the survey was done five or six years ago. Mrs. Clegg stated the survey was done longer than that. After review of the 29 September 2016 minutes (page 3, last paragraph), Mrs. Munster stated the survey is ten years old. Again, Mr. Matterazzo suggested getting an affidavit from Mr. Bergen. Discussion followed.

Mr. Clegg asked for clarification if the application were denied. Mrs. Munster stated they would reapply when they either had an affidavit from Mr. Bergen or an A2 survey and notification would need to be sent out to all abutting property owners. Mr. and Mrs. Clegg stated they would prefer to leave the public hearing open. Mrs. Munster asked if the hearing is to remain open, can a time line be set. Mrs. Glidden calculated the time frame noting the need for the applicant's consent.

Mr. Matterazzo asked the date the shed was placed on the property noting the potential for the shed to reach the date for it to be grandfathered in. Mr. Clegg stated he had not thought of that. Mr. Matterazzo stated he would not want to create another legal issue.

After further calculation, Mrs. Glidden stated 26 January 2017 would be the next meeting to hear this matter. Mrs. Munster asked Mr. and Mrs. Clegg if they could either have an affidavit from Mr. Bergen or an A2 survey by 26 January 2017 to bring to the Board in order for a decision to be made. Mr. Clegg stated yes, he will do that.

Mrs. Munster asked the Board members and Mr. and Mrs. Clegg if they were agreeable to the continuance. All parties are agreeable.

The public hearing is continued until Thursday, 26 January 2017.

**A Variance to Allow a Dwelling to be Greater in Height than is Allowed in the Gateway Conservation Zone for Property Located at 18 Depot Road and Shown on Tax Map 14, Lot 2**

Timothy McCane, owner/applicant, was present.

Mrs. DeBold and Ms. Hickish recused themselves from this matter.

At Mrs. Munster's request, Mr. Perron read the Legal Notice, as printed in the Middletown Press, into the record.

Mrs. Glidden reported that Mr. McCane had previously submitted the Certificates of Mailing to the Land Use Office and are within the file (Exhibit A).

Mrs. Glidden explained to the Board that Mr. McCane's proposed house meets the Building Code and Zoning Code definition but not the Gateway Commission definition; therefore, a variance is required.

Mrs. Glidden read into the record a letter from J.H. Torrance Downes, Deputy Director, RiverCOG, Gateway Commission, dated 14 November 2016, to Robin Munster, Chairman, ZBA (Exhibit B; on file in the Land Use Office). The Gateway Commission offers no objection to the proposal.

Mrs. Munster asked Mr. McCane if he had received any input from the neighbors who received notification notices. Mr. McCane stated he has not received any input from those notified; however, the other adjoining property owners are thrilled that he's building a house on the property as it will help to keep the rift raft out of the Higganum Cove area.

Using the plans, Mr. McCane suggested the Board look at the second and third pages to address the Gateway's comment pertaining to the height which is due to the walkout basement. Mr. Berchulski asked the actually height requirements. Mrs. Glidden stated 35 feet in the Gateway Zone as well as in the Zoning Regulations; however, in the Gateway Conservation Zone, height is determined by average grade to peak of the roof and in the Zoning Code it is average grade to center point of the eaves of the roof.

Mrs. Glidden explained the difference between the various definitions. Mrs. Glidden stated Mr. McCane meets the Building and Zoning Codes, but not the Gateway Code. Mr. McCane stated it is 46 feet and 6 inches and it's due to the slope of the land and the walkout basement.

Mr. Berchulski and Mrs. Munster discussed a previous application (Tobacco) after which the regulations. Mrs. Glidden explained how height is measured. Mr. Berchulski asked how far off in height the proposal is. Mr. McCane stated 11 feet 6 inches within the Gateway Zone. Mrs. Glidden stated 3 feet 7 inches to the Zoning Code. Mrs. Munster asked if the Legal Notice and agenda cover both the Zoning Code and Gateway Code. Mrs. Glidden stated yes.

Mr. Perron asked if Gateway based their decision on aerial photographs. Mrs. Glidden stated she believes Gateway went out to the property. Mr. McCane stated Gateway came to the property and went onto the river. Mr. McCane stated the house will not be visible from the river due to the height of the trees. Mr. Perron asked Mr. McCane if he has any intention to remove the trees, if the house is constructed. Mr. McCane stated he does not plan to remove the trees and plans to plant more trees to isolate himself.

Mr. Matterazzo asked Mr. McCane if he owns property right to the river. Mr. McCane stated yes, with the exception of the right-of-way the railroad has. Mr. McCane stated he owns one lot on either side of the railroad tracks.

Mrs. Munster asked the Board and Mr. McCane if they had any further questions or comments. As there were none, Mrs. Munster asked for a motion to close the public hearing.

**MOTION:** Tom Berchulski moved to close the public hearing at 8:25 p.m. Neal Perron second. Motion carried unanimously.

**(Recording Clerk's Note:** The public hearing was opened at 8:10 p.m.)

#### **4. PUBLIC MEETING**

**A Variance to Allow a Detached Accessory Building (Shed) to be Located Within 2 Feet to the Side Property Line and 6 Feet from the Rear Property Line Where 10 Feet is Required Per Section 4, Table 1, of the Town of Haddam Zoning Regulations for Property Shown on Tax Map 72A3 Lot 42 and Known as 25 Shore Drive in Higganum.**

This is a continuance from 29 September 2016.

Item continued to allow Mr. and Mrs. Clegg time to either obtain an affidavit from Mr. Bergen or an A2 survey.

Item continued until Thursday, 26 January 2017.

**A Variance to Allow a Dwelling to be Greater in Height than is Allowed in the Gateway Conservation Zone for Property Located at 18 Depot Road and Shown on Tax Map 14, Lot 2**

Timothy McCane, owner/applicant, was present.

Mrs. DeBold and Ms. Hickish recused themselves from this matter.

Mrs. Munster stated she didn't have an issue with the proposal as there was no objection from the Gateway Commission, the proposal is within a couple of feet of Haddam's building code, the lay of the land, and there are trees blocking the view from the river (if trees removed, it would be a wetlands issue). Mrs. Glidden stated the intent of the Gateway Zone is to not have large structures visible from the river; therefore, if the proposed structure is not visible from the river, then the intent of the regulation has been met.

Mr. Perron stated he understands the Gateway regulation, but voiced concern over the visual impact on the neighbors, especially on Dublin Hill Road. Mrs. Munster stated the neighbors did not come out or write letters of opposition, which the Board looks at highly. Mrs. Munster again stated no one has objected to the proposal.

**MOTION:** Tom Berchulski moved to approve a variance to allow a dwelling to be eleven (11) feet greater in height than is allowed in the Gateway Conservation Zone for property located at 18 Depot Road and shown on Tax Map 14, Lot 2. **Conditions:** 1. Standard Permit Conditions. 2. Special Conditions/Modifications – No. **Exhibits:** 1. Application date stamped August 31, 2016. 2. Site Plan dated August 31, 2016. Anthony Matterazzo second. Motion denied 3 to 1.

Mr. Perron stated he was against the proposal as it's exceeds the established 35 feet by the Gateway standards.

Mrs. Glidden stated the motion failed. Mr. McCane asked why the motion failed. Mr. Berchulski explained that four members would have needed to vote in the affirmative in order for the motion to have passed. Mrs. Glidden asked Mr. Perron to again state his reason for voting against the proposal which he did.

Mrs. Glidden stated she will advertise the decision in the newspaper next week and explained to Mr. McCane he can either appeal the decision or he can lower the height of the structure and reapply. Mr. McCane stated it doesn't matter whether he lowers the height due to the walkout basement. Mrs. Glidden stated if the roof is lowered it will lower all the other numbers.

Ms. Hickish asked if it was appropriate for her to ask a question. Ms. Hickish asked Mr. McCane why he wasn't building the structure on the flat piece of property rather than on the hillside. Mr. McCane stated there the lot is 1.5 acres and he will be building the proposed structure towards the back.

Mrs. Glidden advised Mr. McCane if he would like to meet with her, she will be in the office on Monday, 28 November 2016; and if he chooses to appeal, he must do so within 15 days.

## **5. Approval/Correction of the Minutes**

**MOTION:** Anthony Matterazzo moved to approve the 29 September 2016 minutes as presented. Neal Perron second. Motion carried unanimously.

## **6. Open Discussion**

**Plan of Conservation and Development (POCD), Public Forum, Thursday, 1 December 2016, Haddam Elementary School, Auditorium, 272 Saybrook Road, Higganum, Drop-In Open House, 5:00 p.m. to 7:00 p.m. and Presentation/Discussion, 7:00 p.m. to 9:00 p.m.** – Mrs. Glidden distributed copies of a flier for the upcoming public forum and asked all Board members to attend if time allows.

**Public Hearing/Meeting Procedures** – Mr. Berchulski stated that the procedures for a public hearing and meeting should be explained to applicants (could defer a vote to wait for five voting Board members). Discussion followed.

## **7. Adjournment**

**MOTION:** Tom Berchulski moved to adjourn. Marjorie DeBold second. Motion carried unanimously.

The meeting was adjourned at 8:40 p.m.

Respectfully Submitted,

*Bunny Hall Batzner*

Bunny Hall Batzner, Recording Clerk

**The next regular meeting is scheduled for Thursday, 2 December 2016.**