

**TOWN OF HADDAM  
ZONING BOARD OF APPEALS  
PUBLIC HEARING/MEETING  
TOWN HALL  
21 FIELD PARK DRIVE, HADDAM, CT  
THURSDAY, 29 SEPTEMBER 2016  
APPROVED MINUTES  
*Approved as Submitted at the 22 November 2016 Meeting***

**ATTENDANCE**

|   |                                     |
|---|-------------------------------------|
| X | Margo Chase-Wells                   |
| X | Marjorie W. DeBold, Vice Chairman   |
| X | Mary Hickish                        |
| X | Robin Munster, Chairman             |
| X | Kenneth Wendt                       |
| X | Thomas Berchulski, Alternate        |
| X | Anthony Matterazzo, Alternate       |
| X | Neal Perron, Alternate              |
| X | Liz West Glidden, Town Planner      |
| X | Bunny Hall Batzner, Recording Clerk |
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**1. Call to Order**

Mrs. Munster, chairman, called the meeting to order at 7:29 p.m.

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

Attendance was taken and all regular members were seated.

Mrs. Munster read the Legal Notice, as printed in the Middletown Press, into the record; and then explained the public hearing/meeting process to those present.

**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.

Mr. Clegg stated he's owned the property for a little over ten years and have been living on the property for two years; and the shed in question has been on the property for almost two years. Mr. Clegg stated the only location for the shed is its present location due to the septic system and the only other location would be up against the house which he doesn't believe is practical. Mr. Clegg stated Hidden Lake has very narrow lots and the character of the neighborhood has all the sheds located in the corners of the various parcels. Mr. Clegg stated the options are very limited without making egress difficult.

Mrs. Munster asked for the Certificates of Mailing which Mr. Clegg submitted (Exhibit A).

Ms. Hickish asked if the shed is less than two years old with Mr. Clegg responding yes. Mrs. Chase-Wells asked if the shed was purchased new. Mr. Clegg stated he owns a number of sheds and that he owns six lots in town. Mrs. Chase-Wells stated it wasn't her question. Mr. Clegg stated he uses these sheds all the time. Mrs. Chase-Wells asked if he moved it from another location and, therefore, not a two year old new shed. Mr. Clegg stated the shed is two years in its present location; and asked why the shed now is an issue.

Mrs. Munster reported she drove by the property in question and the shed is up against some shrubs on the property. Mrs. Munster asked who owns the shrubs. Mr. Clegg stated the fence with all the bushes on it belongs to the neighbor.

Mrs. Glidden reported she also drove by the property and noticed the fence as well as a string; and asked what the difference was between the string and the fence. Mr. Clegg stated he has a video of his neighbors, N. & E. Porriello, installing the stakes and then running a string between the stakes; and in a letter, N. & E. Porriello are claiming this to be their land. Mrs. Glidden asked if there's a property line dispute. Mr. Clegg stated yes, there is a property line dispute.

Mrs. Munster asked Mr. Clegg if he had photos to show the Board. Mr. Clegg showed the Board photos of the area.

Mr. Berchulski asked if either of the two properties have an A2 survey. Mr. Clegg stated one of the properties has a survey. Mr. Clegg explained a previous issue with the neighbors (narrowing a 30 foot road to 15 feet by placing impediments in the road). Mrs. Glidden asked for more detail. Mr. Clegg stated stakes, rocks, etc., were placed into the roadway and he filed a complaint as it was making the already constricted area more so. Mr. Clegg also stated N. & E. Porriello have claimed he has moved boundary stakes.

Mr. Clegg further explained N. & E. Porriello hired two people, independently of one another, to come in with a metal detector to locate the metal stakes. Mr. Clegg stated the metal stake located in the driveway was not originally there as he had done work on the driveway. Mr. Clegg stated he's willing to pay for half a survey with N. & E. Porriello paying the other half to settle the matter of the boundary line.

Mrs. Glidden asked Mr. Clegg if he has hired someone to do an A2 survey. Mr. Clegg stated he was never concerned with the boundaries; however, when they first purchased the property, he spoke to Bill Bergen, local land surveyor, to see if a survey should be done. Mr. Clegg claims Mr. Bergen stated no, as he had just recently done a survey for N. & E. Porriello. Mrs. Glidden asked Mr. Clegg if, according to his judgement, the stakes are where the fence is located. Mr. Clegg stated one stake is where the fence is in the back and the other stake is a few inches off; however, there was not a stake there previously as the area was excavated.

Mrs. Glidden asked Mr. Clegg if he had the A2 survey Bill Bergen did. Mr. Clegg stated he does have a copy, but it's N. & E. Porriello's survey. Mr. Clegg stated the problem is that all the stakes have been deviated. Mrs. Munster asked if there is a copy of the survey in Town Hall. Mr. Clegg stated no, that it was never registered.

Mrs. DeBold asked if there was a foundation for the shed. Mr. Clegg stated no, the shed is sitting on four by four's. Mrs. DeBold asked if a permit was required for the shed. Mr. Clegg stated Jim Puska, Zoning Enforcement Officer, had indicated a permit was needed, but given that he moves the sheds around he did not get one. Mr. Clegg stated his concern is that this complaint has come about suddenly after the shed has been in place for two years and he complained about the road being blocked off.

Mrs. Chase-Wells asked Mr. Clegg to describe what the impediment is. Mr. Clegg stated N. & E. Porriello have spikes coming out and around. Mrs. Chase-Wells asked if it was a decorative object. Mr. Clegg stated yes, but he felt it was dangerous as it's along the edge of the road (Hidden Lake Association road). Using photos, Mr. Clegg pointed out an object as well as the location of the road when asked by Mrs. Chase-Wells to do so. Mr. Clegg stated there is only about 15 feet of access after the impediments. Mr.

Clegg also stated N. & E. Porriello have planted two trees in the road and pointed them out on in the photos.

Mrs. Munster asked that conversation return to the topic of the shed as that's the reason for the hearing. Mrs. Munster asked Mr. Clegg if he's unable to move his shed anywhere near the house. Mr. Clegg stated he can't move it towards the back as the property is elevated and there is no other location unless he places the shed directly against the house. Using the photos, Mr. Clegg pointed out neighbors sheds in the immediate area.

Mr. Berchulski stated the Board is being asked to provide a variance against the setback, but it's unclear where the line of setback should be from. Mr. Berchulski also stated, in his opinion, without a survey the Board can't make a decision. Mr. Berchulski stated someone has to get an A2 survey in order for everyone to know where the property lines are located.

Mrs. Chase-Wells asked Mr. Clegg the difference (distance) between where he and N. & E. Porriello believe the property line is located. Mr. Clegg stated initially it was only a couple of inches, but now it is four feet.

Ms. Hickish stated no matter whose property line is correct Mr. Clegg would still need to come before the Board. Mr. Clegg stated even with the line as it is, he's still on his property. Mr. Clegg also stated the string N. & E. Porriello strung up is probably touching one corner of the shed. Ms. Hickish asked Mr. Clegg even if N. & E. Porriello's assessment were correct, would his shed still be on his property. Mr. Clegg stated yes.

Mrs. DeBold asked if the Association have a map showing the road width. Mr. Clegg stated yes, and that he has a copy, but not with him. Mr. Clegg also stated the Association had the road surveyed due to the drainage issue and it shows the road at 30 feet. Mr. Clegg stated the survey is registered to the Town.

Mrs. Munster asked Mrs. Glidden if a survey is needed. Mr. Clegg stated he didn't have a problem having a survey done and he would pay for half of it to prove the line, but he would not accept a metal detector. Mrs. Glidden stated the applicant needs a variance and an A2 survey would assist the Board in determining how much of a variance is needed. Mrs. Glidden reviewed the Board's options. Mr. Clegg stated he doesn't need a survey; however, N. & E. Porriello do as they're the ones questioning the boundary. Mrs. Munster stated since Mr. Clegg has submitted the application, he would need a survey. Mr. Berchulski stated if Mr. Clegg's property never had an A2 survey, he would still need one at some point. Mrs. Glidden stated since the application is being contested, an A2 survey is needed.

Dale Clegg, Jr. stated the entire Association was surveyed to put the sub-development in; therefore, a survey does exist. Mrs. Glidden stated it was surveyed in 1929. Mr. Clegg, Jr. stated the property line has never been contested; and when the property was purchased, there was a mirroring fence (Clegg's) up against the other fence (N. & E. Porriello's) and there was never a question. Mrs. Chase-Wells asked if there was anyone present from the Association. Mr. Clegg stated no one from the Association will respond.

Mr. Clegg, Jr. stated a 50-50 split of the cost of the survey would be fair as there has not been a question regarding the property line for 10 years and doesn't believe they should carry the full burden. Mrs. Munster stated that's an issue between the two parties, not the Board. Mr. Clegg, Jr. asked if a zero distance variance could be asked for as the shed is on their property. Mrs. Munster stated not at this time.

Cynthia Porriello, a relative of N. & E. Porriello, but standing up for the Cleggs, stated she had an A2 survey done of the property, but did not file it in Town Hall. Ms. C. Porriello also stated the property was supposed to have been split; and the survey was not to be filed until the split was complete. Ms. C. Porriello asked if the 10 year old survey could be filed. Mrs. Glidden stated yes, as long as Mr. Bergen is still a licensed surveyor.

Mary Arnold, a neighbor of N. & E. Porriello and standing up for the Clegg's, stated she has also gone through the same situation as the Clegg's where the property line seems to shorten every year. Ms. Arnold referred to N. & E. Porriello as line huggers.

Melody Clegg explained the property set up - their property is located at 25 Shore Drive; next to them is a lot owned by N. & E. Porriello (do not live on); next to that lot is where Cynthia Porriello lives; across the street from Clegg's is where N. & E. Porriello live; and next to them heading towards Cynthia Porriello's is Mary Arnold's property. Mr. Clegg stated it's not the money, but the principle of the matter. Discussion followed at length in regard to obtaining a survey or having Mr. Bergen or any licensed surveyor verify the Bergen survey.

Eleanor Porriello submitted a packet containing her notes (Exhibit B; five pages), a letter from Christopher S. Juliano, PE/LS, Juliano Associates LLC, dated June 1, 2016 (Exhibit C; two pages), and a letter from Dale and Melody Clegg, dated April 21, 2016 (Exhibit D; one page). Mrs. Porriello stated they have never moved pins; and in regard to Mary Arnold's comments about they're taking property, the line was moved closer to her house by the surveyor and she still has her 50 feet. (Recording Clerk's Note: Mrs. Porriello referred to her notes as a letter from her attorney.)

Mrs. Munster read the Juliano Associates letter into the record. After Mrs. Munster read the letter, Mrs. Porriello stated she has the survey. Mrs. Munster asked if the survey is registered in the Town Hall with Mrs. Porriello responding she believes so. Mr. Clegg, Jr. stated the survey is not. Mrs. Porriello stated Attorney Bill Bowles provided them with the survey. Mrs. Chase-Wells asked if Juliano Associates did the survey. Mrs. Munster stated Bill Bergen did the survey. Mrs. Chase-Wells asked if there was a date on the survey. Mrs. Glidden stated June 2003.

Mrs. Porriello stated the letter from the Clegg's, dated April 21, 2016, (Exhibit D) is what started the problem.

Mrs. Glidden asked the Clegg's if they purchased the property from the Strom's. Mr. Clegg stated yes. Ms. C. Porriello stated the survey the Board was reviewing was her survey. Mrs. Chase-Wells asked if "the aforementioned map" referred to in the Juliano letter, was the map being presented to the Board. Ms. C. Porriello stated he (Juliano) didn't have the map at the time he did the survey, they went to her lawyer, Bill Bowles, and got the map after Juliano did the survey. Mrs. Porriello stated never, they had the land surveyed when they bought it. Ms. C. Porriello stated Mrs. Porriello didn't have possession of the map as she didn't know the survey existed. Mrs. Porriello asked the Board to have Ms. C. Porriello stop talking. Mrs. Munster stated she gave Ms. C. Porriello the right to talk and again explained the public hearing procedure to the public.

Mr. Clegg, Jr. questioned the front right pin's validity that N. & E. Porriello are basing the survey off of noting they (Clegg's) had excavated the whole right corner of their property and there was no metal pin. Mr. Wendt stated the pin is secondary as there are concrete monuments to use as a reference. Mr. Clegg, Jr. stated there are no concrete monuments either as the whole entire corner was excavated. The Board reviewed the map with Mrs. Glidden stating she was surprised the map wasn't referenced as it should have been. Mrs. Chase-Wells voiced concern that a licensed surveyor wrote a letter and didn't reference the map. Mrs. Glidden noted Mr. Juliano did not provide his surveyor's license number either.

Ms. Hickish asked Mrs. Porriello her attorney's name. Mrs. Porriello stated Willinger, Willinger and Bussi in Bridgeport (this is in reference to Exhibit B). Mrs. Porriello stated her attorney provided notes for her to follow. Mrs. Chase-Wells asked if there is any literature from her attorney with Mrs. Porriello responding no, not with her.

Mrs. Porriello asked about the letter from the Clegg's. Mrs. Munster read into the record a letter from Dale and Melody Clegg, dated April 21, 2016 (Exhibit D).

Mrs. Porriello stated Vivian Arrigoni, who previously owned her property, had installed the chain link fence to keep the Strom's belongings on their property and the fence does not have anything to do with the property line.

Mrs. Porriello stated if the Clegg's are questioning the boundary lines, then they should have a survey done. Mrs. Porriello stated they have had their survey done and will not pay any more money for another one. Mrs. Chase-Wells asked the location of Mrs. Porriello's survey. Mrs. Porriello stated they hired Julianio to locate the pins. Mrs. Chase-Wells again asked the location of Mr. Julianio's survey. Mrs. Porriello stated Mr. Julianio was going by the Bergen survey. Mr. Wendt stated the letter from Julianio is a letter of opinion and not an A2 survey. Mrs. Porriello stated she never said it was a survey, only that he located the pins. Mrs. Chase-Wells asked Mrs. Porriello if the survey before the Board was hers. Mrs. Porriello stated her survey is like the one before the Board. Mrs. Chase-Wells asked Mrs. Porriello where her survey is. Mrs. Porriello stated she couldn't find it and after further questioning stated it was never filed. Mrs. Munster noted that the Julianio letter states they set a new iron pin at the location of N. & E. Porriello's right rear corner. The Board questioned what Julianio found to base where to set pins. Mrs. Porriello stated she has Bergen's survey, but has lost her original survey. Mrs. Porriello also stated if the Clegg's are disputing the line, they can get a survey and she will not pay for another one as she's happy where the pins are located.

Brian Rioux, 22 White Birch Trail, stated he knew the past two previous owners of the Clegg's lot, and the second to last owner offered him the lot and it was displayed to him that the fencing was the property line. Mr. Rioux also stated he has a photo of the original corner and he recently found a man on his property who was putting in a new pin. Mr. Rioux stated when he purchased his property, there were numerous hemlocks and a chain link fence and when he removed these items, there was no pin in this location. Photo on a cell phone show to the Board. Mr. Rioux stated he knew Mr. Strom and the fence was on the property line. Mr. Matterazzo asked Mr. Rioux when he removed the outhouse, who was there to determine that's where the pin should have been. Mr. Rioux stated there was no pin in the location of the outhouse. Mr. Perron asked Mr. Rioux if the surveyor had a transit set up. Mr. Rioux stated no, they used a metal detector. Mr. Perron asked Mr. Rioux if he'd been notified that a survey would be done. Mr. Rioux stated not at all. Mr. Clegg, Jr. stated they now have a string going across their back yard and have lost land in the last week based on the non-survey.

Mrs. Munster stated there are boundary issues, no surveys have been filed, and she's willing to leave the hearing open to allow a survey to be completed. Mr. Berchulski agreed with Mrs. Munster. Mrs. Glidden recommended the hearing remain open until more information can be gathered.

Mr. Clegg, Jr. asked if their land can be restored until the matter is rectified. Mrs. Munster stated it's a civil matter and she doesn't have the authority to do anything. Discussion followed with Mrs. Clegg stating she has a video of Mrs. Porriello pounding stakes in the ground. Mrs. Glidden stated the issue before the Board is the request for a variance. Further discussion followed.

Ms. Arnold asked those Board members who drove through the area, if they noticed how close the sheds are to everyone's property lines; and if now, the Board will have to police all the variances through Hidden Lake.

Mr. Clegg, Jr. asked the maximum size for a shed before a permit is needed. Mrs. Glidden stated a zoning permit is needed for any shed and anything over 200 square feet needs a building permit. Mr. Rioux asked when the law changed, as he was told about 12-13 years ago if it was less than 100 square feet no permits were required. Discussion followed.

Mrs. Porriello stated it's true that she was standing on a box banging in a stake, because someone kept mowing over where the pin was located and a tall stake inside of the pin would make it obvious where the line was located. Mrs. Porriello stated she didn't drop the pin into the ground, Bergen did.

Ms. C. Porriello stated Bergen didn't put the stake in the ground, the other people did when N. & E. Porriello had the survey done.

Mrs. Chase-Wells stated that earlier Mr. Clegg had commented that he moves his sheds all the time, and asked if he needed to work on his septic system, if he could move the shed. Mr. Clegg, Jr. stated it's a sand base septic system. Mr. Clegg stated it stands on a hill. Mrs. Chase-Wells stated it's the land that's the issue. Mr. Clegg stated yes. Mrs. Porriello stated the Clegg's could move the shed in front of the septic system if they chose too.

Discussion followed in regard to various items – surveys, lot splits, previous owners of various properties, scheduling a site walk once the survey is complete.

Mrs. Glidden recapped what's required at this time: 1) an A2 survey, 2) survey to be recorded with the Town Clerk and a copy given to Mrs. Glidden, and 3) once this is done the continued hearing will be scheduled. Mr. Clegg stated he cannot have the work done by the end of October.

**MOTION:** Margo Chase-Wells moved to keep the public hearing open. Mary Hickish second. Motion carried unanimously.

#### **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 Show on Tax Map 72A3 Lot 42 and Known as 25 Shore Drive in Higganum.**

Item continued to allow Mr. and Mrs. Clegg time to obtain an A2 survey.

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

Correction to the 28 July 2016 minutes: page 3, sixth paragraph, fourth line – change “Robin Munster” to “Neal Perron”.

**MOTION:** Mary Hickish moved to approve the 28 July 2016 minutes as amended. Margo Chase Wells second. Motion carried unanimously.

#### **6. Open Discussion**

Mrs. Munster advised the Board that it important to state the reasoning behind a vote, especially if opposed. Mr. Berchulski stated if the matter goes to court, the vote may appear arbitrary no matter which way you vote; and if the reason is stated, there's some thought put into the decision. Mrs. Munster also stressed driving by a site prior to a hearing or scheduling a site walk. Discussion followed.

**Plan of Conservation and Development (POCD)** – Mrs. Glidden distributed information and explained an update of the document is due by 2018. Mrs. Glidden reported a public forum will be held on Thursday, 1 December 2016, location to be determined.

#### **7. Adjournment**

**MOTION:** Anthony Matterazzo moved to adjourn. Marjorie DeBold second. Motion carried unanimously.

The meeting was adjourned at 8:47 p.m.

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

**The next regular meeting is scheduled for Thursday, 27 October 2016.**