

**TOWN OF HADDAM
ZONING BOARD OF APPEALS
PUBLIC HEARING/MEETING
TOWN HALL
21 FIELD PARK DRIVE, HADDAM, CT
MONDAY, 26 JANUARY 2017
UNAPPROVED MINUTES
*Subject to Approval by the Board***

ATTENDANCE

X	Margo Chase-Wells
A	Marjorie W. DeBold, Vice Chairman
X	Mary Hickish
X	Robin Munster, Chairman
X	Kenneth Wendt
X	Thomas Berchulski, Alternate – Seated for Clegg Application
X	Anthony Matterazzo, Alternate – Seated for McCane Application
X	Neal Perron, Alternate – Seated for McCane and Buckley/Hamilton Applications
X	Liz West Glidden, Town Planner
X	Mark Branse, Esq., Land Use Counsel for the Board
X	Bunny Hall Batzner, Recording Clerk

1. Call to Order

Mrs. Munster, chairman, called the meeting to order at 7:30 p.m.

2. Attendance/Seating of the Alternates

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

Mrs. Munster explained the public hearing process. Mr. Branse informed the Board that alternate members are allowed to participate while the public hearing is open and only when the vote is called does it matter who's seated.

3. PUBLIC HEARING

Continued: 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 and 22 November 2016.

Mr. Clegg showed the Board a copy of the A-2 survey he had done for his property (not submitted into the record). Mrs. Munster asked if the survey was filed in the Town Hall. Mr. Clegg stated no, but they are ready to do so (Mrs. Clegg had Mylar in hand). Mrs. Munster noted the survey, dated December 2016, shows the shed not on the property line. Mrs. Munster asked if the shed had been moved. Mr. Clegg stated no, the shed is 2.5 feet from the property line.

The Board asked what standing the survey recorded by the Porriello's had in this matter. Mr. Branse stated the recording isn't critical as the Board does not have jurisdiction to determine property lines. Mr. Branse stated from the Board's standpoint what matters is, and from what he's heard, there is no dispute that the shed is located entirely on the Clegg's property; however, if it were over the line, the Clegg's would not have the standing to file the application as only the property owner can file the variance application. Mr. Branse also stated for the Board's purposes it has to rely on the applicants A-2 survey; and should the Board decide to grant the variance the distance will need to be noted and that it is from the Clegg's survey.

Mr. Wendt asked what the discrepancy was between the two surveys. Mrs. Clegg stated the other survey did not show where their shed was located. After measuring the distance between the shed and the property lines as depicted on the survey, Mrs. Glidden reported it is two feet from the side and two feet from the rear lines. Mrs. Munster asked Mrs. Glidden if the abutting property owner was claiming the chain link fence was the property line and the survey is showing it is not. Mrs. Glidden stated correct. Mrs. Glidden stated the Board has a variance request of two feet to the side and rear lines. Mr. Branse clarified that it would be eight feet.

Mr. Matterazzo asked if the other survey showed the Clegg's shed on it. Mrs. Glidden stated it does not; that it only shows the fence line and the property line. Mrs. Glidden also stated the Porriello's claimed the shed was touching the fence line possibly on their property. The Board as a whole stated the survey was a good thing to have done. Mr. and Mrs. Clegg stated it cost them money; and it only solves the issue of the shed.

Mrs. Munster asked if there were any comments from the public. There were none.

MOTION: Margo Chase-Wells moved to close the public hearing at 7:43 p.m. Tom Berchulski second. Motion carried unanimously.

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.

Ms. Hickish recused herself from this matter.

The public hearing opened at 7:44 p.m. Mrs. Munster read the Legal Notice into the record.

Mr. McCane submitted the Certificates of Mailing (Exhibit A).

Mr. McCane asked if the Board had the new maps that were presented. Mrs. Glidden stated this matter was previously opened and closed (22 November 2016); and at that time there was a variance presumed needed to the town's definition of height and to the Gateway's definition of height. Mrs. Glidden also stated in the application before the Board Mr. McCane is asking for a variance only to the Gateway's definition of height. Mrs. Glidden explained the difference between the Gateway's (natural grade) and the town's (final grade) definitions of height.

Mr. Branse asked if at the last hearing a more ambitious variance was denied. Mrs. Glidden stated yes. Mr. McCane stated no, the height is exactly the same; but he believes there was a misunderstanding in regard to the town's regulations and the Gateway's regulations. Mr. McCane stated if he were to build the house as drawn, it would meet all of the town's regulations; however, it exceeds the Gateway's regulations by 2 feet 6 inches on the front side and 11 feet 6 inches on the rear side due to the walkout basement. Mr. Branse asked what happened at the last hearing/meeting and did the hearing open and close. Mrs. Glidden stated yes, the hearing was opened and closed and the variance was denied. Mr. Branse asked if the building height is the same or if it had been reduced. Mr. McCane stated he did not reduce the height. Mr. McCane stated it's the same matter exactly the way it was presented before and reiterated he believes there was a misunderstanding that it did not comply with the town's regulations.

Amy Cartwright stated the Gateway Commission has provided a letter (dated 23 December 2016) indicating they do not object to the house, that it will not affect the Gateway community, and that they've been out to view the property. Mrs. Munster noted the Gateway Commission letter is the same letter (dated 14 November 2016) received with the first variance request.

Mr. McCane stated there was a misunderstanding when Mrs. Glidden explained that the house was 38 feet high when it's actually 33 feet 11 inches high. Mr. Branse asked if the height is still above the town's regulation. Mrs. Munster and Mr. Berchulski stated no. Mrs. Glidden stated the town's regulation is 35 feet and Gateway's height is also 35 feet, but is measured differently (natural grade).

For clarification purposes, Mr. Branse asked if the last variance request was under both regulations; and now there's an agreement that it complies with the town's definition, but it's the same height as last time. Mrs. Glidden stated correct. Mr. Branse asked what the change in circumstance was. Mr. McCane stated the change in circumstance is at the last hearing/meeting it was stated the height of the house was 38 feet high and didn't comply with the town's zoning regulations which was not correct. Mrs. Munster stated the Board will be ruling on Gateway's definition of height only. Mr. Wendt asked that the definition be reviewed again (natural grade to the highest point of the building).

Ms. Cartwright stated the additional height is due to the walkout basement.

Mr. Perron asked for the hardship. Mr. McCane stated due to the contours of the land, the house has to be constructed in the manner proposed. Mr. McCane also stated the lot steps down and offered to show the Board the survey map. The Board declined.

Mr. Wendt asked if there were any comments from the neighbors. Mr. McCane provided copies of letters from the neighbors. Mrs. Batzner reviewed four letters of support from the following: 1) Jason Potter, 8 Depot Road (Exhibit B); 2) Stephan Harlow, 19 Depot Road (Exhibit C); 3) Melissa Moore, 16 Depot Hill Road (Exhibit D); and Lou Nosal, 166 Dublin Hill Road (Exhibit E).

Mrs. Munster asked if there were any further questions/comments. There were none.

MOTION: Margo Chase-Wells moved to close the public hearing at 7:50 p.m. Neal Perron second. Motion carried unanimously.

A Variance to Allow a Dwelling Addition to be Located 18 Feet from the Front Property Line Where 40 Feet is Required for Property Located at Cedar Lake Road, and Shown on Tax Map 51, Lot 06

Brian Buckley, Architectural Designer, representing the owners, Judith and Robert Hamilton, was present.

The public hearing opened at 7:50 p.m. Mrs. Munster read the Legal Notice into the record.

Mr. Buckley reported the request is for a variance of a front yard setback and an expansion of a non-conforming structure. Mr. Buckley stated the expansion is an 8 foot by 8 foot (64 square foot) air lock in front of the front door (for energy conservation) on an existing landing at the top of the stairs. Mr. Buckley noted the structure will not be any closer to the property line than the existing landing at the top of the stairs.

Mr. Buckley reported the hardship is the severe topography which caused the house to be constructed, which precedes zoning, close to the road. Mr. Buckley stated technically, it cannot be considered a self-imposed hardship. Mr. Buckley also stated the addition obviously needs to be located where proposed due the location of the existing front door.

Mr. Buckley stated the addition is in keeping with the character of the neighborhood and the variance is unique in that it is not shared by other properties in the neighborhood. Reviewing the drawings, Mr. Buckley noted 1) the proposed air lock is the minimum for this type of system; 2) it is not going to be a

heated system; and 3) since it serves two stairs, it has to have two doors coming in plus the door coming into the house (looking to square off the top landing). Mr. Buckley also pointed out on the drawings a small portion of the existing landing that will also be expanded from the smaller landing to 8 foot by 8 foot, but the actual dimension to the property line will not be increased. Mr. Buckley stated the proposal is increasing a non-conforming feature of the existing house, but not expanding the non-conformity.

Mrs. Munster asked if notification had been given to the neighbors. Mr. Buckley apologized for not having the Certificates of Mailing with him (picked up the wrong papers), but would bring them into the office tomorrow (Friday, 27 January 2017) if the Board would like to make it a contingent of their approval; or if allowed, he could leave while the Board continues with the meeting and have the Certificates in approximately 20 minutes. Mrs. Glidden suggested the Board leave the hearing open since the Certificates of Mailing are not available. Mr. Branse suggested the Board leave the public hearing open, vote on the other two items, and reopen the hearing.

The Board agreed to leave the public hearing open (continued for tonight) at 8:00 p.m. to allow Mr. Buckley to retrieve the Certificates of Mailing. The hearing reopened at 8:24 p.m.

Mr. Buckley submitted the Certificates of Mailing (Exhibit A).

Mrs. Munster asked Mr. Buckley if he had any feedback from the neighbors. Mr. Buckley stated no.

Mrs. Chase-Wells asked the hardship. Mr. Buckley stated the hardship is the topography, the placement of the house, prior to zoning, too close to the road, and there being no other place to put the addition. Mr. Buckley also stated they are expanding the existing non-conforming.

Mr. Wendt asked if the Board had received any kind of feedback, positive or negative, from the neighbors. Mr. Buckley stated no. Mr. Wendt asked if the neighbors on both sides of the two roads (Cedar Lake and Turkey Hill Roads) had been notified. Mr. Buckley stated yes. Mrs. Glidden stated only abutting property owners needed to be notified; however, the applicant opted to notify the neighbors across the street. Mr. Matterazzo asked how many Certificates were submitted. Mrs. Batzner reported five. Mr. Matterazzo stated he viewed the property and five is a lot.

Mr. Wendt asked how much larger the square footage will increase. Mr. Buckley stated 3 feet by 3 feet (9 square feet from the 48 square feet being proposed). Using the drawing, Mr. Buckley pointed out the two entry ways (servicing two stairways) and a small area being expanded with a low pitched roof and small window at the end for aesthetics and some light.

Mr. Buckley thanked the Board for their patience.

MOTION: Margo chase-Wells moved to close the public hearing at 8:29 p.m. Neal Perron 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 Loot 42 and Known as 25 Shore Drive in Higganum.

This is a continuance from 29 September 2016 and 22 November 2016.

Board members seated: Berchulski, Chase-Wells, Munster, Hickish, and Wendt.

Mrs. Munster stated the survey makes a lot of difference and there's no question the shed is on the Clegg's property. Mr. Wendt stated there was a lot of emotion and subjectivity and now there's an A-2 survey which clears a lot of questions up.

Prior to the vote, Mrs. Glidden asked if the Board wanted to discuss hardship. Mrs. Munster stated the lot is undersized, as are most of lots around Hidden Lake, and noted the location of the well and septic system. Mr. Matterazzo stated everyone has sheds within boundaries of other people's properties; therefore, this is conforming to what other neighbors have.

MOTION: Ken Wendt moved to approve a variance to allow a detached accessory building (shed) to be located within 2 feet to the side property line and 2 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 Road in Higganum. **Conditions:** Standard Permit Conditions. 2. Special Conditions/Modifications – No. **Exhibits:** 1. Application date stamped August 31, 2016. 2. Site Plan dated August 31, 2016. Margo Chase-Wells second. Motion carried unanimously.

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.

Ms. Hickish recused herself from this matter.

Board members seated: Perron, Wendt, Munster, Chase-Wells, and Matterazzo.

Mrs. Munster stated clarification regarding the last meeting and the fact that the house height is within the town definition of how it's measured vs. Gateway, she has no objection. Mrs. Munster also stated she has driven by the property and understands the difficult topography. Mrs. Munster stated there were no objections from the neighbors, which the Board always takes into consideration. Mr. Wendt stated since the Board received letters of support from the neighbors, he saw no reason to deny the application. Mr. Perron stated he lives in the Gateway Zone and letters of support from the neighbors are important. Mrs. Glidden reported the lot has some unique characteristics especially in regard to the contouring and that merits a hardship. Mrs. Munster agreed. Mrs. Chase-Well noted the Gateway Commission offered no objection to the proposal. Mr. Wendt stated the application meets the Town's regulations.

MOTION: Ken Wendt 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 December 21, 2016. 2. Site Plan dated 10-28-16 by Home Design Service LTD. Margo Chase-Wells second. Motion approved unanimously.

After the vote, Mr. Wendt asked for clarification as to why this case opened again a month later. Mrs. Glidden stated Mr. McCane submitted a new application with new information.

Mr. McCane and Ms. Cartwright thanked the Board.

A Variance to Allow a Dwelling Addition to be Located 18 Feet from the Front Property Line Where 40 Feet is Required for Property Located at Cedar Lake Road, and Shown on Tax Map 51, Lot 06

Brian Buckley, representing the owners, was present.

Board members seated: Perron, Wendt, Munster, Chase-Wells, and Hickish.

Mrs. Munster stated the hardship is the shape and size of the property and for what is proposed, aesthetics wise, the proposal makes sense. Mr. Wendt stated the drawings made it easy to understand.

MOTION: Ken Wendt moved to approve a variance to all a 64 square foot dwelling addition to be located within 18 feet of the front property line where 30 feet is required per Section 4, Table 1, of the Town of Haddam Zoning Regulations. **Conditions:** 1. Standard Permit Conditions. 2. Special Conditions/Modifi-

cations – No. **Exhibits:** 1. Application date stamped December 20, 2016. 2. Site Plan dated December 26, 2016 and drawn by Brian Buckley for 24 Cedar Lake Road, Haddam. Neal Perron second. Motion carried unanimously.

5. Approval/Correction of the Minutes

MOTION: Tom Berchulski moved to approve the 22 November 2016 minutes as submitted. Anthony Matterazzo second. Motion carried unanimously.

6. Open Discussion

CT Land Use Law – Mr. Branse advised the Board of an all day workshop Saturday, 25 March 2017, Wesleyan University.

Updated Regulations – Mrs. Glidden distributed updated regulation pages.

Certificates of Mailing – Mrs. Glidden reported typically the Board does not open the hearing without the Certificates of Mailing; however, the Board could move forward. Mr. Branse stated the lack of Abutter's Notice is not jurisdictional, therefore, the Board could proceed without them; but if someone claimed lack of notice, they could appeal and they would win because they weren't present. Mr. Branse stated it would be the applicant's risk. Mr. Branse also stated if there were a defect in the published notice, that would be jurisdictional (that can't be fixed).

Sign Regulations – Mrs. Munster reported she was asked by someone from Steady Habit Brewing if they could put a sign out front to let people know their location. Mrs. Glidden stated they can have one façade up to 32 square feet, a placard on the free standing sign, but they cannot have their own free standing sign. Mrs. Munster advised them to speak to Mrs. Glidden. Mrs. Glidden stated they are allowed to have a sandwich board sign. Discussion followed in regard to the type of signs allowed.

Variances – Mr. Wendt stated the Board has been agreeable to variances provided there hasn't been any negative feedback from the neighbors and it's a reasonable request. Mrs. Glidden stated technically the Board is supposed to approve a variance on the merits of the hardship – the uniqueness of the property; however, it's a small rural town. Mrs. Glidden also stated proving a hardship can be difficult; however, as human beings we try to be reasonable and there's a need to be consistent. Discussion followed.

Public Hearing/Meeting Procedures – Mr. Perron stated a neighbor will be coming before the Board for a variance and that he will be recusing himself from the matter. Mr. Perron asked if he could speak as the immediate neighbor. Mr. Berchulski stated he could do so as a member of the audience. Mrs. Glidden and Mrs. Munster agreed.

Cell Towers – Mrs. Chase-Wells reported the town has received its first rental checks for the cell towers. Mrs. Munster confirmed the town has collected one payment for two different sites. A brief discussion followed.

7. Adjournment

MOTION: Margo Chase-Wells moved to adjourn. Ken Wendt second. Motion carried unanimously.

The meeting was adjourned at 8:33 p.m.

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

The next regular meeting is scheduled for Thursday, 23 February 2017.