

**TOWN OF HADDAM  
INLAND WETLANDS COMMISSION  
SPECIAL MEETING  
ONLINE VIA GOTOMEETING  
TUESDAY, 14 JULY 2020  
UNAPPROVED MINUTES  
*Subject to Change by the Commission***

**ATTENDANCE**

A	Paul Best, Secretary
X	Curt Chadwick
A	Jeremy DeCarli
X	Dan Iwanicki, Vice Chairman (Arrived 7:10 p.m.)
X	Joe Stephens
X	Mark Stephens, Chairman
X	Thomas Worthley (Left 7:53 p.m.)
X	David Costa, Alternate - Seated
X	Gail Reynolds, Alternate - Seated
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 7:03 p.m. All regular and alternate members were seated.

**2. Approval of Agenda**

Mr. M. Stephens noted this is a single item agenda to discuss 81 Arkay Drive only.

**3. Discussion on 81 Arkay Drive**

**Present:** Michael Sciascia, owner/applicant; Michael Harkin, P.E., representing Mr. Sciascia; Bill Cowan, President, Haddam Land Trust; Paul Geraghty, Esq., representing the Haddam Land Trust, and Peter Smith, Haddam Land Trust.

Mr. M. Stephens reported that he, Mr. Puska, and Mr. Cowan met with Darcy Winther, DEEP Inland Wetlands Management Section, regarding this matter; and afterward, Mr. Puska was to have spoken to Mr. Sciascia. Mr. M. Stephens stated what was learned from the meeting with Ms. Winther was the kind of action a town can take when an application is not moving along which went in line with the Commission's last meeting – placing something on the land records. Mr. M. Stephens noted that Mr. Puska and Mr. Harkin did conduct a site walk.

Mr. Sciascia stated he did not know that in talking to Mr. Harkin and moving this matter along was because of a conversation he and Mr. Puska had had. Mr. Sciascia stated they were only trying to solve the problem, make everybody happy, and be done with the matter. Mr. Sciascia also stated he did not know that Mr. Puska had met with DEEP until after their (Sciascia and Puska) discussion. Mr. M. Stephens stated the DEEP meeting was a function for the Commission to figure out how to proceed and then this proposal come up in the meantime. Mr. M. Stephens stated Mr. Harkin would not be able to attend the Commission's next regular meeting on Monday, 20 July 2020, therefore, a special meeting was called.

Mr. Harkin reported he was contacted by Mr. Puska at the beginning of July to review the 81 Arkay Drive site as nothing had been done since the previous approval. Mr. Harkin notified Mr. Sciascia in order for him to meet him during his visit. Mr. Harkin stated he took photos to com-

pare with previous photos and wrote an email to Mr. Puska on his findings as well as a possible way to move forward with the project. Mr. Harkin reported that Mr. Sciascia has gone down with a mini excavator and installed silt fence (now aware an excavator can get down into the area).

Mr. Harkin read into the record an email, dated/timed 3 July 2020, 7:12 a.m., he had sent to Jamie and Michael Sciascia and Mr. Puska (Exhibit A, 2 pages; copy on file in the Town Clerk's Office with the minutes and in the Land Use Dept.). In his letter, Mr. Harkin indicates as requested he met with the homeowner on Wednesday, 1 July 2020, to review the status of the project and the stabilization of the bank. Not much has taken place other than the removal of the rear deck (in order to do work back there) and the installation of new silt fencing along the toe-of-slope. Mr. Harkin noted there's a small area of drainage erosion that had occurred on the bank due to a low spot at the top of the slope (due to bank designed, water collecting and eroding).

Mr. Harkin continues that everyone acknowledges the following needs to be done: a) All trees and stumps need to be removed from the entire slope. There are some large trees and old stumps which over time will decay and can potentially cause the bank to erode. b) All material (fill, rocks, stumps, etc.) placed on the Haddam Land Trust (HLT) property needs to be removed and the area returned to its natural state. Anything on the HLT property is an encroachment (trespass). c) The bank needs to have vegetation grown on it to prevent erosion and help secure the bank. Mr. Harkin stated he believes everyone agrees these three things need to be done.

Continuing with the email, Mr. Harkin noted the following upon reviewing the slope for the first time in a year: 1) Very little erosion has occurred on the slope even with the recent heavy rains. 2) There is one wash out area which the homeowner needs to address as soon as possible (area talked about earlier in the meeting). 3) The homeowner has shown, that at a minimum, a mini-excavator can get to the toe-of-slope to perform work on the HLT's property. Previously didn't know if an excavator could get down due to the steepness of the slope.

Mr. Harkin continues that the difficulty in this project is finding a solution that can be implemented as the homeowner doesn't have the funds to repair the slope as previously approved. Given the funding situation, a feasible and prudent alternative that everyone is agreeable to needs to be found. Mr. Harkin stated he believes Mr. Sciascia has sought a contractor, but currently doesn't have the funds to do the work.

One option that came up within Mr. Harkin's office and can be implemented in a 30 day time frame is: 1) Bottom of slope to be staked by a land surveyor every 50 feet. This will allow a visual of what area has an encroachment on it. 2) Homeowner to remove all debris and fill on the HLT property and remove it from the site. Once stakes are installed and can see how far of an encroachment on the HLT property there is, Mr. Sciascia can clean it up. Mr. Puska and/or an HLT member can make sure the work has been thoroughly completed. 3) The homeowner to install a wooden wall – 6 by 6 pressure treated posts, pressure treated wood, etc. The wall can have a maximum height of three feet and should span a minimum of 75 feet (actual length to be determined in the field). Mr. Harkin stated in order to remove all of the material in this one section (scaling and sloping back), the whole bank would be impacted and it would put the project back to square one (large scale excavation and stabilization). One way around this would be the construction of a small wall on the Sciascia's property (noted work can be done by hand and that Mr. Sciascia is a carpenter). 4) All trees and stumps to be removed from the embankment. 5) Complete slope to be hydro seeded. No grass seed or hay should be placed on the slope.

Mr. Harkin concluded his email by stating if the Commission, HLT, and Mr. Sciascia can agree on this proposal, a 30 day completion date is more than fair given the situation.

Mr. Harkin noted his office is not getting paid for this project; he's helping out a situation between the town and the homeowner (something that is done; pro bono). Mr. Harkin stated the homeowner has spent his money doing the project and having faith in the contractor; however, the

contractor let him down/lead him astray with there being some negligence on both sides. Now there's an encroachment on the HLT's property and they don't want the fill/debris there (trespassing) and it needs to be removed. Due to the COVID-19 pandemic and the lack of employment, Mr. Sciascia doesn't have the funds to implement the fix as previously approved. Mr. Harkin again stated if the Commission and the HLT agree, the new proposal is something that can be implemented rather quickly noting Mr. Sciascia can do the work as newly proposed. Mr. Harkin stated his fear is should the Commission and HLT say no, all parties will end up in court and the money for remediating the problem goes to the legal system rather than remediating the problem. Mr. Harkin stated there are no formal plans in hand merely because if the Commission and HLT do not want to consider this option, there is nothing further he can do to fix it on paper. However, if all parties are willing to consider the proposal, a plan can be put together (revise existing plan and hopefully move matter ahead in the next month or so).

Mr. M. Stephens stated the Commission cannot do anything without a plan. Mr. M. Stephens asked the following: Why 15 months after the fact is the Commission now hearing about this? When was it determined that the work couldn't be paid for? Why weren't alternatives looked at earlier? There were no responses.

Mr. M. Stephens asked if there will be no raking or installation of proper soil (noted that there is currently poor quality fill covered with flat rocks; especially if there isn't a grade or soil that will work). Mr. Harkin stated the slope will be top soiled; however, if added right now, it will end up on the HLT property during the next rain storm due to the slope. There will be no removal of the rocks or mulch as they will help to hold the top soil for the interim until the seed starts to grow. Mr. Harkin stated there is no 100 percent fix with the top soil. Mr. M. Stephens asked if there will be an attempt to remove some of the fill from the slope from the Sciascia's property. Discussion followed in regard to not being able to mow the slope due to its steepness and the amount of material on it; the toe-of-slope looking as it did originally; the slope having not eroded especially with all of the downpours of late; erosion starting if the slope were touched; removal of all material to obtain original slope; weed root mass locking in the soil; and the original house location isn't how it should have been and it should have never been approved as it was.

Mr. Chadwick stated everyone is in agreement that negligence was made by the original contractor; and asked if there was any pressure being brought on them – licensed and insured. Mr. Chadwick stated the contractor is the one who created the problem and perhaps some pressure can be placed to make them implement the plan as it's been approved. Mr. M. Stephens stated it would be Mr. Sciascia bringing the contractor to court and, therefore, Mr. Sciascia's funds going towards a legal matter rather than a remediation matter. Mr. M. Stephens also stated he does not want the HLT or the town paying fees on this matter and that he would prefer Mr. Sciascia to put his money into remediating this matter.

Mr. M. Stephens stated the Commission could look at the new proposed plan and HLT will need to review the plan as well. Mr. M. Stephens stated he would like to know if the slope will hold and how long before it starts sloughing off. Mr. M. Stephens noted that approximately two years ago Mr. Sciascia had mentioned the construction of a wall; however, there was no engineer's signature on that proposal and that is something that is being looked for.

Mr. Harkin stated a wall will eventually fail as there is no 100 percent guarantee that it will last forever. Mr. Harkin again stated there is a lot of fill on site; and if the thought is to restore the site to 100 percent of its original condition, that too has a chance to fail. Mr. Harkin stated the client doesn't have the funds for the job and another option needs to be looked at. New proposal being Phase 1 and originally approved plan being Phase 2 (both plans to be placed on land records). Mr. Harkin noted that wall will need to have regular inspections.

Mr. M. Stephens stated the Commission already has an approved plan and has five years on that plan. Mr. Sciascia stated he was originally told he had five years in which to start and one year in

which to finish once he started; however, once everything was approved, he was told that was not the case. Mr. M. Stephens stated the permit is a five year permit and if started within five years and still working on the project a request for an extension would have to be made. Mr. M. Stephens stated the Commission could put a Letter of Violation (a Cease and Repair) listing the approved items on the land records. Mr. M. Stephens stated the new proposal doesn't sound like a proper job, but it does sound like a fix that would get the material off of the HLT property. Mr. M. Stephens stated the Commission could look at a plan and vote on it.

Mr. Iwanicki stated he doesn't see this as a plan coming before the Commission, then the Commission allows them to go forward based on that review, and then they have five years to start the project under the guidelines of the State and then one year to complete. Mr. Iwanicki stated this is a remediation project – damage to the wetlands, damage to property – and the damage that has been done to the wetlands needs to be corrected or remediation for the damage needs to be made. Mr. Iwanicki stated he believes the applicant should have started the project as soon as he received approval and continued until completed.

Mr. Iwanicki asked if a plot plan has been submitted. Mr. M. Stephens stated yes, and it's quite extensive. Mr. Iwanicki asked why it is not going forward. Mr. M. Stephens stated Mr. Sciascia does not have the funds and that the new proposal is another way to rectify the matter. Mr. Iwanicki asked if there's a new plan before the Commission with Mr. M. Stephens responding no.

Mr. M. Stephens asked Mr. Harkin how long it would take to get a plan before the Commission. Mr. Harkin stated approximately five (5) weeks. Mr. Harkin stated Mr. Sciascia can get onto the HLT property within 30 days to remove the material from their property and get the wall built; however, the permanent fix would take longer than that. Discussion followed in regard to approximately 70 percent of the material needing to be removed in order to create a 1:1 slope.

Mr. Iwanicki asked about the construction of small terraces. Mr. Harkin stated he did look into that, but with the drop being approximately 30 feet in order to terrace it all of the material would need to be removed and put back in place. Mr. Harkin explained the process (costly and time consuming).

Mr. Iwanicki stated the house shouldn't have been built nor the improvements to the back of the house, therefore, the Commission ends up with a problem for things that were approved that should not have been approved.

Mr. Sciascia stated the one area where some fill has moved is the area that was originally touched that was asked in the beginning by Mr. Puska to remove what we could on the HLT property. Everything else has not moved. Mr. Sciascia stated the reason why it keeps eroding is because nothing has been done in regard to grading. Mr. M. Stephens asked if there will be new grading even under the new proposed plan. Mr. Sciascia stated yes, as the entire top of the bank needs to be pitched so all the runoff is not going to one location. Mr. M. Stephens stated he thought that was noted by the town engineer (Jeff Jacobson, P.E., Nathan L. Jacobson & Associates) previously.

Mr. J. Stephens asked if large boulders could be placed at the base of the proposed wooden wall possibly helping to retain the material. Mr. Harkin stated yes, but hadn't gotten into the mechanics of a wall until it's clear the Commission and HLT are willing to see a different plan. Mr. Harkin stated one concern with the rock would be with the voids and rain washing some of the soils through and the possible installation of a vapor barrier.

Mr. J. Stephens asked Mr. Harkin how many tree trunks and stumps are in the slope currently that should be removed. Mr. Harkin stated there are also whole trees in the slope as the contractor just knocked over large diameter trees and left them there. Mr. Harkin stated there are approximately seven (7) stumps and four (4) trees and other miscellaneous debris. The larger

debris will need to be cut up, chained up, and dragged out of the area. Mr. J. Stephens stated that will disturb the existing stable slope wherever the work needs to be done, but sees it as being the right thing to do. Mr. Sciascia stated there were several trees that were removed out of the area and there are two (2) trees – one (1) down toward the toe-of-slope that is laying on top of everything and one (1) tree in the debris on the top side of the slope that is easy to remove but hasn't been done. Mr. Sciascia stated the stumps in question are located on the side toward the back (behind the garage).

Mr. Iwanicki asked why this hadn't been removed. Mr. Sciascia stated it's not as simple as cutting down the trees. There were four (4) trees that were asked to be removed and those trees have been cut, chained, and pulled out. The stumps from those four (4) trees have not been pulled because there is no reason to do so until all of the work is going to be done. Mr. Iwanicki stated he misunderstood as he thought the Commission was told there are a couple of trees that are still lying across the slope. Mr. Harkin stated there are a couple of trees that have been cut, but that was by the original contractor. Mr. Harkin stated Mr. Sciascia hired a contractor who created a bad situation and basically defaulted. Mr. Harkin also stated Mr. Sciascia is correct about not moving the stumps until a plan is implemented as it will only cause further damage and erosion to bank. Mr. Iwanicki stated it appears that there has been no effort made in trying to clean the area up since 2018. Mr. Sciascia stated it's not that nothing hasn't been done, as the silt fence has been installed, the trees are down, and the deck has been removed. Mr. Sciascia stated no, the complete plan hasn't been implemented, but every contractor who reviewed the project has provided very high estimates - \$35,000 to the low \$100,000s. Mr. Sciascia stated 30 feet of access onto HLT property would be needed to clear cut trees and then use that area to go up and down the bank and that's the reason for the project having not moved forward.

Mr. Worthley stated due to a prior commitment he would need to leave the meeting; however, prior to doing so he wanted it on the record that from a conceptual standpoint, as a Commissioner he would be willing to entertain the idea of a retaining wall that is designed by an engineer and has some kind of projected longevity and that might be combined with putting something on the land records as to what the condition of the property is supposed to be. That would allow the opportunity to get the material off of the HLT property and then go from there.

Mr. M. Stephens asked the Commission if they would be willing to entertain a modification on the original plan by allowing Mr. Harkin to work on a different plan. Mr. J. Stephens asked if there are any comments from the HLT. Mr. Harkin agreed the HLT needs to provide input at this time.

Mr. Geraghty stated the HLT has previously stated that they are open to the idea of allowing Mr. Sciascia onto the property to do some of the work; however, HLT needs to know the scope of the work. Mr. Geraghty indicated that Mr. Sciascia had stated he had to have about 30 feet – is that 30 feet in length along a boundary line or 30 feet into the property as the wetlands are right there. Mr. M. Stephens stated that was merely an explanation as to why Mr. Sciascia cannot do the work without a Bobcat and to give an idea of how he would do it. That's not what he wants to do. Mr. M. Stephens asked Mr. Geraghty and Mr. Cowan are they willing to allow Mr. Sciascia to do his due diligence by having Mr. Harkin develop a new plan and allow Mr. Sciascia to handle this matter in a more prudent fashion that is still feasible.

Mr. Cowan stated he needs to consult with the rest of the HLT; however, in concept the idea of what Mr. Harkin is saying doesn't offend him and he would like to get the material off of the HLT property. Mr. Cowan also stated he still thinks the original plan that was agreed upon by all parties is what HLT would like to see this thing go whether it takes the five years or not. Mr. Cowan stated the assurance HLT needs is that that information be put into an executive order of some sort and put on the land records so that at some later date HLT can defend all of this.

Mr. Chadwick asked if the first step of the original plan to remove the material from the HLT land, couldn't that be done. Mr. Harkin stated Mr. Sciascia can remove about 70 percent of the mate-

rial without getting on the HLT property; however, it's the portion that's protruding onto HLT property (unclear how much until a surveyor stakes the property every 50 feet). In order to reach the area where the material is really on the property there will be a 3 foot sheer face and there will need to be something installed to stabilize the area. Mr. Harkin stated as Mr. Cowan has indicated the HLT would still like to see the original plan implemented with the five years (placed on land records), the wall can be an interim fix. Mr. Harkin asked Mr. Cowan if he had understood him correctly with Mr. Cowan responding yes.

Mr. M. Stephens asked if the Commission would be willing to review a modification to the plan. Mr. M. Stephens called for a vote: Chadwick – yes; Iwanicki – yes; J. Stephens – yes; Costa – yes; Reynolds – abstained from the vote (noted she was okay with the new plan); M. Stephens – yes; and Worthley – yes (by his previous comment prior to leaving the meeting).

Mr. Iwanicki asked if there was a time frame attached to receiving this plan. Mr. Harkin stated approximately five weeks – two weeks to get on schedule and three weeks for design (mid-August) as well as providing the plans to the HLT. Mr. M. Stephens stated the Commission's August meeting would be held on Monday, 17 August 2020. Mr. Harkin stated he could meet that date as well as receive input from Tom Metcalf, P.E., for the HLT. Mr. Cowan stated yes. Mr. Harkin clarified that the Commission did not vote to approve a new plan, but merely gave permission to design a new plan. Mr. Iwanicki stated he believes the Commission is agreeing to look at a Phase 1 (proposed new plan) and Phase 2 (approved original plan) to this project. Mr. M. Stephens stated he would agree at this time and would expect additional conversation when the new plan is available.

Directing his comment to Mr. Harkin, Mr. J. Stephens stated that he would expect some items that would be completed in Phase 1 would supersede the original plan (Phase 2) and could be removed and made activities in Phase 1. Mr. Harkin stated yes, such as removal of stumps, trees, things like that can be implemented in Phase 1. Mr. Harkin stated the toughest part and most expensive part is the removal and creation of the slope and then stabilizing that slope. Mr. Harkin also stated he believes people will be happier as work will be moving at a pace that people are looking for and most importantly removing the material from the HLT property. Mr. J. Stephens asked if the main difference is that Phase 1 will include a retaining wall where the original plan was going to regrade all the material back so a wall wouldn't have been necessary. Mr. Harkin stated correct and that the retaining wall may only be an interim step as it may go away in Phase 2.

Item continued to Monday, 17 August 2020.

**(Recording Clerk's Note:** Recording of the meeting via GoToMeeting started at 7:10 p.m.; Mr. M. Stephens expressed his apologies for the delayed start. However, an audio recording started at the call to order.)

#### **4. Adjournment**

**MOTION:** Dan Iwanicki motioned to adjourn. Joe Stephens seconded. Motion carried unanimously.

The meeting was adjourned at 8:06 p.m.

Respectfully Submitted,

*Bunny Hall Batzner*

Bunny Hall Batzner, Recording Clerk

**The next regular meeting is scheduled for Monday, 20 July 2020.**