

**TOWN OF HADDAM
PLANNING AND ZONING COMMISSION
PUBLIC HEARING/MEETING
TOWN HALL
21 FIELD PARK DRIVE, HADDAM, CT
THURSDAY, 19 JANUARY 2017
UNAPPROVED MINUTES
*Subject to Approval by the Commission***

ATTENDANCE

X	Steven Bull, Vice Chairman
X	Arthur Kohs
X	Michael Lagace
X	Jamin Laurenza, Chairman
X	Wayne LePard
A	Carmelo Rosa
X	Edward Wallor, Secretary
X	Robert Braren, Alternate - Seated
X	Raul de Brigard, Alternate
X	Frank (Chip) Frey, Alternate
X	Liz West Glidden, Town Planner
X	Bunny Hall Batzner, Recording Clerk

1. Call to Order

Mr. Laurenza, chairman, called the meeting to order at 7:00 p.m.

2. Attendance/Seating of the Alternates

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

3. Additions/Corrections to the Agenda

None.

4. Public Comments

Shooting of a Rifle in a Residential Area – Ray Bogdan, Nason Road, informed the Commission of a problem he's having with a neighbor on Nason Road constantly shooting an automatic rifle. Mr. Bogdan reported he has called the State Police and has been informed by them that due to the lack of town regulations relating to shooting a rifle in a backyard there is nothing they can do. Mr. Bogdan showed copies of regulations he believes will cover his problem and played a recording of a gun being fired to the Commission. Mr. Bogdan voiced concern over the possibility of this neighbor inadvertently shooting a child. Mrs. Glidden reported she spoke to Mr. Bogdan for approximately an hour in regard to his concern and it would require either a town ordinance or action by the State Police; and that she does not believe the zoning regulations Mr. Bogdan cited pertain to his concern, but rather to a shooting range. After a half hour discussion, Mr. Laurenza suggested that Mr. Bogdan attend a Board of Selectmen's meeting. Mrs. Glidden noted that shooting ranges are not defined in the regulations.

Melissa Schlag read the definition for a shooting range and suggested the Commission may want to clarify the definition further. Ms. Schlag asked if there are other towns that cover the firing of a weapon

on a property in their regulations. Mrs. Glidden stated she did not know, but would try to obtain an answer. Ms. Schlag asked if the Commission chooses not to look into this matter as a regulation that they pass it on to the Board of Selectmen (BOS). Mr. Wallor stated the Commission has no way of enforcing the matter on the weekend as the zoning enforcement officer is not in the office.

Mr. Bogdan asked Mrs. Glidden if she had addressed this matter with the first selectman. Mrs. Glidden reported she had spoken to the first selectman as well as Trooper Milardo about the matter.

Mr. LePard moved the matter as the Commission has a number of applications on the agenda.

5. Public Hearing/Public Meeting: A Petition to Change Zoning from R-2 to I-1 for Six (6) Acres Shown on Tax Map 46, Lot 2, and Located near the Intersection of Beaver Meadow Road and Ranger Road, and Owned by Gilbert Madore.

This is a continuation of the public hearing from Thursday, 15 December 2016. Site Walk held on Saturday, 7 January 2017.

Michael Harkin, engineer, Harkin Engineering, and Vincent Madore, were present.

Mr. Harkin noted the official site on the tax map is Ranger Road, but the access is off of Beaver Meadow Road. Mr. Harkin provided an overview as he had given a full detailed presentation at the 15 December 2016 public hearing.

Mrs. Glidden stated the Commission presently has only one application before them as the other application has been continued. Mr. Harkin stated the application before the Commission is a request for zone change from R-2 to I-1 and the second application for a special permit for the material processing on the site has been continued. Mr. Harkin stated a site walk was conducted on 7 January 2017.

Mr. Bull asked where the actual application for zone change was. Mrs. Glidden explained the applicant submits a letter/petition requesting a zone change (no formal application form).

Mrs. Glidden read a letter from Ed Schwing, dated January 12, 2017, (Exhibit A) into the record (copy on file in the Land Use Office). In his letter, Mr. Schwing stated after the site walk, he felt this matter should be regulated under Section 18 – Earth Material Operations; cited reasons why; and suggested Mr. Madore reapply under Section 18.

Mrs. Glidden reiterated the hearing was about the rezoning only and not the site plan for the special permit (continued until 16 February 2017). Mrs. Glidden stated when the special permit is reviewed, the Commission can include conditions as special permits allow the Commission a lot of discretion; however, the Commission cannot place conditions on a zone change. Mrs. Glidden stated any use in the I-1 district requires a special permit.

Mr. de Brigard asked Mrs. Glidden to explain to the Commission what is the difference in the requirements between not making the zone requested and making it the zone requested and are the standards for the special permit any different or is there any difference. Mrs. Glidden stated no. Mrs. Glidden explained if the Commission were to make it an earth materials operation, which she doesn't believe is appropriate for the following reasons: 1) Mr. Madore plans to construct permanent buildings on site, 2) there's not a restoration or final grading plan (believes site is at the grade Mr. Madore intends it to be), 3) not removing materials from the site, and 4) it is a true manufacture process (taking materials from off site and mixing them to create a new product); therefore, for these reasons she believes it fits better under I-1 rather than Section 18.

In terms of the special permit standards, Mrs. Glidden stated all of special permit conditions the Commission can put on an earth material operation can also be put on an I-1 operation, such as limiting the trucks, establishing an erosion and sediment bond, hours of operation, etc.

Mr. Bull asked if the Commission were to approve I-1, Mr. Madore could put a pet training facility or day care, by right, on the site. After reviewing the regulations (Section 8 – Industrial Zone I-1, Subsection 8.1B), Mrs. Glidden agreed with Mr. Bull. Mr. Bull stated he was not implying that Mr. Madore would do that or that it would be bad, but he could do that by right. Mrs. Glidden agreed. Discussion followed at length in regard to the zone change and the special permit – two completely different applications.

Going back to an earlier definition, Mr. LePard stated this would not be an earth removal operation. Mrs. Glidden stated correct. Mr. LePard asked if Section 18 is specifically for removal from mining. Mrs. Glidden stated Section 18 includes filling, but the intent is that it's a temporary use and that's why it's a two year renewable operation as well as a final grading plan, a restoration plan, but does not include buildings. Mrs. Glidden also stated Mr. Madore is not proposing the removal or filling of material, but rather the storage of equipment and material from off site and that's the key.

Mr. LePard stated the Commission is either approving or disapproving the I-1 Zone; therefore, if the Commission were to deny the request, Mr. Madore could not continue the operation he's currently doing as defined as earth removal. Mrs. Glidden stated he would need a special permit. Mr. LePard asked if Section 18 would be an alternative with the special permit for Mr. Madore. Mrs. Glidden stated by approving the request or not, the Commission is saying that industrial is the proper use for what is being proposed on the site and is appropriate for this particular lot. Mrs. Glidden also stated the Commission can deny the request and suggest Mr. Madore come back with a new application for an earth materials application if the Commission feels this would be a better fit. Mr. LePard stated he felt it would be a better fit as an earth materials operation and the lot would not need to be rezoned. Mrs. Glidden stated Mr. Madore couldn't because he would be bringing in materials from off site as well as the construction of permanent buildings. Mr. Bull stated it wouldn't really fit as he wouldn't be excavating/removing material from the site, but he would be bringing in and processing material (not covered under Section 18).

Discussion followed in regard to Mr. Schwing's letter providing food for thought. Mr. Lagace stated the special permit goes with the land; and if the property is sold, the special permit goes to the new owner whether they chose to use it or not. Mrs. Glidden stated if the Commission rezones the parcel to industrial there is a permanence to it and the same is true with the earth materials permit except that it's renewable every two years. Mr. Lagace asked if an earth materials permit would have tighter restrictions. Mrs. Glidden stated yes. Mr. Wallor stated if rezoned, the material process which may or may not be allowed would go to the new owner. Mrs. Glidden stated correct, it runs with the land and is not renewable; therefore, if the Commission were to approve the special permit for the composting facility, it would run with the land. Mr. Wallor stated a new owner would need to come before the Commission for either a new special permit or a modification to the existing one if they decided to do something different than what is being asked for under the second application.

Ed Schwing, 143 Church Hill Road, stated the Commission was playing with words and that it's not defined anywhere that an earth material operation is digging in the ground (definition read). Mr. Schwing also stated the Madores are proposing the removal of topsoil they will be making; they'll be filling the site with sand, gravel, and leaves; and in his opinion, that's an earth materials operation. Mr. Schwing stated he does not have a problem with Mr. Madore running his business, the problem he has is with an industrial zone being proposed in a residential area and the Commission would have difficulty in the future refusing anyone from doing something totally different from what is currently being proposed. Mr. Schwing also stated if the zone change is granted, Mr. Madore would not even have to come back for the special permit he could sell the site to someone else. Mr. Schwing stated at least as an earth material operation the Commission could control things better. Mrs. Glidden stated the site could still be reviewed under I-1 if a complaint was filed. Mr. Schwing stated the point is once the site is zoned industrial, it's that way forever until someone else requests a zone change.

Jeff Nelson, 87 Bamforth Road, stated he's disappointed with normal noise within the neighborhood; and although he's unaware of how far the Madore site is from his property, he can hear trucks operating as well as the clearing of trees. Mr. Nelson also stated this proposal will devalue their house and sees no reason for a zone change.

Don Giboski, 31 Cedar Lake Road, mentioned the issue with WFS and his surprise that the Commission would consider this application. Mr. Giboski stated the WFS traffic drives him crazy and the town does not check on violations. Mr. Giboski asked who owns the road leading to the property – Madore or Eversource. Mr. Giboski noted the public hearing sign was not posted up by the road and suggested something be done with the regulations regarding this.

Gina Bloch, 242 Saybrook Road, Higganum, asked if this would be an extension of the existing business as it currently stands and would the truck volume stand to double on top of what is already passing through town. Mrs. Glidden stated those would be questions for the special permit. Ms. Bloch asked if the zone change is granted, how will it impact the traffic and the existing operation that is already running. Mr. Laurenza agreed with Mrs. Glidden that those are questions for the special permit; and that Mr. Madore is only asking for a zone change. Ms. Bloch stated she works from home several days a week and weekends and all day long Mr. Madore's trucks, which in her opinion are loud with the use of the Jake brake, are running by her house.

Jason Estes, 271 Plains Road, briefly mentioned spot zoning; and questioned if he were to have a business that grew, he could come before the Commission to request a zone change to commercial. Mrs. Glidden stated anyone can ask for whatever zoning they would like.

Mr. Giboski asked who owns the access road. Mr. Madore stated he owns the access road from Muck Road (runs from Beaver Meadow to Bamforth) to his property as well as a right-of-way down to Bamforth Road. Mr. Madore noted this would be another avenue to open up.

Terry Carpenter, 87 Bamforth Road, stated if the property is rezoned and the Madores decide to sell the property, what could go on the site could be worse than what is there now.

Mr. Nelson stated the road is small, similar to a driveway. Mr. Nelson also stated the property across the street from them is Land Trust property and it would be awful too have dump trucks driving by and it would ruin the value of his house. Mrs. Glidden stated Bamforth Road is currently a dead end road. Mr. Nelson stated they were unaware there was a town road down there and the thought of the road being redone and dump trucks coming through would be a lousy deal for him and everyone else on the street.

Mr. Giboski stated he's concerned the property could be turned into a repair garage for Mr. Madore's own personal use. Mr. Giboski stated it's a bad deal all around.

Mr. Schwing stated the town has allowed this business to continue on this site, and if the Commission were to rezone industrial the door will be opened wider rather than controlling one particular business. Mr. Schwing also stated if the Commission keeps the business as an earth materials operation, it's very specific, it addresses the material Mr. Madore is working with; whereas, with an industrial zone when he's done, he could be leaving material behind that will need to be graded.

Mr. Laurenza asked if there was a complaint against the operation. Mrs. Glidden stated Mr. Schwing had filed a complaint and explained the complaint process. Mrs. Glidden also stated General Statute 8-3 states the Commission cannot base a decision on existing or previous violations. Mr. Schwing stated there was no violation at the time because the ZEO came back and informed him that Mr. Madore was storing material to fix his driveway. Mr. Madore stated he did receive a permit through the ZEO when the complaint came in to slope the bank off and bring material in in order to finish the job. Mr. Laurenza asked if the complaint was rectified. Mrs. Glidden stated yes, as it never resulted in a Cease and Desist.

Yolanda Salomone, 798 Little City Road, Higganum, stated the Madores are not WFS and to potentially deny this request because of what may or may not happen 50 years from now is unfair. Ms. Salomone also stated she understands there will be people who do not like what is being proposed; however, the service that will be provided – recycling and material for town residents – is beneficial.

Ms. Bloch stated she is not antibusiness or against Mr. Madore; however, her concern is about changing residential zones to commercial or industrial zones on a case by case basis. Ms. Bloch also stated she

feels there should be more effort put in to planning – put commercial and industrial zones in place – to encourage these types of businesses in designated areas and to alleviate sprawl.

Melissa Schlag, 143 Church Hill Road, stated there are seven residents who have concerns about this proposal other than the applicant and one resident. Ms. Schlag also stated she had a problem with the property, which she brought to the town, when the trees were cut down. Ms. Schlag stated changing this parcel to an industrial zone does affect the neighborhood; and what Mrs. Glidden said about changing the zone to fit the business is not the job of the Planning and Zoning Commission. Ms. Schlag also stated this business is loud, noisy, and polluting. Ms. Schlag suggested the Commission think about the matter and put this as an earth materials operation

Mr. Schwing stated although it's a bad precedent, earth material operations are permitted and acceptable in R-2 areas; and if the Commission contemplates approving this application, suggested it be made an earth operation rather than a zone change.

Mr. LePard asked since WFS is an earth material operation, does the Commission send someone out every two years to check them. Mrs. Glidden stated yes, the town checks WFS every year. Mr. Bull stated the WFS matter is under court order. Mrs. Glidden briefly explained the court order. Mr. Schwing stated WFS is different from this matter as they are limited by order of the court. Mrs. Glidden stated there is not a limit to the grandfathered piece. Mr. Schwing agreed. Mr. Schwing stated with the Madore matter the Commission would have more teeth to enforce the permit if it were covered under Section 18.

Mr. Harkin stated a lot of concerns mentioned are based on the special permit for the material processing activity. Mr. Harkin also stated the purpose of the application is for a zone change and the Madores are not WFS (taking material physically on their site, mining it, and selling it off) and are not conducting an earth excavation. Mr. Harkin stated the pad has been set and they will be trucking in topsoil from other sites and either screening it or selling it off. Mr. Harkin also stated leaves will be brought in for processing and composting, and trucked off site. Mr. Harkin stated there will be no mining or excavation of material; merely the processing of material, therefore, the business does not fall under an earth material operation.

Mr. Giboski asked if the material is coming from gas tank excavation. Mr. Madore stated absolutely not. Mr. Laurenza and Mr. Frey stated that would be DEEP regulated.

Mr. Nelson again voice concern over noise. Mr. Nelson stated he didn't care what he does with the material, but the noise from the trucks and equipment is not something he wants to listen to.

Ms. Schlag read from Section 18 noting its entitled Regulation of Earth Material Operations not removal. Mr. Schlag stated removal is not defined as digging on the property itself alone, but filling and removal and Mr. Madore will be filling the property with material and then removing it. Ms. Schlag also stated there's the operation of machinery to process material which is the basis of the regulations for earth material operations. Ms. Schlag believes Section 18 would be a perfect fit for this application.

Ms. Salomone stated the Madores will be bringing material in, not filling anything.

Mr. Laurenza asked if there were any caveats that could be placed on the zone change. Mrs. Glidden stated no, the Commission cannot condition a zone change.

Mr. LePard asked about the Brookes property. Mrs. Glidden explained the recent zone changes on the property. Mr. LePard stated the Brookes property at one point was industrial, but the owner was unable to find anyone interested in using the industrial parcels and requested a zone change to commercial and most recently for a Housing Opportunity District (HOD) overlay. Mrs. Glidden stated one of the things the Commission needs to consider is whether they want an industrial operation with a composting facility in Tylerville; whereas, the proposed site has a natural buffer around it making the property unique and it's been established that the nearest dwelling is over 1,500 feet away. Mrs. Glidden also stated she doesn't believe the Commission is seeking to go through neighborhoods and spot zone parcels into industrial. Mrs. Glidden stated the property offers some unique characteristics that lend itself to this type of use.

Mr. Schwing stated he takes exception to a town planner who lives in East Haddam to decide for the neighbors in Haddam what's a good place for an industrial zone. Mr. Giboski agreed with Mr. Schwing.

Mr. LePard stated the town is in the midst of a Plan of Conservation and Development (POCD) update and hopefully a viable industrial zone will be established. Mr. Laurenza stated at one point there was an industrial zone, but not one application was submitted. Mr. LePard stated during the site walk, he did not see any houses or neighbors and it appeared to be a good spot for the proposal. Mr. LePard also stated there would be storage of material, but no filling; and as long as the Commission is viable, there will be a means of regulating the matter.

Discussion followed at length in regard to concerns previously cited such as noise, truck traffic, complaints filed, and Bamforth Road. In regard to Bamforth Road, Mrs. Glidden stated Bamforth is a dead end with a dirt section and she is unclear as to whether it's abandoned by disuse or discontinued. Mr. Madore stated to the right of the chain link fence on his property straight down it's approximately 1,700-1,800 feet to the end of Bamforth Road with approximately 1,200-1,300 feet of State land in-between. Using a map, Bamforth Road, State property, Eddinger property, Madore property and Beaver Meadow Road were pointed out.

In regard to complaints, Ms. Bloch noted she had filed several complaints with the previous administration. Mr. Laurenza asked if the complaints were about the operation and/or trucks on Beaver Meadow Road. Ms. Bloch stated the complaints were in regard to the trucks specifically on Saybrook Road. Mrs. Glidden stated the only written complaints she had received were from Mr. Schwing and Ms. Schlag. Mr. Madore stated there has never been a complaint on Saybrook Road. Mr. Laurenza asked Ms. Bloch if she had put her complaints in writing or just phone calls. Ms. Schlag stated it was in writing and was discussed at a Board of Selectmen's meeting (on the record there were Jake brake problems) and she did speak to the State Police. Mr. Laurenza confirmed with Ms. Schlag that it was Jake brake problems on Saybrook Road. Ms. Schlag stated yes.

Mr. Schwing stated there is no industrial land in Haddam is because Haddam is no longer an industrial town. Mr. Schwing also stated people come to Haddam for its beauty and residential areas and not to be surrounded by industry. Mr. Schwing stated businesses have to understand commercial, village, and restaurants work in Haddam, but not industry. Mr. Schwing further stated putting small pieces of industrially zoned land throughout Haddam will not help solve the problem it will not reduce taxes significantly. Mr. Schwing stated the POCD survey is asking what people want in their neighborhoods and it's not industry. Mr. Schwing asked that this application be put under Section 18.

MOTION: Steve Bull moved to close the public hearing at 8:40 p.m. Ed Wallor second. Motion carried with Mr. LePard abstaining.

Public Meeting: This is a continuation from Thursday, 15 December 2016.

Mr. Laurenza opened the public meeting at 8:40 p.m.

Commissioners seated: Bull, Kohs, Lagace, Laurenza, LePard, Wallor, and Braren.

Mr. Bull stated the Commission is supposed to help things work in town; and although he doesn't believe Section 18 fits exactly, he doesn't believe the Commission will be called out on the carpet if they should deny the application and recommend reapplying under Section 18. Mr. Bull stated the benefit of Section 18 would be when Mr. Madore ends his operation, the permit also ends and he would have to restore the property. Mr. Wallor stated it wouldn't end as a special permit goes with the land. Mrs. Glidden stated the permit would be renewable every two years and it would go with the land. Mr. Bull asked if the Commission could stop the permit any time they want. Mrs. Glidden stated yes, it's renewable every two years. Mr. Bull again stated although he doesn't believe it fits exactly, the Commission can make it fit.

Mr. Wallor stated he agreed with Mr. Schwing's letter after reading it; and has asked a couple of times (the site walk and at a prior meeting) why not keep the property R-2. Mr. Wallor asked if Mr. Madore

wouldn't be allowed to put up a structure, if the site remains R-2 and the Commission allows the earth material handling under Section 18. While Mrs. Glidden reviewed the regulations, Mr. Wallor stated if the Commission approves I-1, Mr. Madore would be allowed by right to put up a structure. Mrs. Glidden stated the regulation is silent to that, it doesn't address buildings. Mr. Wallor stated that's the only driving reason to rezone the parcel to I-1. Mr. Wallor asked if the Commission had the ability with the special permit, even though it would be R-2, to let him put up a structure for storage. Again the regulations were reviewed with Section 18.5E being cited (no buildings except a field office or temporary shelter for machinery). Mr. Wallor noted it's unclear at this time if the proposed structure is a field office or a temporary shelter for machinery as the Commission has not heard the site plan review.

Mr. Bull stated the applicant can do the same thing under Section 18 and it won't open up a Pandora's Box. Mr. Wallor stated it will ease the neighbors. Mr. Laurenza agreed. Mr. Bull stated he didn't think it would be a hardship for Mr. Madore.

Mr. de Brigard stated he didn't agree that Haddam can't handle industrial, but rather what sort of industrial and where it's located is something the POCD should outline. Mr. de Brigard stated he would be more comfortable with that than trying to fit a zone to a use.

Mr. Bull asked Mrs. Glidden if it would be o.k. if the Commission should decide to deny the applicant but incorrectly apply Section 18. Mrs. Glidden stated it would be the Commission's interpretation. A brief discussion followed.

Mr. LePard stated the reason why he abstained from closing the public hearing was because the more information the Commission receives the more ideas they get; however, there's been a lot of information received as to what would make the most people happy. Mr. LePard stated this application may be best suited under Section 18.

MOTION: Art Kohs moved to approve a petition for a zoning change from R-2 to I-1 for the subject 6.61 acres effective February 9, 2017. **Conditions:** None. **Exhibits:** 1. Petition to change zoning from R-2 to I-1 dated November 22, 2016 and signed by Michael Harkin, P.E. 2. Tax Map identifying 6.61 acre parcel to be changed from R-2 to I-1. Wayne LePard second. Motion denied with Mr. Laurenza abstaining.

After the vote, Mr. de Brigard asked what happens with the other application. Mrs. Glidden stated Mr. Madore can either withdraw or revise the special permit application which would need to be readvertised (could be heard on 16 February). Mr. Madore withdrew the application.

6. Discussion of Notification to Abutting Property Owners for Proposed Zoning Changes to include Certificate of Mailing.

Mrs. Glidden provided draft language for the notification of property owners concerning proposed zoning changes. This proposed language would be under Section 2 – Interpretation, Changes, Validity – Sub-section 2.2 Changes. The proposal calls for a Certificate of Mailing to all properties within 100 feet of the lot where the zone change is requested. After discussion in regard to increasing the distance, the right for the public to know of an impending proposal, and the public's obligation to be aware of what is transpiring the Commission felt a distance of 200 feet would be better to allow more residents in the proposed zone change area to be made aware. Mrs. Glidden will make the revision.

Public hearing scheduled for Thursday, 16 February 2017.

7. Approval/Correction of the Minutes

MOTION: Ed Wallor moved to approve the 5 January 2017 public hearing/meeting minutes as submitted. Jamin Laurenza second. Motion carried unanimously.

MOTION: Ed Wallor moved to approve the 7 January 2017 site walk minutes as submitted. Wayne LePard second. Motion carried unanimously.

8. Chairman's Report

None.

9. Scheduling of Hearings

Continuation of a Special Permit for Material Processing Activity for Property located at Tax Map 46, Lot 2 and Owned by Gilbert Madore – Application withdrawn. Mr. Harkin stated he will submit a letter officially withdrawing the application.

10. Town Planner's Report

Plan of Conservation and Development (POCD) Committee – Mrs. Glidden reported the Committee will meet on Tuesday, 24 January 2017, 6:30 p.m., to discuss the results of the workshop held on Thursday, 1 December 2016.

2 February 2017 Meeting – Canceled.

11. Adjournment

MOTION: Steve Bull moved to adjourn. Ed Wallor second. Motion carried unanimously.

The meeting was adjourned at 9:10 p.m.

Respectfully Submitted,

Bunny Hall Batzner

Bunny Hall Batzner
Recording Clerk

The next meeting is scheduled for Thursday, 16 February 2017.