

**TOWN OF HADDAM
ZONING BOARD OF APPEALS
PUBLIC HEARINGS/MEETING
ONLINE VIA GOTOMEETING
THURSDAY, 30 APRIL 2020
UNAPPROVED MINUTES
*Subject to Approval by the Board***

ATTENDANCE

X	Thomas Berchulski (Arrived 7:28 p.m.)
X	Marjorie W. DeBold
A	Joseph Laurenza
X	Robin Munster, Chairman
X	Kenneth Wendt (Arrived 7:25 p.m.)
X	William Iselin, Alternate – Seated
X	Jessica Labbe, Alternate – Seated
X	Anthony Matterazzo, Alternate - Seated
X	William Warner, AICP Town Planner
X	Bunny Hall Batzner, Recording Clerk (Arrived 7:14 p.m.)

1. Call to Order and Pledge of Allegiance

Mrs. Munster, chairman, called the meeting to order at 7:00 p.m. and the pledge was recited.

2. Attendance/Seating of the Alternates

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

Mrs. Munster read the Legal Notice, as printed on the Town web site, into the record; and then explained the public hearing/meeting process to those present.

3. PUBLIC HEARING

a. A Variance to Allow a Third Dwelling Unit on a Parcel in the R-2A Zone. Property Located at Map 46 Lot 0025, 156 Jail Hill Road, Haddam. Applicant: Carla Marino Marek.

Carla Marino Marek, owner/applicant, was present.

Ms. Marek explained the current situation and the fact that the property contains two legal dwellings which existed prior to zoning and the fact that her late husband, Vic Marek III, created a dwelling unit in the barn, which is where he lived for many years. Ms. Marek's desire is to have the ability to close the estate through probate with three legal dwelling units and to do so she needs to correct this long standing "illegal" situation.

Mr. Matterazzo asked how long this situation had been established. Ms. Marek stated the buildings have been maintained on the property for 80 years. Mr. Matterazzo asked when the last item was converted to housing. Ms. Marek stated her husband remodeled a small portion of the barn approximately 25 years ago. Mr. Matterazzo asked if someone lived in the barn for 25 years. Ms. Marek stated her husband lived in the barn structure for 25 years and she for 7 years. Mr. Matterazzo clarified that all three buildings had been occupied by individuals for at least the last 25 years. Ms. Marek stated yes, that her husband's sister lived in the little dwelling and his parents lived in the house. Mr. Matterazzo asked the total acreage of the property. Ms. Marek stated just under 6 acres. Mrs. Munster clarified the property is 5.28 acres.

Mrs. Munster asked Ms. Labbe if she had any questions. Ms. Labbe stated no, as she was familiar with the property as her parents live next door and it's been like that for as long as she's been alive. Ms. Labbe stated she had no objections.

Mrs. Munster asked Mr. Iselin if he had any questions. Mr. Iselin asked for clarification regarding the variance request is for and asked for an explanation. Mr. Warner stated the property is currently in probate and the appraiser has to put a value on it. When the appraiser came in, town staff was unable to identify how the third unit got there legally. It appears that it evolved over time and that town staff were aware of it, but there were no permits for it. The only way an appraiser can place a value on the property is it must be legal. The purpose of the request is to make the current existing situation, which has been in existence for at least 25 years legal. Mr. Iselin thanked Mr. Warner; and stated he had no comments.

Mrs. Munster asked Mrs. DeBold if she had any questions. Mrs. DeBold asked if the part of the barn that is used as a dwelling was ever assessed or taxed as a dwelling and questioned whether it had a Certificate of Occupancy. Ms. Marek stated she believes it did as it contained an office and a kitchenette noting that the town was aware that her husband ran his business out of the barn. Mrs. DeBold thanked Ms. Marek.

Mrs. Munster asked if there were any additional questions from the Board.

Mr. Matterazzo stated the Board could be approving a property that has not been taxed by the town and it may have been 25 years that the housing portion of the dwelling existed and was occupied. Mr. Matterazzo stated he felt it was inappropriate for someone to build an illegal apartment, lived in it, and didn't pay taxes on it. Mr. Matterazzo asked if anyone had checked the tax records to see if it had been taxed for the last 25 years. Mr. Warner stated the main house and the barn are taxed as dwellings; but the 800 square foot little house has not been taxed as a house since the kitchen was removed and it was stopped being used as a house. Mr. Warner stated that was how the assessor handled the matter. Mr. Matterazzo asked how long has the little house not been used as a dwelling. Ms. Marek stated the little house was changed to a storage building five years ago. Mr. Warner stated for the five years the Mareks were being taxed for two dwellings they were not being taxed on the small house. Mr. Warner stated there was no hiding behind it as it appears everyone was aware Mr. Marek was living in the barn. Mr. Matterazzo stated what was taking place was not in compliance with any zoning board at that point in time. Mr. Matterazzo asked what the taxable situation has been on the property that Ms. Marek wants to convert over to three homes at this point in time and if the town is owed back taxes for what has transpired. Mr. Matterazzo stated from what has been stated so far it appears as if the little house will be converted back into housing and just because everyone at town hall was aware of the situation and zoning regulations were ignored, it doesn't make the situation right. Mr. Warner agreed and stated that that is the purpose of the request – an attempt to make the situation right. Mr. Warner stated the tax issue is not a zoning matter and is up to the assessor, who is aware of what is taking place at tonight's meeting, and she can pursue back taxes if she's allowed too. Mr. Warner stated the zoning issue is that there are three houses, one did not get the proper approval, and how Ms. Marek is merely trying to make it legal. Mr. Warner stated the only other option to make it legal would be to eliminate one of the houses.

Mrs. Munster asked if there were any additional questions from the Board. There were none. Mrs. Munster asked Ms. Marek if she had any additional comments. Ms. Marek stated the little dwelling does not have to go back to being a dwelling, she was merely suggesting it for resale purposes such as parents and adult children live on the property. Ms. Marek stated it's a nice family oriented parcel.

Mrs. Munster opened comments/questions from the public and explained that they must state their name for the record. There were none.

Mrs. DeBold asked if there were comments or responses from the notification to the neighbors. Ms. Marek stated she sent five certified letters to her neighbors that she would like the property to remain as it stands and has all of the return cards. Mrs. DeBold thanked Ms. Marek.

MOTION: Marge DeBold motioned to close the public hearing at 7:31 p.m. Tony Matterazzo second. Motion carried unanimously.

b. Variance to Allow for the Creation of a Building Lot with Less than the Required 200 Feet of Road Frontage. Property Location at Map 52 Lot 16, Cedar Lake Road, Haddam, CT. Applicant: Shawn Monroe.

Shawn Monroe, applicant, representing Louis Negrelli, owner, was present.

Mr. Monroe explained that Mr. Negrelli purchased the property 60 plus years ago and it was his intent to build a house on the property for he and his wife; however, it never transpired. Mr. Monroe stated he had suggested to Mr. Negrelli to subdivide the property if he had no intent to build as the rules and regulations do not get easier. In 1995, Mr. Negrelli did not have the property subdivided, but did have it surveyed and created two lots on the survey map – Lot 1 - 2.61 acres with 200 feet of road frontage and Lot 2 – 3.19 acres with 196 feet of road frontage (four feet less than required), but if you go into the lot approximately 15 feet it becomes 200 feet. Mr. Monroe also stated Mr. Negrelli asked him if he (Monroe) would be interested in purchasing the property and what his intentions would be. Mr. Monroe stated if he were to purchase the property, he would ask for a variance to create two lots. Mr. Monroe stated Mr. Negrelli indicated that his daughters have shown interest in the property and he would like his daughters to have it if two lots can be created. Mr. Monroe stated he has an agreement with Mr. Negrelli should the daughters decide not to build, he (Monroe) would have the right to first refusal to purchase a lot from them or be the general contractor.

Mr. Warner reported this parcel is within the R-2 Zone and requires 200 feet of frontage on 2 acres. This situation is where there are two lots with ample square footage; however, one lot would be short four feet on footage and the only way around it is a variance. Mr. Warner stated he doesn't believe anyone will notice the four foot shortage; and although it's a relaxation of the rules, from a land use point of view it will not change the character of the area.

Mrs. DeBold suggested the two responses from neighbors should be addressed. Mr. Warner stated a letter (email) from Ed Wallor, dated 27 April 2020, was received and Mr. Wallor does not object to the proposal; and a letter from Donald Giboski, dated 28 April 2020, was received and Mr. Giboski objects to the proposal (Exhibit A and B, respectively; copies of each are on file in the Town Clerk's Office and the Land Use Office).

Mr. Iselin and Mr. Munster had no questions.

Ms. Labbe stated she thought the letters she had read were in opposition to the proposal. Mrs. Munster stated one was in opposition (online) and the other was in favor (emailed to all Board members). Ms. Labbe stated she had no questions.

Mr. Matterazzo asked if the Giboski letter indicates why they are opposed to the variance. Mrs. Munster stated Mr. Giboski is online and can address those concerns. Mr. Matterazzo will wait for Mr. Giboski to answer the question.

Greg Giboski, son of Donald Giboski, 31 Cedar Lake Road, stated in looking at his father's letter his father does not want a house close to his property line. Mr. G. Giboski stated it appears as if the letter was not written on behalf of Lou Negrelli, that it seemed fishy, that the letter was not sent by certified mail, and Mr. Negrelli's signature is not on the letter. Mr. G. Giboski stated after so many years, it seems fishy that the two daughters decided they want to build two houses. It just doesn't seem right after all this time.

Mrs. Munster stated Mr. G. Giboski is questioning the letter received; and asked Mr. Warner who filed for the application. Mr. Warner stated Mr. Monroe filed for the application and Mr. Monroe had indicated that he had mailed certified letters.

Mr. G. Giboski stated there are no certified letters claiming he had the letter in front of him as well as a handwritten envelop. Mr. G. Giboski questioned if Mr. Negrelli is doing the footwork for his daughters to build, why is the builder part and parcel to building a lot or purchasing a lot. Mr. G. Giboski stated it appears that the builder (Monroe) is doing all the work and if approved, he'll then purchase the property.

Mr. Warner stated whatever the arrangement between Mr. Negrelli and Mr. Monroe it does not concern the Board. The matter before the Board is whether or not they should allow a lot to have less than 200 feet of frontage.

Mrs. Munster asked if there were any other questions/comments from the Board or the public.

Don Giboski stated the houses are going to be too close together and it will not create a country atmosphere as the builder wants to construct them. Mr. D. Giboski stated he could understand Mr. Negrelli wanting to build a house many years ago for he and his wife, but now there's a builder who is interested in the property, will build the houses, and sell to whoever wants them. Mr. D. Giboski stated he doesn't believe anything regarding the Negrelli family thing, the builder is a frontman, and the daughters are well over 65 years old and does not believe they plan to live on the property. Mr. D. Giboski also stated there are no letters from the daughters stating they want to live on the property.

Mrs. Munster stated the lot sizes are within what the town requires – 2.61 and 3.19 acres each - and are actually above what is required (2 acre lot standard) and, therefore, doesn't see an issue. Mrs. Munster stated she doesn't know the size of the lots around the Negrelli property to use as a comparison. Mr. Warner stated he didn't know definitively, but believes they are over 2 acres. Mr. Iselin stated looking at a map (received via email from Mr. Warner, 5 March 2020) it appears there are several lots (look like pizza slices) that are only 1 acre with less than 200 foot frontage.

Mrs. DeBold asked if the larger lot with lesser frontage quickly reaches the appropriate required rectangle. Mr. Warner stated the lot does comply with the required rectangle and that there are no wetlands near the slopes.

Mr. G. Giboski asked if there is a confirmed passing of the perc test on file with the town as every time it rains they see water running down the property. Mr. Warner stated if the variance is granted, the applicant and/or property owner would have to go before P&Z for a subdivision and then a perc test would be conducted. Mr. Warner stated the matter before the Board is merely the shortage on road footage for Lot 2 and it would come down to whether or not the Board would like to relax the rules for this particular case.

Mr. G. Giboski stated he doesn't understand why the variance would have to change and why would anybody go through all this before knowing whether a lot could be built on or not. Mr. Warner stated the variance does not create a lot, it only allows for one lot to have 196 feet of frontage. The applicant and owner would need to go before P&Z to create two lots and as part of that application, perc tests would be required to prove it would work. Mr. Warner stated it's a two-step process.

Mr. G. Giboski stated he believes in the past the property failed a perc test and believes the matter going to P&Z after ZBA is putting the cart before the horse. What's the point of dividing up the property if he can't pass a perc test. Mr. G. Giboski stated he's at a loss as to why the process is backwards.

Mrs. Munster stated if the variance is granted, the applicant and/or owner can go before P&Z and request two building lots at which time the perc test would be conducted. Mrs. Munster also stated Mr. G. Giboski and/or Mr. D. Giboski could go before P&Z to cite their concerns.

Mrs. Munster asked if there were any further questions.

Mr. Matterazzo asked if the adjoining property is in excess of 200 feet. Mr. Warner stated Ed Wallor owns one side and has more than 200 feet of frontage and Mr. D. Giboski owns the property on the other side. Mr. Matterazzo asked if Mr. D. Giboski's property had 200 feet of frontage.

Mr. G. Giboski stated the property has 150 feet of frontage and was built mid to late 70's. Mr. Matterazzo stated he does not have 200 feet plus of frontage and thanked Mr. G. Giboski for answering the question.

Mrs. Munster asked if there were any additional questions from the Board. There were none.

MOTION: Bill Iselin motioned to close the public hearing at 7:58 p.m. Marge DeBold second. Motion carried unanimously.

c. Variance to Allow for the Construction of a Garage with Less than the Required 10 Feet for Side Yard and 20 Feet From Rear. Property Located at 463 Brainard Hill Road, Higganum, CT.
Applicant: Richard Bather.

Richard Bather, owner/applicant, was present.

Mr. Bather stated he's asking for the request in order to build a garage for his personal use at his home. Mr. Bather also stated that he has sent certified letters to both of his neighbors – Yvonne and Thomas Kobylenski (next door) and the Scared Heart of Jesus (to the back of the property). Mr. Bather explained that if he goes 20 feet off the back and 10 off the side it would put the garage too close to the house and according to Will Riebold, owner, Higganum Septic, and Mark Wilson, owner, Ramsom & Son Excavating, both of whom hold septic licenses, it would not allow him sufficient room for a reserve septic system. Mr. Bather also explained that it would take away all of his parking space to get in and out of his house.

Mrs. DeBold stated she understands the hardship to be if the proposed garage were built according to the regulations it would be too close to the house and would interfere with the septic field. Mr. Bather stated yes.

Mr. Iselin deferred questions/comments at this time while he looked at a satellite image of the property.

Ms. Labbe stated it appears there is only three feet between the property line and the side of the proposed garage. Mr. Bather stated yes. Ms. Labbe asked Mr. Bather if there are woods to the rear of the property. Mr. Bather stated yes there are woods behind the house and the neighbor's yard is on the sideline.

Mrs. Munster asked Mr. Bather if he had received any correspondence or comments regarding the proposal. Mr. Warner stated no letters of opposition or concern were received by the town.

Mrs. DeBold asked if there was a building to the rear of the Kobylenski property that the proposed garage would be next too. Mr. Bather stated no there is not.

Mr. Wendt asked if he could comment. Mrs. Munster asked Mr. Wendt to wait, as he was not seated, until after Mr. Matterazzo commented.

Mr. Matterazzo stated the points of concern are left, right and back of the barn and Mr. Bather has already explained that the back of the property is wooded. Mr. Matterazzo questioned the distance between Mr. Bather's garage and property line to the neighbor's house. Mr. Bather stated over 200 feet and well over 100 feet, respectively.

Mrs. Munster returned to Mr. Iselin and asked if he had any questions/comments. Mr. Iselin had none.

Mr. Wendt stated he walked by the property and the homeowner has done tremendous things with the house over the past three or four years and the proposed garage would be buried down in the back right corner of the yard. Mr. Wendt stated the Kobylenski house sits to the front of their property and is higher than the proposed area for the garage. Mr. Wendt stated this would continue to improve the property.

Mrs. Munster asked if there were any additional questions from the Board and/or the public. There were none.

MOTION: Marge DeBold motioned to close the public hearing at 8:10 p.m. Jessica Labbe second. Motion carried unanimously.

4. PUBLIC MEETING

a. A Variance to Allow a Third Dwelling Unit on a Parcel in the R-2A Zone. Property Located at Map 46 Lot 0025, 156 Jail Hill Road, Haddam. Applicant: Carla Marino Marek.

Seated: DeBold, Munster, Iselin, Labbe, and Matterazzo.

After the closing of the public hearing on this matter, Mrs. Munster moved the Board right into the meeting and explained the Board could not take any further comments from the applicant or the audience.

Mr. Matterazzo stated a wrong has been committed against the town for many years because there was no approval as to what transpired on the property. Mr. Matterazzo also stated he understands what Mr. Warner is stating by wanting to take a wrong and make it right and it being the right thing to do; however, it appears that it was an obvious attempt by the owners of the property to deceive the town, everyone at the town hall seems to have been aware of it, and there is no obvious penalty for what transpired on the property. Mr. Matterazzo stated there are a number of situations where people do things without building permits and then are asked to tear the structures down because they haven't complied with the building requirements. Mr. Matterazzo stated he understands the legitimate reason for converting it over to an acceptable situation and if that's what the Board is voting on, he's agreeable.

Mrs. Munster stated she understands where the Board is trying to make this situation right and that the tax issue is completely separate from the Board. Mrs. Munster also stated she understands keeping the property as it stands and it would be nice to get whole families to live on one piece of property. Mrs. Munster stated she did not see a problem with the request.

Mrs. DeBold asked about new or expanded use of the property and how it might affect the house or the small building. Mr. Warner stated the variance doesn't allow any new buildings only the three houses – it allows the small house to have a kitchen again, but it doesn't allow new or expanded uses of the property.

Mrs. Munster asked if there were any more questions/comments from the Board. As there were none, Mrs. Munster called for the vote: DeBold – approved; Iselin – approved; Labbe – approved; Matterazzo – approved; and Munster – approved. The variance approved unanimously.

b. Variance to Allow for the Creation of a Building Lot with Less than the Required 200 Feet of Road Frontage. Property Location at Map 52 Lot 16, Cedar Lake Road, Haddam, CT. Applicant: Shawn Monroe.

Seated: DeBold, Munster, Iselin, Labbe, and Matterazzo.

After the closing of the public hearing on this matter, Mrs. Munster moved the Board right into the meeting and explained the Board could not take any further comments from the applicant or the audience.

Mr. Matterazzo stated one of the questions he asked was about road frontage on one of the abutting lots (only 150 feet of frontage) and doesn't see the issue of the frontage being a problem especially since one side would be 150 feet and another 196 feet. Mr. Matterazzo stated the matter seems moot and doesn't see the request as an issue.

Mr. Monroe started to speak. Point of order was called and Mr. Monroe stopped.

Ms. Labbe, Mr. Iselin, and Mrs. DeBold had no questions/comments.

Mrs. Munster stated she had no problem with the request; and if the proposal for two lots is approved by P&Z, those lots would be conforming under the R-2 Zone.

Mrs. Munster asked if there were any more questions/comments from the Board. As there were none, Mrs. Munster called for the vote: Matterazzo – approved; Labbe – approved; Iselin – approved; DeBold – approved; and Munster – approved. The variance approved unanimously.

**c. Variance to Allow for the Construction of a Garage with Less than the Required 10 Feet for Side Yard and 20 Feet From Rear. Property Located at 463 Brainard Hill Road, Higganum, CT.
Applicant: Richard Bather.**

Seated: DeBold, Munster, Iselin, Labbe, and Matterazzo.

After the closing of the public hearing on this matter, Mrs. Munster moved the Board right into the meeting and explained the Board could not take any further comments from the applicant or the audience.

Mr. Matterazzo, Ms. Labbe, and Mrs. DeBold had no comments.

Mr. Iselin stated in looking at a satellite view of the property, as well as the mapping that was sent out, it appears there is an existing driveway that would go up to the proposed garage location, an existing shed now sits in this location, and at the edge of the property there is nothing but woods. Since there is only one neighbor, the garage would be located the farthest place possible from the neighbor's house. Mr. Iselin stated the proposal seems to fit very well with the property noting there are a number of trees surrounding the proposed garage area.

Mrs. Munster stated she's in favor of the variance as it would be an upgrade to the property and would not hinder the neighbors. Mrs. Munster noted no letters of opposition or concern were sent in.

Mrs. Munster asked if there were any more questions/comments from the Board. As there were none, Mrs. Munster called for the vote: DeBold – approved; Iselin – approved; Labbe – approved; Matterazzo – approved; and Munster – approved. The variance approved unanimously.

Mr. Bather thanked the Board.

5. Approval/Correction of the Minutes

Mrs. Munster asked Mr. Warner the process of approval as there was a new Board. Mr. Warner stated Board members merely need to read the minutes and did not need to be in attendance.

MOTION: Tom Berchulski motioned to approve the 29 October 2019 public hearing/meeting minutes as submitted. Jessica Labbe second. Motion carried unanimously.

(Recording Clerk's Note: All meetings from November 2019 through March 2020 were cancelled.)

6. Adjournment

The meeting was adjourned at 8:14 p.m.

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

The next regular meeting is scheduled for Thursday, 28 May 2020.