

**TOWN OF HADDAM  
ZONING BOARD OF APPEALS  
SPECIAL PUBLIC HEARING/MEETING  
TOWN HALL  
21 FIELD PARK DRIVE, HADDAM, CT  
MONDAY, 15 JUNE 2015  
UNAPPROVED MINUTES  
*Subject to Approval by the Commission***

**ATTENDANCE**

X	Thomas Berchulski
X	Margo Chase-Wells
X	Marjorie W. DeBold, Vice Chairman
X	Robin Munster, Chairman
X	Jen O'Neal, Secretary
A	Mary Hickish, Alternate
X	Helen Reeve, Alternate
X	Kenneth Wendt, Alternate
X	Liz West Glidden, Town Planner
A	Jim Puska, Zoning Enforcement Officer
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 members were seated.

Mrs. Munster asked Mrs. Glidden if she needed to read the Legal Notice again. Mrs. Glidden reported that due to the public hearing being continued on the record at the 28 May 2015, the Legal Notice does not need to be read again and the same is true for the Letters of Notification.

Mrs. Munster reported that a site walk was held on Monday, 1 June 2015, with members of the Board, neighbors, and the applicant present. Those in attendance: Robin Munster, Tom Berchulski, Margo Chase-Wells, Jen O'Neal, Marge DeBold, Mary Hickish, and Helen Reeve – all ZBA members; Liz Glidden, Town Planner; Scott Davidson, applicant; Paul Doolan, representing the Holts; Ming Holt, neighbor; and two (2) other neighbors who joined the site walk while in progress. The site walk concluded at 6:50 p.m.

Mrs. DeBold reported that she had listened to the audio recording of the 28 May 2015 public hearing/meeting and that she reviewed the Plan of Conservation and Development (POCD).

**3. PUBLIC HEARING**

**A Variance to Section 10 of the Haddam Zoning Regulations, to Allow an Earth Materials Operation in the Gateway Conservation Zone at the Midway Marina located on River Road and Shown on Assessor's Map 48, Lots 38 and 40**

Scott and Elliott Davidson, applicants, and Mike Bennett, land surveyor, Bennett & Smilas Associates, were present.

This is a continuation of the hearing from Thursday, 28 May 2015.

Mr. S. Davidson introduced Mr. Bennett as well as his brother, Mr. E. Davidson. Mr. S. Davidson stated that the list of conditions sent by Mrs. Glidden has been received and can be responded to.

Mrs. Munster read a letter from Jeff Jacobson, town engineer, Nathan L. Jacobson & Associates, dated 3 June 2015, revised 10 June 2015 (Exhibit A; copy on file in the Land Use Office). Mrs. O'Neal read a memo from Liz Glidden, town planner, dated 9 June 2015, into the record (Exhibit B; copy on file in the Land Use Office).

**Minimum Fifty (50) Foot Buffer** - Using a site plan, Mr. Bennett pointed out the street line and boundary line of the former Heise property (now the Davidson Brothers property) and noted road and top slope elevations. Mr. Bennett stated that they have no problem complying with the request for a 50 foot buffer and regrading a small corner area (to be noted on plan submitted to P&Z). Mrs. O'Neal asked if this would be addressing condition 2 on the List of Conditions, dated 15 June 2015, provided by Mrs. Glidden (Exhibit C; on file in the Land Use Office). Mr. Bennett stated that they were below the roadway.

**Truck Access** – Mr. Bennett reported that Mr. Davidson has agreed to move the truck access over to Haddam Dock Road. Addresses 3B in the Jacobson letter.

**Refueling of Vehicles** – Mr. Bennett reported that no trucks will be refueled on site, only machinery – backhoe, excavator, payloader – and that will be set up to comply with the state regulations. Mrs. Glidden asked that a refueling area be shown on the revised plans. Mr. Bennett stated that it will be added to the plan and the refueling area will be similar to the construction entrance with matting below and crushed stone on top.

**Regrading/Temporary Grading** – Mr. Bennett stated that there is no issue in showing temporary grading along the bottom of the slope so as they remove material it slopes back towards the face of the bank during construction operations. This will keep rain water along the base of the slope and not allow it to run off into the existing boat storage area. Addresses 4A in the Jacobson letter.

**Installation of Stone Check Dams** – Mr. Bennett stated that the applicant will no longer have truck traffic coming up and down the roadway. Mr. Bennett will show one (1) to two (2) check dams at the bottom of the existing drainage for the gravel drive noting that there will be a very limited amount of water going through this area (approximately 100 feet long). Addresses 4B in the Jacobson letter.

**Two (2) on One (1) Slope (2:1)** – Mr. Bennett stated when the slopes are completed and seeded, there will be slope stabilization mats stapled to the slope to prevent it from eroding during a rain storm while the grass is growing. This is a recommendation of the State of Connecticut Soil and Erosion Sedimentation Control Measures. Addresses 4C of the Jacobson letter.

Mack Holt, 55 River Road, asked how many years before the grass will be planted. Mr. Bennett stated that it's Mr. Davidson's intention to get the work done during the summer and seed it this fall. Mr. Bennett stated that all work is dependent upon approvals.

Rowan Monnington, 47 River Road, asked how the Davidsons plan on sloping the property without removing all of the trees and how they will access the entire operation through Haddam Dock Road. Mr. Monnington also voiced concern over potential amendments, should the Board approve the variance, to such items as the buffer, time frame for plantings, silt fencing, dust control, etc., and noted non-compliance with the 2007 P&Z approval. Mr. Monnington readdressed his concerns voiced at the 28 May 2015 hearing.

Mr. Monnington asked who will measure/gauge the amount of material proposed for removal v. actual removal noting that he works in excavation. Mr. Monnington stated that the Davidsons own additional land and suggested that be used to eliminate encroaching on the residential neighborhood.

Mrs. Munster stated that the office will work to keep this project in check; however, in regard to taxes there is a separate board that reviews such matters.

Mr. Monnington discussed the excavation taking place on a commercial property with the sloping taking place on a residential property and believes a majority of the woods will be removed. Mr. Bennett stated that there will be a buffer of 40 to 50 feet and that the road will continue to go through a wooded section. Mr. Monnington stated that he didn't believe all options have been considered.

Mark Lundgren stated that his main concern was how this project would affect the Valley Railroad noting that improvements to the line have begun. Mr. Lundgren felt that having the trucks use River Road would not impede the railroad and asked what the Davidsons agreement is with the railroad in terms of crossing the right-of-way. Mr. S. Davidson stated that he spoke to Rob Bradway, Valley Railroad, and that he has no objection to the work and that Mr. Bradway had contacted DEEP in regard to this project who also has no objection to the project. Mr. S. Davidson stated that they are willing to work with the DEEP.

Frank Marrotta, Filley Road, a Midway Marina user, stated that in regard to the 2007 project, the Davidsons reseeded the work site a number of times. Mr. Marrotta addressed the truck traffic for the proposed project vs. a current earth material operation in his neighborhood.

Mrs. DeBold asked if a certified letter was mailed to the Valley Railroad. Mr. S. Davidson stated no, but that they are well aware of the project. Mrs. Glidden stated that she had notified them and had spoken to Graham Stevens.

Mr. Bennett stated that the purpose of the grading is to expand the boat storage area at the bottom of the hill that is zoned commercial and there will be no storage on residential zone. In response to another comment in regard to using other property for this project, Mr. Bennett stated that there are cottages and trees that screen the river from the proposed project. Mrs. O'Neal asked if it was a consideration. Mr. S. Davidson stated that the cottages are year round homes, space is limited, Gateway wouldn't approve it, and it would be impractical.

**Construction Sequence** – Mr. Bennett stated that the construction sequence will be revised prior to going to P&Z and that they have no issue with the seeding schedule. Addresses 4D of the Jacobson letter. Mrs. DeBold asked if the planting of trees could be done before the storage of boats in the area. Mr. Bennett stated that there will already be 50 feet or more of natural vegetation; however, it can be proposed in the plan. Mrs. Glidden stated that the natural vegetation is mostly deciduous trees and believes the residents would like to see coniferous trees to block wind, dust, etc. Mrs. Glidden stated that the Board may want to consider a vegetated buffer that will consist of some type of evergreen (suggested white pines); and if the Board should do that, that the plantings be a mandatory height at the time they're planted.

**Daily Truck Loads** - Mr. Bennett stated that the intent is to truck the material as it's being excavated and not stockpile it. Mr. Bennett also stated that the proposed 26 loads per day will take three (3) months to take the material off site. Mr. Bennett suggested doubling the daily truck loads allowing the project to be completed sooner. Mr. S. Davidson stated that it should be done in approximately 45 days. Mrs. O'Neal asked Mr. Bennett what he would suggest for loads per day to complete this project in a timely manner. Mr. Bennett stated 50 loads per day. Mr. S. Davidson stated during the 2007 project, their contractor, B&L, did 50 loads per day.

**Hours of Operation/ Pit Activity** – Mr. Bennett stated that there are no objections to the proposed hours for either item.

Discussion returned to the footage for the buffer area. Using the map, Mr. S. Davidson pointed out the proposed grading area and stated that he would like to leave 50 feet of trees rather than 30 feet. The Board noted that there is a bare area with Mr. S. Davidson stating there's a light pole and he would need some access. Mr. S. Davidson stated that he had no objection to adding a fence or staggering some trees. Discussion followed in regard to the distance and Mrs. Glidden reviewed Section 18.5d. Mr. Bennett noted that the street line is not below the grading area and there will be approximately 75 feet of buffer area.

Paul Doolan, representing the Holts, questioned the accuracy of the application pointing out that 56 River Road is not a C1 property and indicating that there are a number of other errors. Mr. Doolan asked if there is a hardship. Mr. Doolan stated that if the last two (2) earth removal projects (1997 and 2007) did not repair whatever the hardship was, this project will not either. Mrs. O'Neal asked if conditions had been applied. Mr. Doolan stated yes, but they were not complied with until recently.

Mr. Doolan proposed that the notes from the 2007 P&Z hearings/meeting pertaining to the 2007 project be placed into the record. Mr. Doolan stated that the minutes indicate that Mr. Heise (Sr., now deceased), Mr. Freeland, and Mr. McNally all had some concerns at that time. Mr. Doolan also reviewed comments made by Alex Sokolo, DEP, from the 2007 minutes. Mr. Doolan submitted into the record copies of the 18 January 2007 P&Z agenda, minutes, and Legal Notice (Exhibit D); 22 February 2007 P&Z agenda and minutes (Exhibit E); the 19 March 2007 P&Z agenda, motions pertaining to Midway Marina, and Legal Notice (Exhibit F); and a Legal Notice, dated 2 June 2007, the Notice of Decision, P&Z, dated 5/21/07, and the 21 May 2007 P&Z minutes (Exhibit G).

Mr. Doolan discussed the requirement by P&Z of the installation of monuments and plantings and the posting of a bond and the lack of compliance of the requirements.

Mr. Berchulski asked Mr. Davidson if he recalled coming before ZBA for a previous excavation project and whether or not the Board acted on the matter. Mr. Davidson stated he does remember coming before a commission. A brief discussion followed. Mr. Berchulski expressed frustration over the misrepresentation/accusation.

Mr. Marrotta stated that the 2007 project is in the past and that the applicants are proposing to enlarge the commercially zoned parcel, therefore, the homeowners know what they will get with the proposal.

Mr. Lundgren suggested the Board leave the hearing open to accept correspondence from DEEP.

Mr. Monnington and Mr. Holt stated they don't want the residential property to become commercial. Mr. Monnington also voiced concern in regard to the buffer. Discussion followed in regard to a potential view of the river and increased taxes.

Mrs. DeBold read an email from Melissa Mau, dated Sunday, May 31, 2015, addressed to Mom (Exhibit H).

Mrs. DeBold asked Mr. S. Davidson if he notified the DEEP. Mr. S. Davidson stated no. Mrs. Glidden stated that she spoke to DEEP and Alex Sokolo, and that an agenda was mailed to them.

Mr. Monnington asked if the Board could ask the Davidsons to install plantings on the bare area. Mrs. Munster stated that it can be discussed. Mrs. O'Neal asked if Mr. Monnington would be opposed to a fence. Mr. Monnington stated he would prefer vegetation.

The Board discussed the classification of the parcels (commercial/residential) and the appropriate address (16 Snyder Road is the marina; and due to Lot 40 not being developed, there is no fixed address). Mrs. Glidden stated that if the application shows the appropriate map and lot numbers, it would be correct.

Mr. Doolan asked if the Board could include a condition that the Davidsons install the monuments. Mrs. Glidden stated that Jim Puska, Zoning Enforcement Officer, did review the site and all the monuments have been installed at 100 foot intervals.

**MOTION:** Jen O'Neal made a motion to close the public hearing at 9:10 p.m. and to open the meeting. Margo Chase-Wells second. Motion carried unanimously.

#### 4. PUBLIC MEETING

##### **A Variance to Section 10 of the Haddam Zoning Regulations, to Allow an Earth Materials Operation in the Gateway Conservation Zone at the Midway Marina located on River Road and Shown on Assessor's Map 48, Lots 38 and 40**

Scott and Elliott Davidson, applicants, and Mike Bennett, land surveyor, Bennett and Smilas Associates, were present.

This is a continuation from Thursday, 28 May 2015.

The Board reviewed and discussed the List of Conditions as provided by Mrs. Glidden. Mrs. O'Neal asked if it was the Board's responsibility to right the wrongs of the past. Mr. Berchulski and Mrs. Chase-Wells both stated no. Mrs. DeBold stated that the Board also has to make sure that the applicants don't make the same mistakes or allow the same kind of mistakes to go forward. The Board discussed the time frame for the project, the project can only be done during the off season, the number of trucks allowed on a daily basis, and the seeding and stabilization of the area.

**MOTION:** Margo Chase-Wells move to grant a variance to allow 28,800 cubic yards of material to be removed as part of an earth materials operation, in accordance with the site plan dated 4/28/2015, on properties located in the Gateway Conservation District per Section 10 of the Town of Haddam Zoning Regulations. **Conditions:** 1. Standard Permit Conditions. 2. Special Conditions/Modifications – Yes. All conditions must be shown on a revised plan to be filed with the Land Use Office prior to the recordation of the variance application and shall be shown on the plans submitted as part of the Special Permit to Planning and Zoning: 1. The applicant must install a refueling pad in and show such pad on the site plan. 2. The grading and sloping proposed on 56 River Road, Lot 38 shall be moved east in order that there is a minimum of a 50 foot buffer between the earth work and the street line for River Road. 3. The construction access shall be moved off of River Road. Trucks carrying earth materials shall exit through Midway Marina and a construction access shall be constructed onto Haddam Dock Road. 4. Install one (1) to two (2) stone check dams at the bottom of the existing drainage swale on the west side of the existing gravel drive. 5. Engineered slope stabilization measures should be shown on the slopes for the proposed final grade between the boat storage area and the top of the grade on Lot 38. 6. The construction sequence shall be revised that all stumps and brush are removed off site and disposed of lawfully. 7. Seeding application shall be done to a rate of five (5) lbs. per 1,000 square feet. 8. The area between the edge of pavement on River Road eastwards 70 feet towards the boat storage area shall remain undisturbed and existing vegetation shall be preserved to the best extent possible. 9. The maximum truck size on site, or hauling materials from the site will not exceed 18 cubic yard tri-axles. 10. The hours of truck operation will be 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. There shall be no queuing of trucks or equipment on any town road. 11. The hours of Pit Activity shall be between 7:30 a.m. and 5:00 p.m. 12. No more than 50 fully loaded trucks may exit the pit on a daily basis. 13. Prior to commencement, the applicant shall provide the Town with the names of all subcontractors hired by the Davidson Brothers to haul materials from the pit. 14. The applicant shall amend the variance application to show that the lots to be applied for be added to read Tax Map 48, Lots 38 and 40 and the zoning to be changed to read C1 and R2. 15. There shall not be any stockpiling of material on site. 16. The total project from excavation to seeding (seeded and stabilized) shall not exceed 100 consecutive days.

**Exhibits:** 1. Site plan titled "Topographic Survey Showing Proposed Grading to Expand Boat Storage Area Tax Map 48 Lots 38 and 40" by Bennett and Smilas Associates dated 4/28/2015. 2. Letter dated April 24, 2015 from the CT River Gateway Commission. 3. Letter from Jeff Jacobson, Consulting Town

Engineer, dated June 3, 2015 and revised June 10, 2015. 4. Memo from Town Planner Liz Glidden, dated June 9, 2015. Thomas Berchulski second. Motion carried unanimously.

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

**MOTION:** Margo Chase-Wells moved to approve the 28 May 2015 minutes as submitted. Tom Berchulski second. Motion carried with Mrs. DeBold abstaining.

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

Mrs. Glidden distributed revised plans pertaining to the proposed variance for a detached accessory apartment on 154 Burr Road, Jonathan Todzia, applicant. Matter to be heard Thursday, 25 June 2015.

Mr. Berchulski stated that the Board needs to reinstate the five (5) minute ruling pertaining to individual comments; comments made by the public appearing to be statements in fact when they may not be; and the Board needing to be careful. Discussion followed.

#### **7. Adjournment**

**MOTION:** Jen O'Neal moved to adjourn. Marge DeBold second. Motion carried unanimously.

The meeting was adjourned at 9:38 p.m.

Respectfully Submitted,

*Bunny Hall Batzner*

Bunny Hall Batzner  
Recording Clerk

**The next regular meeting is scheduled for Thursday, 25 June 2015.**