



**Regular Meeting Minutes**

**January 10, 2017**

(Not yet approved by the Commission)

**1. CALL TO ORDER:** Mr. Brownell called the meeting to order at 7:15 p.m. at the Town Grange.

**2. ATTENDANCE**

**COMMISSIONERS PRESENT:** Crary Brownell-Chairman, James Curtin(departed at 9:20 p.m.) (regular member), Bernard Gillis (regular member), Edward Gubbins (regular member), Kevin Matthews (departed at 8:00 p.m.) (regular member), Louis Salicrup (regular member), Harvey Thomas (regular member), Martha Hansen (alternate member), and Richard Pettinelli (alternate member).

**COMMISSIONERS ABSENT:**-none.

**OTHERS PRESENT:** Jim Ventres (Land Use Administrator), Ron Turner (Facilities Director), Attorney Scott Jezek, Roger Nemergut, Gary Bogen, Chris Sola, Will Brady (Historic District Commission), Rob Smith, Barbara Guardia, Dave Papucha, Don Bergeron, Richard Lung, Deb Adams, Michelle Potter, and Ruth Ziobron(Recording Secretary)

**3. MINUTES**

The November 22, 2016 meeting minutes will need approval at the next meeting.

**Motion by Mr. Gubbins to approve the December 13, 2016 meeting minutes as amended. Second by Mr. Gillis and unanimously passed.**

**-under Commissioners Absent, change “to vote for Mr. Matthews” to “to vote for Mr. Gubbins”.**

**-page 2, 2<sup>nd</sup> to last paragraph, last line, strike “about”. Same page, strike “placed” and replace with “required”.**

**-page 2, 8<sup>th</sup> paragraph, strike “required a variance” and replace with “requires a variance for storm water discharge”.**

**4. BILLS**

Suburban Stationers (office supplies)	\$68.94
Branse & Willis, LLC	203.50
Hartford Courant (legal notice)	110.59
NL Jacobson (review of middle school project and calculations)	3026.49
Nathan L. Jacobson & Associates (Banner Lodge)	395.70
East Haddam News	110.25

NL Jacobson billed 24.4 hours to review the middle school project and calculations. There was a suggestion to ask for estimates. It was decided to discuss this at a future meeting.

**Motion by Mr. Salicrup, seconded by Mr. Gubbins, to pay the bills as presented. Motion carried by unanimous vote.**



## 5. ACKNOWLEDGEMENT

There were none.

## 6. DISCUSSION

### a. AP Gates Road (property owned by Robert Casner)

Mr. Ventres read into the record a letter from the East Haddam Conservation Commission dated January 10, 2017 regarding A.P. Gates Road-Letter of Robert Casner dated December 6, 2016. The Conservation Commission asked to go on the record as being in opposition to Mr. Casner's offer to deed a conservation easement of 1.2 acres on 87 A.P. Gates Road to the Town of East Haddam.

Attorney Roberts and Attorney Willis have advised the commission that the parcel had been dedicated to open space through the mapping. Mr. Casner's Attorney, Mr. Jezek believes differently.

Mr. Jezek submitted the following material for commission review:

- Minutes from the Phase I public hearing of the Gates Warner subdivision from 1988. Mr. Jezek highlighted that it was agreed the proposed firehouse was not an approved building lot and there was no mention of open space.
- Approval letter for Phase I subdivision dated July 5, 1988. Mr. Jezek noted the letter makes no reference to this lot being in an easement. Mr. Jezek stated maps which corresponded to the parcel did not dedicate the lots as an easement.
- Meeting minutes dated April 24, 1989 referencing Phase II in which the subdivision was not approved. Mr. Jezek highlighted discussions in the minutes that offer to put the property in open space.
- Planning and Zoning letter dated June 2, 1994 approval letter of Phase II for the subdivision. Mr. Jezek highlighted the 4<sup>th</sup> paragraph stating the open space acreage was conveyed with the filing of the endorsed mylars. Mr. Jezek stated the lot was not included on the mylars or any subdivision lots. Mr. Jezek stated the applicant conveyed the open space which was required by the Town of East Haddam and that the deeds were recorded concurrent with the mylars as required in the approval letter. He stated the town had accepted the property and then conveyed the property to the East Haddam Land Trust. Mr. Jezek stated the lot in question was never included in the open space dedication.
- Full title search. Mr. Jezek stated it references notes contained on maps recorded in the East Haddam land records and that the maps were the recorded mylars for Phase I of the subdivision, where there was no mention of the open space easement on the corner lot. Mr. Jezek suggested that town counsel review the certificate of title.
- Sets of the maps from Phase I and Phase II (#2769, #2770, #2771, and #2772). Mr. Jezek noted the corner lot (lower right corner) referenced in the dispute was not numbered or was a part of the subdivision.

Mr. Jezek requested that the commission resolve that there was no dedication of the parcel to open space so Mr. Casner could proceed through the ordinary Land Use Administration process to determine if the parcel was suitable for the building of a single house on the lot.

Mr. Ventres stated that Attorney Willis had reviewed complete documents for the land parcel. The town attorney's opinion is that the labeling of the parcel was open space dedicated as such and agreed upon by the land owner. Mr. Ventres stated the commission will need to decide based on the provided information if the parcel was dedicated as open space or not.



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Mr. Pettinelli stated Phase I clearly excluded the parcel as a building lot, that it was not a numbered lot and appeared as excess land. He stated when it was proposed for open space, it was denied. Mr. Pettinelli stated the Phase II site key map, clearly shows the corner parcel is not a part of the land discussed, but land of the owner (map #2769). Mr. Pettinelli stated they were reviewing the interior parcel. He stated the open space was never approved and that he did not believe they were talking about this parcel for open space in Phase II. Mr. Ventres said that he was the Chairman of the Inland Wetlands Commission at the time and the parcel was to be open space. Mr. Ventres stated the as-built to the Riley property (lot 5) indicates the parcel as open space. It was noted the town clearly did not consider the parcel as open space because it was sold at a tax auction. Mr. Ventres stated due to foreclosure, the parcel was not properly conveyed to the town. There was question as to how the parcel was conveyed to open space by a different owner because the open space associated with the subdivision was given to the East Haddam Land Trust when Phase II was complete in 1994. It was noted the parcel was never conveyed to the town as open space and then it was sold at a tax auction.

Mr. Jezek stated the tax collector attorney had performed a title search and excluded the parcel as open space. Mr. Jezek stated the parcel had been sold and taxed as a building lot and excluded as open space by the town.

Mr. Pettinelli questioned if the parcel was an orphan piece containing wetlands, why it wasn't just added to one of the abutting building lots to make it a larger lot.

Mr. Thomas stated history indicated that the parcel was not open space. He stated if there were ecologically important wetlands on the parcel, then the Inland and Wetlands Commission should review the parcel to determine if it is buildable. Mr. Thomas encouraged the commission to not prolong making a decision.

Mr. Ventres will ask the town attorney to review any liability to the Planning and Zoning Commission for the tax collector selling the parcel. Mr. Jezek requested including a title search to determine how the parcel was sold by the town.

**Motion by Mr. Curtin to take a 3 minute recess. Second by Mr. Gubbins and unanimously passed.**

## **7. PUBLIC HEARING**

**New - #16-22 – 40 WM F Palmer Road, Dutch 41, LLC, Special Exception Review for a change of use from warehouse to health club facility. Assessor's Map 65, Lot 140.**

**First Date: January 10, 2017**

**Last Date: February 13, 2017**

Tabled because Public notices had not been mailed.

**Motion by Mr. Curtin to continue the public hearing - #16-22 – 40 WM F Palmer Road, Dutch 41, LLC, Special Exception Review for a change of use from warehouse to health club facility. Assessor's Map 65, Lot 140 to the next scheduled meeting. Second by Mr. Matthews and unanimously passed.**



**New - #16-23 – 31 Grist Mill Road, Elizabeth Karter, Subdivision Review for a proposed 3 lot subdivision. Assessor's Map 65, Lot 34.**

**First Date January 10, 2017**

**Last Date: February 13, 2017**

Mr. Matthews departed from the meeting.

Roger Nemergut provided and reviewed revised plans. Mr. Nemergut explained there had been a change to the plans (3 lot subdivision) previously presented to a 2 lot subdivision. A 3 lot subdivision would have required the drilling of a 3<sup>rd</sup> well by the State of Connecticut Department of Public Health (DPH) and a new public water supply approval. One of the main differences between a public water supply and private, is that a privately owned well does not mandate that the 75 foot protection radius is controlled whereas a public water supply system requires the control of the protection radius (must stay on the owned property or maintain an easement to keep the well radius clear). Mr. Nemergut explained it was not possible to meet these criteria with a 3 lot subdivision. The property is currently serviced by 2 existing wells. Currently as a 1 lot parcel, the total potential occupancy exceeds 25 people and is registered with the DPH as a public water source. Subdividing the lots would allow the owner to remove the public water system jurisdiction and change it to a local water system with two private wells. Mr. Nemergut stated testing had been complete by the Chatham Health District and there were code compliant areas for septic repair designated for each of the 13 buildings. The Land Use Office has not received the Chatham Health District's report.

Mr. Nemergut stated #1, #2 and #13 building's existing septic system was within the 75 foot well radius setback and would be nonconforming as a subdivision requiring commission approval. Building #1 septic would be pumped up hill to a code compliant area at the southwest corner of the parcel. Mr. Nemergut reviewed the soil conditions. There would be no building construction or modifications to the footprints of any of the existing buildings. The only proposed construction would be for septic system improvements (buildings 1, 11 and 12) and related incidental water service modifications. Mr. Nemergut stated Building #13 would be restricted to 2 bedrooms on the plans with a deed restriction (this would need to be changed on the assessor's card) to stay below 25 bedroom count to retain the public well designation. Mr. Nemergut explained State Health Code did not recognize a building that was less than 2 bedrooms, even though some of the buildings had 1 bedroom. In terms of sizing the septic system all the buildings were made 2 bedrooms.

Mr. Ventres stated the Inland and Wetlands Commission has reviewed this proposal, determined it as an improvement and because no structures were being built; did not require Inland Wetland approval.

Mr. Ventres reviewed the history of the parcel.

Mr. Nemergut stated land with a public water service cannot be sold without State approval.

Gary Bogen voiced concern with the current septic failure of the 4 bungalows along the river edge and suggested demolishing them. He voiced concern for poor soil quality around the 4 bungalows. Mr. Brownell stated the Chatham Health District would be reviewing the septic. Mr. Bogen was advised if he believed there was current septic failure, that he should contact the Chatham Health District. Mr. Bogen reviewed the history of the area. He stated there were remnants of an old mill on the parcel. Mr. Nemergut stated there would be no disruption to the old mill remnants.

Responsive to a question by Chris Sola, Mr. Nemergut reviewed septic locations on the site plan.



Will Brady (Historic District Commission) suggested if there was future plans for redevelopment on the land, that an inventory of the mills be allowed to be complete by a member of the Historic District Commission or an Archeologist. Mr. Nemergut stated the area containing mill remnants was in wetlands and that redevelopment would require a permit and approval by the Inland and Wetlands Commission.

Rob Smith stated the Land Trust owned the property directly across, noting the importance of protecting the land with the old mill remnants. Mr. Nemergut will review this with the land owner.

A brief history written by Dr. Stofkow was submitted for commission review. It will be included for discussion at the next meeting.

Mr. Gillis questioned if building department review was necessary to which Mr. Ventres replied no because there were no new building.

**Motion by Mr. Curtain to continue New - #16-23 – 31 Grist Mill Road, Elizabeth Karter, Subdivision Review for a proposed 3 lot subdivision at the January 24, 2017 meeting. Second by Mr. Salicrup and unanimously passed.**

## **6. DISCUSSION – Continued**

### **a. Trailer and RV Regulations**

East Haddam and sample regulations were reviewed at the last meeting.

Commission members suggested the rewriting of the regulation and to consider the following:

- No length limitations.
- When there is enough property for screening, no limitations on the number of trailers.
- Trailers must be owned by the property owner or person living on the land.
- Defining trailer in the regulations.
- Screening.
- Number of trailers.
- Maximum square foot coverage.

Currently the regulation allows for 1 trailer to which Mr. Ventres was directed to enforce until the regulation is rewritten.

Barbara Gaudio suggested consideration if the screening would be so a trailer could not be seen from the street or would it be a full screen from neighbors. Mr. Brownell stated it would depend on the situation because every house was different.

Dave Papoosha stated his camper was 38 feet long. He stated he was unable to store it behind his house because of his well location and historic stonework.



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Don Burgeron questioned if motor coaches would be a part of the regulations to which Mr. Brownell replied yes.

Richard Laudenat, 83 A.P. Gates Road, stated it was not possible for him to screen his neighbor's camper from his property line. He asked that his neighbor park his camper behind his house and that there was plenty of room to maneuver from the well and historic stonework. Mr. Laudenat stated between his neighbor's camper, trailer and fabric structure, there was over 600 square feet of unpermitted space. Mr. Laudenat suggested limiting the total number of square feet allowable for trailers on a property.

Deborah Adams, 88 A.P. Gates Road, stated she lived across the street from Mr. Papoosha and Mr. Laudenat. Ms. Adams suggested that the regulations consider the context that East Haddam is a rural town. Ms. Adams stated she would be opposed to screening because of its installation and upkeep.

### **b. EDC-IG District-potential boundary change**

Mr. Curtain departed before this discussion at 9:20 p.m.

Mr. Bergeron-EDC distributed and discussed IG Subzone Map-2016. Mr. Bergeron requested a public meeting scheduled for approval.

**Motion by Mr. Salicrup to schedule a public hearing for the EDC-IG District-potential boundary change on March 14, 2017. Second by Mr. Gillis and unanimously passed.**

## **8. ZEO REPORT**

**East Haddam Swing Bridge**-nothing new.

**Sillmanville Road Court Cases**-nothing new.

**Powerhouse Road Court Case**-Mr. Ventres updated the commission.

### **Violations**

Mr. Ventres has another meeting scheduled with the Wrasslin' Cats business owner on January 11, 2017. The regulations for signage for commercial sites states that the sign must relate to the commercial entity that you are trying to advertise. Mr. Ventres stated the extra sign at the Wrasslin' Cats did not pertain to the commercial entity and exceeded the overall signage and that zoning regulations requiring the removal of the sign.

## **9. Adjournment**

**Motion by Mr. Gubbins to adjourn at 9:31 p.m. seconded by Mr. Salicrup and unanimously passed.**

Respectfully Submitted,

E. Ruth Ziobron  
Recording Secretary