

**PLANNING AND ZONING  
TOWN OF EAST HADDAM  
LAND USE OFFICE  
REGULAR MEETING MINUTES  
January 28, 2020  
(Not yet approved by the Commission)**

1. **CALL TO ORDER:** Mr. Brownell called the meeting to order at 7:15 p.m. at the Municipal Office Complex.
  
2. **COMMISSIONERS PRESENT:** Cary Brownell (Chairman), James Curtin (Vice Chairman), Bernard Gillis (regular member), Ed Gubbins (regular member), Louis Salicrup (regular member), Richard Pettinelli (regular member), and Susan Kinsman (alternate member).

**COMMISSIONERS ABSENT:** Joe Zaid (alternate member), and Justin Anderson (regular member).

**OTHERS PRESENT:** James Ventres, Land Use Administrator, Rob Smith, First Selectman, Carleen Quinn, Selectwoman, Theresa Govert, Selectwoman, Irene Haines, State Representative, Bob Casner, Economic Development Commission Chairman, and approximately seventy five members of the public.

Mr. Brownell appointed Ms. Kinsman to vote for Mr. Anderson.

3. **MINUTES:** The January 14, 2020 minutes were accepted with the following amendments:

**DISCUSSION: 2.** Delete: depict, add: discuss.

**PUBLIC HEARING:** 2<sup>nd</sup> paragraph, delete: Clark Crest, add: Klar-Crest  
Last paragraph, delete: renovate, add: renovation of  
Ms. Sharon McLellan, delete: from, add: for

4. **BILLS:** None

**A motion was made by Mr. Curtin to change the order of business. The motion was seconded by Mr. Gubbins and passed by unanimous vote.**

## 5. DISCUSSION:

**Airbnb** – Attorney Scott Jezek of 89 Lakeside Drive, East Haddam, CT presented Mr. Ventres a copy of the Land Use and Zoning Fundamentals for Airbnb, VRBO and More, Kimberly Jackson, J.D., L.L.M., The Robilee, Staffred & Emile Group, LLC Durango, Colorado, [boutiquelawinthewest.com](http://boutiquelawinthewest.com), Introduction to Airbnb and VRBO (2019).

Attorney Jezek proceeded to explain the issue that he and his wife are experiencing with the rental of a neighbor's seasonal cottage. Attorney Jezek stated that his neighbor's cottage does not have an adequate septic system, water supply, or off-street parking spaces. He explained that during the summer, twenty or more people occupy this cottage for two weeks at a time, resulting in the use of a porto-let, people sleeping outdoors and on neighboring properties. There are also parking issues. Attorney Jezek stated that he is not opposed to seasonal rentals, but feels this issue has become a common problem in lake communities. He would like the attention of the Chatham Health District and the Planning & Zoning Commission to review the Airbnb regulations to help mediate this issue.

Mr. Gubbins asked Mr. Jezek if he discussed this problem with his lake association. Attorney Jezek stated yes, but the Sunset Acres Beach Association does not address short term rentals, however, they do address the issue of porto-lets. He stated he would like to see portolets located more discretely in his lake community. Attorney Jezek stated that based on his research, short term rentals are handled through the local Land Use office.

### **Regulation Review:**

**Agricultural Regulations** - Mr. Ventres asked the commission for comments, questions, or amendments before he submits the regulations to the Agricultural Commission for review. Ms. Kinsman suggested grammatic changes be made to the regulations for better consistency, as noted by Mr. Ventres. She asked if there is qualifying language to add, subject to the U.S. Department of Agriculture and the CT Department of Public Health, for a proposed commercial slaughtering facility. Mr. Ventres will investigate the proper language to insert into the regulation. Mr. Brownell advised Mr. Ventres to submit the amended regulations to the Agriculture Commission at their February 3, 2020 meeting. Mr. Ventres will discuss the results of that review at the next Planning & Zoning meeting scheduled for February 11, 2020.

**C/B/IG District** – Mr. Brownell stated that he did not schedule a meeting with Mr. Casner, Chairman of the Economic Development Commission to discuss the CBIG (Moodus Center) regulation. There is February 6, 2020 meeting with the Planning & Zoning and the Economic Development Commission's is to discuss potential uses on the Town Street corridor, from the four corners to the Hemlock Valley Brook.

## 6. ZEO REPORT:

In regard to violation letters; Mr. Ventres received responses from seasonal property owners inquiring about converting their properties to year-round status. He is currently

in pursuit of property owners that are in violation of the junk and hoarding ordinance. Mr. Ventres attempted to contact violators, but did not get responses. He stated that the next step will be certified letters. Discussion ensued in regarding to the type of junk people accumulate and the expense of a legal procedure to address this issue. Mr. Brownell requested a list of the current violators.

Mr. Ventres stated that he reviewed the final copy of the Plan of Conservation and Development and gave A.R.C. Printing approval to print (100) copies.

Mr. Ventres reminded the Commission of the conference that will be held at the Municipal Office Complex this Thursday, January 30, 2020 on “How to Run Legal and Effective Public Meetings”.

Mr. Gillis inquired about what action the Planning & Zoning Commission can take in regard to the demolition of the vacant gas station building across from Dutch Propane. Mr. Ventres presented a blight violation ordinance to the selectmen, which failed before a town meeting. He is working on crafting an ordinance to address demolition of neglected structures, for review with the First Selectman. Discussion ensued in regard to the authority of the building inspector and the conditions that qualify for demolition of a building. Mr. Ventres stated that there have been many inquiries on the former gas station site, but the property condition remains unchanged.

Mr. Gubbins inquired about Attorney Jezek’s Airbnb issue presented to the Commission asking if it’s a Planning and Zoning issue. Mr. Ventres responded that it is also the Chatham Health District and the Fire Marshall’s issue because it pertains to septic, water, health, and safety. Mr. Ventres explained that he can issue a cease and desist but the violator has thirty days to respond and can appeal it. Mr. Brownell requested a copy of the Land Use and Zoning Fundamentals for Airbnb, VRBO and More, to be distributed to the commission at their next meeting.

Mr. Brownell and Mr. Ventres addressed questions from Mr. Garafalo in regard to bonding for a site plan, certified letters distribution to residents and the expiration of a special exception application.

**A motion was made by Mr. Pettinelli to take a ten-minute recess at 7:50 p.m. The motion was seconded by Mr. Gubbins and passed by unanimous vote.**

## **PUBLIC HEARING:**

**A. Continued – Proposed amendment change to the floating zone regulations for the Planned Recreational Development/Resort Zones. The Proposal is to allow more than four units in a building that existed prior to the floating zone application.**

Mr. Ventres referenced the (4) documents that commission members received prior to tonight’s meeting: Overview of Banner Country Club Estates (01/2020), East Haddam’s Resort District map with land records for Banner Country Club Corp., My Father’s House of Cromwell, Klar

Crest Realty Inc., Jo-Jim LLC (Cave Hill Resort) and Middlesex County Camp Foundation (4 H Camp), Regulation “Special Requirements for Planned Recreational Development-Resort Zones” proposed new language 17.5 through 17.5.7, a (15) page compilation of various regulations in response to questions and statements heard at the January 14, 2020 Public Hearing consistent with the 2019 Plan of Conservation and Development, Section 8-2 of the Connecticut General Statutes and Floating Zones regulation 17.0 through 17.5.7.

Mr. Ventres began by clarifying regulation 17.5.4, Maximum Residential Density and 17.5.6, Limitations on Residential Structures with a proposed change to insert *except when converting an existing structure that was present at the time of the creation of a floating zone in 1973....*

Mr. Ventres proceeded to read sections of the 2019 Plan of Conservation and Development pages 8,9,11 and 12 under Housing Options:

Pg. 8 “The Town encourages affordable and diverse housing opportunities to meet the needs of all residents regardless of age and income, while ensuring that preservation of East Haddam’s small-town and rural character is sustained”.

Mr. Ventres also referenced the Connecticut General Statutes – Section 8-2 pertaining to housing and the Floating Zones regulations that are hi-lighted in yellow and bold print. He stated that all of this information is for public review. He proceeded to read the land records for all of the existing buildings located in the floating zones, describing the square footage of each building. He concluded that the regulation does not apply to one site.

Mr. Ventres read into record the following letters:

Kim Siani, noting “to change zoning regarding the Banner Lodge area/apartments- I do not believe it is in the best interest of our town and those already living in the area to approve zoning changes at this time”. January 24, 2020.

Mr. and Mrs. Lance McLean, noting that they are very concerned about the proposed zoning changes and the impact it will have on the town. Mr. and Mrs. McLean noted they “are not in agreement with an expansion of the current regulations due to the erosion of property values that could occur”. January 20, 2020.

Mr. Gary Hendren of Banner Associates stated that all he is asking for is the right to present a project to preserve an existing building that is vacant and expensive to maintain.

**Mr. Brownell asked the commission for questions or comments.**

Mr. Pettinelli stated for the record that he listened to the tape of the January 14, 2020 meeting and noted that there are nine (9) buildings that would be impacted by the zoning change. He asked Mr. Hendren for a number of apartments or units that could potentially be built. Mr. Hendren stated that there are many factors to consider; potentially in a 10,000 square foot building, (22) 1,000 square foot units could be built. Mr. Hendren estimates a 1 % increase in the town’s population based on that formula.

**Mr. Brownell opened the hearing to the public.**

Ms. Sharyn MacLelland of 9 Pinehurst Lane, Moodus, CT stated that she is not against affordable housing in this town, but affordable housing does not belong in a resort area.

Mr. Douglas Galford of 106 Cherry Swamp Road, Moodus, CT is concerned about the impact of the water table that supplies his well and additional traffic on Cherry Swamp Road.

Mr. Joe Garafalo of 1 Pinehurst Lane, Moodus, CT stated that he did not buy an apartment, he bought a condominium in an established community. He feels that zoning cannot be changed for a site plan that was previous approved by the planning & zoning commission.

Mr. Bob Wheeler of 7 Pinehurst Lane, Moodus, CT referenced regulation 17.3.11, “the design of any floating zone shall protect neighborhood property values”.

Mrs. Cheryl Tadler of Moodus, CT feels that the developer has not yet completed what he was assigned to do at Banner Estates. How could Planning & Zoning approve additional development on the site? Mr. Brownell stated tonight’s meeting is to discuss a potential zoning change. If the floating zone is changed, the P&Z can then address Banner Estates site plan.

Ms. Trish Tarnowski of 153 Leesville Road, Moodus, CT is concerned about housing density. She agrees with affordable housing, but as a rural community the town lacks the infrastructure to support such housing. She does not think this is reasonable growth.

Mr. Ventres explained the definition of density for a one-acre zone in East Haddam. The regulation formula being one unit per buildable acre. Discussion ensued in regard to Banner’s 2016 master plan and if the floating zone regulation is changed, the number of housing units will be shifted to the existing building.

Mr. David Merrick of Banner Road, Moodus, CT is concerned that future development of Banner Estates and the demand for water will adversely affect his well and those of the surrounding community and what recourse will they have. Mr. Brownell explained that the P&Z addressed this at the public hearing for Banner Estates application and required them to contact the CT Water which provides water to Banner Estates. Banner Estates will have to prove that they can get sufficient water to supply the development. Mr. Ventres recalled the 2016 application and site plan that is on file in the Land Use office for review. He stated that in the extensive review process, the State of CT, East Haddam’s engineer and the applicant’s engineer reviewed a plan for water and septic. The State of CT may require the CT Water Company to extend water lines to adjacent properties within a radius of Banner Estates.

Mr. Al Ematrudo of 15 Augusta Circle, Moodus, CT asked why the existing building cannot be used for a banquet facility, as originally planned. Mr. Hendren explained that the building is designed to be a banquet facility. Banner Associates has been searching for ten years for a vendor to rent the building, without success. Mrs. Ematrudo questioned how Banner Associates could promote renting a facility that is not complete. Mr. Hendren explained that they presented the building as a shell with “a tenant improvement allowance” for potential conversion to a

banquet facility. Mr. Pettinelli remarked that Banner Associates is presenting a potential wedding facility in an area with un-finished roads.

Mr. Wheeler of 7 Pinehurst Lane, Moodus, CT questioned why an alternative use for the existing building cannot be condominiums which would be compatible with the community. Mr. Hendren explained that the word (apartments) means that there are multiple units inside one building. He stated he hasn't had the chance to introduce the project. Mr. Wheeler stated condominium ownership would be a better way to present the project.

Mr. Michael Callahan of 21 Augusta Circle, Moodus, CT remarked that the existing building has been vacant since 2005 and that Banner Associates did nothing in the past fifteen years to preserve the building. He referenced Section 2.7 regulation for a Special Exception Review that states that construction shall be completed within (36) months of the application or else the application will be withdrawn. Mr. Callahan asked why the Special Exception Review application has not be withdrawn. Mr. Ventres explained that the 2016 Special Exception application is up for discussion with the Commission.

Mr. Joseph Busher of 51 Dolbia Hill Road, East Haddam, CT submitted to the Commission a copy of 112 Conn. App. 484, Appellate Court of Connecticut, Lee and Lamont Realty v. Planning and Zoning Commission of the Town of Vernon, No. 29094, Argued October 10, 2008, Decided February 3, 2009. Mr. Busher proceeded to read sections from the Appellate Court document and regulation Section 8.2, concluding that the applicant has not provided reasonable mandatory evidence for this zoning regulation change. He does not see a basis for going forward with the proposed amendment. Mr. Busher read the following Appellate Court document insert into record:

Acting in such legislative capacity, the local board is free to amend (or decline to amend) its regulations whenever time, experience, and responsible planning for contemporary or future conditions reasonably indicate the need for a change...The discretion of a legislative body, because of its constituted role as formulator of public policy, is much broader than that of an administrative board, which serves a quasi-judicial function...This legislative discretion is wide and liberal, and must not be disturbed by the courts unless the party aggrieved by that decision establishes that the commission acted arbitrarily or illegally...

Ms. Maria Maltia of Hemlock Valley Road, East Haddam, CT. stated that she understands that the town has to provide 10% of affordable housing and asks what has the Planning & Zoning Commission done to provide a master plan for review of residents. Mr. Ventres explained that the 2019 Plan of Conservation and Development addresses this issue however, legislative statues require the town to have 10% restricted for affordable housing. He stated that East Haddam has some affordable housing and that affordable housing is not considered low income housing. Mr. Ventres gave an example in regard to the size of houses and the demand for smaller units for people who are seeking to live in affordable housing.

Ms. Kelly James of North Moodus Road stated that she has a historic home and feels that the zone change will affect the character of the town. She asked the Commission to consider what future development will do to the town.

Mr. Todd Gelston of Bogel Road, East Haddam, CT asked if the floating zone regulation affects the whole town. The Commission clarified that it affects five Resort properties. He stated that the Planning & Zoning Commission helps set the future for the town of East Haddam. Mr. Gelston stated that he views the Resorts as assets to the town. He views open space and rural character as an asset to the town. He is worried that the floating zone regulation change will enable the development of high-density housing and does not recommend that this proposal be passed. Mr. Gelston feels that affordable housing and low income housing is important, but must be located adjacent to a transportation center and a grocery store. He feels this floating zone regulation change will affect the whole town and not just the resort zones. Mr. Gelston proceeded to remind the Commission of their decision to approve phases 1, 2 and 3 at Banner Estates which sends a clear message to the residents that the plan will be completed. He feels that the proposal is not fair, it's not practical, and it's not nice. The developer has a responsibility to complete the work that was approved. Mr. Gelston is concerned about the town. He is concerned about the resorts and he encourages the Planning and Zoning Commission to think about the big picture.

Ms. Brenda McConnell of 5 Pinehurst Lane, Moodus, CT stated that she bought her condominium in an upscale community and in the past nine years, she has not been able to enjoy an upscale community. It is very concerning to her that the town is thinking of changing the resort zoning regulation.

Mr. Brownell asked the commission if they should continue this public hearing. Discussion ensued in regard to the information the commission obtained from the two hearings.

**A motion was made by Mr. Salicrup to close the public hearing. The motion was seconded by Mr. Gubbins and passed by unanimous vote.**

**B. New – Section 8-24 Review for a proposed permanent easement to Eversource Energy for the Town of East Haddam Roaring Brook Preserve property off of Clark Hill Road.**

Mr. Gillis excused himself from this hearing because he sits on the Conservation Commission.

Mr. Ventres distributed to the Commission a copy of the preliminary Eversource Energy Easement Map, showing the easement area to be acquired across the property of the Town of East Haddam, Clark Hill Road, East Haddam, CT, 10/2019, also known as the Roaring Brook Preserve. He referenced the yellow colored line on the map, indicating where Eversource would like a permanent easement on the property to not impact wetlands. Mr. Ventres asked First Selectman Rob Smith if the East Haddam Conservation Commission reviewed this request. First Selectman Smith, former Chairman of the Conservation Commission, commented that in October, 2019 the commission did review the permanent easement request and are not in favor of it because it will relinquish control over what Eversource can do on the property. Eversource

will continue to have access to the property but the town would like Eversource to ask permission before conducting any work on the property. Discussion ensued in regard to the procedure to follow for town approval, the unauthorized work that is done to town property by Eversource and the benefit of a permanent easement.

**Mr. Brownell opened the hearing to the public. There were no questions or comments from the public.**

**A motion was made by Mr. Curtin to close the public hearing. The motion was seconded by Mr. Gubbins and passed by unanimous vote.**

**A motion was made by Mr. Curtin to deny the proposal from Eversource for a permanent easement for the Town of East Haddam Roaring Brook Preserve property off of Clark Hill Road based on comments from the First Selectman and the Conservation Commission. Eversource can continue access through a temporary easement. The motion was seconded by Ms. Kinsman and passed by unanimous vote.**

**C. New - #19-14, 60 Smith Road, Smith Farm Gardens, Margaret Winkley (owner), amendments to approved Special Exception permit.**

Mr. Ventres asked Travis Winkley if he has the green certified mail receipts. Mr. Winkley did not have the receipts. Mr. Ventres stated that there is an appeal period for the permit and that he will phone the adjacent property owners to make sure they received the letters. Mr. Ventres distributed to the Commission a copy of the original December 13, 2017 Planning & Zoning Commission's approval letter for application #17-07 for Accessory Uses to a Farm, a letter from the Winkley's requesting to increase the number of allowed tented events from 12 to 25 per year, January 2020 and a copy of the 2018 and 2019 Smith Garden's annual Description of Events report. Mr. Ventres asked Mr. Winkley to present his proposal.

Mr. Winkley distributed to the Commission a narrative to follow his presentation. He proceeded to explain why he and his mother Margaret are seeking to increase the number of events at their farm. He explained why East Haddam would want this event venue to exist.

The Winkley's feel they have helped the town of East Haddam in many ways.

Ms. Winkley explained that she and her son have fun and have gotten tremendous feedback and want to be good neighbors and will address any issues that occur.

Mr. Brownell asked Mr. Ventres for any correspondence regarding the Winkley application. Mr. Ventres stated that there was none.

**Mr. Brownell asked the Commission for questions or comments.**

Mr. Salicrup asked Mr. Ventres if there are any complaints pertaining to the Winkley venue. Mr. Ventres stated there are zero complaints. Mr. Salicrup noted that the events with music only take place on weekends during peak seasons of the year.



Mr. Pettinelli clarified that the events will be held May through October. He noted that not hearing complaints is encouraging.

Mr. Curtin stated that he frequently works in the area of Smith Gardens venue on Wildwood Road and has not heard any complaints from residents in that area. He stated that Smith Garden's is doing a good job.

Mr. Gillis stated from his research the average wedding consists of 150 to 160 people. Mr. Gillis asked if Smith Gardens has had to turn away wedding parties. Mr. Winkley stated that they have had to refuse potential business, because their venue is limited to 125 people.

Mr. Gubbins asked if Smith Gardens has an adequate parking area to accommodate the increase of patrons. Mr. Winkley explained that many guests use Uber service or provide a bus to transport guests from area hotels.

Ms. Kinsman asked if the request to increase the number of people per event is based on the Winkley's having to refuse business. Mr. Winkley confirmed this.

Discussion ensued regarding the recommended State of CT 10:00 p.m. noise ordinance and the monitoring of the venue.

**Mr. Brownell opened the hearing to the public.**

Ms. Mary Milewski of 74 Smith Road, East Haddam CT asked if this is considered a commercial venue. Mr. Ventres explained that it is not because it is considered farm use under the Special Exception application. Mr. Curtin explained that the use of tents is temporary and therefore not commercial.

Bob Casner, Chairman of the Economic Development Commission stated that Smith Gardens was recently selected as East Haddam's business of the month. He received a tour of the venue and said it is a well maintained and beautiful facility. He considers the wedding venue a huge asset to the town. He asks the Planning & Zoning Commission to look favorably to approve the proposed increase.

Selectwoman Theresa Govert of Moodus stated that it is important to have a venue that people in their late twenties and thirties could enjoy in town. She enjoys attending the Smith Gardens farm to table events. Mr. Winkley added that they would like to do more farm to table events. Ms. Govert stated they are working with other East Haddam businesses and offering specialty items made with herbs that are not offered at other venues.

First Selectman Rob Smith, stated that he echos Mr. Casner and Ms. Govert's comments. He feels Smith Gardens is a great attribute to the town.

Selectwoman Carleen Quinn of East Haddam stated that this venue is absolutely beautiful and thinks this is the kind of business that should be encouraged to make use of our agriculture areas. She would like to see other town events coordinated with Smith Gardens and embraces and supports everything they do.

Ms. Sue Costameris of 12 Boardman Road, East Haddam thinks that it is important that the town support all businesses in East Haddam.

Ms. Mary Milewski of 74 Smith Road, East Haddam stated that the Winkley's are lovely neighbors and their facility is beautiful. The Milewski family owns a seasonal home in Wildwood Association near Smith Gardens where they enjoy the natural sounds and quiet at their home. She read a letter for the record stating that she is against increasing the number of events at Smith Gardens because it creates undesirable noise. She respectfully requests that the Winkley's business not be permitted to make any noise whether from musical instruments or electronic equipment that will disturb the seasonal occupants of 74 Smith Road.

Discussion ensued regarding allowable sound levels for outdoor music in a residential area, sound duration at an event, potential sound barrier's and how sound travels across water in a lake community.

**A motion was made by Mr. Salicrup to close the public hearing. The motion was seconded by Mr. Pettinelli and passed by unanimous vote.**

Discussion ensued in regard to the number of seasonal events per year and the respect the Winkley's have for their neighbor's.

**Mr. Brownell asked if a Special Exception use application can be controlled. Mr. Ventres stated yes, a violation can be issued if he receives complaints and then the application will be reviewed by the Planning & Zoning Commission.**

**A motion was made by Mr. Curtin to approve #19-14, 60 Smith Road, Smith Farm Gardens, Margaret Winkley (owner) for amendments to the approved Special Exception permit as submitted. The motion was seconded by Mr. Gillis and passed by unanimous vote.**

**A motion was made by Mr. Gubbins to adjourn at 9:50 p.m. The motion was seconded by Mr. Pettinelli and passed by unanimous vote.**

Respectfully submitted,

Toni Marie Dumaine