

MEMORANDUM

TO: East Hampton Planning & Zoning Commission

John Guszkowski, AICP, CZEO – Interim Town Planner FROM:

Proposed Activity in Conservation Easement Area, 33 High Point (PZC #23-016) RE:

DATE: November 29, 2023

I have reviewed the application of David and Melissa Baribault of 33 High Point Drive for activity in a Conservation Easement Area. This is a relatively unusual request for a few reasons.

First, this is not a traditional application that would come before the Planning & Zoning Commission for their consideration. It is not a subdivision application nor a special permit activity. This is, in most circumstances, a fairly straightforward residential use on residential property – the establishment of a driveway extension, placement of a shed, and a wooden stairway down to the banks of the Connecticut River. The unusual element here is that this activity is taking place in a Conservation Easement Area. The official 1994 subdivision approval for the High Point Drive properties and the associated property deeds (attached to the application) call out the southwesterly portion of the property as Conservation Easement. The terms of the easement itself prohibits the owner (Grantor) from the following activities without "written express consent is obtained from the Grantee [Town], acting through its Planning Commission..."

- (a) The **construction or placing of buildings**, road, signs, billboards, or other advertising, or other structures on or above the ground;
- (b) The dumping or placing of soil or other material as landfill, or dumping or placing of trash, ashes, waste, rubbish, garbage, junk, or unsightly or offensive material;
- (c) The excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such a manner as to affect the surface;
- (d) The **removal or destruction of trees**, shrubs, or natural vegetation, the killing of wildlife, the spraying of pesticides other than to control mosquitoes and other pests...or any other activities or uses detrimental to drainage, flood control, water conservation, erosion control, soil conservation, wildlife or the maintenance of the land and wetland area in its natural, scenic and open condition.

I have added emphasis in those areas that would be covered by this request – the property owners seek to have the Planning Commission grant them the permission undertake activities in those categories currently not allowed by the easement agreement.

The other unusual element to this application is that all of those activities described above – clearing of trees, placement of a gravel driveway down the slope toward the River, the construction of a shed, and placement of stairs down to the River – have already taken place. The applicants, despite being fully aware of the terms of their conservation easement (this is the original owner of this property, having acquired it in 1994), proceeded to undertake all of this activity without permission. This application therefore is seeking retro-active permission, or "forgiveness" for the activity that has already taken place.

It should also be noted that this activity would also be subject to review by the Inland Wetlands & Watercourses Agency (IWWA) and the Middle Haddam Historic District Commission. Because of the nature of the Town's easement on this property, however, we believe that the Planning Commission has authority for "first review" on this, and should they allow the activity to stand, the applicants would have to then seek review and approval by the other two entities. Should the Planning Commission deny permission for this activity, the improvements would have to be removed, and the other reviews are unnecessary.

Despite this being within the Planning Commission's purview – as expressed in the easement language – there are no clear standards for decision. The clear purpose of the conservation easement, put in place at the time of subdivision in 1994, was to protect the natural resources of the land and the adjacent River. The specific language refers to the "public interest to retain, maintain and conserve as private open space in its natural and scenic state." The fact of the unpermitted activity is a clear affront to the purpose and authority of this agreement. The clearing of trees and (admittedly smaller-scale, residential) nature of the construction activity clearly is not maintaining and conserving this land in its natural state.

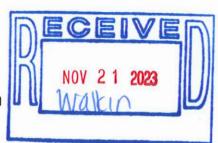
The easement document, however, does allow the Planning Commission, acting on behalf of the Town as a whole (as easement Grantee), the ability to permit such activity. The Commission must decide how best to determine the overall best interest of the Town. Clearly, a significant amount of damage has already been done – trees removed, land graded and graveled – in a way that is not simple to undo or quickly restore. It may be fair to argue that the owner of a property fronting on the Connecticut River should have the right to access and enjoy the River, and perhaps the topography of the property itself made such access difficult without some clearing. Obviously, that argument should have been made before such action was taken. The scenic view of the River is also a right afforded to those on the River itself, who have some rights to be protected from unauthorized clearing and construction. The Commission must balance these issues.

I would leave the consideration of a path forward to the Commission itself, but would suggest that there are solutions that fall in between full permission/forgiveness of the activity as implemented and a full removal and restoration of the property. The Commission could consider the issuance of a fine (or fee) for this activity, with proceeds going into the Town's Open Space Fund, as well as some vegetative restoration or replanting to mitigate visual impacts upon consultation with a landscape designer, the IWWA, and the Historic District Commission. There are various ways that the Town's overall interest may be represented and defended in this matter.

I look forward to discussing this matter with you at the December PZC meeting.



TOWN OF EAST HAMPTON Planning and Zoning Commission 1-860-267-7450 www.easthamptonct.gov



PZC <u>- 23 - 0 6</u> Date	Fee Paid 10 Check # 5812 Rec'd. By
LOCATION 33 High Point Road	MAP_02C BLK_9_ LOT_2
PROJECT NAME	ZONE
APPLICANT David and Melissa Baribault ADDRESS 33 High Point Road	PHONE 860-919-4212 EMAIL melissa.baribault1@gmail.com
CONTACT PERSON Melissa Baribault	-
	PHONE
OWNER Same as above ADDRESS	PHONE
SURVEYOR/ENGINEER N/A ADDRESS	PHONE
ATTORNEY_N/A ADDRESS	PHONE
APPLICATION TYPE (application must be <u>completed</u> in FULL in order to be accept	
1. SUBDIVISION /RESUBDIVISION /CONSERVATION SUBDIVISION NO. OF LOTS 3. SITE PLAN MODIFICATION Residential Commerce 4. SPECIAL PERMITSECTION OF THE ZONING REGS. FOR 5. ZONE CHANGEFROM TO 6. AMENDMENT TO ZONING REGULATIONS 7. LAKE POCOTOPAUG PROTECTION AREA 8. ACTIVE ADULT NO OF UNITS 7. OTHER (DESCRIBE) Place a shed and tempoary stairs within a conservation easement area APPLICATION REQUIREMENTS: This application and 10 sets of plans shall be submitted to the Lanthe Commission at the next regularly scheduled meeting. (see meeting schedule for deadline dates)	nd Use Office and shall be received by
A complete application shall consist of an application, fees, maps /plans(A-2 survey) ,engi and watershed calculations(pre and post), bond estimates, hydrology report, environmenta where applicable	ineers report including drainage calculations al studies, waiver requests and traffic study
Preliminary discussions are highly recommended for subdivisions 5 lots & over and for larger Abutters notice receipts (green cards)must be handed in to the Planning Office prior to the m	Special Permit Applications eeting
APPLICANTS SIGNATURE Milissa C Baufauft	DATE 11 /21 /23
OWNER'S SIGNATURE Mulissa C Baudau f The owner and applicant hereby grant the East Hampton Planning and Zoning Commission and/or it's ownich the application is requested for the purpose of inspection and enforcement of the Zoning Regulation of East Hampton.	DATE // Z/ 23 agents permission to enter upon the property ulations and Subdivision Regulations of the



Office Use Only		
Date Accepted:		
Accepted By:		
Accepted By:		

PLANNING & ZONING COMMISSION TOWN OF EAST HAMPTON

Minimum Requirements for Submission of Application to **Planning and Zoning Commission**

This form must be submitted with your application.

2007		
	v/Modification (See Section 9.1 for details)	
	Application Form	
Fee Paid	DDE & 10 applies of 11 v 17s) See Section 0.2 C.2 for an alice view	
	(PDF & 10 copies of 11 x 17s) – See Section 9.2.C.2 for specifications Calculations in Compliance with Section 7.5	
	om Chatham Health District (or CT DPH as needed)	
	om Fire Marshal	
	mates As Required, See Section 9.2.C.2	
	See Section 9.2 for details)	
	Application Form	
Fee Paid		
Site Plan ((PDF & 10 copies of 11 x 17s) - See Section 9.2.C.2 for specifications	
Pending A	Approval from IWWA	
	Calculations in Compliance with Section 7.5	
	Approval or report from Chatham Health District (or CT DPH as needed)	
	Approval or report from Fire Marshal	
	Approval or report from Public Works	
	udy (As Required) mates (As Required)	
	aring Requirements	
(2000-20)	ee Section 9.3 for details)	
	Application Form	
Fee Paid		
A-2 Surve	ey of Property showing surrounding properties and respective zone - PDF & 10	copies of 11 x 1
Reports fro	om Chatham Health District, Fire Marshal, Police Dept. and Public Works	
Public Hea	aring Requirements	
	Coning Regulations (See Section 9.3 for details)	
	Application Form	
Fee Paid		
	Regulation with proposed Amendments (PDF & 10 copies of 11 x 17s)	
	for Amendment (PDF & 10 copies of 11 x 17s)	
	om Chatham Health District, Fire Marshal, Police Dept. and Public Works aring Requirements	
I done nea	aring requirements	

The Commission reserves the right to add additional requirements in accordance with the Regulations. Only Complete Application Packages Will Be Accepted

C 35~ WARRANTY DEED - SURVIVORSHIP FROM IND. OR CORP.

DG VST-1

• 1976 ALL-STATE LEGAL SUPPLY CO. Commarce Drive, Cranford, N. J. 07016

Enow He, That ELLIOT STONE, of the Town of Woodbridge, County of

New Haven and State of Connecticut

for the consideration of SEVENTY-SEVEN THOUSAND DOLLARS (\$77,000.00)

received to the full satisfaction of the Grantors, from DAVID BARIBAULT and MELISSA C. BARIBAULT

whose mailing address is 23 Pearl Street, Glastonbury, CT 06033

herein designated as the Grantees,

do hereby give, grant, bargain, sell and convey to the Grantees and to the survivor of them and to such survivor's heirs and assigns forever

Real property known as Lot #8, 33 High Point Drive, East Hampton, Connecticut and more particularly bounded and described in Schedule A attached hereto and made a part hereof.

> lowy \$84.70 Conveyance Tax received Town Clerk of East Hampton

\$38600 Conveyance Tax received Town Clerk of East Hampton

To Hane and to Hold the premises hereby conveyed with the appurtenances thereof, unto the Grantees and unto the survivor of them and unto such survivor's heirs and assigns forever, to their proper use and behoof, and the Grantors do for themselves, their heirs, successors and assigns, covenant with the Grantees and with the survivor of them and with such survivor's heirs and assigns, that the Grantors are well seized of the premises as a good indefeasible estate in FEE SIMPLE; have good right to grant and convey the same in manner and form as herein written and the same are free from all incumbrances whatsoever, except as herein stated,

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successors and assign's forever to WARR	Grantors do by these presents bind themselves and their heirs, RANT AND DEFEND the premises hereby conveyed to the Grantees survivor's heirs and assigns against all claims and demands what-
In Milness Mhereof, the	ersons, entities or corporations, the use of any particular gender or the plural or opriate gender or number as the text of the within instrument may require. The Grantors have hereunto set their hands and seals, or if a corbe signed by its corporate officers and its corporate seal to be affixed in the seal of the seal to be affixed in the seal of the
Signed, Scaled and Delivered in the proof of Attested by Robert L. Pellegrino Angelina L. Fappiano	resence of Why n Elliot Stone
State of Connecticut County of New Haven) 蘇蘇。 New Haven
The foregoing instrument was ack 1994 , by Elliot Stone	nowledged before me this 15th day of April Robert A. Pellegrino Commissioner of the Superior Court
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Warrante Ared

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Received for Record 19.

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of 19.

SCHEDULE A

That certain piece or parcel of land on the westerly side of Middle Haddam Road, also known as Connecticut Route 151, situated in the Town of East Hampton, County of Middlesex and State of Connecticut, being Lot No. 8 as shown on a certain map or plan entitled "Subdivision Plan High Point Estates Prepared For Hubert E. Buller, East Hampton, Conn. Reino E. Hyyppa & Associates Civil Engineers & Land Surveyors Glastonbury, Conn. Scale: 1"=40' Date 1-2-85 Map No. 105-83-1 Rev. 3-20-85 Per P & Z Approval Sheet 4 of 11 Sheets" which map or plan is on file in the East Hampton Town Clerk's Office in Map File Volume 33 at Page 58, as revised on a certain map or plan entitled "Revised, Lot 11 and Open Space, High Point Estates, Prepared for Mark Hayes, East Hampton, Ct. Luchs & Beckerman Civil Engineers-Planners-Land Surveyors Map No. A-86-16-S, Scale 1"=40', Date 4/28/87" on file in the East Hampton Land Records.

Together with the right to pass and repass over and across those parcels of land shown on said map and other maps of "High Point Estates" in Map File 33 at Page 52 and 53 of the said Land Records as "High Point Drive".

Said premises are subject to the following:

1. Conservation Easement in favor of the Town of East Hampton recorded May 2, 1985 in Volume 182, Page 381 of the East Hampton Land Records, and as shown on the maps referenced above.

- 2. Rights of the federal and state governments and the public generally in and to make provided the connecticut River, which forms the southwesterly boundary of said premises and in and to any portion of said premises which is on or maybe filled-in land, and in and to any piers, bulkheads or harbors within or adjacent to said premises, as more particularly stated in a Warranty Deed dated May 11, 1987 and recorded May 14, 1987 in Volume 206, Page 84 of the East Hampton Land Records.
- 3. Easement in favor of The Connecticut Light and Power Company dated October 8, 1987 and recorded October 21, 1987 in Volume 211, Page 507 of the East Hampton Land Records.
- Declaration of Covenants, Conditions, Restrictions, Limitations and Easements dated March 1, 1988 and recorded in Volume 218, Page 54 of the East Hampton Land Records.
 - 5. Fifty foot (50') building line as shown on the subdivision map.
- 6. Taxes due the Town of East Hampton on its Grand List of October 1, 1993, which taxes the grantees herein agree to assume and pay.
- Said premises are subject to building lines, if established, all laws, ordinances or governmental regulations, including building and zoning ordinances affecting said premises.

RECEIVED FOR REGORD AT E. HAMPFÖN, GF ON 4/19/94 AT 12:038: M. ATLOSE: PAULINEL MARKHAM, TOWN CLORK Tran H. Sicha, Azed.

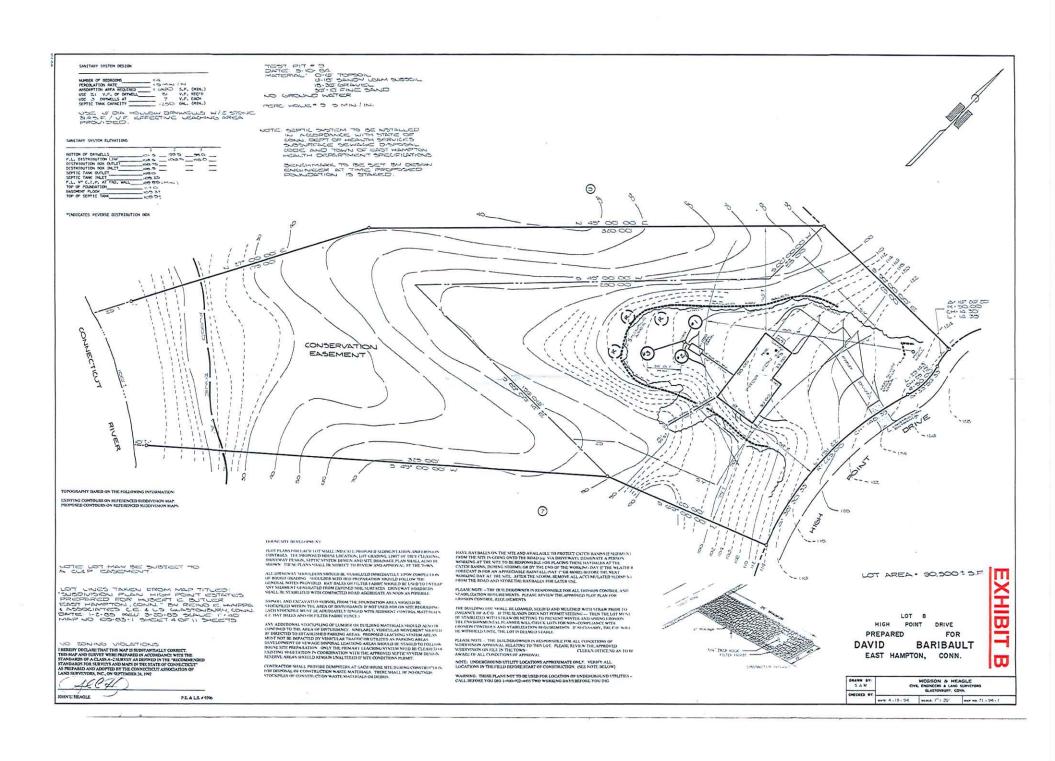


EXHIBIT C

2120

PERMANENT PRIVATE CONSERVATION EASEMENT

This Private Conservation Easement and Restriction made this day of , 1985, by and between HUBERT E. BUTLER, of the Town of East Hampton, County of Middlesex and State of Connecticut, hereinafter called "Grantor", and the TOWN OF EAST HAMPTON, a municipal corporation having its territorial limits within the County of Middlesex and State of Connecticut, hereinafter called "Grantee";

WITNESSETH:

WHEREAS, the Grantor is the owner of real property, hereinafter described, situated on the westerly side and to the rear of Connecticut Route 151 in the Town of East Hampton, County of Middlesex and State of Connecticut, certain portions of which Grantee, acting through its Planning Commission, has determined would be in the public interest to retain, maintain and conserve as private open space in its natural and scenic state; and

WHEREAS, the Grantee, acting through its Planning Commission, has determined that the maintenance and conservation of the said property of the Grantor can best be accomplished by the securing by Grantee of a private conservation easement over, across and upon the said property of the Grantor; and

WHEREAS, the Grantor is willing, in consideration of possible reduction by Grantee of real property taxes on said property and in consideration of other agreements made between the parties, to grant to said Grantee the easement and covenants as hereinafter expressed concerning said property, thereby providing for its maintenance and conservation as open space;

NOW, THEREFORE, said Grantor does hereby give, grant, bargain, sell and confirm unto said Grantee, its successors and assigns forever, the right, privilege and authority as a private conservation easement and restriction to perpetually preserve, protect, limit, conserve and maintain

1# 18.2 PAGE#

the land, wetland and woodland area of the premises hereinafter described in their present natural, scenic and open condition.

Said premises are described as follows:

Certain pieces or parcels of land being those portions of Lots 4, 5, 6, 7 and 8 designated "Private Conservation Easement" situated on the southerly and southwesterly side of High Point Drive (Private Road) in the Town of East Hampton, County of Middlesex and State of Connecticut, being shown on a certain map or plan entitled:

"Subdivision Plan HIGH POINT ESTATES Prepared For HUBERT E. BUTLER East Hampton, Conn. Reino E. Hyyppa & Associates Civil Engineers & Land Surveyors Glastonbury, Conn. Scale 1" = 40' Date 1-2-85 Hap No. 105-83-1 Sheet 2 of 11 Sheets, Sheet 3 of 11 Sheets, Sheet 4 of 11 Sheets Rev. 3-20-85 Per P & Z Approval"

which maps or plans are on file or to be filed in the Town Clerk's Office in said Town of East Hampton to which reference may be had for a more particular description thereof.

THE GRANTOR FURTHER COVENANTS AND AGREES:

To prohibit and refrain from the following operations, unless written express consent is obtained from Grantee, acting through its Planning Commission, or successor:

- (a) the construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground;
- (b) the dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, ashes, waste, rubbish, garbage, junk or unsightly or offensive materials;
- (c) the excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface;
- (d) the removal or destruction of trees, shrubs or natural vegetation, the killing of wildlife, the spraying of pesticides other than to control mosquitoes and other insect pests (by use of pesticides accepted by the Department of Environmental Protection), or any other activities or uses detrimental to drainage, flood control, water conservation, erosion control, soil conservation, wildlife or the maintenance of the land and vetland areas in its natural, scenic and open condition.

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Notwithstanding any of the foregoing provisions, nothing herein shall preclude the construction, reconstruction, maintenance and repair within said premises of aboveground or underground public utilities, provided all proper precautions are taken with respect to erosion and siltation control as approved by the Grantee herein prior to commencement of such activity.

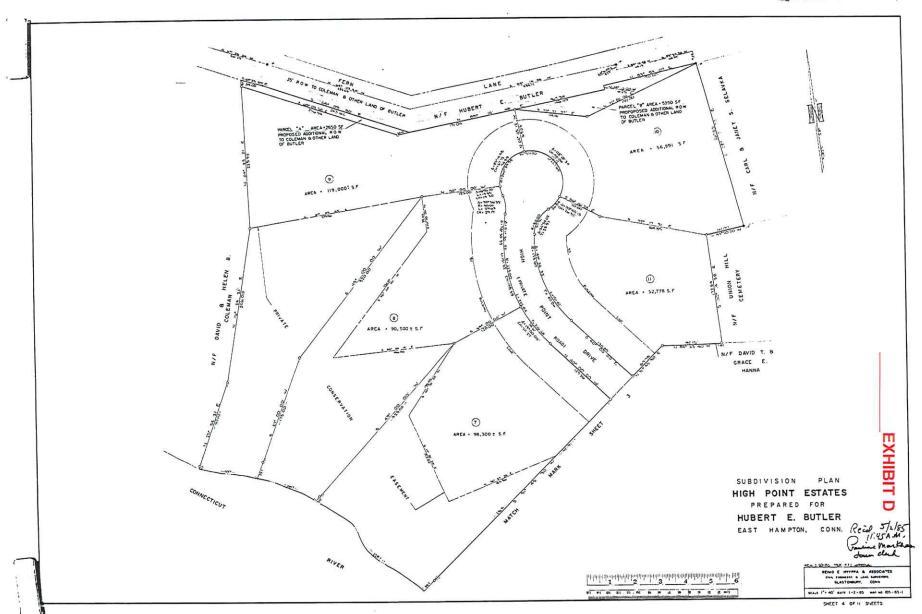
THE GRANTEE AGREES, by the acceptance hereof:

- 1. To release automatically such private conservation easement and restriction as though this instrument had never been executed by the Grantor should, at any time, said premises be condemned by some dominant governmental authority.
- 2. To permit removal by the Grantor of dead trees and brush from said premises provided, however, that in advance of such removal, the Grantee, acting through its Planning Commission, or successor, shall approve such removal by marking trees or a similar method.
- 3. To permit the Grantor herein to construct, install and maintain sanitary sewer and/or water lines across the above-described easement should such sanitary sewer and/or water lines be constructed in proximity to the area so as to make such a hook-up feasible, subject to normal environmental review of such activity.

The Grantor herein reserves to himself, his heirs, successors and assigns the right to make use of the above-described premises for any and all purposes which are in keeping with the stated intent of this Private Conservation Easement and which shall in no way endanger the maintenance and the conservation of the above-described premises as open space in its natural state.

The foregoing Private Conservation Easement and Restriction shall be permanent and shall be binding upon the Grantor, his heirs, successors and assigns and inure to the benefit of the Grantee, its successors and assigns and to the Grantor, his heirs, successors and assigns.

TO HAVE AND TO HOLD the above-granted rights, privilege or authority unto the said Grantee, its successors and assigns forever, to its and their own proper use and behoof.







July 6, 2023

David and Melissa Baribault 33 High Point Drive PO Box 261 Middle Haddam, CT 06456-0261

Re: Unauthorized Activities – 33 High Point Drive

Dear Mr. and Mrs. Baribault,

It has come to my attention that several activities have been undertaken within the Conservation Easement area held by the Town of East Hampton that lies along a portion of your property. The primary unauthorized activities include the installation of a shed, construction of a staircase, removal of trees, installation of a driveway, and excavation/grading of a portion of the property.

As referenced in the deed from Elliot Stone to you dated April 15, 1994, the property is encumbered by a private Conservation Easement in favor of the Town of East Hampton, put in place by the developer of High Point Estates. I have included a copy of both the deed (Exhibit A) and the Easement (Exhibit C) with this letter for your review.

As noted in the Easement document, the only activities that are authorized within the Easement area are the removal of dead trees and brush after the trees have been marked approved by the Planning & Zoning Commission. Construction of buildings or other structures, excavation, and removal of healthy trees and vegetation is prohibited.

In addition to violating the Conservation Easement, these activities are in violation of the Inland Wetland and Watercourses Regulations and Zoning Regulations of the Town of East Hampton. All activities involving removal or deposition of materials within 150 feet of the Connecticut River must be permitted by the Inland Wetlands and Watercourses Agency. All structures must also be reviewed for compliance with the Zoning Regulations prior to their construction. Finally, the structures are visible from the Connecticut River, which is deemed to be a public way, and are subject to a review by the Middle Haddam Historic District.

I ask that you bring your property into compliance with the Easement and Regulations by removing the building, staircase, and driveway, and allowing vegetation to re-grow to restore the property to its natural condition.

Please contact me at your earliest convenience with a timeline and plan for remediation.

Sincerely,

Jeremy DeCarli

Planning & Zoning Official

De hol

cc: David Cox, Town Manager cc: Charles Roberts, MHHD Chair August 7, 2023

David and Melissa Baribault 33 High Point Drive Middle Haddem, CT 06456 Dear Jeremy,

We are in receipt of your letter dated July 6, 2023. We apologize for the work that has been completed within the conservation easement area, we were only trying to regain access to the river, which we believed was within our rights. We agree not to remove any further trees within the easement area and will allow all vegetation regrow.

We agree to only maintain a 10 wide path to the river for access as we believe we should have the ability to gain access for boating purposes (kayak, sail boat). We will not add any additional gravel, but will maintain the current surface in its current condition and not modify it, but keep the 10' path clear of vegetation. Removing the material within the laneway area will most likely be more damaging to the natural environment and given the steepness of the slope. It is noted that there has always been a path to the river as that is how we gained access to the river, and we did improve it because of its steepness and the erosion that was occurring.

The small shed that was placed at the south side of our property is used to house our kayaks. The shed is under 200 square feet. Bringing the shed down the extremely steep slope (about 1 ½ to 1) to the level area where it is currently located was extremely difficult. We will have to find a contractor willing to move it. However, given the difficulty and damage that would be done by removing the shed and the dangerous condition, we would ask to be allowed to keep the shed in its current location. But do understand if we have to remove it; we just ask that you give us time to find a contractor willing to do this work.

As for the stairs, there have always been stairs in the current location as evidence by the existence of the stone landing, we basically replaced them as they were old and dangerous. It is noted that the stairs have been constructed as a temporary single unit and can be removed at any time. We enjoy boating and would like to maintain the stairs and access to the river. We would like to keep them there during the summer/fall and will remove them in winter and early spring when we do not need access to the river. Of course, we would remove them if there was a threat of any flooding.

We have lived at our current address for close to 30 years and have always enjoyed access to the river without much of a problem until recently. We would like to maintain safe access to the river for our family to enjoy this beautiful natural resource. We believe the river is there for all to enjoy for boating, fishing, bird watching and just relaxing.

If you have any question, please do not hesitate to contact me (Melissa) at 860-919-4212.

Very truly yours,

David and Melissa Baribault

David and Melissa Baribault





August 30, 2023

David and Melissa Baribault 33 High Point Drive Middle Haddam, CT 06456

Re: 33 High Point Drive Conservation Easement

Dear David and Melissa,

Thank you for your letter dated August 7, 2023. I appreciate your proposed efforts to vacate the conservation easement and allow nature to restore the area to its original condition. Please consider the following:

Vegetation: As vegetation regrows, please watch for invasive species. I strongly suggest consulting with a landscaper to determine appropriate revegetation methods in order to prevent the introduction of invasive species.

Path: Maintenance of a 10' wide walking path to the river is acceptable.

Shed: Unfortunately, I cannot allow the shed to remain within the conservation easement. The easement document does not allow structures within the area and the intent is for the area to remain natural. Please apply for a zoning approval for a compliant location and have the shed moved to an area outside of the easement.

Stairs: Please provide evidence that the stairs were in place historically or evidence of a prior approval. There are no permits in our files for stairs in this location and the conservation easement was created when the subdivision was developed, leading me to believe they were not in place prior to the lot being developed. If no evidence exists to suggest prior approvals, at minimum an application must be submitted to the IWWA for the work within the upland.

Again, thank you for your cooperation and willingness to resolve this matter.

Sincerely, De but

Jeremy DeCarli

Planning & Zoning Official

David and Melissa Baribault 33 High Point Drive Middle Haddam, CT 06456

November 21st, 2023

Dear East Hampton Planning and Zoning Commission:

We are in receipt of your letter dated July 6, 2023. We apologize for the work that has been completed within the conservation easement area, we were only trying to regain access to the river, which we believed was within our rights. We agree not to remove any further trees within the easement area and will allow all vegetation regrow.

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As for the stairs, there have always been stairs in the current location as evidence by the existence of the stone landing, we basically replaced them as they were old and dangerous. It is noted that the stairs have been constructed as a temporary single unit and can be removed at any time. We enjoy boating and would like to maintain the stairs and access to the river. We would like to keep them there during the summer/fall and will remove them in winter and early spring when we do not need access to the river. Of course, we would remove them if there was a threat of any flooding.

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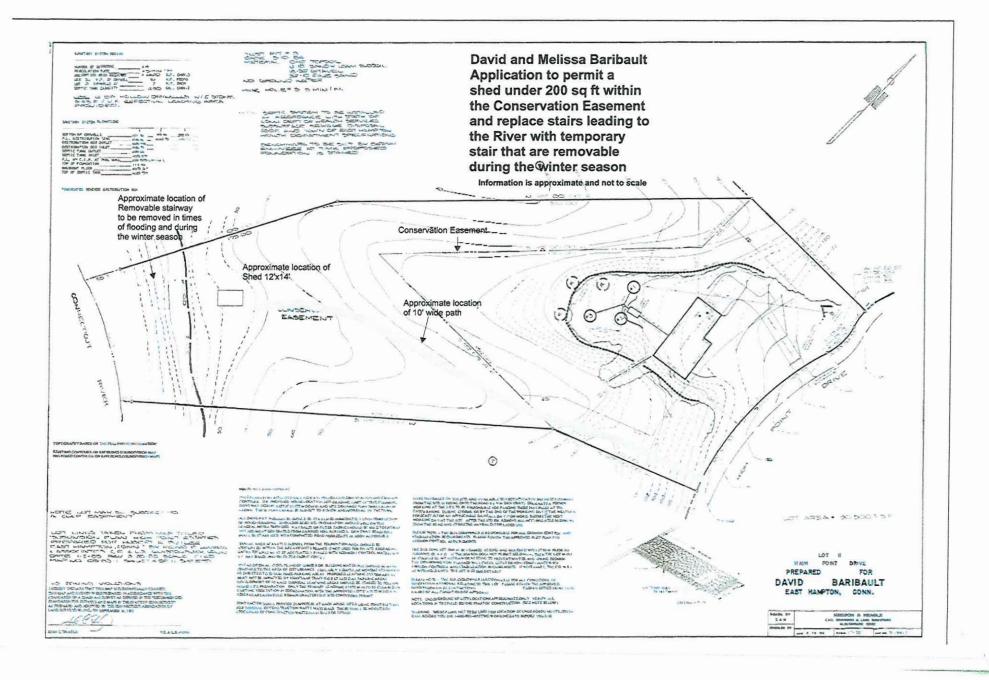
If you have any question, please do not hesitate to contact me (Melissa) at 860-919-4212.

Very truly yours,

David and Melissa Baribault

Punso C Bantan (+

David and Melissa Baribault















 From:
 Melissa Baribault

 To:
 pbz-counter

 Cc:
 Kathy Warzecha

Subject: Re: 12.6.23 PZC Meeting

Date: Friday, December 1, 2023 1:49:47 PM

CAUTION:

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Remember to hover over any links and if you suspect the email is not legitimate or a phishing email, please contact Tom McMahon at x3363.

I greatly regret this last minute request. However due to a last minute scheduling change of a medical appointment that I have been anxious to have for many weeks, I will not be able to attend on 12/6. My appointment is in Stamford and I will not be able to get back in time for the meeting. I respectfully request our application be postponed for review to the January 3rd 2024 meeting. Thank you for your understanding. Melissa Baribault.

On Wed, Nov 29, 2023 at 2:54 PM pbz-counter < pbz-counter@easthamptonct.gov > wrote:

Hi All,

Agenda and documents are up on the web for next week's meeting.

https://www.easthamptonct.gov/planning-zoning-commission/events/55726

Thank you and have a great day.

Cheryl Guiliano

Office Technician/Building & Land Use

1 Community Drive

East Hampton, CT 06424

Tel: 860-267-9601

Hours: Mon, Wed, Thurs 8:00 am - 4:00 pm

Tues 8:00 am -6:30 pm

Friday 8:00 am – 12:30 pm

This electronic message is a public record as defined by the Connecticut Freedom of Information Act Section 1-200(5). A copy of this message and any reply will be retained by the Town of East Hampton and will be accessible to the public unless exempted by law.

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Peter G. Kelly

29 High Point Drive P. O. Box 28 Middle Haddam, CT 06456

January 1, 2023

The Appropriate Committee/Department Of the Town of East Hampton

Ladies and Gentlemen:

We are close neighbors of the Baribault Family on High Point Drive. Specifically, our property adjoins the downriver border of their property. We were and are aware that the Baribault's have provided a rough surface from the top of their property to the lowest point. We believe that was done to enhance their ability to reach the lower portions of their property and, incidentally, provide a cleared and safe passageway for sledding during snow-times for friends and neighbors. Historically, Mr. Baribault had worked to make the roadway into "Low Point" safe for the same users.

As well, we were aware that Mr. Baribault had erected a temporary shelter at the lowest point of his property. Its presence and use has had no deleterious impact on the usage or value of our property any more than the outbuildings built by other neighbors on High Point Drive.

We do not believe that either matter has lessoned the appeal of our neighborhood.

Respectfully submitted,

PETER G. KELLY

Town of East Hampton

Inland Wetlands and Watercourses Agency Regular Meeting

September 27, 2023 – 6:30 P.M. East Hampton Town Hall Meeting Room

MINUTES

Present: Vice-Chairman Dean Kavalkovich, Peter Wall, Derek Johnson, and Scott

Hill **Absent:** Chairman Joshua Wilson

- **1. Call to Order:** The meeting was called to order at 6:32 p.m. by Vice-Chairman Dean Kavalkovich.
- 2. Seating of Alternates: None.
- 3. Approval of Minutes:
 - **A) August 30, 2023 Meeting:** Mr. Hill made a motion to approve the August 30, 2023 minutes as written. The motion was seconded by Mr. Johnson.

Vote: 4-0

4. Communications, Enforcement and Public Comment:

Communications: None.

<u>Enforcement:</u> Mr. Johnson asked for an update on 33 High Point Rd. Mrs. Guiliano replied Mr. DeCarli met with property owner and the property owner would like to keep the items in the conservation easement. She further explained the property owner is to contact the Town Manager and have yet to do so.

Public Comment: None.

- **5. Agent Approval:** None.
- 6. Reading of the Legal Notice: None.
- 7. Continued Applications: None.
- 8. New Applications:

A. Application IW-23-018: Jeffrey Schleidt, Mott Hill Rd., Timber harvest within Upland Review Area. Map 24/ Block 44/ Lot 14D. Chris Casadei, Forester explained proposed plans to install a temporary crossing to harvest timber. Vice-Chairman Kavalkovich explained the Commission needs to determine if the proposed activity is as of right. Mr. Hill confirmed activity is as of right. Mr. Hill asked what kind of equipment will be used, and provide details for proposed water crossing. Mr. Casadei replied they will use a skidder and conventional logging. Mr. Hill asked what is being used for the two wetlands crossings. Mr. Casadei replied they will use temporary timber bridges over the channel and corduroy the approaches. Mr. Wall asked how close the activity is from the wetland. Mr. Casadei stated they will not cut more than 50% of the basal area as to not have an impact on the wetlands. Mr. Hill asked if they are providing a buffer. Mr. Casadei replied not a lot of timber will be cut in the wetland area. Mr. Casadei discussed current site conditions in regards to significant rainfall totals. Mr. Hill asked for the project start date and Mr. Casadei replied he expects this winter. Mr. Hill made a motion to determine the project is an as-of-right activity. Mr. Johnson seconded the motion. *Vote: 4-0*

B. Application IW-23-019: John Brown, 209 East High St., Construct a single-family home within Upland Review Area. Map 32/ Block 71/ Lot 1/5. John Brown, property owner, explained proposed plans to construct a single-family home. Mr. Brown explained plans to adjust the current site plan to construct the home further from the street 30-40' and closer to the wetlands. Mr. Brown added the reason to push back house is to create a safe driveway. Mr. Hill asked if the if the applicant received planning and zoning approval and Mr. Brown replied not yet. Mrs. Guiliano explained the plan presented needs to be updated as the property owner wants to move the location. Mr. Hill asked if the original plan was approved and Mrs. Guiliano replied the subdivision was approved years ago. Vice-Chairman Kavalkovich asked if the property has 100' or 200' buffer. Mrs. Guiliano replied the property requires 100' buffer as it is right outside Lake Pocotopaug Watershed. Mrs. Guiliano explained the current site plan indicates the proposed deck is within 100' upland review area and the applicant will provide an updated site plan with new location. Mr. Brown further explained the location he prefers the house to be located in order to add a turnaround driveway. Mr. Johnson asked how far the current proposed house is to the wetlands buffer and Mr. Brown replied 100'. Vice-Chairman Kavalkovich discussed the current site plan is not the applicant's proposal. Mr. Brown replied he will provide updated site plan including revised location, silt fencing, infiltration system, roof leaders and will have at the next meeting. Mr. Hill spoke in favor of water mitigation measures the applicant mentioned. Mr. Wall noted the applicant needs to consider deck location when updating site plan. Mr. Brown asked for clarification for wetland protections. Vice-Chairman Kavalkovich explained reasons for protecting wetlands and preventing impacts. Vice-Chairman Kavalkovich discussed items the Commission would like answered: roof leaders, infiltration system, impervious surfaces, stormwater runoff control, planting plan and

erosion and sedimentation controls. Mr. Hill asked the applicant to provide buffer plan to mitigate potential impact to wetlands. Vice-Chairman Kavalkovich further explained the need for the Commission to review a reasonable alternative method for moving the proposed house closer to the wetlands. Mr. Hill made a motion to continue the application to the October 25, 2023 regular meeting. Mr. Wall seconded the motion. *Vote: 4-0*

C. Application IW-23-020: Linda DiCaprio, 83A North Main St., Grade and landscape slope within Upland Review Area. Map 04A/Block 45/Lot 13B. Linda DiCaprio, property owner, explained the property currently has a retaining wall in disrepair and proposes adding fill to support the wall. Ms. DiCaprio briefly discussed erosion and sedimentation controls. Mr. Hill discussed having the authorized agent review application. Vice-Chairman Kavalkovich stated the area looks flat based off the contours. Mr. Hill asked for confirmation if plan is to remove wall and grade and Ms. DiCaprio replied she may keep the wall and add fill to create a slope. Mr. Hill asked if they will seed the slope. Ms. DiCaprio replied yes and she plans to add plantings. Ms. DiCaprio noted the goal of the proposed project is to mitigate erosion from neighboring property. Commission Members discussed agent approval. Mr. Wall asked how much fill is proposed and Ms. DiCaprio replied 18 cubic yards. Mr. Johnson asked if Chairman Wilson should review the application. Commission Members agreed the project should be reviewed by authorized agent. Vice-Chairman Kavalkovich asked Ms. DiCaprio to provide a planting plan. Mr. Hill made a motion to send this application to the Duly Authorized Agent for approval. Mr. Johnson seconded the motion. Vote: 4-0

D. Application IW-23-021: Peter Guastamachio, 5 Clearwater Condo, 20' x 11'.6" deck expansion in Upland Review Area. Map 10A/ Block 80/ Lot 5/3. Peter Guastamachio, property owner, discussed proposed plans to expand deck. Mr. Hill asked for current deck dimensions. Mr. Guastamachio explained current deck dimensions and noted above ground railroad ties. Mr. Hill discussed having authorized agent review application. Mr. Hill asked for erosion and sedimentation control. Vice-Chairman Kavalkovich noted existing retaining wall. Mr. Wall asked if he will spread or remove excess material. Mr. Guastamachio replied they will remove excess material. Mr. Hill made a motion to send this application to the Duly Authorized Agent for approval. Mr. Johnson seconded the motion. **Vote: 4-0** Mr. Johnson asked if railroad pieces are in appropriate condition to control water run-off. Mr. Guastamachio replied one side is leaning a little. Mr. Hill made a motion that erosion and sedimentation controls may be required if Authorized Agent agrees it is appropriate. Mr. Johnson seconded the motion. **Vote: 4-0**

9. Public Hearings: None.

10. New Business: None.

11. Old Business: Mr. Wall asked for an update regarding 33 High Point for the next meeting. Mrs. Guiliano replied she will discuss with the Town Manager and update the Commission at the next regularly scheduled meeting.

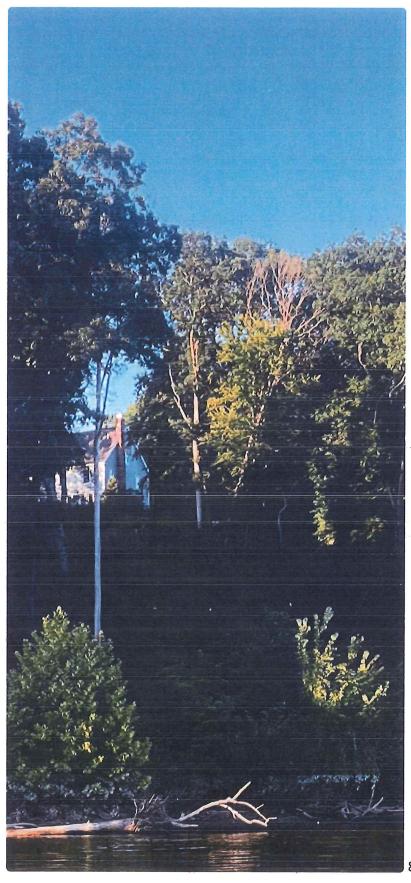
12. Public Comments:

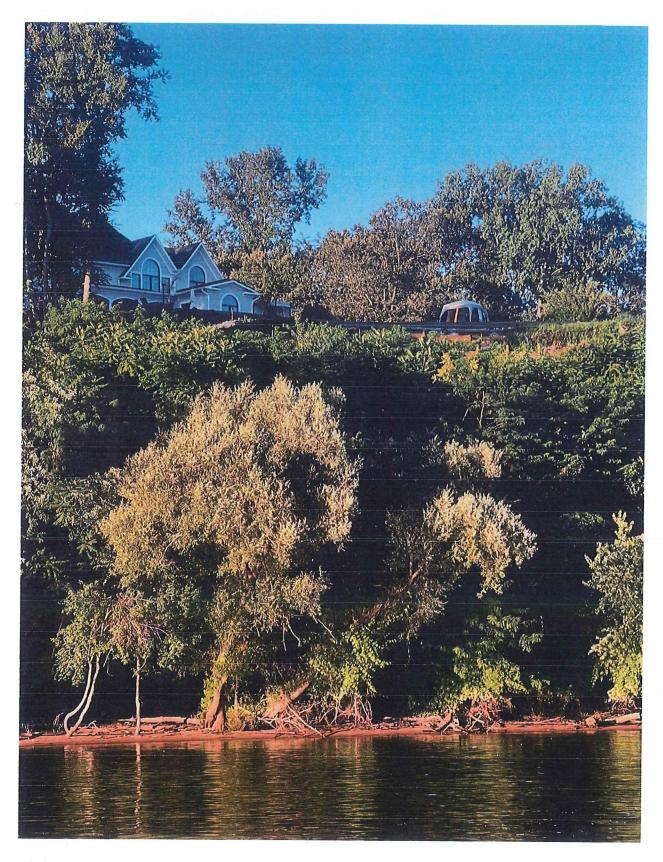
13. Adjournment: Mr. Wall made a motion to adjourn at 7:13 p.m., the motion was Seconded by Vice-Chairman Kavalkovich. The motion was unanimous in favor.

Respectfully submitted,

Chel Giulian

Cheryl Guiliano, Recording Clerk

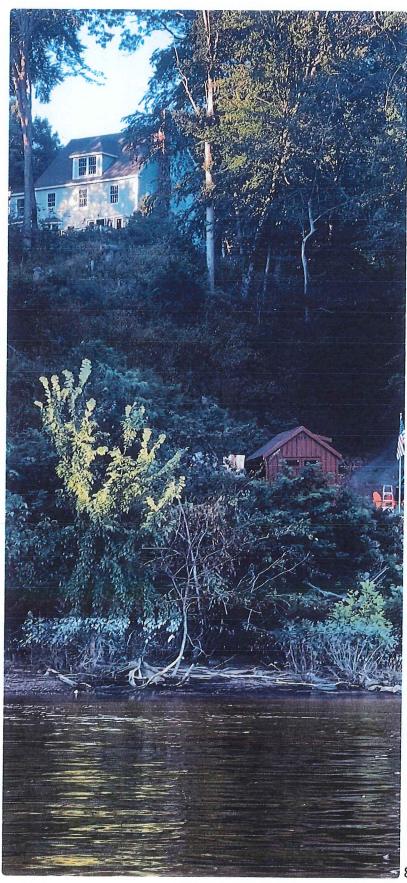


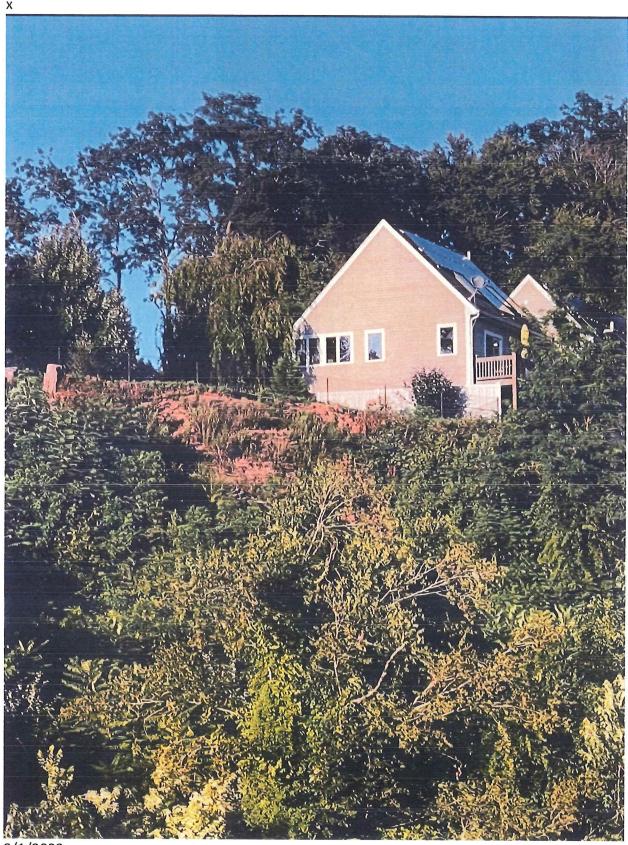


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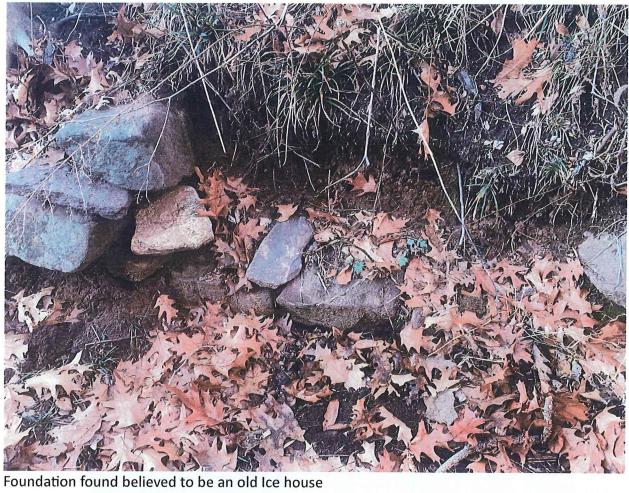


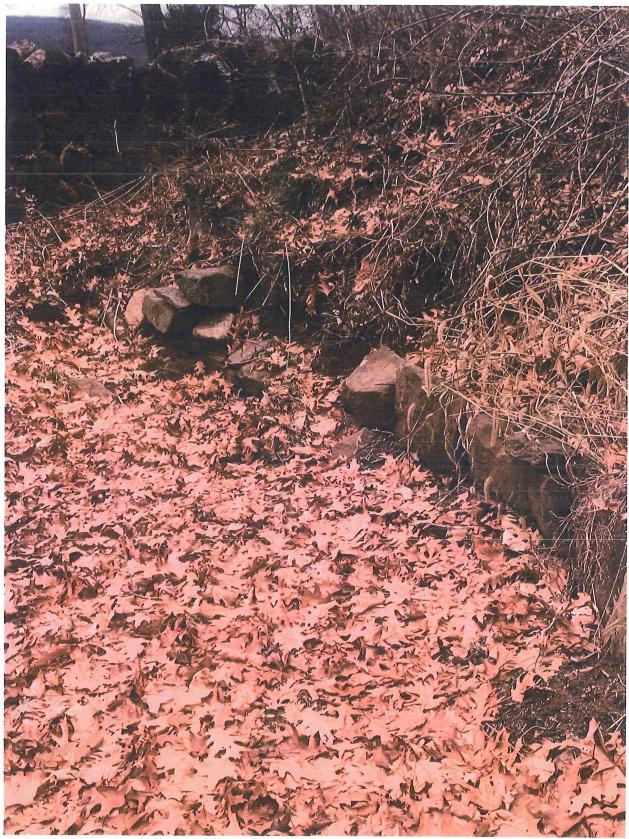
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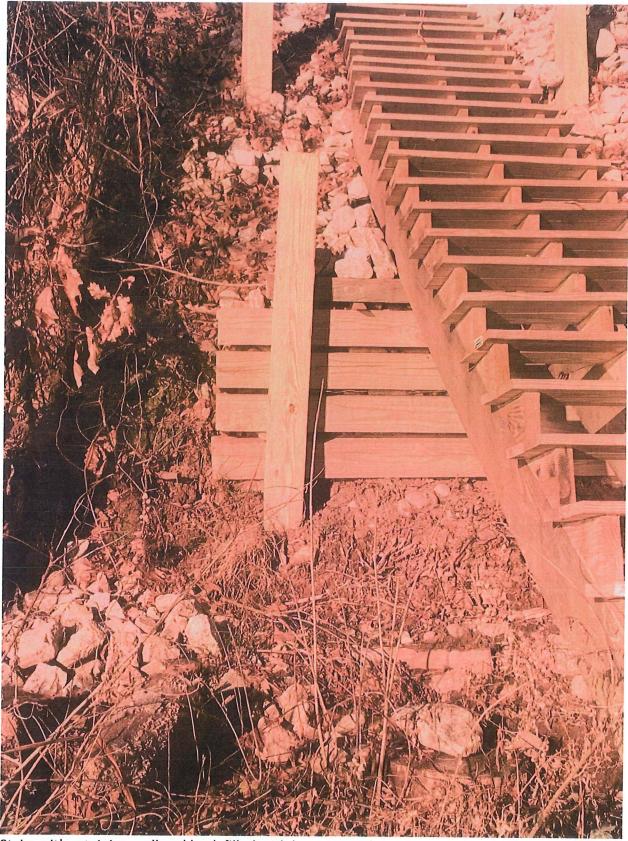


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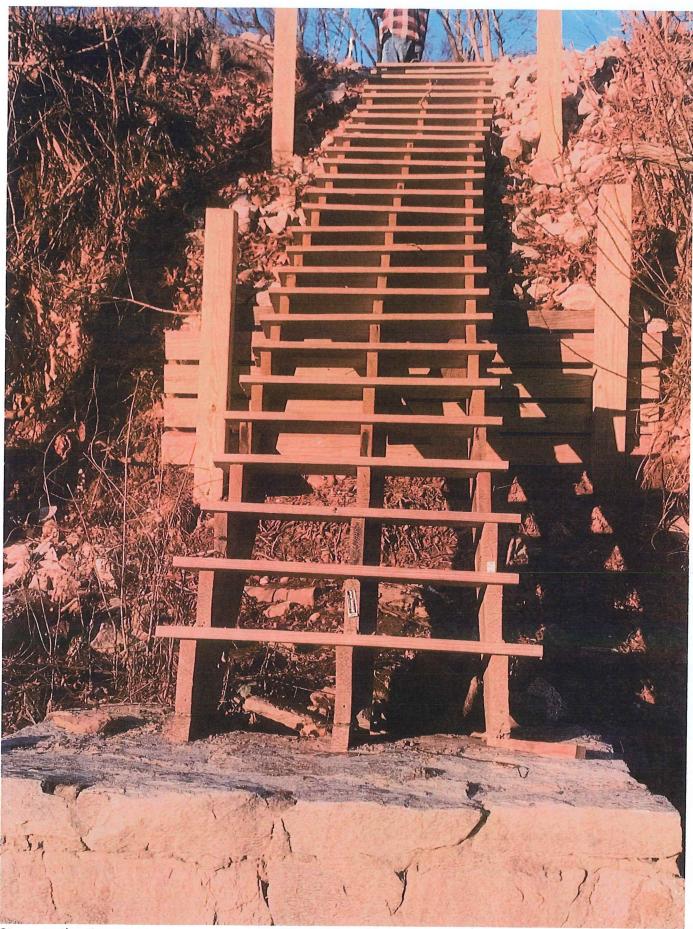
Ice House foundation



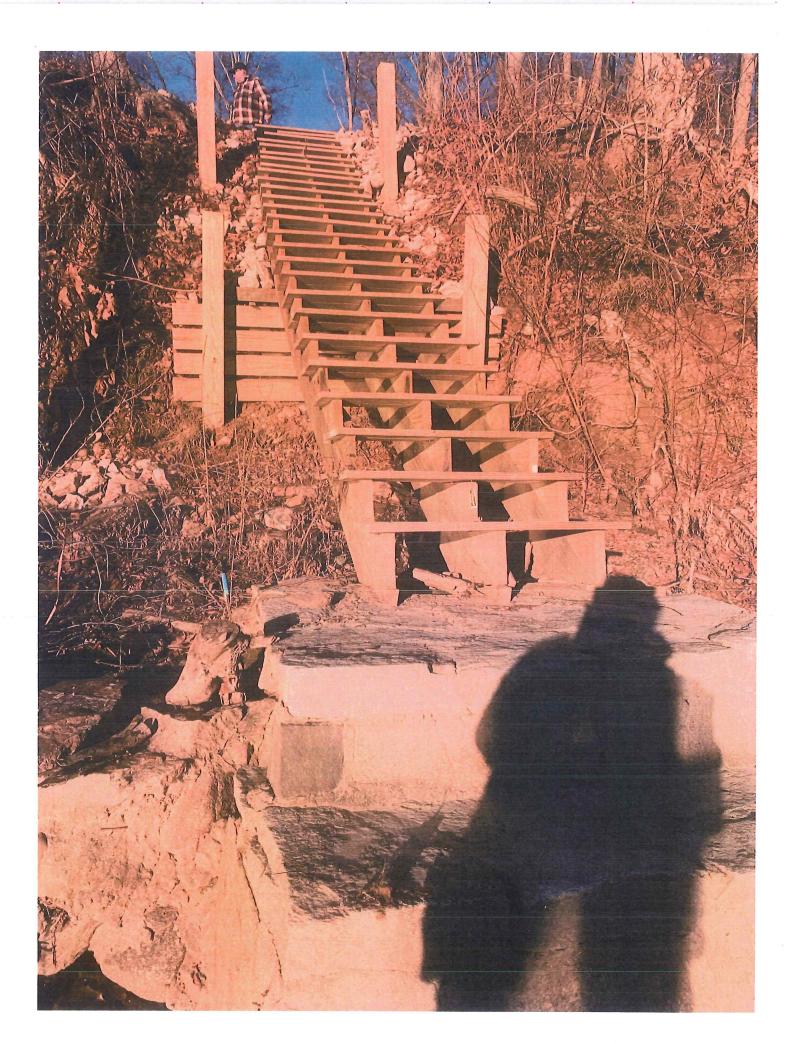
Stairs with retaining wall and back filled with large rip rocks

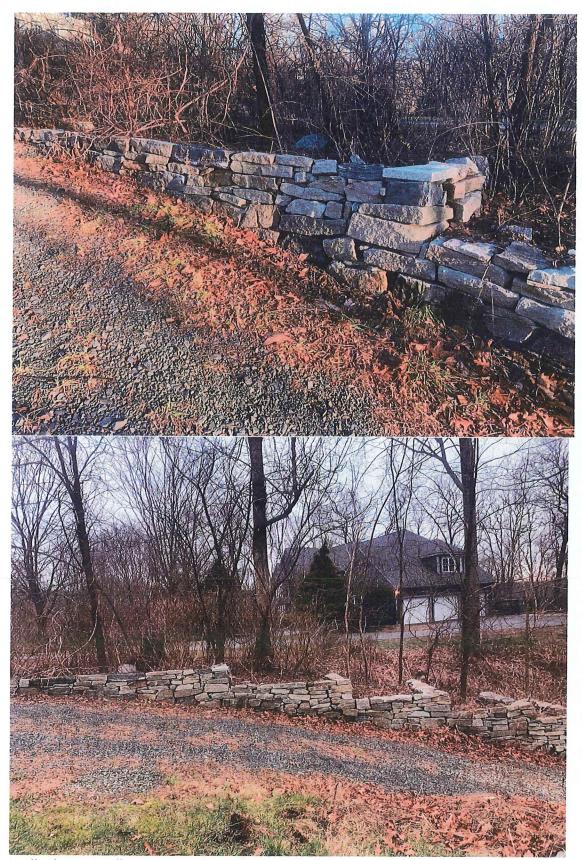


Existing stair foundation

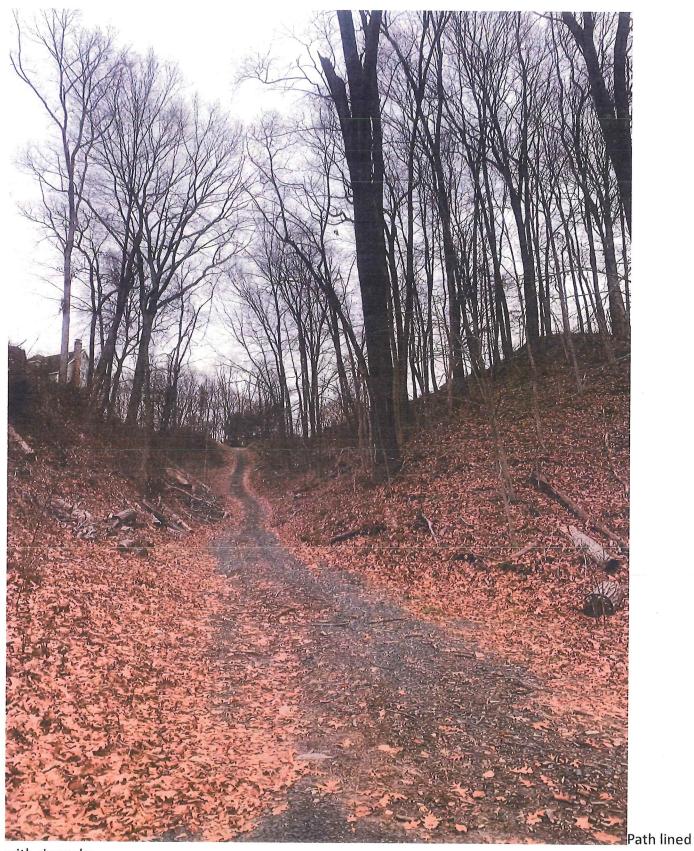


Stares to the river

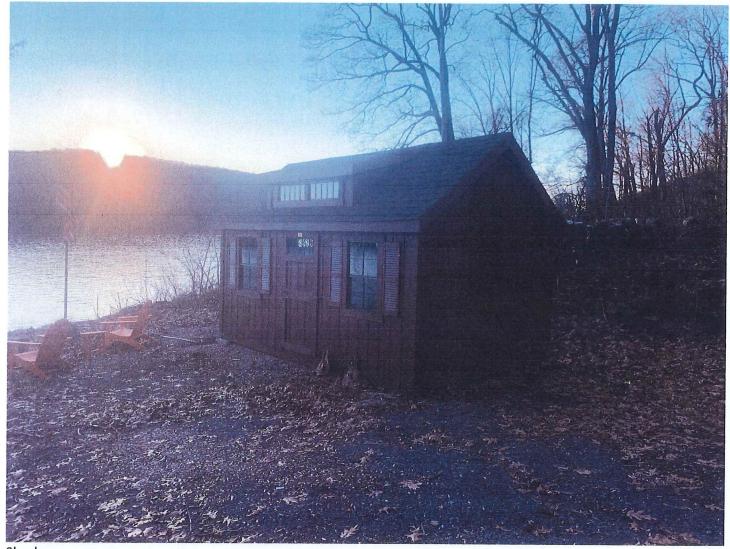




Wall adjacent Kelly Property along the path



with rip rocks



Shed



Fire Pit

February 5, 2024

To the Planning and Zoning Commission:

We have owned our property for about 30 years and would like to note that the work we did was not done purposely to violate the conservation easement. We apologize for not contacting the Commission regarding the work. It will never happen again.

Based on the conservation easement, the conservation area should be maintained in its natural and scenic and open condition, unless written consent is granted by the Planning and Zoning Commission. You all should have copies of the easement for your information. We request that the Commission consider and approve the work that was done within the easement as you have complete authority to do so if you desire. We understand that we have done this work and now we are asking for the Commission's approval after the fact, but hope you can consider our request without prejudice. We have apologized and agree to never do work within the easement area without approval by the Commission.

At your last meeting you requested that we address four items, as noted below:

Tree removal: The work that we did was to improve our property to regain our view which we had when we first purchased the property. Our intention also was to remove dangerous trees encumbered and compromised by vines so that we may enjoy safe access to our river front. The approximate area where vegetation was removed is less than one eighth of an acre. We simply did not think this would be a problem; Of course, now we know better and in hindsight, we fully understand prior permission by the Commission was required before we cut the trees. We also point out that we were thoughtful of preventing erosion as we did not remove the stumps.

We agree not to cut any additional trees without prior approval from the Commission. We agree to implement a reclamation planting plan which was prepared with guidance from a state wildlife biologist Ann Kilpatrick and forester Will Hochholzer. The plan will be thoughtful in promoting a habitat for wildlife. We will plant four oak trees (1 ½" to 2" diameter), native to this area replacing the oak trees that were removed. In addition, we will include some native noninvasive riparian shrubs, such as native blueberry in the plan. Lastly, we will monitor the area for invasive species and remove them annually each summer `.

Gravel deposit for path: There has always been some type of path in the current location; however; we did add stone dust to stabilize the 10' wide path. There has been a great deal of erosion that occurred along the path continually. Adding the stone significantly minimized the erosion of the path and problems with siltation. The slope is long and extremely steep (we did not actually measure the slope – but it is probably 2 or 3 to 1). Adding the gravel allows my family to safely walk the slope. We agree not to add any additional gravel to the path without prior approval of this Commission.

Stairs: The previous stairs were in a state of disrepair – eroding under the stairway and ready for the next storm to take pieces of the stairway down the river. We removed the stairs and

constructed a new set of stairs – that can be removed during a storm event. In addition, we added rip rap to prevent the continued erosion of the stairway area and riverbank. This was like the riverbank reparations done by the Water Commission on High Point property for which the commission has an easement and which residents refer to as "Low Point." We will seek approval from the Building Inspector for the stairway if this request is approved.

Shed: There is an old foundation at the bottom of the slope in the area where the shed was installed and perhaps the commission could consider our installation of a 10x16 shed a replacement structure (pictures of the stairs foundation are within the photos included in the January meeting materials and included with this letter. We have also found ice hook and other similar remains. We can only assume that there was an ice house with access to the river via a stairway. We have done some research on the history of the area to see if we can find any information about the relics we found, but to no avail, except that various water dependent uses were found all along the riverfront. Given the history of the area, it is more than likely some use and structure associated with the river was located within the area.

In June, we installed a small shed that is less than 200 square feet, and therefore, not requiring a building permit. Given the steep slope and the fact that we are now older, it is difficult for us to cart our boating equipment, chairs, etc. up and down the slope. We were also motivated to protect our property as we have had outboard motors stolen and an attempted theft of a boat foiled by a homeowner at the Middle Haddam launch. We ordered the small shed and from Kloter Farms whose delivery vehicle had great difficulty maneuvering down the slope to place the shed, with no permanent foundation. The shed was placed at the top of the riverbank where there is a level area. We did not regrade the area. There was a previous landing in that location. If we were required to move the shed, we do not believe a truck would be able to successfully navigate up the slope with the weight of the shed without significant damage to the path.

Firepit – we built a fire pit at the site for our residential enjoyment; we have no problem removing this if you so desire; however, we would like to have a safe area for campfires and believe that we should have the right to enjoy our riverfront.

We understand that we violated the conservation easement and again apologize and hope you can review what we did without prejudice. Replanting trees and adding additional shrubs will address any visual impacts. We believe that we have the right to use our property to enjoy the river with a campfire, to go fishing and boating.

We understand that we must also submit applications to the IWWC, building inspector, and the Historic Commission and will do so if our request is approved. We did contact Charles Roberts, Chairman of the Historic District Commission who requested we submit the application after action by the PZC, if approved.

Based on information we found on the history of Middle Haddam, it was noted that there is a need to conduct an archaeological study especially along the river. As reparation for the work we did, if you or the Historic Commission are interested, we would be willing to prepare a "Survey

and Planning Grant" to the State Historic Preservation Office to fund such archaeological study of the Middle Haddam and its Riverfront, understanding that much of the riverfront is privately owned and may be difficult to undertake. If this grant is not feasible, there are other grants available through SHPO such as "Stewardship Relief grant" a new grant offered by SHPO to help pay for basic utilities and maintenance bills for historic resources, or an Endangered Building grant. We would be willing to prepare a grant application for whatever SHPO grant the town desires or tree planting grants through the CT DEEP such as the Urban and Community Forestry Planning Grant Program. Although we are willing to pay a fine, if we are successful in obtaining one of these grants – this would benefit the town far more than a fine. (SHPO grant could be anywhere from \$20K to \$200K) and it would help the town to accomplish some very important goals.

We also understand the concern you have for setting a precedent for doing work without a permit and believe this would be a fair contribution to the community. In addition, we are prepared to pay some amount of money as a punitive settlement.

With all sincerity, we hope our proposed reparations can allay your concern about precedent setting for our Town neighbors and that we are permitted by you to move forward to the next phases of approvals with the Inland Wetland Committee and Middle Haddam Historic Commission.

We trust this letter addresses all your concerns.

David and Melissa Baribault 33 High Point Dr Middle Haddam, CT 06456

Received 2.5.2024 East Hampton

