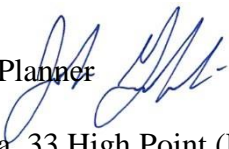




MEMORANDUM

TO: East Hampton Planning & Zoning Commission

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

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

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.

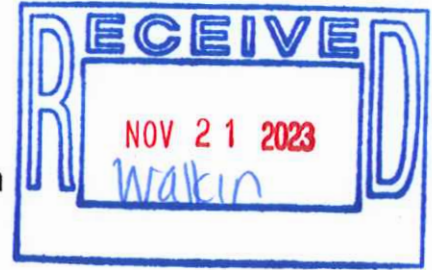
The easement document, however, does allow the Planning Commission, acting on behalf of the Town as a whole (as easement Grantee), the ability to permit such activity. The Commission must decide how best to determine the overall best interest of the Town. Clearly, a significant amount of damage has already 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 -23-016
Date _____

Fee Paid 110
Check # 5816
Rec'd. By S

LOCATION 33 High Point Road

MAP 02C BLK 9 LOT 12/8

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 _____
EMAIL _____

OWNER same as above
ADDRESS _____

PHONE _____
EMAIL _____

SURVEYOR/ENGINEER N/A
ADDRESS _____

PHONE _____
EMAIL _____

ATTORNEY N/A
ADDRESS _____

PHONE _____
EMAIL _____

APPLICATION TYPE *(application must be completed in FULL in order to be accepted)*

- 1. SUBDIVISION /RESUBDIVISION /CONSERVATION SUBDIVISION NO. OF LOTS _____
- 3. SITE PLAN _____ MODIFICATION _____ Residential _____ Commercial _____
- 4. SPECIAL PERMIT---SECTION _____ OF THE ZONING REGS. FOR _____
- 5. ZONE CHANGE---FROM _____ TO _____
- 6. AMENDMENT TO ZONING REGULATIONS _____
- 7. LAKE POCOTOPAUG PROTECTION AREA _____
- 8. ACTIVE ADULT NO OF UNITS _____
- 7. OTHER (DESCRIBE) Place a shed and temporary stairs within a conservation easement area

APPLICATION REQUIREMENTS: This application and 10 sets of plans shall be submitted to the Land Use Office and shall be received by the Commission at the next regularly scheduled meeting. *(see meeting schedule for deadline dates)*

A complete application shall consist of an application, fees, maps /plans(A-2 survey) ,engineers report including drainage calculations and watershed calculations(pre and post), bond estimates, hydrology report, environmental studies, waiver requests and traffic study where applicable

Preliminary discussions are highly recommended for subdivisions 5 lots & over and for larger Special Permit Applications
Abutters notice receipts (green cards) must be handed in to the Planning Office prior to the meeting

APPLICANTS SIGNATURE Melissa C Baribault DATE 11/21/23

OWNER'S SIGNATURE Melissa C Baribault DATE 11/21/23

The owner and applicant hereby grant the East Hampton Planning and Zoning Commission and/or it's agents permission to enter upon the property to which the application is requested for the purpose of inspection and enforcement of the Zoning Regulations and Subdivision Regulations of the Town of East Hampton.

332

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

DG VST-1

© 1976 ALL-STATE LEGAL SUPPLY CO.
One Commerce Drive, Cranford, N. J. 07016

To all People to Whom these Presents shall Come. Greeting:

Know Ye, 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) *herein designated as the Grantors,*
received to the full satisfaction of the Grantors, from
DAVID BARIBAUT and MELISSA C. BARIBAUT
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.

TOWN
\$84.70 Conveyance Tax received
Jean H. Siena, Asst.
Town Clerk of East Hampton

STATE
\$325.00 Conveyance Tax received
Jean H. Siena, Asst
Town Clerk of East Hampton

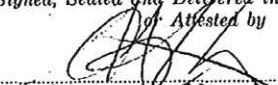
To Have and to Hold the premises hereby conveyed with the appurtenances thereof, unto the
Grantees and unto the survivor of them and unto such survivor's heirs and assigns forever, to their proper use
and behoof, and the Grantors do for themselves, their heirs, successors and assigns, covenant with the
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.


And Furthermore, the Grantors do by these presents bind themselves and their heirs, successors and assigns forever to WARRANT AND DEFEND the premises hereby conveyed to the Grantees and to the survivor of them and to such survivor's heirs and assigns against all claims and demands whatsoever, except as herein stated.

In all references herein to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.

In Witness Whereof, the Grantors have hereunto set their hands and seals, or if a corporation, it has caused these presents to be signed by its corporate officers and its corporate seal to be affixed hereto, this ~~18th~~ 15th day of April 19 94 .

Signed, Sealed and Delivered in the presence of
Not Attested by

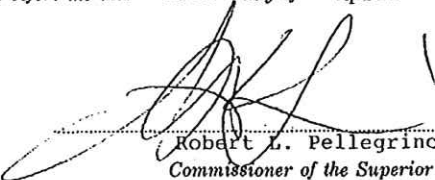

Robert L. Pellegrino


Elliot Stone


Angelina L. Fappiano

State of Connecticut }
County of New Haven } ss. New Haven

The foregoing instrument was acknowledged before me this 15th day of April 19 94 , by Elliot Stone


Robert L. Pellegrino
Commissioner of the Superior Court

Warranty Deed
(SURVIVORSHIP)

TO

Dated	19
Received for Record	19
at	M.
Recorded in Vol.	Page
of	
Land Records by	
Town Clerk	

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. Butler, 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 any portion of said premises lying below the highwater mark of 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.
4. 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.
7. 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 RECORD AT E. HAMPTON, CT

ON 4/19/94 AT 12:03P. M.

Attest: PAULINE L. MARKHAM, Town Clerk

Jean H. Silva, Asst.

RECORDED
 MAY 2 1985
 TOWN CLERK'S OFFICE
 EAST HAMPTON, CT

SANITARY SYSTEM DESIGN

NUMBER OF BEDROOMS: 4
 PERCOLATION RATE: 1.5 MIN / IN.
 ABSORPTION AREA REQUIRED: 1,500 S.F. (MIN.)
 USE 2" V.P. OF DRINKELL: 2" V.P. REQ'D
 USE 3" DRINKELL AT: 7" V.P. EACH
 SEPTIC TANK CAPACITY: 1,200 GALL. (MIN.)

USE 1/2" DIA. HOLLOW DRINKELLS W/ 1/2" STONE
 3/4" V.P. EFFECTIVE LEACHING AREA
 PROVIDED.

TEST PIT # 3
 DATE: 10-03
 MATERIAL: 10" OF TOPSOIL
 12-18" SANDY LOAM SUBSOIL
 18-20" GRAVEL
 12-15" FINE SAND
 NO GROUND WATERS
 PERC. RATE: 3.5 MIN. / IN.

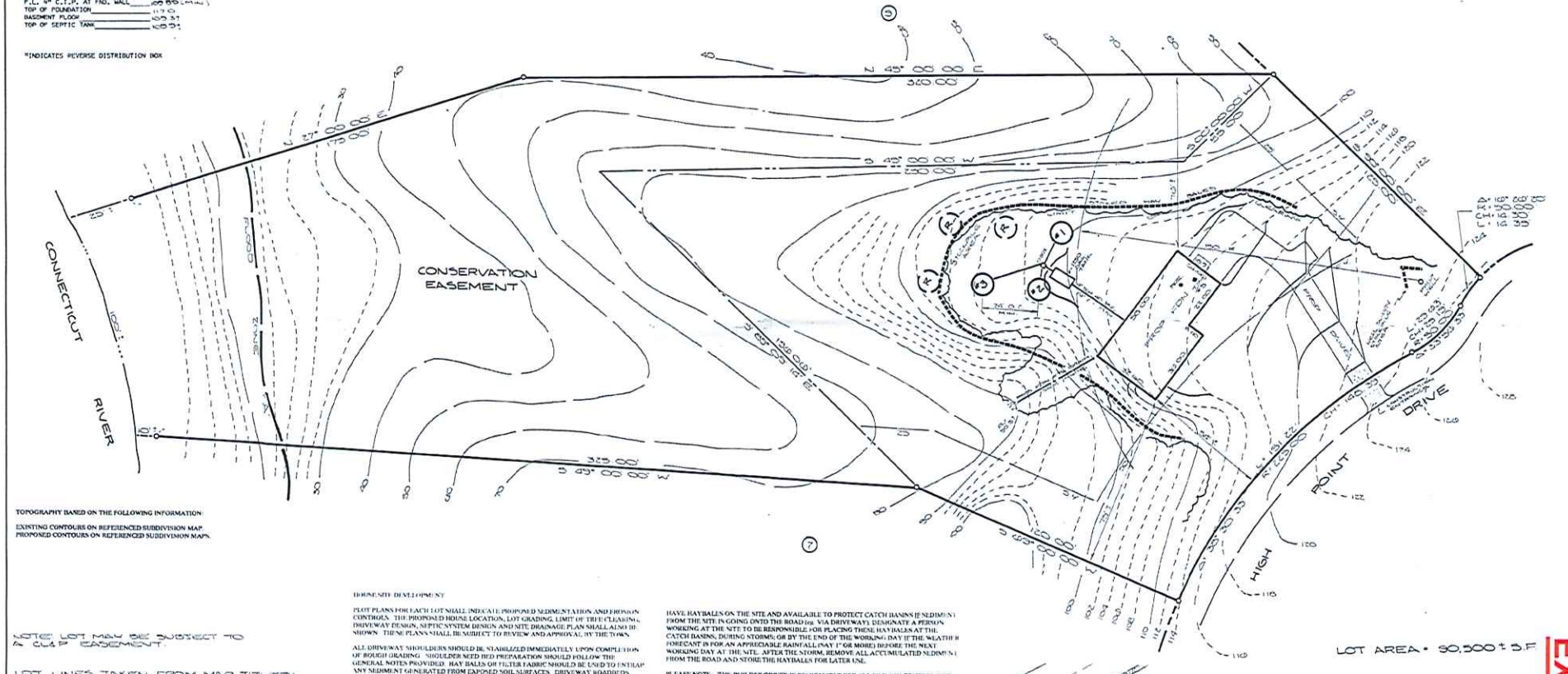
NOTE: SEPTIC SYSTEM TO BE INSTALLED
 IN ACCORDANCE WITH STATE OF
 CONN. DEPT. OF HEALTH SERVICES
 SUBSURFACE SEWAGE DISPOSAL
 CODE AND TOWN OF EAST HAMPTON
 HEALTH DEPARTMENT SPECIFICATIONS

DESIGN MARK TO BE SET BY DESIGN
 ENGINEER AT TIME PROPOSED
 CONSTRUCTION IS STAKED.

SANITARY SYSTEM ELEVATIONS

	1	2	3
BOTTOM OF DRINKELLS	101.5	100.5	100.0
F.L. DISTRIBUTION INLET	100.5	100.5	100.0
DISTRIBUTION BOX INLET	100.5	100.5	100.0
SEPTIC TANK INLET	100.0	100.0	100.0
SEPTIC TANK OUTLET	100.0	100.0	100.0
SEPTIC TANK INLET	100.0	100.0	100.0
F.L. W/ C.I.P. AT TPO. WALL	100.0	100.0	100.0
TOP OF FOUNDATION	117.0	117.0	117.0
BASEMENT FLOOR	100.0	100.0	100.0
TOP OF SEPTIC TANK	100.0	100.0	100.0

*INDICATES REVERSE DISTRIBUTION BOX



TOPOGRAPHY BASED ON THE FOLLOWING INFORMATION:
 EXISTING CONTOURS ON REFERENCED SUBDIVISION MAP
 PROPOSED CONTOURS ON REFERENCED SUBDIVISION MAP.

NOTE: LOT MAY BE SUBJECT TO
 A CLASS 1 EASEMENT.

LOT LINES TAKEN FROM MAP TITLED:
 "SUBDIVISION PLAN, HIGH POINT, ESTATE
 PREPARED FOR SUBJECT TO BUTLER
 EAST HAMPTON, CONN." BY RICHARD E. WARDEN,
 & ASSOCIATED, C.E.A., 125 WASHINGTON, CONN.
 DATE: 11-2-03 REV. 3-20-03 SCALE: 1" = 40'
 MAP NO. 03-03-1 SHEET 4 OF 11 SHEETS

NO RECORDING VIOLATIONS
 I HEREBY DECLARE THAT THIS MAP IS SUBSTANTIALLY CORRECT.
 THIS MAP AND SURVEY WERE PREPARED IN ACCORDANCE WITH THE
 STANDARDS OF A CLASS 2 SURVEY AS DEFINED IN THE "RECOMMENDED
 STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT"
 AS PREPARED AND ADOPTED BY THE CONNECTICUT ASSOCIATION OF
 LAND SURVEYORS, INC. ON SEPTEMBER 24, 1992

EROSION DEVELOPMENT

PLAN PLANS FOR EACH LOT SHALL INDICATE PROPOSED EROSION CONTROL AND EROSION CONTROL MEASURES. THE PROPOSED EROSION CONTROL, LOT GRADING, LIMIT OF THE FLASHING, DRIVEWAY DESIGN, SEPTIC SYSTEM DESIGN AND SITE DRAINAGE PLAN SHALL ALSO BE SHOWN. THESE PLANS SHALL BE SUBJECT TO REVIEW AND APPROVAL BY THE TOWN.

ALL DRIVEWAY SHOULDERS SHOULD BE STABILIZED IMMEDIATELY UPON COMPLETION OF ROUGH GRADING. SHOULDER NEEDED PREPARATION SHOULD FOLLOW THE GENERAL NOTES PROVIDED. HAY BALS OR FILTER FABRIC SHOULD BE USED TO PREVENT ANY SEDIMENT GENERATED FROM EXPOSED SOIL SURFACES. DRIVEWAY SHOULDERS SHALL BE STABILIZED WITH COMPACTED ROAD AGGREGATE AS SOON AS POSSIBLE.

TOPSOIL AND SUBSOIL TO BE REMOVED FROM THE FOUNDATION AREA SHOULD BE STOCKPILED WITHIN THE AREA OF DISTURBANCE. IF NOT USED FOR ON SITE REGARDING EACH STOCKPILE MUST BE ADEQUATELY RINGED WITH SEDIMENT CONTROL MATTER (HAY BALS AND/OR FILTER FABRIC FENCE).

ANY ADDITIONAL STOCKPILING OF LIMBS OR BUILDING MATERIALS SHOULD ALSO BE LIMITED TO THE AREA OF DISTURBANCE. SIMILARLY, VEHICULAR MOVEMENT SHOULD BE DIRECTED TO ESTABLISHED PARKING AREAS. PROPOSED LEACHING SYSTEM AREAS DEVELOPMENT OF SEWAGE DISPOSAL LEACHING AREAS SHOULD BE STAGED TO FOLLOW HOME SITE PREPARATION. ONLY THE PRIMARY LEACHING SYSTEM SHOULD BE CLEARING EXISTING VEGETATION IN COORDINATION WITH THE APPROVED SEPTIC SYSTEM DESIGN. REMOVE AREAS SHOULD REMAIN UNALTERED IF SITE CONDITIONS PERMIT.

CONTRACTOR SHALL PROVIDE GUMMETS AT EACH HOUSE SITE DURING CONSTRUCTION FOR DISPOSAL OF CONSTRUCTION WASTE MATERIALS. THERE SHALL BE NO OUTSIDE STOCKPILES OF CONSTRUCTION WASTE MATERIALS OR DEBRIS.

HAVE HAYBALS ON THE SITE AND AVAILABLE TO PROTECT CATCH BASINS (IF SELECTION) FROM THE SITE IN GOING ON TO THE ROAD (IE VIA DRIVEWAY) DESIGNATE A PERSON WORKING AT THE SITE TO BE RESPONSIBLE FOR PLACING THESE HAYBALS AT THE CATCH BASINS, DURING STORMS, OR BY THE END OF THE WORKING DAY IF THE WEATHER FORECAST IS FOR AN APPRECIABLE RAINFALL (1" OR MORE) BEFORE THE NEXT WORKING DAY AT THE SITE. AFTER THE STORM, REMOVE ALL ACCUMULATED SEDIMENT FROM THE ROAD AND STORE THE HAYBALS FOR LATER USE.

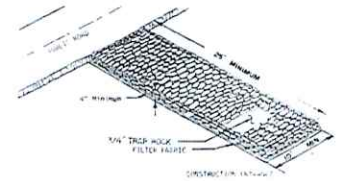
PLEASE NOTE - THE BUILDER/OWNER IS RESPONSIBLE FOR ALL EROSION CONTROL AND STABILIZATION REQUIREMENTS. PLEASE REVIEW THE APPROVED PLAN FOR EROSION CONTROL REQUIREMENTS.

THE BUILDING LOT SHALL BE LEANED, NEEDED AND MOUND WITH STRAW PRIOR TO INSTANCES OF A CO. IF THE SEASON DOES NOT PERMIT SEEDING - THEN THE LOT MUST BE STABILIZED WITH STRAW OR NETTING TO PREVENT WINTER AND SPRING EROSION. THE ENVIRONMENTAL PLANNER WILL CHECK LOTS FOR NON-COMPLIANCE WITH EROSION CONTROL AND STABILIZATION REQUIREMENTS. IF NECESSARY, THE CO. WILL BE WITHHELD UNTIL THE LOT IS DEEMED STABLE.

PLEASE NOTE - THE BUILDER/OWNER IS RESPONSIBLE FOR ALL CONDITIONS OF SUBDIVISION APPROVAL RELATING TO THIS LOT. PLEASE REVIEW THE APPROVED SUBDIVISION OR FILE IN THE TOWN CLERK'S OFFICE AS TO BE AWARE OF ALL CONDITIONS OF APPROVAL.

NOTE: UNDERGROUND UTILITY LOCATIONS APPROXIMATE ONLY. VERIFY ALL LOCATIONS IN THE FIELD BEFORE START OF CONSTRUCTION. (SEE NOTE BELOW)

WARNING: THESE PLANS NOT TO BE USED FOR LOCATION OF UNDERGROUND UTILITIES - CALL BEFORE YOU DIG 1-800-325-4037 TWO WORKING DAYS BEFORE YOU DIG



LOT AREA = 30,500 ± S.F.

LOT 8
 HIGH POINT DRIVE
 PREPARED FOR
DAVID BARIBAUT
 EAST HAMPTON, CONN.

EXHIBIT B

DRAWN BY: S.A.M.	MEGSON & HEAGLE CIVIL ENGINEERS & LAND SURVEYORS GLASTONBURY, CONN.	
CHECKED BY:	DATE: 4-19-04	SCALE: 1" = 20'
		MAP NO. 71-94-1

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";

W I T N E S S E T H :

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

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 Map 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 wetland areas in its natural, scenic and open condition.

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.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal
the day and year first above mentioned.

Signed, Sealed and Delivered
in the presence of:

Hubert E. Butler
Hubert E. Butler

TOWN OF EAST HAMPTON

By *Richard W. Markham*
Its _____, Duly Authorized

STATE OF CONNECTICUT:
: ss. _____, 1985
COUNTY OF _____:

On this _____ day of _____, 1985, before me, the undersigned
officer, personally appeared Hubert E. Butler, signer and sealer of the
foregoing instrument, who acknowledged the same to be his free act and deed.

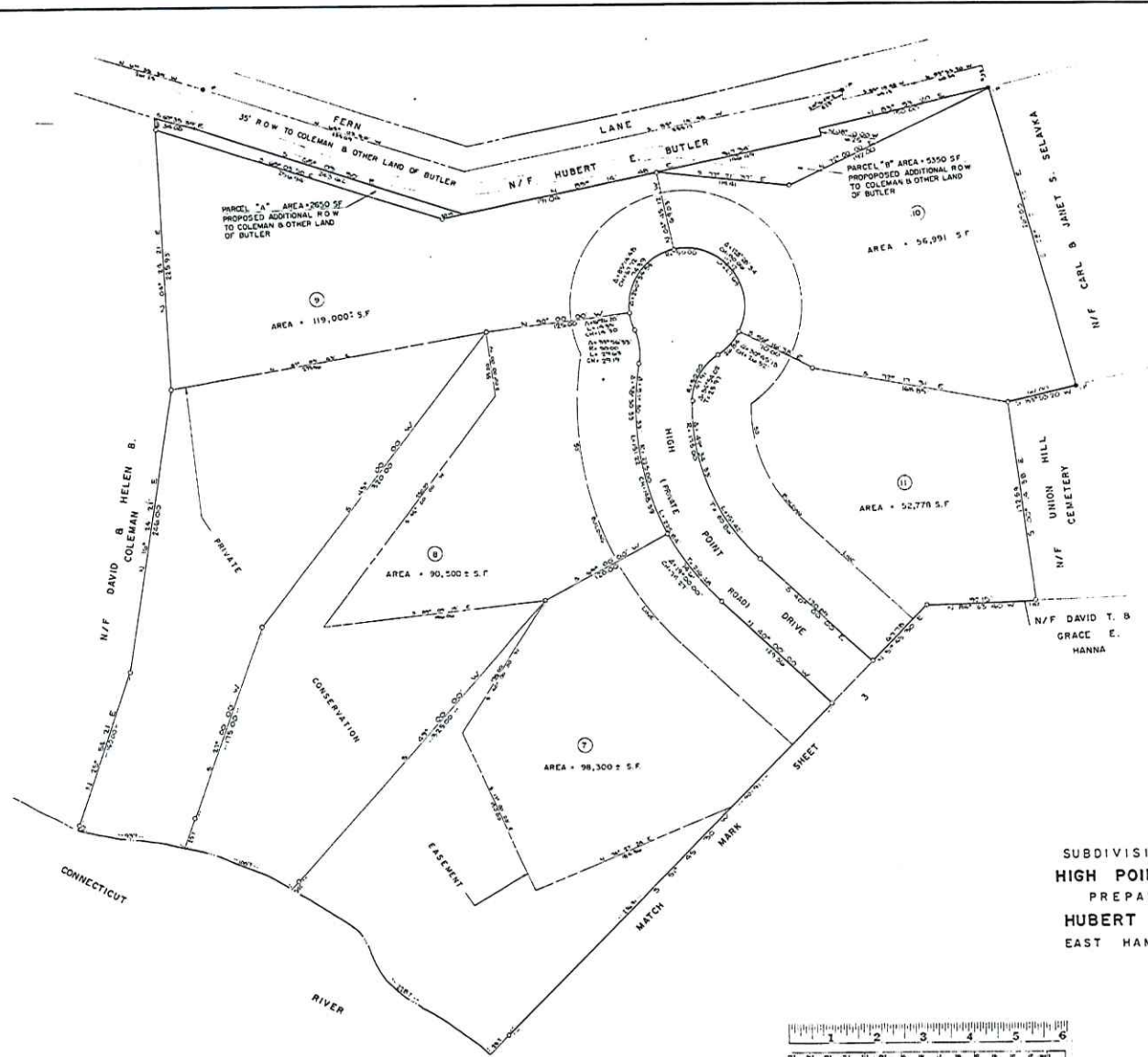
Commissioner of the Superior Court
Notary Public

STATE OF CONNECTICUT:
: ss. East Hampton, 1985
COUNTY OF MIDDLESEX:

On this _____ day of _____, 1985, before me, the undersigned
officer, personally appeared _____ of the Town
of East Hampton, as aforesaid, signer and sealer of the foregoing instru-
ment, who acknowledged the same to be his free act and deed as such
and the free act and deed of said municipal corporation.

Commissioner of the Superior Court
Notary Public

RECEIVED FOR RECORD AT E. HAMPTON, CT.
ON *7/2/85* AT *11:45A*, M.
Attest: PAULINE L. MARKHAM, Town Clerk



SUBDIVISION PLAN
 HIGH POINT ESTATES
 PREPARED FOR
 HUBERT E. BUTLER
 EAST HAMPTON, CONN.

*Rec'd 5/2/85
 11:45 AM
 Priscilla Markham
 Town Clerk*



RENO & HYPPA & ASSOCIATES
 CIVIL ENGINEERS & LAND SURVEYORS
 GASTONBURY, CONN.

SCALE 1" = 40' DATE 1-2-85 MAP NO 85-85-1

EXHIBIT D



Office of the **PLANNING & ZONING OFFICIAL**
JEREMY DECARLI, AICP, CZEO
jdecarli@easthamptonct.gov

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

cc: David Cox, Town Manager
cc: Charles Roberts, MHHD Chair

August 7, 2023

David and Melissa Baribault
33 High Point Drive
Middle Haddam, 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



Office of the **PLANNING & ZONING OFFICIAL**
JEREMY DECARLI, AICP, CZEO
jdecarli@easthamptonct.gov

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,

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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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.

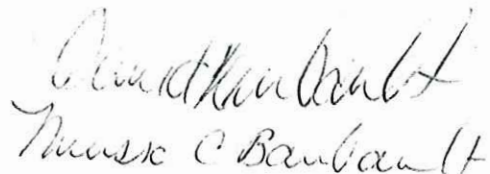
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If you have any question, please do not hesitate to contact me (Melissa) at 860-919-4212.

Very truly yours,

David and Melissa Baribault

David and Melissa Baribault

Handwritten signatures of David and Melissa Baribault. The signature for David is written in a cursive style, and the signature for Melissa is written in a more stylized, blocky cursive style.

**David and Melissa Baribault
Application to permit a
shed under 200 sq ft within
the Conservation Easement
and replace stairs leading to
the River with temporary
stair that are removable
during the winter season**

Information is approximate and not to scale



WATER SYSTEM DESIGN

NUMBER OF BEDS: 2
REGULATION RATE: 1.5 GPM
SEWER IN: 4" DIA. (10' DIA.)
USE OF V.P. OF SEWER: 1/2" DIA. (10' DIA.)
SEPTIC TANK CAPACITY: 1,500 GAL. (10' DIA.)

USE OF CON. W/LOW DRAINAGE W/C STONE
IN 45' R. V.P. W/SEPTIC TANK LEACHING AREA

SEWER SYSTEM
SEWER IN: 4" DIA. (10' DIA.)
SEWER OUT: 4" DIA. (10' DIA.)
SEWER IN: 4" DIA. (10' DIA.)
SEWER OUT: 4" DIA. (10' DIA.)

WATER SYSTEM PLUMBING

SEWER IN: 4" DIA. (10' DIA.)
SEWER OUT: 4" DIA. (10' DIA.)
SEWER IN: 4" DIA. (10' DIA.)
SEWER OUT: 4" DIA. (10' DIA.)

SEWER SYSTEM PLUMBING
SEWER IN: 4" DIA. (10' DIA.)
SEWER OUT: 4" DIA. (10' DIA.)
SEWER IN: 4" DIA. (10' DIA.)
SEWER OUT: 4" DIA. (10' DIA.)

FINISHED FLOOR DISTRIBUTION

Approximate location of Removable stairway to be removed in times of flooding and during the winter season

Approximate location of Shed 12'x14'

Approximate location of 10' wide path

Conservation Easement

UNDERGROUND EASEMENT

TOPOGRAHY BASED ON THE FOLLOWING INFORMATION:
EXISTING CONTOURS ON SURFACE AND SUBSURFACE MAPS

NOTE: LOT MAY BE SUBJECT TO A CLAIM OF EASEMENT

LOT LINES TAKEN FROM THE SURVEYOR'S PLANS FOR POINT STATION APPROXIMATELY 1975. THE LINES ARE SUBJECT TO CHANGE AS A RESULT OF A SURVEY BY C.D. & L.S. QUINN, CIVIL ENGINEER, 1150 MAIN ST., EAST HAMPTON, CT 06424.

NO ZONING REGULATIONS
EXISTING CONTOURS ON SURFACE AND SUBSURFACE MAPS

NOTE: THIS PLAN IS NOT TO SCALE

THESE PLANS ARE NOT TO BE USED FOR CONSTRUCTION OF ANY STRUCTURE WITHOUT THE APPROVAL OF THE TOWN OF EAST HAMPTON. THE TOWN ENGINEER SHALL REVIEW THESE PLANS AND ISSUE A PERMIT TO CONSTRUCT. THE PERMITTEE SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE STATE AND FEDERAL AGENCIES. THE PERMITTEE SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE STATE AND FEDERAL AGENCIES.

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LOT # 8
HAMPTON DRIVE
PREPARED FOR
DAVID BARIBAUT
EAST HAMPTON, CONN.

Scale: 1" = 20'	SEEDON & MENGLER CIVIL ENGINEERS & LAND SURVEYORS EAST HAMPTON, CONN.
Drawn By: [Signature]	DATE: 4/19/04













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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