

**East Hampton Planning and Zoning Commission
Regular Meeting
September 4, 2013
Town Hall Meeting Room**

Unapproved Minutes

1. **Call to Order and Seating of Alternates:** Chairman Philhower called the meeting to order at 7:00 p.m.

Present: Chairman Mark Philhower, Members Peter Aarrestad, Roy Gauthier, Rowland Rux, Meg Wright, Alternate Members Paul Hoffman, Scott Sanicki (7:04), and Planning, Zoning & Building Administrator James Carey were present.

Absent: Vice-Chairman Ray Zatorski and Member James Sennett were not present.

The Chairman seated Mr. Hoffman as voting member at this time.

2. **Approval of Minutes:**

A. August 7, 2013 Regular Meeting:

Mr. Rux moved to approve the Minutes of the August 7, 2013 meeting as written.

Mr. Gauthier seconded the motion. The motion carried (5/0/1). (Yes votes: Aarrestad, Hoffman, Philhower, Rux, and Wright. No votes: None. Abstentions: Gauthier.)

3. **Communications, Liaison Reports, and Public Comments:**

Communications: Mr. Carey informed the Commission that information was included in this evenings meeting packets regarding a request by the EDC that the PZC re-consider changing the zoning of Main Street from Route 66 to the Village Center from the current zoning of Lakeside and Village Residential, R-1 Zone, to Professional Offices/Residential, PO/R Zone. Chairman Philhower instructed the Commission to review the request and asked Staff to include it on next month's Agenda.

Draft amendments to the Zoning Maps have been completed and will be forwarded to the Commissioners by email. Please make comments to the Planning and Zoning Office when you are able. The amendments are intended to reflect previous action by this Commission. The amended map will need have a public hearing and be adopted by the Commission.

The River Cog would like our feedback regarding the data they have collected and distributed. That data is available in tonight's packets as well.

Liaison Reports:

Mr. Gauthier reported that the High School Renovation Project is in a design phase between the engineers and the architects, which will continue through the end of the year.

Mr. Rux reported that he attended the Economic Development Commission meeting on August 20th. Mr. Carey explained that the draft Business Incentive Ordinance was obtained from the Town Council packet for their meeting of August 13, 2013 and forward to this Commission by email. Mr. Carey reported that the draft has evolved since the meeting of the 13th and he would

have a more recent draft forwarded to the Commission. Mr. Rux explained that the PZC has been requested to forward comments regarding the draft to the EDC for consideration. EDC also discussed their budget; the Town Manager introduced the new Public Works Director, Philip Sissick; the zone change requested for Main Street; and EDC's hope to improve relationships with new and existing businesses.

The Chairman seated Mr. Sanicki as a voting member.

Ms. Wright reported that she attended the River Cog Regional Planning Commission meeting on August 26th. They heard one referral from the Town of Clinton for a proposed zoning text amendment which included off street parking, fees, and erosion and sedimentation controls. It was deemed to have no regional significance. They have completed their website, rivercog.org, and it is very useful for the members. The regional plan is actively underway. The River Cog will have an architectural review for Towns that don't have that available to them and that service is free of charge.

Mr. Aarrestad reported that he attended the August 19th volunteer appreciation dinner which was a joint effort between the Salmon River Watershed Partnership and the Eight-Mile River Coordinating Committee at the Moodus Sportsman's Club. There were various speakers who discussed volunteer monitoring of watersheds and college student doing internships to map culverts that fragment aquatic habitat. The Rapid Bio Assessment Program is seeking volunteers to be trained in tracking trends to identify issues in watersheds. The Salmon River watershed is clean overall except for a section of Pocotopaug Creek which is a legacy of industrial use. There is a training session in East Hampton on Saturday, September 7th at the Library. All are encouraged to attend. The stream monitoring for macro-invertebrates (aquatic bugs), chemical and physical parameters (temperature, pH, dissolved oxygen, conductivity, and salinity) has been conducted recently throughout the watershed and will be wrapping up shortly.

Public Comments: The Chairman opened the meeting up to the public at this time.

Hearing none the Chairman moved to Agenda Item No. 4.

4. Set Public Hearing for October 2, 2013:

A. Application of the Town of East Hampton for a Site Plan Modification: East Hampton High School Athletic Field Lighting Project – Map 19/Block 39/Map 5A:

Mr. Rux moved, and Mr. Aarrestad seconded, to schedule a Public Hearing at the October 2, 2013 Regular Meeting of the East Hampton Planning and Zoning Commission to hear the application of the Town of East Hampton for a Site Plan Modification for the East Hampton High School Athletic Field Lighting Project, Map 19/Block 39/Map 5A. The motion carried unanimously.

5. Read Legal Notice: Mr. Carey read the legal notice into the record.

6. Public Hearings for August 7, 2013:

A. Application of Melissa Guerrero, Guerrero Equestrian, 2A Flanders Road, for a Special Permit per Section 17.10 of the Zoning Regulations for Commercial Stables – Map 06A/Block 59/Lot 24A:

Melissa Guerrero of Guerrero Equestrian was present to discuss her application. She explained that she is the President and co-founder of Guerrero & Janusz dba Guerrero Equestrian currently located at 2A Flanders Road. She introduced herself and the co-owner of Guerrero Equestrian. Ms. Guerrero provided an overhead slide of a map of the property indicating the riding ring, barn, and house currently occupied by the owner of the property, Dean Brown. She explained that the property abuts the Airline Trail and the boarders and clients of Guerrero Equestrian use the trail. They are a full service equine facility offering lessons, training, and sales. They work with a rescue facility in Palmer Massachusetts. Some of their lesson horses are rescue draft horses. They also offer pony parties, summer camp, and will be offering carriage rides. The facility is a ten stall barn and will never go over ten horses. They have a 90' by 150' outdoor riding ring. They also have a 60' round pen that is used for training. There is a wash stall and farrier station for proper care of the horses. They have a wide range of clients from 3 to 70 years old. Their clients are from different backgrounds. Their mission is to provide a bond between horse and rider and safety is their priority. Their clients love the Cranberry Bog and the Village Center. They also have chickens and goats. Guerrero Equestrian has pulled about 11% of their business since April from West Hartford, Avon, Guilford, New Haven, and Trumbull. They are bringing in a lot money and business from out of town. The business is a positive force in economic development for the community. Ms. Guerrero identified the driveway on the map and reported that she will have enough area to park 100 cars in the driveway. They see about a car an hour on a full lesson day. Lessons on Saturday run from 9 a.m. to 1 p.m. They don't use a truck or trailer except for horse shows and that is not very frequent. They have a portable toilet for public facilities. In the future they would like to offer gardening and sustainable agricultural classes, wine tasting, local music, nature walks and education, a farm stand, a tack shop, compost, canning and jar classes. They believe that agriculture should be promoted. They plan on expanding Guerrero Equestrian not just in East Hampton but also across New England with a successful business plan.

The Chairman asked for maps of the property identifying the parcel and access to it.

Mr. Carey explained that there are a number of maps that are not specific to this use. An A2 survey from 1987 does not show the barn or the riding ring. The department has been attempting to obtain the appropriate maps for the application but has only been able to obtain the older maps that are available this evening. He explained that the wetlands agency has not yet seen this application. The action of this Commission will need to be held until the IWWA has acted. Mr. Carey reported that the EDC has forwarded a letter in support of the application to the Commission; as has Michael Olzacki, Animal Control Officer and an abutting neighbor; and Stacey Gibson, a client.

Chairman Philhower questioned the current operation as a commercial stable and the official address of the parcel. Mr. Carey explained that the operation first came to his attention in June, at which time he notified the applicant that they were operating a commercial stable in violation of the Zoning Regulations. It has now been three months and the permitting process continues. The Staff has been able to determine that this parcel was subdivided in 1978. Two new lots were created at that time and are accessed by Bishop Hill Road. Mr. Carey explained that the owner of this piece, at the time, had an easement granted by the owner of 30 Summit Street in the 1930s. In 1978 he approached the ZBA to grant a variance. This variance request was denied based on safety concerns.

This owner established the access from Flanders Road anyway. This is the current and only access for this parcel. The official access to this parcel was intended to be Bishop Hill Road. The Bishop Hill Road access was abandoned by the former owners of the subject parcel due to difficult grading and topography, again without the approval of the Town and over the years it became memorialized. More recently when the Town began a strong incentive program to encourage proper house numbering for first responders, the official address of this parcel became 2A Flanders Road and the Bishop Hill Road address was cast aside. Now this private easement access way which travels extremely closely to two homes and their associated residential uses is being utilized as access to a commercial stable with all its intended and existing associated uses. Mr. Carey is concerned by the unfamiliar traffic which will travel this extremely narrow unpaved road on a regular basis. The safety issues continue to be a concern. The current owner maintains that he has been using this access to his property since he bought it. Mr. Carey further explained that due to statutory requirements he is forced to allow the public hearing to open regardless of the lack of documentation.

Mr. Aarrestad is concerned that the access way is not identified on any of the maps that have been presented by the applicant. Staff identified a map on which Staff has located, in highlight, a rough depiction of the location of the access way.

Mr. Carey further explained that the easement language itself is unclear but available in a handwritten deed dated 1934.

The Chairman stated that making a decision on this application without an up-to-date A2 survey is extremely difficult and the applicant is putting an undue burden on this Commission in asking them to do so.

Messrs. Sanicki and Aarrestad discussed that the A2 survey received by Pauline Markham, Town Clerk at the time of the 1978 recording, indicates that there is a paved road to Bishop Hill Road all the way from the Flanders Road access way.

The Chairman opened the public hearing at this time.

Mr. Dean Brown, 2A Flanders Road and owner of the subject parcel, was present and discussed the grade at Bishop Hill. He explained that Bishop Hill Road is paved to just before the last house on the cul-de-sac. He reported that the terrain up to the buildings on the parcel is very rocky and steep. The paved area is from Flanders Road up to the Quonset hut and volleyball court on his property. He does not believe it was ever paved as he has never seen any asphalt in that area. Mr. Brown reported that he has owned the property since 1999 and has been operating a horse barn since 2003-04. He stated that he could identify 20 other operations in Town that are running the same type of businesses without licenses. He believes the biggest problem for Guerrero Equestrian is because they are advertising. He discussed the concerns about the traffic and does not believe the safety issues should be a concern. He is a volunteer with the Ambulance Association and has had the ambulance back there many times and access is not an issue. The Fire Department has been there as well without any difficulty. He has had a regular volley ball game every Tuesday night at this location and has had more traffic on that one night than the commercial stable has in a whole weekend.

Mr. Carey read the easement language and the Minutes of the ZBA meeting of May 18, 1978 into the record. **Attachment Nos. 1 and 2**

Mr. Carey circulated photographs provided in a letter from Christopher Ewing, of 30 Summit Street. He also restated that the Commission could not act at this meeting and urged everyone to go to the sight and view the access way in question. He does believe that this is a matter of great concern.

David Lord, 2 Flanders Road, discussed his concerns regarding use of this access which is in close proximity to his house. He is concerned about two commercial businesses using this narrow access. He does not believe one car an hour will be the limit of the use of this access way. He understands that people purchased the property and they didn't know this access was denied. The Town never did anything to stop the creation and continued use of this driveway. The Town changed the address of this property for safety reasons without addressing the issue of the illegal access. Mr. Lord is very concerned about this commercial stable use.

Carol Caplan, 11 Railroad Avenue, was present to show her support for this activity. She has looked at the activity and believes it a wonderful use of the property and she believes the access will be fine. She also believes this use will dissuade use of the area by homeless and vagrant types. She has requested the Commission to approve the application.

Dean Brown, 2A Flanders Road and owner of the subject property, reported that the Town paved and widened the apron of the access way about 6 years ago when they rebuilt Flanders Road. The apron is actually wider than 12'. Mr. Brown explained that the driveway which his easement allows him to use, connects with the private driveway of the owners of 30 Summit Street.

The Chairman instructed the applicant and Mr. Brown to provide the Commission with a signed and sealed A2 survey.

Mr. Carey read the letter of Christopher J. Ewing into the record.

Mr. Carey read the letter of Kevin and Alison Daley into the record.

Mr. Carey reported that the commercial stable use of the property is largely compliant with our regulations. The area of concern is not the use of the property but the access to the property.

Mr. Aarrestad discussed his interest in obtaining information on the actual grade from Bishop Hill Road and instructing the applicant to investigate proceeding with that access for the commercial stable use.

Mr. Carey agreed with Mr. Aarrestad and believes that the Bishop Hill Road access is certainly an option. Although it is possible that it is not any more appropriate than the current driveway in use. As that information has not been provided, it is unknown.

Mr. Gauthier is concerned by the current illegal use of the driveway.

Mr. Carey explained that per state statute there is a three-year period in which enforcement can take place after which time it is unenforceable. This current driveway has been in use for residential purposes since 1978.

Ms. Guerrero reported that when she approached the Town Clerk's office about opening her business they told her merely to register her DBA. She also reported the Town Manager and the Chief of Police have visited her operation for what was to be the Grand Opening. Instead they had an Open House with mainly family for a picnic and bar-b-cue. The Town Manager and Chief of Police indicated that the operation was easy access and although it is narrow and feel it is appropriate. She does not believe the Bishop Hill Road access will be appropriate. She will be looking for indoor riding locations at another site because at this point she is not interested in having to deal with the Town for another application. She is also concerned that there are 20 other horse stables in Town and she would like to know how many other special permits have been issued for commercial stable which are probably in residential zones as well. She would also like to know why she is being asked to correct this driveway if the driveway has been grandfathered in.

Mr. Carey explained that most of the operations Ms. Guerrero is discussing are private stall rentals that are not heavily advertised.

The Chairman instructed Ms. Guerrero to report to Mr. Carey any commercial stable doing business in a residential zone without a special permit if she is aware of them.

Mr. Carey explained that this use, if approved, would continue as long as the use is not abandoned regardless of transfer of ownership or proprietor.

David Lord, 2 Flanders Road, is concerned that he may be held liable for loss of business at Guerrero Equestrian if his sewer which crosses the driveway easement needs to be repaired and is dug up.

Mr. Gauthier moved, and Mr. Rux seconded, to continue the public hearing and the application of Melissa Guerrero, Guerrero Equestrian, 2A Flanders Road, for a Special Permit per Section 17.10 of the Zoning Regulations for Commercial Stables, Map 06A/Block 59/Lot 24A, to the next regularly scheduled meeting of October 2, 1978. The motion carried unanimously.

7. New Business:

- A. 8-24 Review:** East Hampton High School Athletic Field Lighting Project – Map 19/Block 39/Map 5A: Mr. Carey reported that the Town Council, Board of Education, and Parks and Recreation Department have approached the Commission for an 8-24 Review and report to the Town Council regarding whether the East Hampton High School Athletic Field Lighting Project would be an appropriate activity for the Town. The project had been included in the High School Renovation Project but was backed out by the Board of Finance. The new plan will allow the lighting project to be completed earlier than the renovation project would have permitted, and it has shown a savings of approximately \$100,000 to the Town. Mr. Carey further explained that the actual site plan modification review will be presented to the Commission at the public hearing which was scheduled by the Commission during this meeting for the next regularly scheduled meeting on October 2, 2013. Mr. Carey read the proposed resolution into the record.

Mr. Hoffman discussed areas of concern in the plan as submitted for the site plan modification review.

Mr. Aarrestad discussed that the site plan modification review detail should be held off until the public hearing scheduled for the next regular meeting.

*Mr. Arrestad moved, and Ms. Wright seconded, that the East Hampton Planning and Zoning Commission Resolve pursuant to Section 8-24 of the General Statutes of Connecticut the East Hampton High School Athletic Field Lighting Project as discussed at the Planning and Zoning Commission Meeting held on September 4, 2013 is an appropriate expenditure of capital funds and an appropriate endeavor for the Town of East Hampton. This resolution is for approval of conceptual plans only. The project is subject to and shall comply with all applicable laws, regulations and permit approvals, and this resolution shall not be a determination that the project is in compliance with any such applicable laws, regulations, or permit approvals. The motion carried (6-1-0). (Yes votes: Arrestad, Gauthier, Hoffman, Philhower, Sanicki, Wright. No votes: Rux. Abstentions: None.) **Attachment No. 3***

B. Review Planning and Zoning Commission By-Laws: Mr. Carey reported that this is an annual review. The Commission did make one small amendment last year. The Chairman requested the Commission review the By-Laws and be prepared to discuss them at the next regularly scheduled meeting.

8. Old Business:

A. Application of BJT Fitness LLC dba Schedule II CrossFit, 4 North Main Street, for a Commercial Site Plan Modification – Map 05A/Block 63A/Lot 14 – Continued from 08/07/2013 Meeting:

Mr. Carey reported that the applicant has provided the Commission with a Site Plan including scale, parking, signage, the access easement, and abutters as requested by the Commission. He has accepted this plan as produced by the applicant to allow for the most cost efficient means of production in an effort encourage the application as the subject building has been left in disrepair since a fire damaged it four years ago. Parking on the site has been reduced to three handicapped parking spaces. The applicant has entered into a lease agreement with Richard Berkenstock of Century 21. The agreement allows for seven cars to park on his property at 1 Main Street East Hampton during off hours (Schedule II CrossFit stated hours of operation are Monday through Friday 5 to 6 or 7 a.m. and 5 to 8 p.m. and a couple of hours on Saturdays and Sundays). The two parking lots on the property at 1 Main Street can accommodate a total of 13 cars. The agreement will last the duration of BJT Fitness, LLC lease at 4 North Main Street. The intended use for this application is extremely low intensity and this parking agreement will more than accommodate its needs.

Mr. Carey explained that the turn radius for the handicapped parking spaces is sufficient to allow cars to turn around and drive out on to North Main Street. The Commission discussed that when the remainder of the building which is not being occupied by Schedule II CrossFit is considered by another tenant the issue of parking will need to be carefully reviewed again.

Mr. Gauthier moved, and Mr. Rux seconded, to approve the application of BJT Fitness LLC dba Schedule II CrossFit, 4 North Main Street, for a Commercial Site Plan Modification, Map 05A/Block 63A/Lot 14, per the depiction identified as Index No. 0003 with the condition that signs are posted in the parking area on the north side of the building indicating no backing out onto North Main Street. The motion carried unanimously.

B. Review - Edit and Reformat Zoning Regulations: Mr. Carey explained that the first draft of the Zoning Regulations has been distributed. They will require review and discussion by the Commission. The text highlighted in yellow are primarily existing section numbers that will need to be changed in the final draft but it is not clear where that will be as of now. The text highlighted in red is actually text that has changed. The workshops that the Commission had planned on holding with Mr. Chalder in attendance will not be possible based on the reduced budget the Planning and Zoning Office has to work with. If the Commission is agreeable the best way to proceed will be to hold as many workshops as necessary with Town Staff who will forward the comments and changes to Mr. Chalder.

Chairman Philhower requested Staff to obtain a meeting location for a special meeting and workshop to be held on Wednesday, September 18, 2013 at 7 p.m. He requested the Commission to review the first draft and be prepared to discuss this draft at that meeting. The Commission discussed the need for an expanded index for the draft regulations.

9. **Adjournment:** *Mr. Rux moved to adjourn the meeting. Mr. Sanicki seconded the motion. The motion carried unanimously.*

The meeting adjourned at 8:45 p.m.

Respectfully submitted,

Daphne C. Schaub
Recording Secretary