

**East Hampton Planning and Zoning Commission
Regular Meeting
November 6, 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 Ray Zatorski, Members Peter Aarrestad, Roy Gauthier, Rowland Rux, James Sennett, Meg Wright, Alternate Member Paul Hoffman (7:04), and Planning, Zoning & Building Administrator James Carey were present.

Absent: Alternate Member Scott Sanicki was not present.

As there were no Alternate Members present at this time, the Chairman was unable to seat one at this time.

- 2. Approval of Minutes:**

A. September 18, 2013 Special Meeting & Workshop:

Mr. Rux moved to approve the Minutes of the September 18, 2013 meeting as written.

Mr. Aarrestad seconded the motion. The motion carried unanimously.

B. October 2, 2013 Regular Meeting:

Mr. Sennett moved to approve the Minutes of the October 2, 2013 meeting as written.

Mr. Rux seconded the motion. The motion carried unanimously.

C. October 9, 2013 Special Meeting & Workshop:

Mr. Rux moved to approve the Minutes of the October 9, 2013 meeting as written.

Mr. Aarrestad seconded the motion. The motion carried (4-0-2). (Yes votes: Aarrestad, Rux, Wright, Zatorski. No votes: None. Abstentions: Gauthier, Sennett).

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

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

Communications: Mr. Carey explained that as Chairman Philhower has been elected to the Town Council it will be necessary to elect a new Vice-Chairman. The current Vice-Chairman, Ray Zatorski, will fill the Chairman's seat.

Mr. Carey also reported that the Director of Public Works is accepting written commentary on the Christopher Brook Culvert under North Main Street until November 12, 2013.

Mr. Aarrestad moved, and Mr. Rux seconded, to add Election of Vice-Chairman to the Agenda as Agenda Item No. 3.A. The motion carried unanimously.

Liaison Reports:

Mr. Sennett reported that the ZBA met in October 10th when it heard an application for side yard variances for a property on Pine Trail. That variance request was denied. The Agency also heard an appeal of the ZEO's decision to require a map that delineates and clearly defines a right-of-way across property on Laurel Trail. The Agency upheld the ZEO decision but removed the condition for the variance. Finally, the ZBA heard an application for front yard and side yard variance to construct a garage on Old Middletown Road, which was approved. The Minutes for this meeting are on file in the Town Clerk's Office and available for viewing on the Town website.

Mr. Gauthier reported that the High School Renovation Project is in the schematic and design phase between the engineers and the architects and is moving forward to the bidding process. The Committee is currently working on selecting a heating system. Geothermal is being investigated now. Propane is being considered with an ultimate goal for natural gas when it is available. Oil heat has been all but ruled out. It is expected to be ready for the Building Committee approval at the end of November.

Mr. Hoffman indicated that he would be interested in accepting a liaison position that might become available as a result of the membership changes.

Mr. Aarrestad reported that the Salmon River Watershed Partnership has published a baseline water quality monitoring report. He requested that staff distribute it to a wider range of recipients. It is the first report of its kind and is to be used as a baseline tool in further studies. It should be very helpful to the towns in the watershed.

Mr. Rux reported that he was unable to attend the recent EDC meeting. He requested that the members of the EDC, who are in attendance tonight, update the Commission during the Public Comments period of the meeting. The Minutes for this meeting are on file in the Town Clerk's Office and available for viewing on the Town website.

Ms. Wright reported that she attended the October 10, 2013 meeting of the Conservation-Lake Commission. The Director of Public Works, Philip Sissick, reported that the plants for the rain garden at Sears Park have been planted. He also reported that the Public Works Department, and an outside contractor, cleaned out 692 catch basins in the past month. The Minutes for this meeting are on file in the Town Clerk's Office and available for viewing on the Town website.

Ms. Wright also attended the October 28, 2013 meeting of the RiverCOG Regional Planning Commission. Walter Adametz spoke about forming an agricultural council which will be available for the 17 member towns of the RiverCOG. This council will act as advocacy, informational, counsel, education, and conflict resolution for the member towns. At this meeting they also heard two referrals, one in East Haddam and one in Middletown. Neither referral had any regional implications. East Haddam was regarding alternate soil-based zoning regulation intended to loosen their existing regulations. Middletown was regarding an amendment to the existing regulations to address the new medical marijuana legislation. They continue to work on a Mission Statement and their organizational documentation. Finally, Linda Krause reported to the RiverCOG that during her visit to the East Hampton P & Z Commission meeting she enjoyed our Liaison Reports and encouraged all the members to consider utilizing that practice.

Public Comments: Vice-Chairman Zatorski opened the meeting up to the public at this time.

Cindy Rooth, EDC Chairman, reported to the Commission that EDC has been working closely with the owner of 13 Summit Street in his quest for water for the development he would like to propose. The project is to renovate an old mill and create 29 condominiums and commercial space. The Town Council is concerned about depleting the available water in the Village Center. EDC is very supportive of the project and will be providing the Town Council with written support for that project.

There were no further public comments.

A. Election of a Vice-Chairman:

The Chairman opened the nominations.

Mr. Sennett nominated Regular Member Roy Gauthier for the Vice-Chairman. Mr. Rux seconded the nomination.

There being no further nominations Mr. Rux moved to close the nominations and Mr. Arrestad seconded the motion. The Commission voted unanimously to close the nominations.

The Chairman called for the vote. The Commission voted unanimously to elect Mr. Gauthier as Vice-Chairman.

4. **Set Public Hearing for December 4, 2013:** None.

5. **Read Legal Notice:** None.

6. **Public Hearings for November 6, 2013:** None.

7. **New Business:** None.

8. **Old Business:**

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 – Public Hearing Closed 10/02/2013: The Chairman explained that the public hearing for this application was closed at the last regularly scheduled meeting at which time Town Staff was asked to provide a summary of the information submitted during the public hearing. He further explained that no additional information may be received; however, they may discuss anything that is already on the record and they may ask Town Staff questions regarding that information.

Mr. Carey began by addressing the Commission's question regarding the ability to deny an application without prejudice. He reported that is a tool available to the Zoning Board of Appeals, as they have time constraints for re-applications. The Planning and Zoning Commission does not have time constraints for re-applications; therefore, if an application is denied the applicant may re-apply at any time.

Mr. Carey addressed the Commission's question regarding their obligation to follow the advice of the Fire Marshal by clarifying that they are not bound to the advice of the Fire Marshal, or anyone else, but it is prudent to take the advice of professionals unless there is conflicting testimony.

Mr. Carey reported that the 20' access-way that has been indicated as the minimum requirement for fire vehicle access is indeed 20'.

Mr. Carey discussed with the town attorney the Town's liability should the Commission approve this application regardless of the apparent access concerns. The attorney responded by clarifying that anyone can be considered liable by anyone at any time and the proof is in the courts. He will not assess a level of liability; however, he recommends the Commission take on as little as possible.

Mr. Carey provided a summary to the Commission including the facts, location, requirements, improvements, access (including attempts that the staff has made in finding alternate access), and omissions of the application. In conclusion he recommended that the Commission deny the application for Special Permit consideration under Section 17.10 of the East Hampton Zoning Regulations for failure to comply with Section 17.10.6, Public Safety and with Section Nos. 28 and 29, Site Plan and Special Permit Requirements.
Attachment 1

Mr. Carey further explained that he was also requested to draft a proposal to approve that application. He reported no matter how many ways he addressed the request, the end result would require the Commission to deem the need for adequate and safe access to be secondary to economic development and cultural enrichment. He believes that position would be irresponsible; both on his part as a professional and on the Planning and Zoning members part as Commissioners. He therefore cannot accommodate that request. He assured the Commission that his summary was based solely on information taken from the public hearing itself. The information has not been taken out of context and no further information has been included.

The Commission discussed with staff efforts to develop a new and more appropriate access way, the requirements of a special permit review, site plan requirements, changes in the use requiring improvements to the property, alternative access options, the police department's review, safety concerns, and historic concerns.

Mr. Gauthier discussed the use of the property and questioned whether public safety would be undermined by a few more cars. He discussed the prevalence of roads and driveways that do not meet any kind of public safety requirements. He believes the Police Department and the Ambulance Association have proven they have access and the fire department will not be any more impaired from access than they already are. He further believes that the signage and sightlines should be improved regardless of the outcome of this application. He would like to see this application approved and that it is merely a request to intensify something that already exists. He suggested that the application be approved with strict conditions.

Ms. Wright agrees with Mr. Gautier. She explained that she believes she must rely on the advice of the experts. If she were not aware of the problems she would be pleased with the application.

Mr. Gauthier is concerned that the Commission may be too cautious. The use will continue as it always has. He would have liked to see the applicant come to the Commission with an improved access and committed neighbors.

Mr. Zatorski discussed his belief that the proposal could be wonderful for the community but the Connecticut Statutes bind the Commission to review this application for safety. He encourages the applicant to come back to the Commission with an improved application.

Mr. Carey explained that if the applicant had shown a cooperative effort between the applicant and the neighbors and had arrived at a plan for a secondary or improved egress to the property, they might have been more readily approved. He had asked the applicant early on to hone the relationships with the neighbors. That did not happen either. He also likes the use and would have liked to see it work out. Unfortunately, it is not up to the standards that must be met today.

Mr. Hoffman discussed the planning element of the Commission and the desire of the Commission to see this application work. He also hopes the applicant returns with an improved proposal.

Mr. Gauthier suggested that this would be a wonderful project for the EDC to help with and urged the applicant to work with that Commission.

Mr. Zatorski moved, and Mr. Sennett seconded, that 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, be denied for the following reasons:

- *Section No. 17.10.6, Public Safety, requires safe vehicular and pedestrian passage. The 12' easement across private residential property is not adequate to serve this necessary function;*
- *The regulation also requires compliance with the provisions for location and condition of access ways and this unimproved, dirt passage is inadequate as a sole and primary means of ingress and egress;*
- *The Fire Marshal has provided testimony that a 20'. wide drive is required for a minimum fire lane;*
- *The residential neighbors gave testimony of the greatly increased amount of traffic due to the business operation;*
- *There is not traffic engineering report to present data supporting the provided driveway and the suggestion to utilize Bishop Hill Road was declined to be further considered by the owner or applicant; and*
- *In consideration of Section No. 17.10 of the East Hampton Zoning Regulations there is a failure to comply with Section No. 17.10.6, Public Safety, and with Section Nos. 28 and 29, Site Plan and Special Permit Requirements.*

The motion carried unanimously.

B. Discuss with EDC - Request to Re-Consider Zone Change of Main Street from Route 66 to the Village Center from Lakeside and Village Residential, R-1, to Professional Offices/Residential, PO/R:

Cindy Rooth, Chairman of the EDC, was present to discuss with the Commission her concerns about the Main Street corridor from Route 66 to the Village Center. The EDC would like to see the P&Z consider changing the zone in this corridor from R-1 to PO/R as a means to help in the revitalization of the Village Center and protect the existing atmosphere of the area. A PO/R zone will allow the older architecturally sound buildings to house law offices, chiropractors, etc. while continuing to accommodate a residential need and neighborhood atmosphere, and at the same time, drawing business traffic off Route 66 and into the Village Center. Many of the homes in this corridor are at risk of

being rezoned commercial. A zone change of that nature would endanger the existing buildings, atmosphere, and ultimately further deteriorate the Village Center.

Ms. Rooth believes that a PO/R zone would encourage buyers with a high price range because they would be able to establish a business and a home on the same property.

Mr. Aarrestad questioned the success of the PO/R Zone currently established on Route 66. Ms. Rooth explained that the traffic on Route 66 moves at a much faster pace than the traffic on Main Street and it has been difficult for those businesses to draw attention to themselves.

Mr. Carey explained that historically the Commission was concerned about creating too much of a non-residential presence on Main Street. He explained that the PO/R regulation as it exists today was driven by a desire to keep properties from morphing into commercial structures and deviating from the residential atmosphere, as well as for concern that the properties would convert to small apartment houses with no business element. There are provisions built into the existing regulation that have worked to keep concerns of the Commission under control. Mr. Carey discussed specific houses in the area EDC is concerned about. Marketing these houses for professional business would greatly improve the prospects for sale of these houses, which would in turn limit the potential for these houses to fall into disrepair.

The Commission, EDC, and staff discussed the potential for this area and ways of protecting it.

Jim Gooch, 7 Haddam Neck Road and a member of EDC, wanted to clarify that EDC isn't actually making a recommendation as a Commission but is suggesting that the P&Z consider making the change. He discussed economic revival and the belief that one of the best selling points for East Hampton is its character. He believes small city conservative practices will best serve potential changes to the zoning rules. He agrees that things have changed and in theory we should not be bound to the decisions made 10 years ago, but we should be slow to make wholesale changes to the way the lines have been drawn. In drawing the lines the town has created funnels to specific areas of the community that it believes can bear the traffic. He is not entirely sure that this area should be altered.

Mr. Rux is interested in proceeding with this change. The Village Center is extremely limited by the fact that there is no potable water supply. The area being discussed, under the terms being discussed, offers a potential short-term solution for economic development until the water problem is resolved.

The Chairman asked staff to provide information regarding developing a PO/R regulation for this corridor to encourage economic development while protecting the character of the neighborhood.

The Commission would like the residents of the area to be consulted. It was suggested that the changes could be made incrementally. They want to be mindful of spot zoning as well.

C. Discuss with EDC- Business Incentive Program Ordinance:

Jim Gooch, 7 Haddam Neck and member of EDC, explained that the Business Incentive Program prior to the new program was not by ordinance but by resolution. The goal was to provide a more comprehensive program to help incentivize business development in certain

areas on which East Hampton would like to concentrate. They developed a series of metrics to be used to judge those projects as they came before them. The Town Council would, in turn, approve or deny the applications. Finally, the Town Attorney would provide an agreement which would allow the Town to both track the project and call back any incentive that had been granted but not realized by the applicant or project. The program is not an abatement program but a deferral and incentive program. It is a subsidy that is provided because the Town is supportive of the project and the benefit it can realize for the Town. The Ordinance gives direction to the applicant, EDC, and Town. It also allows for continuity as membership and staffing changes. It remains for the EDC to create operational documents.

Ms. Rooth explained that previously EDC had no tool to deny a request for abatement or to incentivize the areas they were targeting for economic revitalization and growth. The new ordinance gives EDC that ability. The DD Zone will be one of the areas targeted for incentive.

Mr. Gooch explained that the EDC has determined that the number one impediment to economic development in the Village Center is the lack of available water. It is at the top of their priority list. Hopefully, EDC will be able to come to some conclusions about that and build consensus for it.

D. Review & Discussion: Draft Refomatted Town of East Hampton Zoning Regulations: Mr. Carey explained that the Third Draft of the Zoning Regulations has been presented to the Commission this evening. A standalone lighting regulation has been referred to the Commissioners as well. If the Commission is satisfied, it will be inserted into Section No. 7.3 which has been reserved. As the Commission has defined assisted housing, congregate housing, and active adult housing, it will be necessary to further look at density for these types of housing. The density required currently is impossible (See DD Zone). Finally, please consider removing the active adult use in the DD Zone (The Commission had agreed not to allow anymore but it was never actually removed from the Regulations). After some discussion the Commission agreed by consensus to amend the Regulation by removing the active adult use in the DD Zone. Mr. Carey requested that the Commissioners provide feedback to his office regarding any problems they may find in this Third Draft of the Regulations.

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

The meeting adjourned at 8:56 p.m.

Respectfully submitted,

Daphne C. Schaub
Recording Secretary