

Town of East Hampton
**Planning and Zoning
Commission**
Regular Meeting May 3, 2023
Town Hall and Virtual Meeting

MINUTES

1. Call to Order and Seating of Alternates:

Chairman Kuhr called the meeting to order at 7:00 p.m.

Present: Chairman Kuhr, Vice-Chairman Zatorski, Rowland Rux, Jim Sennett, Angelus Tammaro, Roy Gauthier and Meg Wright

Alternate Members: Mike Kowalczyk, Matthew Walton and Ted Hintz, Jr

Zoning Official Jeremy DeCarli

Absent:

2. Approval of Minutes:

A. April 5, 2023 Regular Meeting: Vice-Chairman Zatorski made a motion to approve the minutes with changes recommended by Chairman Kuhr. Mr. Rux seconded the motion.

Vote: 5-Yes; 0-No-2 Abstentions Mr. Gauthier and Ms. Wright

3. Communications, Liaison Reports and Public Comments: Mr. Sennett attended ZBA meeting April 10, 2023 and discussed applications. The following Commission Members did not have anything to report: Mr. Gauthier, Mr. Tammaro, Mr. Rux, Vice-Chairman Zatorski, Mr. Rux, Mr. Gauthier, Ms. Wright, Mr. Walton and Mr. Hintz. Chairman Kuhr asked for public comments at this time. Judy Isele, 85 North Main Street, Unit 40, spoke in favor of application PZC-23-010. Philip Wielgosh, 79 North Main Street, would like a public hearing for application PZC-23-010 and expressed concern with noise. Scott Nicol, 85 North Main Street, Unit 3C & 3D, spoke in favor of application PZC-23-010. Mr. DeCarli explained he received two emails regarding application PZC-23-010 and noted one was in favor and the other opposed. Eric Rosenberg, 15 Bay Road, spoke about ADU presentation and thanked the Commission and Mr. DeCarli. Jacob Kravitz spoke in favor of application PZC-23-010.

4. Read Legal Notice for May 3, 2023: Mr. DeCarli read the legal notice.

5. Public Hearings for May 3, 2023:

A. PZC-23-005: Lynn Robinson, 27 North Main Street, Special Permit for conversion to different non-conforming use, 8.2.D, Map 01A/ Block 39A/ Lot 15. Lynn Robinson, property owner of 27 North Main St., presented proposed plans. Ms. Robinson explained she currently has office space and would like to use space for a craft store. Ms. Robinson explained proposed hours of operation are weekend only with appointments during the week and hours subject to change during the summer. Chairman Kuhr asked if parking was accessible and Mr. DeCarli briefly explained site layout and parking areas. Chairman Kuhr asked if space meets code regulations. Mr. DeCarli explained he referred plan to town staff and it will require building permits. Chairman Kuhr asked for public comments

at this time. There were no public comments. Mr. Rux made a motion to close public hearing for application PZC-23-005: Lynn Robinson, 27 North Main Street, Special Permit for conversion to different non-conforming use, 8.2.D, Map 01A/ Block 39A/ Lot 15. The motion was seconded by Vice-Chairman Zatorski. **Vote: 7-Yes; 0-No** Vice-Chairman Zatorski made a motion to approve application PZC-23-005: Lynn Robinson, 27 North Main Street, Special Permit for conversion to different non-conforming use, 8.2.D, Map 01A/ Block 39A/ Lot 15. For the following reasons: it meets regulations. With the following conditions: Town Staff be notified before the start of construction, Town Staff approve of the parking plan, and any requirements of the Fire Marshal be met. The motion was seconded by Mr. Rux. **Vote: 7-Yes; 0-No**

B. Text Amendment Regarding Required Setbacks on Non-Conforming Lots in the R-1 Zone: Section 8.2 of the East Hampton Zoning Regulations. Mr. DeCarli added additional language and discussed updates to proposal. Mr. DeCarli noted he did not yet receive comments from Conservation Lake Commission and Zoning Board of Appeals. Mr. Sennett asked if this topic will be added to the ZBA's agenda. Mr. DeCarli replied he will add it to the agenda. Mr. Walton asked for clarification on minimum area. Mr. DeCarli provided minimum lot size for R1. Mr. Walton and Mr. DeCarli further discussed minimum lot size requirements. Mr. Gauthier asked why change the regulations as ZBA deals with hardships. Mr. DeCarli discussed hardship requirements and zoning requirements. Mr. Gauthier asked how many lots would be affected by the proposed change. Mr. DeCarli referred to his report. Mr. Rux discussed statistics for variances in R1 zone. Mr. DeCarli further discussed caselaw and approved variances by ZBA. Mr. Tammaro expressed concern and briefly discussed proposed regulations. Mr. DeCarli discussed wetlands commission and ZBA. Mr. Sennett discussed recent ZBA denied application. Mr. DeCarli briefly discussed proposed setback changes. Mr. Rux asked for other Town Departments to submit comments. Mr. Tammaro asked Mr. DeCarli to provide case law for reference. Chairman Kuhr asked for comments from IWWA Commission. Chairman Kuhr asked for public comments at this time. There were no public comments. Vice-Chairman Zatorski made a motion to continue the public hearing for Text Amendment Regarding Required Setbacks on Non-Conforming Lots in the R-1 Zone: Section 8.2 of the East Hampton Zoning Regulations to the next regularly scheduled meeting scheduled for June 7, 2023. The motion was seconded by Mr. Tammaro. **Vote: 7-Yes; 0-No**

6. New Business:

A. PZC-23-010: Ismet Dedusaj, Lakeside Bar & Grill, 81 North Main Street, Site plan review to allow outdoor music per Sec. 5.2.B.7, Map 04A/ Block 45A/ Lot 21. The applicant was not present. Vice-Chairman Zatorski made a motion to continue application PZC-23-010: Ismet Dedusaj, Lakeside Bar & Grill, 81 North Main Street, Site plan review to allow outdoor music per Sec. 5.2.B.7, Map 04A/ Block 45A/ Lot 21 to the next regularly scheduled meeting June 7, 2023. The motion was seconded by Mr. Rux. **Vote: 7-Yes; 0-No**

B. PZC-23-011: Edgewater Hill, 10 Edgewater Circle, Text Amendment regarding water requirement in MUDD zone per Sec. 6.4.D.3.d.3, Map 10A/ Block 85/ Lot 5B.

Harry Heller, Attorney with office at 736 Route 32, Uncasville, representing Edgewater Hill, explained the current regulation for MUDD zone required public water and sewer. Attorney Heller stated the development was designed with sewer and water supplied by CT Water Company. Attorney Hill explained now CT Water Company informed the developer they are unable to provide potable water supply to the future phases. Attorney Heller noted provision in CT statute that allows public health to provide waivers. Attorney Heller explained proposed language in MUDD zone should be modified to allow individual housing units be interconnected to private potable wells in situations a waiver has been granted by the CT department of public health and Chatham Health Department issued a permit. Attorney Heller briefly discussed phase one and two, Public Health Department and Connecticut Water Company. Mr. Gauthier asked if application is for individual wells at each property. Attorney Heller replied application is for a text amendment that would enable individual wells and each phase would require a separate application with the Commission. Mr. Gauthier asked if there will be individual wells drilled as needed. Attorney Heller replied they are preparing an application for TS1 also known as multi use building, and 14 homes for individual wells if text amendment granted. Mr. Gauthier asked if in the future would the properties be connected to water system. Attorney Heller replied the 14 homes would remain individual wells but believes TS1 could be inter-connected. Vice-Chairman Zatorski asked if there is an economic issue or technical issue. Attorney Heller replied it is a technical issue as capacity of treatment facility that exists to treat water have taxed the limits of the current treatment facility and explained economic issue with Connecticut Water has estimated 7-million-dollar cost to expand the treatment facility as necessary. Chairman Kuhr asked if MUDD was the only zone in our regulations that require development be connected to water system. Mr. DeCarli replied yes, he believes the MUDD zone is the only one that requires a public water system. Attorney Heller explained the waivers from Public Health are only granted by exigent circumstances. Mr. Tammaro asked if it could be done by a variance. Mr. DeCarli replied he believes it could but believes a text amendment makes more sense. Attorney Heller discussed hardship with variance. Commission Members discussed hardship with variance. Mr. Tammaro asked if text language could include by special permit. Mr. DeCarli explained it will need to come to the Commission as a site plan and subdivision. Mr. Heller explained Connecticut Water Company is obligated to provide potable water supply to those who are currently connected by statutory and regulatory obligation. Mr. Gauthier asked if 14 lots with individual wells meet all regulations. Mr. DeCarli replied yes, they would require Chatham Health District for approval. Mr. DeCarli discussed MUDD zone requirements. Mr. Tammaro asked if applicant applied for grants or funding, as there is a constraint on public utility. Mr. DeCarli replied the Town is investigating a long-term solution town wide. Mr. Rux asked what is the Town's responsibility for wells if they do not work out. Attorney Heller explained the developer cannot get a CO unless potable well is drilled that meets both chemical perimeters and minimal yield requirements. Mr. Rux expressed his opinion that it is the responsibility of

developer to provide a water system. Attorney Heller explained the current water system is also serving Laurel Ridge, Edgewater and Baker Hill. Mr. Rux discussed previous approval for site. Mr. Kowalczyk asked what waiver was granted by State. Attorney Heller replied the State granted a waiver for interconnection requirement by Connecticut Public Health Code. Mr. Tammaro asked for a copy of communication from Public Water. Lisa Motto, clarified the current water system is interconnected with Laurel Ridge and Baker Hill. She explained they did not anticipate or want individual wells and spent two years negotiating with CT Water. Mrs. Motto explained the text amendment would keep the project moving and provide more time to negotiate with CT Water. Chairman Kuhr noted there are seven phases and asked if wells could approve by phase. Mrs. Motto said yes, the next phase includes the 14 lots, TS1 building and this would provide more time to work with CT Water. Mr. Gauthier asked who owns the wells and are responsible for them. Attorney Heller replied the well for TS1 is considered a public water supply, it's an individual well it has to be operated by a licensed operator. Mr. Gauthier asked about the 14 individual wells. Attorney Heller replied the individual property owner. Mr. Gauthier asked what happens if well dries up. Attorney Heller replied a text amendment would have similar requirement as other zones from CH. Mr. DeCarli explained the 14 wells would have more scrutiny than others in Town as DPH needs to approve before Chatham Health Department. Mr. Gauthier expressed concern with potential well issues in the future as original plan required connection to public water. Mr. Gauthier asked if future property owner understands they are responsible for wells. Attorney Heller explained they would consider including a disclosure in each purchase and sale agreement disclosing the house is served by an onsite potable water supply well they are responsible for. Mr. Rux discussed water treatment will be required. Mrs. Motto replied she is transparent with potential customers that they will need water treatment systems. Mr. Gauthier mentioned a possible bond being required. Vice-Chairman Zatorski made a motion to schedule a public hearing for application PZC-23-011: Edgewater Hill, 10 Edgewater Circle, Text Amendment regarding water requirement in MUDD zone per Sec. 6.4.D.3.d.3, Map 10A/ Block 85/ Lot 5B to the next regularly scheduled meeting June 7, 2023. The motion was seconded by Mr. Rux. *Mr. Rux asked if Mr. DeCarli could meet with the developer and Attorney Heller to discuss questions the Commission had. Vote: 7-Yes; 0-No*

- C. PZC-23-012: Michael Bakaj, 37 South Main Street, a 22-lot (33 units) HOD subdivision in existing HOD Zone, Map 20 Block 51/ Lot 27.** Mark Reynolds, Professional Engineer, 63 Norwich Avenue, Colchester explained proposed plans for a 22-lot subdivision in HOD zone. Mr. Reynolds noted there is an abutting parcel of open space. Mr. Reynolds discussed previous court ruling allowing for 129-unit affordable housing development at this parcel. Mr. Reynolds spoke about current proposal. Mr. Reynolds explained the property is 20 acres with areas of wetlands, discussed soil and grading. Mr. Reynolds discussed differences from previous application. Mr. Reynolds discussed open space, easement for retention basin, 33 units consisting of 11 duplexes and 11 single family homes, with 10 of them deeded affordable

units. Mr. Reynolds briefly discussed HOD regulations and proposed layout. Mr. Reynolds briefly discussed wetlands locations on the site and IWWA commission reviewed application and received approval. Chairman Kuhr asked about red line on site map and Mr. Reynolds replied the line represents property retained by applicant. Mr. Gauthier asked if that property was a separate lot. Mr. Reynolds replied it is remaining land that could be future development. Mr. Reynolds noted proposed low-pressure sewer system and individual grinder pumps. Mr. Gauthier asked further details of entire parcel of land. Mr. Reynolds explained the entire parcel is in the HOD zone. Mr. Tammara asked if original application is withdrawn for 129-unit approval. Mr. DeCarli explained if this application is approved it will supersede previous approval. Mr. Tammara asked if future developments on parcel have to have Commission approval and Mr. DeCarli replied yes. Mr. Reynolds further explained they would need to follow same process for future development. Chairman Kuhr asked if previous application was for two zones and reason for changes. Mr. Reynolds replied they abandoned that plan based on input from Commission and current application does not require zone change. Mr. Reynolds further explained the previous application would only yield 17 lots in the R2 zone. Mr. Rux asked if retained area would be developed in future as previous application indicated that area as open space. Mr. Reynolds briefly discussed HOD regulation regarding density. Mr. Rux asked if open space is deeded. Mr. Reynolds replied it is up to the Commission, it is intended as open space but could be a conservation easement or Town owned. Mr. Sennett asked for cul-de-sac dimension to road and Mr. Reynolds provided dimension. Mr. Sennett noted subdivision regulations and asked if remainder parcel of land could be used for active recreation. Mr. Reynolds asked what the Commission would like. Mr. Sennett recommended an area for kids or a walking trail. Commission Members discussed previous and current zone. Mr. Rux asked if applicant addressed punch list. Mr. DeCarli replied the previous punch list was from previous application but he would create a new one. Mr. DeCarli also explained the new plans will be referred to Town Engineer for review. Vice-Chairman Zatorski asked for applicant to provide cistern for water to be provided on plans. Mr. Rux asked if retention bond is still on plans and Mr. Reynolds replied yes, but is now in a different location from original application. Mr. DeCarli further discussed retention pond now moved further away from wetlands. Chairman Kuhr asked if the 11 proposed duplexes be in one location or spread out. Mr. Reynolds explained currently they are mostly located across the southern edge of road but is not definite and noted affordable regulation requirements. Mr. Rux asked who would own duplexes and Mr. Reynolds replied he believes it would privately owned in the long term. Commission Members discussed timeframe for application. Mr. Sennett recommended current designated open space could be used as recreation space. Mr. Reynolds asked what the Commission as a whole would like to see with 15% open space guideline. Mr. Sennett and Chairman Kuhr as single Commissioners provided recommendations for open space. Mr. Rux asked if it will be set up as association. Mr. Rux asked who maintains roads and Mr. Reynolds replied they will be town roads. Chairman Kuhr noted as a single Commissioner he would like to see open space in the middle of the development. Chairman Kuhr briefly discussed proposed duplexes.

Chairman Kuhr asked if one person would own duplex or by two. Mr. DeCarli noted duplexes around town and ownership options. Chairman Kuhr expressed concern with duplex designs. Mr. Rux asked what dwellings would be deed restricted. Mr. Reynolds replied he was unsure. Mr. DeCarli cited HOD regulation requires affordable housing plan to be submitted with site plan. Mr. Tammara asked why one duplex counts as two units as it is sold as a single property. Mr. Reynolds replied the regulation is unit based. Mr. Gauthier asked how the remaining land in the parcel would be accessed. Mr. Reynolds provided access location. Mr. Gauthier asked how that area will be accessed in the future. Mr. Reynolds explained he currently does not have a plan for that area. Vice-Chairman Zatorski made a motion to schedule a public hearing for application PZC-23-012: Michael Bakaj, 37 South Main Street, a 22-lot (33 units) HOD subdivision in existing HOD Zone, Map 20 Block 51/ Lot 27 on July 5, 2023. The motion was seconded by Mr. Rux. *Commission Members briefly discussed public hearing date.*

Vote: 7-Yes; 0-No

D. Appointment to Regional Housing Committee. Commission Members briefly discussed appointing a Commission Member to Regional Housing Committee. With agreement from the members, Chairman Kuhr appointed Mr. Gauthier as the liaison to the Regional Housing Committee and the Planning and Zoning Official as the Alternate.

7. Old Business:

A. Discussion: Legislature Updates. Mr. DeCarli briefly discussed updates to proposed legislative bills.

8. Planner's Report – None.

9. Set Public Hearing(s) for June 7, 2023:

10. Adjournment – Vice-Chairman Zatorski made a motion to adjourn at 9:06 p.m., seconded by Ms. Wright. The vote was unanimous in favor. ***Vote: 7-Yes; 0-No***

Respectfully submitted,



Cheryl Guiliano
Recording Secretary