

EAST HAMPTON ZONING BOARD OF APPEALS
Regular Meeting
June 13, 2022

DRAFT MINUTES

1. Call to Order: Chairman Spack called the meeting to order at 7:00 pm.

2. Seating of Alternates:

Present: Chairman Spack, Vice-Chairman Reed Regular Members: Margaret Jacobson, George Pfaffenbach, Bob Hines, John Tuttle, George Coshow as well as Zoning Official Jeremy DeCarli.
Absent: Bradford Cillizza

3. Legal Notice: Staff read the June 13, 2022 Legal Notice into the record.

4. Approval of Minutes:

A. May 9, 2022 Regular Meeting

B. April 11, 2022 Regular Meeting Vice-Chairman Reed made a motion to approve May 9, 2022 and April 11, 2022 meeting minutes as written. The motion was seconded by Ms. Jacobson.

Vote: 5-0

5. Public Hearings:

A. Application ZBA-22-003: Patricia Santangelo, 40 Eastham Bridge Rd., reduce front set back from 50' to 46' to build front porch. Map 24/ Block 64/ Lot 4A-17. Ms. Santangelo presented proposed plans for a 6' x 22' front porch. Mr. Tuttle explained criteria used to make decisions. Ms. Santangelo stated she may need to have a ramp for access in the front. Mr. Tuttle replied a ramp would be different than what is being proposed. Mr. Coshow asked when the house was purchased and Ms. Santangelo replied 2010. Ms. Santangelo explained the reason for the porch in the front of the house is to watch her children play and ride bikes in the front. Mr. Tuttle asked if she had an alternate location for a porch. Ms. Santangelo explained the garage location prohibited porch on side of the house. Chairman Spack expressed concern with the hardship and briefly discussed an accessibility ramp. Chairman Spack asked for public comments. Noel Sanborn, 146 Main St. spoke in support of the application as it was a place to watch her children to keep them safe. Jen Swindal, 11 Whippoorwill Hollow spoke in support of the application and questioned the size of the proposed deck. Chairman Spack further explained hardship requirements. David Gates, 146 Bear Swamp Rd asked for the hardship statement as written. Mr. Tuttle read the applicant's hardship statement. Mr. Gates asked for proposed deck location and setback requirements. Commission Members briefly discussed setback requirements. Mr. DeCarli read the variance hardship statute and discussed setback requirements. David Gates, 146 Bear Swamp Road felt the hardship is due to previous owners that built home close to setback line and spoke in support of the application. Mr. Tuttle discussed State rules regarding variances. Mr. DeCarli explained the applicant has the ability to withdraw and resubmit a new application. Susan Ondas, 34 Chatham Fields Rd, spoke in favor of application and expressed support for the applicant resubmitting new application for accessibility ramp. Ms. Santangelo asked to withdraw application.

B. Application ZBA-22-002: Atlantis Marketing, 1 Colchester Ave., 5 Colchester Ave., and 157

Main St., Attorney Jezek presented on behalf of the applicants. Attorney Jezek explained they have made significant revisions to proposed plans. Mark Smith, Engineer discussed the current site location and non-conformities. Mr. Smith explained revised proposed plans noting significant change by eliminating drive thru, changes to parking spots, reduction to driveway size, two curb cuts, canopy location and multifamily house eliminated. Mr. Smith explained that currently there are 17 non-conformities and proposed plans would then bring non-conformities down to 2. Mr. Smith briefly discussed proposed landscaping and screened fence. Mr. Smith explained the proposed canopy and building is larger but set further back from the street. Mr. Smith presented a concept plan for proposed building. Attorney Jezek discussed specific provisions from the POCD regarding the arterial streets in the intersection and economic development growth. Attorney Jezek explained reasons for granting this variance. Attorney Jezek explained a hardship was created by zoning regulations by the properties zone change from commercial to residential and reduction of non-conformities on a property may be a sufficient basis for a variance. Attorney Jezek stated if the variance is granted they will be merging the lots together. Mr. Tuttle asked for clarification regarding proposed plans and zoning regulations. Attorney Jezek replied if the variance is granted a site plan approval is required by Planning & Zoning Commission. Mr. DeCarli referred Commission Members to a memo in packet regarding proposed plan changes. A Commission Member asked how many proposed gas pumps and Mr. Smith replied 8. Chairman Spack asked what is the plan for the Strong House. Attorney Jezek replied currently there is no plan yet but he has tried reaching out to organizations that are interested in the historic structure. Chairman Spack asked for public comments:

Attorney Ken Slater of Halloran & Sage, representing 18 property owners spoke in opposition: Attorney Ken Slater explained the proposed plan is increasing size: from 4 gas pumps to 8 gas pumps, increasing store size and believes this in a non-conforming expansion of use. Attorney Ken Slater noted several court cases concerning non-conforming use. Attorney Ken Slater explained reasons for opposition: impermissible use variance, fails for lack of hardship and expansion of a nonconforming use in not authorized under the Adolphson doctrine. Attorney Ken Slater discussed the gas station's non-conforming use, cited Connecticut General Statutes 8-2 and referenced Supreme Court cases. Attorney Ken Slater briefly discussed specific provisions from the POCD regarding permitted use.

The following members of the public spoke in opposition:

Peter Pach – 59 Middle Haddam Rd.

Brian Holdt – 116 Hurd Park Rd.

Daniel Finn – 85 Champion Hill Rd.

Ryan Bothamley – 141 Main St.

Ken Dodson – 148 Main St.

Rich Fielding – 30 South Main St.

Kate Avery – 14 Edgerton St.

Noel Sanborn – 146 Main St.

Stuart Winquist – 11 South Main

Maryanne Keogh – 148 Main St.

Adam Knouse – 146 Main St.

Deno Rubero – 248 White Birch Rd.

Jack Belowich addressed comments regarding the Strong House. Mr. Belowich explained initially he planned to remove the Strong House but was informed it was historic. Mr. Belowich explained they have designed plans around Strong House and they offered home for someone to take it on and stated no one has come forward. Mr. Belowich explained he had the tenant of 157 Main St. move out because it needed repairs and Chatham Health said it was not habitable unless

fixed. Mr. Belowich explained they tried fixing the problem but the piping in the basement would all have to be removed and replaced. Mr. Belowich stated the tenant is in a motel and he has recently found the tenant an apartment and proposed demolishing the house. Kate and Brian Avery – 14 Edgerton St. discussed property conditions at 157 Main St.

Amanda Schunk – 35 Lake Blvd. Spoke in opposition.

Sandra Marshall – 74 Smith St. Spoke in opposition.

Attorney Jezek discussed a court case regarding reduction in non-conformities as a basis to grant a variance. Daniel Finn – 85 Champion Hill Rd. briefly discussed court case noted by Attorney Ken Slater. Mr. DeCarli advised Commission Members before closing the public hearing that no changes can be made to the site plan or application, no more public comments can be submitted or entered into record, no other information can be submitted into record, and unless an extension is requested by applicant then the hearing must be closed and the Commission has an additional 65 days to decide. A member of the public asked if letters have been submitted and Mr. DeCarli replied yes, they are in Commission Members packers and online. Mr. Tuttle made a motion to close public hearing for Application ZBA-22-002: Atlantis Marketing, 1 Colchester Ave., 5 Colchester Ave., and 157 Main St. The motion was seconded by Ms. Jacobson. **Vote: 5-0** Mr. Tuttle briefly discussed permitted use, Strong House, proposed plans and lack of hardship. Mr. Tuttle made a motion to deny Application ZBA-22-002: Atlantis Marketing, 1 Colchester Ave., 5 Colchester Ave., and 157 Main St. The motion was seconded by Vice-Chairman Reed. Mr. DeCarli recommended that motions always be made in the affirmative to avoid confusion. Mr. Tuttle rescinded his motion. Mr. Pfaffenbach made a new motion to accept Application ZBA-22-002: Atlantis Marketing, 1 Colchester Ave., 5 Colchester Ave., and 157 Main St. The motion was seconded by Mr. Tuttle. **Vote: 0-5**

6. New Business: None.

7. Old news: None.

8. Adjournment: Vice-Chairman Reed made a motion to adjourn the meeting at 8:50 pm. Ms. Jacobson seconded the motion. **Vote: 5-0**

Respectfully Submitted,



Cheryl Guiliano
Recording Secretary