

Town of East Hampton
**Planning and Zoning
Commission**
Regular Meeting June 7, 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 Tamaro, Roy Gauthier and Meg Wright

Alternate Members: Mike Kowalczyk and Matthew Walton

Zoning Official Jeremy DeCarli

Absent: Ted Hintz, Jr

2. Approval of Minutes:

A. May 3, 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: 7-Yes; 0-No

3. Communications, Liaison Reports and Public Comments: Mr. DeCarli referred

Commission Members to their packets for the quarterly report by Connecticut Federations of Planning and Zoning Agency. Mr. DeCarli briefly discussed upcoming battery storage project at 44 Skinner St. and noted the project is overseen by CT Siting Council and CT DEEP. Mr. DeCarli explained he has requested a plan set when it is available for the Commission to review and provide comments if needed. Mr. Gauthier reported he attended committee meeting for RiverCOG's Regional Housing Plan and briefly discussed their goals. Mr. Sennett attended ZBA meeting May 8, 2023 and reported one application was continued to the next regularly scheduled meeting and the other application was denied. Mr. Sennett explained ZBA will further discuss setbacks on non-conforming lots in the R-1 zone at their next regularly scheduled meeting. The following Commission Members did not have anything to report: Mr. Tamaro, Mr. Rux, Vice-Chairman Zatorski, Ms. Wright and Mr. Walton. Chairman Kuhr asked for public comments at this time. John Tuttle, 71 Viola Dr., Jim and Marsha Nichol, 85 North Main St., Gene and Carol Casalveri, 16 Lake Blvd., Rich Goral, 5 Lake Blvd. spoke in favor of application PZC-23-010.

4. Read Legal Notice for June 7, 2023: Mr. DeCarli read the legal notice.

5. Public Hearings for June 7, 2023:

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 Attorney Heller, discussed the property's development history and his client intended to

develop the project in accordance with the master plan to have CT Water Company supply water. Attorney Heller explained his client was informed by CT Water Company they did not have the treatment capacity to treat any more water for future phases of the master plan. Attorney Heller noted the issue is not supply but water treatment. Attorney Heller further explained CT Water rate increase was denied and they pulled approvals for further phases. Attorney Heller explained his client tried negotiating with CT Water but they requested upgrades to the treatment facility that Edgewater, Laurel Ridge and Baker Hill for 7 million dollars. Attorney Heller explained they alternatively explored the potential for a stand-alone water system and noted CT Water approval is required. Attorney Heller explained the third alternative to keep the project moving is individual wells. Attorney Heller explained they have worked with Town Staff, Chatham Health, State of CT Public Health Department and received a waiver from CT Public Health Department for individual wells. Attorney Heller further explained water supply requirements. Attorney Heller explained proposed language that would allow a property developed in a MUDD zone be relieved of obligation to interconnect to a public water supply with two conditions; (1) a waiver of interconnection is granted by CT Public Health and (2) a well permit is issued by Chatham Health Department. Vice-Chairman Zatorski asked for clarification if individual wells are for only 14 homes and asked how many units are in TS1. Attorney Heller replied 14 homes and believes TS1 would contain a restaurant with 6 or 8 units. Mrs. Motto replied the TS1 building will be two stories with 1 restaurant on lower level and 4 apartments on second story. Vice-Chairman Zatorski asked how many units remained on the master plan. Mrs. Motto replied about 50 single family units and 5 commercial mixed-use buildings. Attorney Heller further discussed having future discussions with CT Water for providing water for remainder of master plan. Mrs. Motto further discussed negotiating with CT Water. Vice-Chairman Zatorski discussed original approval of master plan was for a public water supply and potential for all the units in the master plan to receive waivers for individual wells. Attorney Heller discussed proposed text change for future development. Chairman Kuhr asked if CT Water could supply water at a later time would the 14 homes be considered to interconnect and Attorney Heller replied no. Mr. Gauthier stated the water supply seems like an ongoing issue with the developer and CT Water Co. Attorney Heller replied the water supply issue is defaulting to the State of CT Public Health and to Chatham Health Department. Mr. Gauthier explained the development was approved with public water supply and believes it has become an economic issue. Attorney Heller and Mr. Gauthier briefly discussed economic issue. Mr. Tamaro asked if Commission Members should consider to limiting text change to only single-family homes. Vice-Chairman Zatorski replied current plan is for 14 single family homes but master plan would add about 50 single family homes and commercial building with residential units. Mr. Rux discussed water testing, water quality and expressed concern with wells for 14 single family home with possible 50 more. Chairman Kuhr asked if waiver from CT Public Health Department relieves the Town of any liability. Attorney Heller replied he does not think the Town has any liability as they are not granting the waiver only possibly changing the zoning regulation. Attorney Heller explained the well is tested before they can receive a

certificate of occupancy and individual wells will require individual treatment system. Attorney Heller explained the Commission can modify proposed language to limit to only single-family homes on a minimum acreage. Chairman Kuhr stated he believes there are not many areas with 60 acres in size left in Town where a MUDD Zone could be developed. Mr. DeCarli there are not many parcels of that size that could have public water and sewer. Mr. Rux noted lot sizes and wastewater discharge requirements. Mr. Gauthier asked if CT Water was a part of the original application to the Commission. Attorney Heller replied CT Water Company did not appear before the Commission and they have had discussions with them. Mr. Gauthier expressed concern with approving 14 individual wells for single family homes. Chairman Kuhr asked if they could approve a minimum amount. Mr. Tammaro asked if they could approve a percentage of single-family dwellings for wells. Mr. DeCarli replied language could be modified. Mr. DeCarli briefly discussed CT Public Health process for issuing waivers. Attorney Heller further discussed separation distance requirements for wells, minimum lot size and Department of Public Health. Mr. Gauthier explained the original approval was for the developer to provide public water and asked if developer would take responsibility for individual wells. Attorney Heller replied the health code could not allow it. Mr. Gauthier expressed concern with future issues of the individual wells. Mr. Rux discussed setback requirements for wells in relation to curtain drains and sewer lines. Chairman Kuhr asked if they could have maximum number of individual wells before needing to comeback to the Commission. Attorney Heller replied yes, they could and need time to find a solution with CT Water. Chairman Kuhr and Mr. Rux discussed future phases have smaller lots, distance requirements and need for public water. Mrs. Motto further explained the master plan had 32 units in the next phase and they modified the plan for 14 single family units to accommodate the individual wells. Commission Members discussed how many individual wells they should approve, minimum lot size and language modification to text amendment. Attorney Heller provided language recommendations. Mr. Gauthier asked if they could approve waiver just for this application. Attorney Heller replied the Commission could not do it just for this application they would need to do a text amendment change. Mr. DeCarli noted the Commission could always change regulations. Mr. Gauthier asked for future clarification if text amendment is changed could they modify it in the future and Mr. DeCarli replied yes. Mr. Tammaro asked if liability should be a concern. Mr. DeCarli replied he does not believe it is a liability issue and provided projects with individual wells. Mr. Gauthier asked if the Town will have a future public water system. Mr. DeCarli replied the Town Council and Town Manager received grants funding a study into a water system. Chairman Kuhr asked for public comments. Mary Bona, 20 North Ridge, explained the HOA did not receive notification of the public hearing. Mr. DeCarli replied it is a text change and does not require abutter notification. Attorney Heller replied they mailed abutters notice as courtesy. Commission Members discussed language to text change. Mr. DeCarli explained the master plan received approval; each phase needs to come before the Commission and recommended language of maximum number of units per phase. Attorney Heller suggested language to add to the proposed text amendment. Commission Members further discussed possible language.

Mr. Gauthier asked if the Commission could continue public hearing and have text amendment language to review. Mr. Tammaro asked if super majority language be included and Attorney Heller replied it could not. Attorney Heller provided modified text amendment language. Mr. Gauthier recommended including language for only 14 individual dwelling units. Mr. Tammaro asked if they always have text amendment changes like this application reviewed by the Town lawyer. Mr. DeCarli replied it is within their discretion. Mr. Tammaro stated he believes the language could be interpreted differently. Mr. Sennett stated it is a good idea to review written text amendment before they vote. Commission Members discussed continuing the public hearing. Attorney Heller noted the restaurant is on public water supply. Mr. DeCarli briefly discussed the MUDD zone and noted this parcel is the only one currently in the MUDD zone. Chairman Kuhr asked if continuing the public hearing would hinder their development. Attorney Heller replied he understands if the Commission would like additional time to review language. Mr. Kowalczyk asked if they would consider a percentage of units of the master plan. Mr. Rux noted the original master plan included public water supply and briefly discussed public water supply. Chairman Kuhr asked how many lots are already sold under the next phase. Mrs. Motto replied all their clients that have a non-binding lot reservation and are aware that they would need individual wells with a filtration system. Vice-Chairman Zatorski made a motion to continue the 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 July 5, 2023. The motion was seconded by Mr. Gauthier. *Vote: 7-Yes; 0-No* Vice-Chairman Zatorski made a motion to continue the 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 July 5, 2023. The motion was seconded by Mr. Gauthier. *Vote: 7-Yes; 0-No*

- A. Text Amendment Regarding Required Setbacks on Non-Conforming Lots in the R-1 Zone: Section 8.2 of the East Hampton Zoning Regulations.** Chairman Kuhr noted the ZBA asked for additional time to review regulations. Chairman Kuhr asked if there were public comments. Vice-Chairman Zatorski made a motion to continue 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 July 5, 2023. The motion was seconded by Mr. Rux. *Vote: 7-Yes; 0-No* Vice-Chairman Zatorski made a motion to continue 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 July 5, 2023. The motion was seconded by Mr. Rux. *Vote: 7-Yes; 0-No*

6. New Business:

- A. PZC-23-013: M&J Bus, Inc., 9 Young Street, Special Permit to allow school bus storage per Sec. 5.3.C.6, Map 20/ Block 33/ Lot 7A.** John Paul Mereen, Surveyor, 191

Boston Post Road, East Lyme, presented proposed plans to allow school bus storage. Mr. Mereen explained current topography is relatively flat, an existing trailer will be removed, a new trailer will be placed for office use and parking may be shifted around at a later date. Mr. Mereen further explained there is existing gravel and plans to add crushed stone to stabilize. Chairman Kuhr asked if there were any wetlands. Mr. Mereen noted wetland buffer area and improvements will be outside buffer zone. Mr. Rux asked if the mining activity will continue at the site and Mr. Mereen explained no. Chairman Kuhr asked how the site will be accessed. Mr. Mereen provided location of current and proposed access off of young street and noted possible future access point by Town's pump station. Chairman Kuhr asked how many buses can fit before light on Rt. 16. Mr. Mereen explained plans for 22 bus stalls, 9 van stalls, 35 passenger parking spots. Chairman Kuhr asked how many buses can exit to the light. Mr. Mereen replied he did not know but the owner will be at the public hearing. Mr. DeCarli replied he believes there is about 800ft between exit to light. Mr. Tammara asked if there are wetlands at the site and adequate erosion controls. Mr. Mereen replied they are not creating anymore pervious surfaces; the topography is flat and noted small berm on site. Chairman Kuhr asked if there will be gas storage at the site and Mr. Mereen replied no. Mr. Rux asked if they would continue to use wash area to remove dust. Mr. Mereen explain proposed plans to install stone surface to minimize dust. Mr. Tammara expressed concern with dirt at entrance. Mr. DeCarli noted the material coming onto the road has diminished from when gravel operation existed. Chairman Kuhr asked if operation is similar to Portland bus storage and Mr. DeCarli replied yes. Vice-Chairman Zatorski made a motion to set a public hearing for application PZC-23-013: M&J Bus, Inc., 9 Young Street, Special Permit to allow school bus storage per Sec. 5.3.C.6, Map 20/ Block 33/ Lot 7A for the next regularly scheduled meeting July 5, 2023. The motion was seconded by Mr. Rux. *Vote: 7-Yes; 0-No* Mr. Gauthier asked if they could provide at next meeting a map showing abutting parcels.

7. Old 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.** Mr. Dedusaj, property owner, proposed plans for acoustic outdoor music only. Chairman Kuhr noted it is commercial lot and previous owner had music. Mr. DeCarli replied the previous owners were allowed to have music and noted other commercial business in Town that have music. Vice-Chairman Zatorski asked if public hearing is not required and Chairman Kuhr confirmed. Mr. Tammara asked if they could require a public hearing and Mr. DeCarli replied yes. Mr. Tammara asked if Dexters and ice cream business had a public hearing. Mr. DeCarli replied the ice cream shop did not have a public hearing and Dexters had a public hearing only because it was tied with a special permit. Mr. Tammara asked what hours he proposed for music. Mr. Mr. Dedusaj replied until 10-10:30pm and Sundays day time from 2pm-5pm and noted he did not want any loud music. Mr. Tammara asked if he could end the music earlier during week. Chairman Kuhr asked what his normal business hours are and Mr. Dedusaj provided hours of operation. Chairman Kuhr asked what the Town ordinance is for when the business needs to be

closed down. Mr. DeCarli replied there is not one but there is DEEP ordinance that requires a certain decibel by 10:00pm. Commission Members briefly discussed hours. Mr. Gauthier noted he lived on the other side of the Lake and was able to hear music from previous owners and recommended a public hearing to hear public comments. Mr. Gauthier asked if it will be acoustic music. Mr. Dedusaj replied only acoustic music. Mr. Tammaro noted there is not a vegetated buffer between adjacent neighbor. Mr. DeCarli replied it is pre-existing and previous approvals for outdoor music were non-amplified outdoor music. Mr. Tammaro asked if a dj would be considered amplified. Mr. DeCarli replied it would be considered amplified and would not be allowed if the Commission specified no amplification. Mr. Tammaro asked if application is approved would it run with the land. Mr. DeCarli replied no as there is liquor permit for the site and outdoor music would require a different type of liquor permit. Mr. Tammaro asked if complaints are made to Town after approval what can they do. Mr. DeCarli explained he would first talk to property owner about hours or come back to the Commission as it is a site plan. Vice-Chairman Zatorski made a motion to approve 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 for following reasons: it is an accessory use to the restaurant and it meets the regulations. With the following conditions: outdoor music to be acoustic, non-amplified only, outdoor music may occur Sunday through Thursday noon to 10pm and Friday, Saturday and holiday noon to 11pm. *Commission Members discussed proposed hours with amended hours of operation to Sunday through Thursday 12:00pm to 9pm and Friday, Saturday 12:00pm to 11pm. The motion was seconded by Mr. Rux. Commission Members briefly discussed hours of operation for federal holidays. Vote: 7-Yes; 0-No*

B. 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. Mr. DeCarli explained he and the Town Engineer have completed their review, Public Works and the Fire Marshal are discussing plans. Mr. DeCarli stated a revised plan should be received at next meeting that incorporate all comments received by Town Staff. Chairman Kuhr asked how far along the applicants are on the check list. Mr. DeCarli replied he did not know and expects updated plan set. Mr. Sennett explained he did not see sidewalks on plans. Mr. DeCarli replied there are sidewalks on plan, noted regulation for dimension and stated the Fire Marshal is reviewing plans and will review road width. Mr. Sennett expressed concern with road width dimensions. Mr. DeCarli deferred to Public Works for the comments.

C. Discussion: Legislature Updates. Mr. DeCarli explained the session ends at midnight and briefly discussed updates. Vice-Chairman Zatorski briefly discussed bill HB-6781.

8. Planner's Report – Mr. DeCarli referred Commission Members to his written report. Mr. DeCarli explained the next meeting location may need to be moved to a different location because of referendum and will update the Commission.

9. Set Public Hearing(s) for July 5, 2023:

10. Adjournment – Vice-Chairman Zatorski made a motion to adjourn at 9:11 p.m., seconded by Ms. Wright. The vote was unanimous in favor. *Vote: 7-Yes; 0-No*

Respectfully submitted,



Cheryl Guiliano
Recording Secretary