

EAST HAMPTON ZONING BOARD OF APPEALS
Regular Meeting
August 14 2023

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 Alternates: Robert Hines and Cathy Ann Clark As well as: Zoning Official Jeremy DeCarli. Absent: John Tuttle, Margaret Jacobson and George Pfaffenbach Chairman Spack seated Mr. Hines and Ms. Clark

3. Legal Notice: Staff read the August 14, 2023 Legal Notice into the record.

4. Approval of Minutes:

A. June 12, 2023 Regular Meeting. Vice-Chairman Reed made a motion to approve minutes as written. The motion was seconded by Chairman Spack. *Vote: 4-0*

5. Public Hearings:

A. ZBA-23-006: Bethanne Salva, 12 Brook Trail, Reduce side setbacks from 15' to 8.5' and 15' to 7.0' to construct deck with stairs. Map 10A/ Block 79/ Lot 7. Bethanne Salva, property owner explained plans to construct a 20' x 12' deck at the rear of the house. Ms. Salva explained she is asking for a variance for the side setbacks. Ms. Salva discussed the lot is small, slopes and is rocky and wants to get the best use of the property. Ms. Salva noted both neighbors have decks, feels the deck would enhance the property and stated several neighbors submitted letters in favor. Chairman Spack asked if the proposed stairs off the deck would be the only thing protruding from the side and Mr. DeCarli replied yes. Ms. Salva explained the stair location is on the side rather than at the rear as the property slopes and is cost effective. Chairman Spack asked if abutters were notified. Mr. DeCarli replied abutters were notified, signage was installed and there are letters of support. Ms. Salva explained she discussed proposed deck with abutters and they spoke in favor. Chairman Reed asked what the hardship is. Ms. Salva read from letter submitted that noted lot size, use of land, lot topography and noted adjacent neighbor's variance approvals. Commission Members discussed reasonable use and the lots topography. Chairman Spack asked for public comments. There were no public comments. Vice-Chairman Reed asked if there were any letters of opposition and Mr. DeCarli replied no and he received three letters of support. Chairman Spack made a motion to approve ZBA-23-006: Bethanne Salva, 12 Brook Trail, Reduce side setbacks from 15' to 8.5' and 15' to 7.0' to construct deck with stairs. Map 10A/ Block 79/ Lot 7 as presented because the variance will allow a reasonable use of the property where it would otherwise not be allowed. The motion was seconded by Vice-Chairman Reed. *Vote: 4-0*

6. New Business: None.

7. Old Business:

A. Review Text Amendment Regarding Required Setbacks on Non-Conforming Lots in the R-1 Zone: Section 8.2 of the East Hampton Zoning Regulations. Vice-Chairman Reed explained he spoke with John Tuttle and a member from PZC and agree there would not be public hearing if that regulation were approved to receive feedback from neighbors and asked Mr. DeCarli if that is correct. Mr.

DeCarli replied it depends on what the application is and if it met the requirements from the new proposed regulation then that is correct. Mr. DeCarli further explained the Commission's charge is to determine if there is a hardship and there would not be a hardship statement needed in certain cases if the proposed regulation is approved. Vice-Chairman Reed replied the public hearing gives neighbors a voice and Mr. DeCarli replied true. Mr. DeCarli further explained the Commission's charge is to determine if there is hardship and understands the voices of the neighbors. Mr. DeCarli explained historically with way the board operated two almost identical applications that had neighbors in support of one application received a variance and the other application which neighbors spoke in opposition was denied. Vice Chairman Reed replied at that point it is up to that board to be consistent and Mr. DeCarli replied he agreed. James Sennett, PZC Member, explained Mr. DeCarli drafted the text amendment proposal for PZC to review and the Commission expressed concern that applications would not come under review by ZBA. Mr. Sennett further explained if proposal is approved the neighbors could not have a say. Mr. Sennett explained the Commission in previous applications have stated there is no hardship for an application and asked them to move buildings to an area on their property that meets zoning regulations. Mr. Sennett discussed adjacent neighbors in favor or opposed plans would not be able to come to ZBA and asked does the Commission want that. Vice-Chairman Reed explained the Commission has talked to previous applicants and asked them to revise plans to meet regulations. Mr. Sennett replied the public at ZBA public hearings have provided comments to make the plans better, and noted previous comments received from abutting neighbors regarding views and privacy. Chairman Spack asked for proposed text amendment regulation changes and Mr. DeCarli replied it is in the packets and they have previously discussed. Mr. DeCarli explained he has discussed proposed changes with PZC since January. Mr. DeCarli explained the proposed changes are similar to a sliding scale, as the lots get narrower the setbacks gets smaller but not on both sides. Mr. DeCarli explained there is a minimum setback and an aggregate set back, if you take advantage of the minimum set back on one side the setback on the opposite side is going to be larger. He stated the goal of the proposed text amendment is to get a 25' wide structure on a 40' to 50' wide property as currently the zone requires the lot be 125' wide. Mr. DeCarli noted previous

setbacks prior to 1990's. Mr. DeCarli explained for example, a property owner would like to construct a 6'x8' laundry room for his home but can't because he does not meet setback requirement because he has a 40' wide lot. Mr. DeCarli noted that property owner's application for a variance was previously denied because neighbors spoke in opposition. Mr. DeCarli explained the lots around the Lake were not constructed when we have modern conveniences. Vice-Chairman Reed replied a lot off the houses were seasonal cottages. Mr. DeCarli explained in the 1980s the sewer system was installed allowing the cottages to be used year-round. Mr. DeCarli explained the idea is to reduce the side yard setbacks, if an applicant wanted to go outside the setbacks they would need a variance from the Commission and proposed regulations do not change coverage limitations. Chairman Spack explained the Commission was able to talk previous applicant Chris Burt into shifting his proposed house away from side setback in favor of his neighbor. Mr. DeCarli briefly discussed Mr. Burt's approval and the proposed text amendment would take advantage of one of the setbacks but because it has an aggregate setback the house would probably end up more in the middle of the lot than what Mr. Burt was granted, and he would be a little closer to the other side. Vice-Chairman Reed asked what the proposed new minimum setback size is on one side and Mr. DeCarli replied it depends on the size. He further explained lots that are narrower than 50' would have a minimum setback of 6' and the aggregate setback of 15'. He additionally noted there are not of lots below 40' and most of lots would fall into the range of a setback minimum of 8' and aggregate of 18' or 20'. Chairman Spack asked if there was a way to only apply to lots around the lake. Mr. DeCarli replied the proposed changes would only apply to lots in the R1 zone. Vice-Chairman asked about non-conforming lots. Mr. DeCarli replied PZC expressed concern with lots, specifically Barton Hill that are narrow but long so they meet the minimum lot size of 20,000 SF. He noted they changed the language so long lots that meet 20,000Sf would need a variance for side setbacks as they can build a longer house. Vice-Chairman Reed asked if Mr. DeCarli received John Tuttle's opinion and Mr. DeCarli replied no. Chairman Spack and Vice-Chairman Reed agreed they did not want to decide without Mr. Tuttle. Vice-Chairman Reed asked for clarification if the Commission only wanted an opinion and verifying they are not voting and MR. DeCarli replied yes. Mr. Sennett explained PZC would like their

opinion on the matter. Vice-Chairman Reed asked what is the opinion of PZC so far and asked if Mr. Sennett is representing them. Mr. Sennett replied they have not voted yet, expressed concern that public would not be able to comment and noted ZBA currently has the ability to change designs of applicant's seeking a variance. Vice-Chairman Reed asked if other Towns are doing similar zoning setbacks and what Towns are. Mr. DeCarli replied yes other lake neighborhoods are as they are notorious for lots that are 40' – 50' wide. Chairman Spack asked if Tony Flannery's recent variance would have applied to new proposed text amendment. Mr. DeCarli replied he would have needed a variance as he requested 4.5' setback and nothing proposed has a setback that close. Vice-Chairman asked if proposed text amendment is approved could an applicant still apply for a variance with the Commission to be closer to a setback then regulation allows and Mr. DeCarli replied yes. Mr. DeCarli further explained the Commission is for an applicant who does not meet the requirements and if there is an applicant that is requesting 2' from property line they would need a variance. Mr. DeCarli stated the application on tonight's agenda would not have needed a variance under new proposal. Chairman Spack noted similar approval needed for Spellman Point. Mr. Sennett explained that if an approved application deviated from the Commission's approval the Commission could see it. Mr. Sennett further explained approvals under new proposal would not have the Commission see the plans, have no reason to deny it, PZC would not see it and only Mr. DeCarli would see it. Chairman Spack stated some applicants should not be applying for variance as they do not have a hardship like the applicant that applied today and without a hardship the Commission should not be granting any in theory. Chairman Spack further explained his opinion that today's application for a deck should have a deck at the back of the house, and when someone owns a property they should be able to use the property to the fullest. Vice-Chairman Reed stated as long as it does not affect your neighbor and Chairman Spack agreed. Vice-Chairman Reed noted the topography of Ms. Salva's lot. Mr. DeCarli replied it is a tough lot, noted case law. Mr. DeCarli discussed reasonable use of property and necessity of a hardship something like the application would be tossed out of court. Mr. DeCarli explained that is the problem the new proposal would help and people should not have to get a

variance to build reasonable use. Vice-Chairman Reed replied he understands what proposal does to streamline but is in favor of neighbors providing feedback to the Commission. Chairman Spack also stated he is in favor of neighbors providing feedback to the Commission. Mr. DeCarli further discussed the ability for neighbors to speak their mind but the Commission is to verify that they have a hardship, unless a member of the public has a comment about the hardship other comments are irrelevant. Vice-Chairman Reed replied the recent driveway denial is an example and Mr. DeCarli replied that was a coverage issue. Chairman Spack asked what that owner is doing with the driveway and Mr. DeCarli replied he did not know. Chairman Spack and Vice-Chairman Reed stated they would like Mr. Tuttle's opinion and could they continue the conversion at the next meeting and Mr. DeCarli replied yes. Vice-Chairman Reed asked Mr. Sennett if they needed an opinion tonight. Mr. Sennett replied the Commission just wanted an opinion if they wanted feedback from neighbors. Chairman Spack and Vice-Chairman Reed stated they liked the new proposals but liked receiving feedback from neighbors and streamline of new proposal. Mr. DeCarli stated people like predictability when moving forward on projects. Chairman Spack stated if changed the public can always go to the Town and appeal decision and regulations can always be changed. Vice-Chairman noted Mr. Tuttle can reach out to PZC Members or submit a letter of his opinion.

8. Adjournment: Chairman Spack made a motion to adjourn the meeting at 7:31 pm. Vice-Chairman Reed seconded the motion. *Vote: 4-0*

Respectfully Submitted,



Cheryl Guiliano
Recording Secretary