

EAST HAMPTON ZONING BOARD OF APPEALS

Regular Meeting

December 9, 2019

Town Hall Meeting Room

MINUTES

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

2. **Seating of Alternates:**

Present: Chairman Matthew Walton, Vice-Chairman Spack, Regular Members: George Pfaffenbach and Margaret Jacobson as well as Alternate Member: Robert Hines.

Absent: Vincent Jacobson and John Tuttle

3. **Legal Notice:** Staff read the December 9, 2019 Legal Notice into the record.

4. **Approval of Minutes:**

A. **November 18, 2019 Regular Meeting** – Mr. Pfaffenbach made a motion to approve the November 18, 2019 minutes as written. The motion was seconded by Ms. Jacobson. **Vote: 4-0**

5. **Applications:**

A. **Application ZBA-19-014, Ty Sweet, 7 Main St.,** for an appeal of ZEO Decision: Illegal third apartment unit with inhabitant. Map 05A/Block 62/Lot 12. Attorney Beatty of 705 Boston Post Rd. in Guilford presented on behalf of the applicant. Mr. Sweet is appealing the ZEO decision in response to the cease and desist order that was issued to him. Attorney Beatty provided a brief history of the property: In 1984 it was purchased by the Brady's who did some interior work to build a 3rd dwelling unit. In October of 1984, a letter was sent to them from the Town of East Hampton stating that the Town was advised of the conversion of 1 dwelling unit to 2. The Brady's responded by agreeing to remove the equipment they installed but they did not so another letter was sent to the Brady's by the Zoning Enforcement Official (Mr. Tuckerman) in November of 1984 recognizing that plumbing had been added rather than removed and insisted that the ZEO (Mr. Tuckerman) be allowed to access the property for an inspection. The letter went on to inform the Brady's that legal action was a possibility if the Brady's were found to be in violation of the previous agreement that they had made with the Town. There were no further letters or correspondence from the Town or the Brady's since 1984 and no action was taken subsequent to the November 1984 letter. The Brady's sold the property (with the 3rd unit) to Charles Zingle in 1999 (a copy of the deed was provided to the Commission members). In 2003 Mr. Zingle sold the property to Mr. Sweet who purchased it as a 3 unit house and has used it as such (a copy of the deed was provided to the Commission members). Mr. Sweet was unaware that there were any violations on the property until an emergency call to the property in August 2019. As a result of the emergency call, it was brought to the ZEO's attention that there were 3 dwelling units at this location when the Regulations only permit 2 therefore a cease and desist order was issued to Mr. Sweet. Attorney Beatty provided the members with the Assessor's card which indicates a 3 family unit since 2000 (per Attorney Beatty's discussion with the Assessor). Mr. Sweet's assessment has been based on a 3 unit structure and he has been paying sewer use charges for a 3 family. Mr. Sweet prepared a drawing of the interior layout of the 2nd floor and provided copies to the Commission members. There are (2) 1 bedroom units with bathrooms that are located central to the 2nd floor and from Mr. Sweet's perspective, the cost for converting the 2 units back to 1 will be substantial. He re-iterated that Mr. Sweet was not aware of any violations and there have been no complaints from the neighbors regarding traffic, no health citations and no negative impact to the neighborhood. The conversion commenced and completed 35 years ago and there have been meter boxes on the outside that may have indicated more than 2 units (albeit, not readily visible). He paraphrased Sec. 8-13 of the State Statutes: "if no enforcement is taken by the Town then there is a "sunset" for the enforceability." Ms. Jacobson inquired about emergency access for the 2nd floor units. Mr. Sweet explained that there is a door and staircase on the side of unit #2C for emergency access as well as interior stairs that are accessed by both units. Ms. Jacobson commented that in her opinion, the outdoor staircase does not look safe (per the photo on the Assessor's card). Chairman Walton addressed the verbiage on the application that describes what the applicant is asking for which is a non-conforming use to be allowed in the zone. Chairman Walton provided the Regulations definition of a non-conforming use and a non-conforming structure or building. He explained that based on the definitions provided and the fact that the zone has not changed; the applicants request does not apply to the standards. Mr. DeCarli, Zoning Enforcement Officer explained that he received an email from the Deputy Fire Marshal inquiring about the

legality of the 3rd unit. Mr. DeCarli reviewed the Building and Land Use files and found the notice of violation from 1984 and added that there were no permits issued (from 1984 to today) allowing the additional unit to be constructed so due to the historical information and the fact that there were potential unsafe conditions, he issued a cease and desist order to Mr. Sweet. Chairman Walton stated that he (as a single Commission member) cannot approve the applicants request because it does not fit the definition of a non-conforming structure. A brief discussion among the Commission members followed about voting on this application. Mr. DeCarli explained that the Commission has 35 days to close the hearing which would give the applicant the opportunity to confer with his Attorney, respond to comments made this evening or revise the request and to present it to the Commission again in January should he chose to do so. Attorney Beatty stated that they can also apply for a variance if they can prove a hardship. Mr. DeCarli stated that because there is an active cease and desist order, they will need to follow through on the appeal request before a variance can be requested. Ms. Jacobson made a motion to continue Application ZBA-19-014, Ty Sweet, 7 Main St., for an appeal of ZEO Decision: Illegal third apartment unit with inhabitant Map 05A/Block 62/Lot 12 to the next regularly scheduled meeting on January 13, 2020 (the date is within the 35 day period). The vote was unanimous in favor. ***The motion passed.***

6. New Business: None

7. Old Business: Randall and Diane Rushin sent an email on 11/22/2019 requesting the withdrawal of their application (ZBA-19-012) for a variance to construct a garage at 43 Smith Street.

8. Adjournment: Chairman Walton made a motion to adjourn at 7:34 p.m. The vote was unanimous in favor.

Respectfully Submitted,

Christine Castonguay
Recording Secretary