

EAST HAMPTON ZONING BOARD OF APPEALS
Regular Meeting
April 11, 2022

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, John Tuttle, George Coshow, Alternates: Bob Hines, as well as Zoning Official Jeremy DeCarli.

Absent: Alternate: Bradford Cillizza

3. Legal Notice: Staff read the March 14, 2022 Legal Notice into the record

4. Approval of Minutes:

A. March 14, 2022 Regular Meeting – Mr. Pfaffenbach made a motion to approve the March 14, 2022 meeting minutes as written. The motion was seconded by Mr. Tuttle. *Vote: 5-0*

5. Public Hearings:

A. 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 asked Chairman Spack if he could canvas Commission Members to ensure there was no influence by the publicity associated from previous hearings for Planning & Zoning Commission. Chairman Spack asked if any Commission Members needed to recuse themselves. Commission Members all replied no. Attorney Jezek explained the property known as the Foodbag at the intersection of Route 16 and Main St. and has pumped fuel location since WW2. Attorney Jezek explained in 1961 this property and intersection was zoned commercial until zoning regulations changed to single family residential in 1990. Attorney Jezek briefly explained previous applications at Planning and Zoning Commission. Attorney Jezek explained his clients own three properties at that intersection: a convenience store & service station at the corner, a small ranch house, a brick building also known as the Strong House and a multifamily residential structure. The Strong House has been identified on the National Historic register, and the applicants intend to keep the house. The single-family residence on 5 Colchester avenue has been vacant and they intend to demolish it. They plan to merge three lots together to bring the property into dimensional compliance, but noted the multi family residence on north side of property will continue to encroach on sideline. Attorney Jezek briefly discussed the hardships: The Strong House as they need to design around it and the zoning regulations that changed in 1992. Attorney Jezek explained section 8.2.H of the Town's zoning regulations which allows for expansion of non-conforming use and noted criteria that must be met. Attorney Jezek stated the application is to address lot coverages and exercising their right under section 8.2.H to increase non-conformity. Attorney Jezek explained the intersection is the only major intersection in town that is not zoned commercial or industrial and Main street and Rt 16 is identified in zoning regulations as an area for potential development. Attorney Jezek states they are eliminating a number of existing nonconformities. Attorney Jezek explained that if the application is approved with conditions the applicants would need to go back to PZC for approval and noted the need in order to compete in the market and bring the facility up to current standards. Mark Smith, Engineer, discussed

existing non-conformities of each property and explained there is currently 16 non-conformities and 11 would be removed by the proposed project. Mr. Smith discussed impervious surfaces calculations on all 3 properties and DOT property, proposed canopy changes, and reduction to curb cuts. Mr. Tuttle asked for proposed drive-thru dimensions. Mr. Smith replied it is 2500SF, 3%. 12ft wide 200ft long. Attorney Jezek explained the drive thru could be eliminated as a condition of approval. The house to the north is not critical to their operation but is included in proposed plans from comments received from prior hearings from PZC for the need for housing. Mr. Smith explained if the house were removed, the associated parking and the drive thru it would assist coverage totals. Mr. Pfaffenbach asked if the house is a multi-family in a single-family zone. Attorney Jezek replied yes and the removal of house would eliminate another nonconformity. Mr. Tuttle asked how many parking spaces were in the northern lot for the multifamily and Strong House. Mr. Smith explained there are 8 parking spaces. Attorney Jezek explained they will not rent out Strong House and do not have plans for it and would consider plans from a historic group. Commission Members discussed Strong House maintenance. Attorney Jezek offered the Commission Members the opportunity to visit the properties for a site walk. Mr. Tuttle asked the Town Attorney for clarification on the hardships for current nonconformities on all three properties. Town Attorney explained nonconformities and eliminating variances for a more conforming use. Attorney Jezek wanted to clarify lot coverage for commercial use and clarified ownership of properties. Chairman Spack expressed concern with hardship from recently purchasing the properties. Chairman Spack explained he did not agree proposed plans for a drive thru as use would change and asked if there is a landscaping plan. Mr. Smith replied they do not currently have a full landscaping or light plan as that is typically completed at the end but there is opportunity for landscaping. Mr. Spack asked if there were any discussion with DOT about squaring the corner of the lot. Mr. Smith discussed proposed parking lot entrance. Chairman Spack asked for public comments:

Sal Nucifora – 147 Colchester Ave., Spoke in Opposition.

Attorney Ken Slater of Halloran & Sage, representing 18 property owners spoke in opposition: Ken Dodson – 148 Main St. – Allison & James Daly – 2 South Main St. – Brooke & Stuart Winquist – 11 South Main St. – Charles & Beverly Goodrich – 137 Main St. – Leslie & Eric Cygan – 26 Edgerton St. – Heidi & Ryan Bothamley – 141 Main St. – David Guerette – 154 Main St. – Sara Adams & Timothy Benicak – 152 Main St. – Lawrence & Susan Trudeau – 7 South Main St. – Lois & Ron McCutcheon – 51 Long Hill Rd. Attorney Ken Slater referred Commission Members to his submitted memo. Attorney Ken Slater discussed expanding the use of the commercial property and read the definition of permitted use in Section 8.2. H in zoning regulations. Attorney Ken Slater explained if the three lots are merged into one there will be elimination of setback requirements but the tradeoff is creating a larger commercial building where it is not allowed. Attorney Ken Slater discussed cases of variances for financial reasons is not a legal ground for a hardship but have to show they can't reasonable use the three properties without a variance. Attorney Ken Slater noted court cases for nonconforming use variances, hardships and permitted uses.

The following members of the public spoke in opposition:

Peter Pach – 59 Middle Haddam Rd.

Rich Fielding – 30 South Main St.

Daniel Finn – 85 Champion Hill Rd.

Brian Holdt – 116 Hurd Park Rd.

Kate Avery – 14 Edgerton St.

Ken Dodson – 148 Main St.

Stuart Winquist – 11 South Main

Margaret Malley – 17 Dziok Dr.

Maryanne Keogh – 148 Main St.

Heather Zoldak – 7 Colchester Ave. spoke in favor

James Daly – 2 South Main St.
Irene Kuck – 11 South Main St.
Brian Avery – 14 Edgerton St.
Jim Davis – 28 Edgerton St.
Noel Sanborn – 146 Main St.
Adam Knouse – 146 Main St.
Ryan Gorra – 3 Dziok Dr.
Victoria Fielding – 30 South Main St.
Kaitlin Finn – 85 Champion Hill Rd.
There were no further public comments.

Mr. DeCarli stated he received 74 letters in opposition and 1 letter of support. Attorney Jezek invited Commission Members for a site walk of the properties. Chairman Spack asked if the gas station would be open 24 hours. Attorney Jezek replied that it will not be open 24 hours and could not recall what the hours would be. Chairman Spack asked if there were any other options for a smaller store. Attorney Jezek replied they will take feedback into consideration and respond. Mr. Tuttle expressed concern with the applications hardships. Attorney Jezek asked for the opportunity to respond to comments and present at the next meeting. Chairman Spack discussed current site conditions. Mr. Pfaffenbach made a motion to continue Application ZBA-22-002: Atlantis Marketing, 1 Colchester Ave., 5 Colchester Ave., and 157 Main St. to the next regularly scheduled meeting May 9, 2022. The motion was seconded by Ms. Jacobson. **Vote: 5-0**

6. New Business: None

7. Old news:

A. Reviews By-Laws: Mr. Tuttle made a motion to have himself and Mr. Coshow work together to draft edits to the Bylaws to bring to the full Commission at the next regularly scheduled meeting May 9, 2022. The motion was seconded by Mr. Pfaffenbach. **Vote: 5-0**

8. Adjournment: Mr. Pfaffenbach made a motion to adjourn the meeting at 8:53pm. Mrs. Jacobson Seconded the motion. **Vote: 5-0**

Respectfully Submitted,



Cheryl Guiliano
Recording Secretary