

EAST HAMPTON ZONING BOARD OF APPEALS
Regular Meeting
August 14 2023

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 beyond the side of the existing house 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 of the PZC and it was their understanding that there would not be public hearing if the proposed regulation were approved in order 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 of the new proposed regulation then that is correct. Mr. DeCarli further explained

the ZBA's charge when reviewing a variance application is to determine if there is a hardship and there would not be a variance needed in certain cases if the proposed regulation is approved. Vice-Chairman Reed replied the public hearing gives neighbors a voice and Mr. DeCarli agreed. Mr. DeCarli further explained the Commission's charge is to determine if there is hardship in the event of a variance request and understands the appeal of hearing the voices of neighbors. However, Mr. DeCarli explained that historically with way the Board has operated in the past, two nearly identical applications could come in with different results; one that had neighbors in support would receive the requested variance and the other application which neighbors spoke in opposition of would be denied. Vice Chairman Reed replied at that point it is up to that Board to be consistent and Mr. DeCarli agreed, but again pointed out the need to verify the hardship statement. James Sennett, PZC Member, explained that 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 that if the proposed regulation is approved, in many cases variances would not be required, and therefore the neighbors could not have a say in what is being built. Mr. Sennett explained the Board has, in previous applications, stated there is no hardship for an application and asked applicants to move buildings to an area on their property that meets the zoning regulations. Mr. Sennett discussed adjacent neighbors in favor of or opposed to plans would not be able to come to the ZBA and asked if the Board wanted that. Vice-Chairman Reed explained the Board has talked to previous applicants and asked them to revise plans to meet regulations. Mr. Sennett replied that the public at ZBA public hearings has provided comments to make the plans better, and noted previous comments received from abutting neighbors regarding views and privacy. Chairman Spack asked for the proposed text amendment and Mr. DeCarli replied it is in the packets and they have been sent to the members previously. Mr. DeCarli explained he has discussed proposed changes with PZC since January. Mr. DeCarli explained the the proposed changes include a sliding scale for narrow, non-conforming lots in the R-1 Zone, as the lots get narrower the required side yard setbacks get smaller, but not on both sides. Mr. DeCarli explained that the proposal includes a minimum setback and an aggregate setback, if you take advantage of the minimum setback 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 the regulation change in 1990. 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 the 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 with our modern conveniences in mind. Vice-Chairman Reed replied a lot off the houses were seasonal cottages. Mr. DeCarli agreed and stated that 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; however, if a property owner wanted to go outside the new setbacks they would need a variance from the Board. The proposed regulation does not change coverage limitations. Chairman Spack explained the Commission was able to talk a recent applicant into shifting his proposed house away from the property line in favor of his neighbor. Mr. DeCarli briefly discussed that application and explained that in that case, the proposed text amendment would take advantage of one of the setbacks but because it has an aggregate setback the house would have ended end up more in the middle of the lot then what the applicant was granted, and he would be a little closer to the other side. The applicant was adhering to the 15 foot setback on one side, which pushed the house closer to the other side. Vice-Chairman Reed asked what the proposed new minimum setback size is on one side and Mr. DeCarli replied that it depends on the lot width. He further explained lots that are narrower than 50' would have a minimum setback of 6' and an aggregate setback of 15'. He additionally noted there are not very many lots narrower than 40' and most lots would fall into the category requiring a minimum setback of 8' and aggregate of 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 R-1 zone, now where else in Town. Vice-Chairman Reed asked about non-conforming lots. Mr. DeCarli replied PZC expressed a concern with larger lots, specifically some of the lots on Barton Hill that are narrow but long so they meet the

minimum lot size of 20,000 SF. He noted that the proposed language was changed so that lots that meet the 20,000SF minimum lot size cannot take advantage of the reduced setbacks as they can accommodate 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 from the Board and verified that 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 the opinion of PZC is so far and asked if Mr. Sennett is representing them. Mr. Sennett replied they have not voted yet, and expressed his concern that the public would not be able to comment and noted ZBA currently has the ability to change the location or design of structures for which a variance is being sought. Vice-Chairman Reed asked if other Towns have similar zoning setback provisions. Mr. DeCarli replied yes, mostly other lake neighborhoods as they are notorious for lots that are 40' to 50' wide. Chairman Spack asked if another recent variance application would have come to the Board if the new text was adopted. Mr. DeCarli replied that that project would have needed a variance as the request was for a 4.5' setback and nothing proposed has a setback that small. Vice-Chairman Reed asked that if the proposed text amendment is approved could an applicant still apply for a variance with the Commission to be closer to a setback than the regulation allows and Mr. DeCarli replied yes. Mr. DeCarli further explained the variance process exists for an applicant who cannot meet the requirements and if there is an applicant that is requesting a setback of 2' from property line, they would need a variance. Mr. DeCarli stated for example, the application on tonight's agenda would not have needed a variance under the proposal. Chairman Spack noted a 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 Board see the plans, there would be no reason to deny it, PZC would not see it and only the ZEO would see it. Chairman Spack stated some applicants should not be applying for variances as they do not have a hardship and without a hardship the Commission should not be granting any in theory. Chairman Spack further explained his opinion is that today's application for a deck was reasonable because this particular house should have a deck, and when someone owns a property they should be able to use the property to the fullest, even though by law, they may not have a hardship. 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, but also noted case law. Mr. DeCarli discussed reasonable use of property and the necessity of a hardship, and noted that something like tonight's approval would likely be reversed if challenged in court. Mr. DeCarli explained that is the problem that is being addressed by the proposed text and people should not be forced to seek a variance to build a reasonable structure. Vice-Chairman Reed replied he understands that the proposal streamlines the process but he is in favor of neighbors providing feedback to the Board. Chairman Spack also stated he is in favor of neighbors providing feedback to the Board. Mr. DeCarli further discussed the ability for neighbors to speak their mind but the Commission's responsibility is to verify that the applicant has a valid hardship, unless a member of the public has a comment about the hardship other comments are somewhat irrelevant. Vice-Chairman Reed replied the recent driveway request is an example of a denial and Mr. DeCarli replied that was a coverage issue and that the required coverage maximum is not being contemplated for change. 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 asked if they could continue the conversation to 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 proposal and the idea of streamlining the process for property owners, but they also like receiving feedback from neighbors. 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 the decision made by the ZEO and that 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,

A handwritten signature in blue ink that reads "Cheryl Guiliano". The signature is written in a cursive, flowing style.

Cheryl Guiliano
Recording Secretary