

East Hampton Planning and Zoning Commission
Special Meeting/Workshop
May 6, 2009
East Hampton Town Hall Meeting Room

Unapproved Minutes

1. **Call to Order:** Chairman Zatorski called the meeting to order at 6:00 p.m.

Present: Chairman Ray Zatorski, Members Peter Aarrestad, Roy Gauthier, Richard Gosselin, Mark Philhower, James Sennett, Alternate Members Michael Brogan and Darin Hurne. Zoning Administrator, James Carey, was also present.

Absent: Vice-Chairman Rowland Rux was absent.

2. **Discussion** - Home Occupation Regulation: Mr. Carey discussed the history of home occupation in East Hampton. In 1989 the Planning and Zoning Commission (PZC) eliminated all mention of home occupations. The decision was made after lengthy conversations related to difficulty in enforcement. At that time it was determined that the PZC wanted all home occupations to be completely invisible. This change was made with the intention that if any home occupation became evident they would then be in violation of the zoning regulations and would be dealt with accordingly. This has worked very well without any concern until recently. Home occupations that became visible or troublesome were noticed with violation orders and the concerning activities ceased.

Recently, it has been proposed that without a regulation anything not regulated is prohibited. The argument brought before the Zoning Board of Appeals and argued successfully was that if the business was not discernable it was not a legitimate purpose of zoning. With this concern in mind the PZC asked Mr. Carey to investigate various ways to regulate home occupations. The result of the research has been distributed to both the Commissioner and the public present at this meeting, as well as those who have requested the information prior to this meeting. These include regulations from Preston, Madison, Avon, Canton, Manheim, and Simsbury. (Attachment 1)

Mr. Carey, aware of the PZC's intent to keep these businesses invisible, proposed adopting a "Simsbury-like" model of regulation, whereby the home occupation is recognized as of right in all residential zones. Conditions are placed on the businesses. Mr. Carey believes that the best way to legitimize the businesses, not penalize any businesses, and firmly control the evident portion of the business use in neighborhoods is to allow the business occupation as of right without heavily regulating and permitting. Mr. Carey's recommendation is that a "Simsbury-type" permissive regulation that allows for aggressive enforcement once the business grows outside of the four walls of the house or is somehow evident be adopted. (Attachment 2)

Mr. Carey discussed the regulation developed by Planimetrics and proposed by EDC. This regulation includes definitions for four different types of home-based businesses, an inspection process, and ongoing compliance process that would involve extensive and difficult inspections and permitting. (Attachment 3)

The Commission questioned Mr. Carey and discussed further concerns regarding the different proposals. They discussed various concerns regarding enforcement. The Commissioners were concerned about the effect of the "Simsbury model" on trades people by Bullet No. 1 of that proposal. The elimination of Bullet No. 1 may resolve this concern.

The Chairman opened the meeting to the public at this time.

Whitney Fielding, 11 Lake Drive, discussed other ways of improving on the "Simsbury model".

Kathleen Anderson, 85 North Main Street, discussed her concerns about the limitation of business based on the "way" they do business as opposed to "how" they do business. Customers or clients should not be limited from coming to businesses in homes.

Commissioners Gosselin and Brogan discussed the need to prohibit external evidence of the business.

Alan Pawlak, 30 Viola Drive and EDC, discussed the intent of the proposals to limit traffic not customers or clients.

Cindy Rooth, 70 Viola Drive and EDC, discussed the efforts of EDC to design their proposal. She discussed the needs of her real estate clients and concern for proper notification of the fire department of the type of business and what type of chemicals are on sight.

Wayne Rand, Old Saybrook, submitted a copy of the 750 businesses in town that have filed personal property declarations. He is in favor of home occupation but believes they should be permitted and charged a minimal fee. Once the business has out grown the house they need to be moved out to the commercial or industrial zones. Their taxes are needed to help support the town. Also, there are plenty of businesses which no one would want in their neighborhood. Those businesses should be addressed in this regulation.

Mary Ann Dostaler, 56 William Drive, discussed her concerns and discussed the Town's Plan of Conservation and Development (POCD) as it relates to home occupations. Ms. Dostaler is concerned that under regulation of home occupations will give residence the opportunity to seek a variance to the zoning regulations to allow for home occupation at their residences.

Kathleen Anderson, 85 North Main Street, clarified that she never intends to move her business out of her home. She never intends to get big enough to need to move and doesn't believe that is a goal for most home occupations.

Bob Chapone, 4 Depot Hill Road, operates business out of his residence legally by variance. He believes home-based businesses are undercutting other businesses in the marketplace because they spend less on overhead. These businesses should be registered, permitted, and taxed.

Mr. Carey explained that the purpose of zoning regulation, by statute, is in no way a mechanism to allow a town to raise revenue. The points being made are all valid. The Town Clerk, Collector of Revenue, and Assessor should work together to raise the revenue, by statute, appropriately. If the motivation for a regulation is found to be based on revenue production, the regulation will be struck down because the PZC has no enabling statute for such purpose.

Wayne Rand, Old Saybrook, suggested that a \$100 fee of all those on the list he submitted would effectively permit and raise funds to hire an Economic Development Director who would help all businesses in town. He further pointed out that the Assessor has the legal ability to ask for copies of depreciation schedules and raise revenues in that manner.

The Commission discussed various aspects of the comments made tonight. The Commission agreed that another workshop is required. The Chairman requested that the next special meeting/workshop be scheduled for 6 p.m. before the next regularly scheduled meeting on June 3, 2009.

The Chairman thanked everyone for coming and requested a motion to adjourn.

3. **Adjournment:** *Mr. Philhower moved to adjourn the meeting. Mr. Zatorski seconded the motion. The motion carried unanimously.*

The meeting adjourned at 6:54 p.m.

Respectfully submitted,

Daphne C. Schaub
Recording Secretary