

**East Hampton Planning and Zoning Commission
Regular Meeting
April 4, 2012
Town Hall Meeting Room**

Unapproved Minutes

1. **Call to Order and Seating of Alternates:** Chairman Philhower called the meeting to order at 7:00 p.m.

Present: Chairman Mark Philhower, Vice-Chairman Ray Zatorski (7:03), Members Peter Aarrestad, Roy Gauthier, Richard Gosselin, Rowland Rux, James Sennett, Alternate Members Scott Sanicki, Meg Wright, and Planning, Zoning & Building Administrator James Carey were present.

Absent: Paul Hoffman was not present.

The Chairman welcomed new alternate members Paul Hoffman and Scott Sanicki. He congratulated Mr. Sennett and Ms. Wright who were reappointed.

Alternate Member Meg Wright was seated at this time.

2. **Approval of Minutes:**

A. March 7, 2012 Regular Meeting:

Mr. Aarrestad moved, and Mr. Sennett seconded, to approve the Minutes of the March 7, 2012 meeting as revised. On Page No. 4, Paragraph No. 6 the text should be amended to read, "Mr. Carey pointed out that the applicant 'needs' to obtain a permit from..." The motion carried unanimously.

3. **Communications, Liaison Reports, and Public Comments:**

Communications:

Mr. Carey reiterated that Meg Wright has been reappointed to the Commission as an alternate member. Paul Hoffman and Scott Sanicki have been appointed as alternate members. He congratulated them all. He also reported that the continuing education certificates for the Connecticut Federation of Planning & Zoning Agencies Annual Conference have been placed in the packages of those who attended the conference.

The Chairman appointed Ms. Wright to fill the vacancy as the Commission's Liaison to the Conservation-Lake Commission.

Liaison Reports:

Mr. Sennett reported on the ZBA meeting held on March 12th. Two variance applications were heard. The first was for 3 Middle Haddam Road to reduce the rear yard setback from 50' to 10' to move and reconstruct an existing garage. This variance was granted. The second variance request for 193 Hog Hill Road to reduce the side-yard setback from 25' to 15' to construct a garage was also granted. The minutes of this meeting are available online and are on file in the Town Clerk's Office. Mr. Sennett also reported that the ZBA held their annual election of officers and Charlie Nichols was elected Chairman and Brendan Flannery was elected Vice Chairman.

The Chairman unseated Ms. Wright and seated Mr. Zatorski at this time.

Mr. Gauthier reported that the EDC Business Breakfast was held on Thursday, March 15, 2012 and they followed up at their meeting of March 20th with discussion on how to improve the attendance at the EDC Business Functions. They also discussed the renovation of the directory sign at the intersection of Route 66 and Main Street and heard a presentation regarding the P&Z application for 195 West High Street.

Mr. Rux reported that the Water Development Task Force has been inactive.

Mr. Aarrestad reported that the Salmon River Watershed Partnership has been working to reformulate the Partnership. Mr. Carey explained that he has been involved in conference calls with Shelley Green and the other Planners in the Partnership. They discussed two possible avenues for continuing the Partnership. Both the newly combined planning agency of Midstate and Estuary and the Conservation District have the potential to oversee the Partnership. Neither group is geographically a perfect fit for the Salmon River Watershed Partnership. As more information becomes available it will be reported to the Commission.

Mr. Philhower reported that Midstate Regional Planning Agency met on April 3, 2012. In this meeting the Agency reviewed a new Transportation Improvement Program application for a bridge in East Haddam which was approved. Midstate also held their annual election of officers. Dick Newton was elected Chairman. It is anticipated that this will be the last election due to the new planning agency being formed. Middletown has voted to join the planning agency when it is formed. He explained that the merger of the two agencies should not affect East Hampton at all with the exception that the fees per person will be increasing. The new fee has yet to be determined. If East Hampton chose not to join the new agency, they would not be eligible to receive state or federal funding for transportation improvements and repairs.

Mr. Zatorski reported that the IWWA met on March 28, 2012. The application of 195 West High Street will be discussed during the agenda item later in this meeting. He also reported that the Wetlands Officer issued a Cease and Desist Order for 7 Dale Drive due to activities within 100' of the wetlands without IWWA permits. The minutes of this meeting are available online and are on file in the Town Clerk's Office.

Public Comments: The Chairman opened the meeting to the public for comments. There were none.

4. Set Public Hearing:

A. Application of Mark G. Smith PE, 249 West High Street, for a Commercial Site Plan Modification and Special Permit under Section 13.1 Motor Fuel Filling Station – Map 06/Block 12/Lot 1B:

Mr. Zatorski moved to schedule the public hearing for the application of Mark G. Smith PE, 249 West High Street, for a Commercial Site Plan Modification and Special Permit under Section 13.1 Motor Fuel Filling Station, Map 06/Block 12/Lot 1B, for June 6, 2012. Mr. Rux seconded the motion. The motion carried unanimously.

5. Read Legal Notice: Mr. Carey read the legal notice for tonight's public hearings into the record.

6. Public Hearing for April 4, 2012:

A. Application of Donald A. DeVivo, 18 Wells Avenue, for a 2-lot Residential Subdivision and a Lake Pocotopaug Protection Area Special Permit – Map 05A/Block 63A/Lot 1:

Mr. Carey reported that the first application of Donald A. DeVivo, 18 Wells Avenue, for a 2-lot residential subdivision and a Lake Pocotopaug Protection Area review was withdrawn in writing by the applicant due to a flaw in the legal notices relative to the public hearing that was opened at the last regular meeting. The applicant has reapplied and the public hearing to be opened at this meeting has been lealed and noticed appropriately.

Bart Bovee, MBA Engineering, was present to represent the applicant. He distributed new plans that show no significant changes but do reflect the IWWA approval and easements. He reported that the subject property is a 2.45 acre parcel located on the end of Wells Avenue. Lake Pocotopaug is to the east of the site. Mallard Cove Condominiums are located to the south. The property of Leo Strong is located to the north.

Presently the site consists of one 2-unit rental building and three "bunkies" located along the edge of the wetlands adjacent to the Lake. This property is currently a five-unit rental property. The applicant is proposing to subdivide the parcel into two lots. The first lot includes the frontage along the lake with primary frontage on Wells Avenue. The existing 2-unit rental building will be demolished. The second lot is a rear lot. The access way is located from Wells Avenue to the southerly portion of the property. It has no frontage on the lake; however, access will be permitted by a mutual access easement for both lots. The wetlands area in the southeast area will be protected by a restrictive covenant to protect the wetlands and the trees. Each lot will contain one "bunkie."

The kitchen areas will be removed from each of the remaining two "bunkies." Each "bunkie" will contain a bedroom, a half bath, and a small sitting area. A covenant will be filed in the land records that will restrict the "bunkies" from being used as rental properties. They will be limited to the use of the primary residences only.

Both lots will be connected to public sewer. Each lot will have new private wells installed. The existing well will be properly abandoned. The driveways are being moved as far away from the Lake and wetlands as possible. The separation distance from the water to the driveway is almost 250'. The street trees lining Wells Avenue will not be removed. The common driveway easement will allow for one driveway apron.

The drainage will be enhanced with the use of rain gardens. All the stormwater running of the site will be directed by swales into the rain gardens to enhance the cleansing of the runoff prior to entering the wetlands. A storm drainage system is proposed for the end of Wells Avenue. This will help reduce contamination as rain water runoff now runs directly into the wetlands in this location. The proposal consists of a trap catch basin connected by a pipe to a plunge pool which empties into a rain garden. The owner will be responsible for the maintenance of this system. The maintenance schedule requires that the owner cleans out the system at least on a yearly basis. In the event of a large storm the area must be inspected by the owner for any damage and follow with necessary repairs. The Town will be granted a drainage easement for the purposes of acknowledging the existence of the runoff through the site and for any type of emergency repairs.

The majority of the woodlands on the property are located on what will be Lot 1B. The applicant estimates that about 1.3 acres of the site is wooded of the 2.45 acre parcel. The proposal requires removal of about half an acre of woods from the site. The remaining woods will be included in the proposed conservation easement. The conservation area is about 0.62 acres in size, which is roughly half the area of Lot 1B. This area will be restricted for use and will be protected by the conservation easement from clearing of the

trees. Activity will be limited to walking and removing damaged limbs and other types of routine maintenance. The intent is to preserve the area and create a natural buffer.

The area of lawn wetlands, which has been previously mowed and maintained as a lawn, will be over seeded with a wetlands mixture pursuant to the wetlands approvals. This area will be restored as more natural wetlands.

Mr. Bovee distributed draft easements that the applicant's attorney has provided to the Commission. This includes driveway, sewer, conservation, and drainage easements and an access licensing agreement for Mr. Strong. There is net zero increase of runoff flows with the use of the rain gardens.

Mr. Carey reported that the IWWA has permitted this activity with conditions. The Chatham Health District has indicated that the proposed plan is acceptable with minor adjustments that have been made by the applicant as indicated in the most recent set of revisions to the plans. The WPCA has indicated in writing that the applicant has addressed the requirements of the WPCA satisfactorily.

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

Patricia Photo, 23 Mallard Cove, asked for a definition of a rain garden.

Dave Pessoni, 7 Wells Avenue, discussed the need to rehabilitate this property.

Brian Oppenheimer, 14 Mallard Cove, discussed his interest for the applicant to maintaining the wooded areas, preserving the views of the residents at Mallard Cove, and avoiding the installation of fencing.

Mr. Bovee restated that the intention for the wooded area is to place it in a conservation easement protected area.

Nelson Maurice, 30 Mallard Cove, asked for the distance between the property line and the house closest to it.

Mr. Bovee indicated it would be about 26' and the trees would be maintained, as well as the installation of rain gardens.

Orlando Martinez, 11 Mallard Cove, questioned the building height of the new homes.

Mr. Carey indicated that they must be under 30'.

Brian Oppenheimer, 14 Mallard Cove, questioned improvements to the beach such as docks.

Mr. Carey responded that docks are monitored by the Police Department via the Navigation Ordinance and perhaps the IWWA. The applicant indicated nothing is proposed at this time.

Stan Polnik, 13 Mallard Cove, questioned ponding associated with the rain gardens and any plans for fencing.

Mr. Bovee re-explained the functions of a rain garden and reported that there are no plans for fencing at this point in time.

There being no further questions or comments from the public, the chairman asked for a motion to close the public hearing.

Mr. Zatorski moved to close the public hearing on the application of Donald A. DeVivo, 18 Wells Avenue, for a 2-lot residential subdivision and a Lake Pocotopaug protection area review, Map 05A/Block 63A/Lot 1. Mr. Gosselin seconded the motion. The motion carried unanimously.

Mr. Zatorski moved that the East Hampton Planning & Zoning Commission approve the application of Donald A. DeVivo, 18 Wells Avenue, for a 2-lot Residential Subdivision and a Lake Pocotopaug protection area review, Map 05A/Block 63A/Lot 1, with the following conditions:

- *All E&S Controls must be in place prior to commencement of construction;*
- *Town Staff must be notified prior to commencement and upon completion of construction;*
- *All conditions of permits issued by the IWWA, Chatham Health District, and WPCA must be met;*
- *The "Driveway/Patio Design" must be of porous materials as indicated on Sheet No. 3 of 5 in the site plan;*
- *This approval is based on the site plan dated January 16, 2012 and revised on February 14, 2012, March 14, 2012, and March 30, 2012; and*
- *All easements must be in order and in place to the Town's satisfaction.*

The motion to approve this application is appropriate because it meets the standards as set forth in the East Hampton Zoning Regulations, all required permits are in place, and the proposal includes extensive stormwater management in the form of rain gardens and upgraded drainage structures. Mr. Gauthier seconded the motion. The motion carried unanimously.

B. Application of West High Enterprises LLC, 195 West High Street, for a 2-Lot Commercial Subdivision and Special Permits Section 7.6.2.Q, Self-Storage, & 7.6.1.A, Retail – Map 12/Block 36/Lot 3:

Chairman Philhower called a five minutes recess at this time.

The Chairman reconvened the meeting, seated Ms. Wright as a voting member and recused himself from this application. Vice Chairman Zatorski took over the meeting at this time

Attorney Timothy Furey, 43 Bellevue Avenue Bristol Connecticut, was present to represent the applicant. The application before the Commission has three phases. It is for a two-lot subdivision, a commercial site plan review of a retail building, and a commercial site plan review and special permit for a self-storage building. The proposal is to build out this project in four phases. Phase 1 will be the retail building. The property consists of 9.95 acres and is in the Commercial Zone. A portion of the property will be preserved with the existing two-family and garage on one lot via the subdivision. The remainder of the property will be in the new lot created by the subdivision for the retail and self-storage building. The proposal creates a mix of the permitted retail use along the front of the property and the special permit use for self-storage in the rear.

Lot 1 will contain the home and the garage will cover 1.84 acres. Lot 2 will contain the commercial uses and will cover 8.10 acres. The retail building in the front of Lot 2 will be 7680 sq ft building with a portion reserved for storage. The remaining storage buildings will be about 42000 sq ft and will be constructed in four phases. Overall the plan will not be developed all at once but over a 4 or 5 year build out plan. The storage areas will be built as they see the demand in the market.

Currently, some of the interests of this LLC have other interests in the community that have both retail and self-storage uses. These locations have a waiting list for the larger self-storage units. There is a demand for business in this and area communities by the trade contractors and home businesses for storage in these types of facilities. Some of the businesses in need of these types of storage facilities are electricians, plumbers, book sales, and manufacturing. Products are shipped to these storage areas all over the country and the sales teams access the product direct from the storage unit. The applicant wants the Commission to be aware that in the future the applicant may come back for a modification to the special permit and site plans for the addition of a small area of supportive office space within the self-storage units. This is a growing trend in the self-storage industry and the applicant is considering it as it watches the trend and determines its successfulness in the market. This is not a business model that this applicant has used before but they are interested in the trend.

This type of commercial enterprise is a very low traffic generator. The full build out of this site as retail or business office would generate a very high amount of traffic. The self-storage components require much less parking than do retail or professional office.

This is a large site that is bisected by a stream. The wetlands on this site are located adjacent to the residential uses of the site. The applicant will not disturb the wetlands now or in the future and intends to place those wetlands in a permanent conservation easement.

The adjacent parcels to the south and west are currently commercially zoned. The smallest of the self-storage buildings along the southern property line will act as a buffer for the properties to the south. Additionally, the applicant plans to maintain the wooded line along the property line. The landscaping along the property line will be accentuated with white pines and arborvitaes along the southern and western property lines.

Mr. Furey explained that the stormwater treatment plan includes a four bay system to protect the wetlands from sedimentation and a bio-filter to filter the water before it enters the wetlands. The storm drains are designed with 2' sumps that will be regularly maintained by the applicant. A maintenance schedule is included in the plans being reviewed by CLA and the IWWA. The IWWA has not yet moved on this application.

The property owned by John Forbes on the Northwest corner of the site has the drainage directed off his property and onto the subject property. Upon identifying this condition the applicant will accommodate this drainage into their stormwater calculations and filtration system.

Mr. Furey reported that this stretch on Route 66 has very good sightlines and ingress and egress will not be a concern.

Mr. Furey submitted an architectural rendering of the retail building planned for Phase 1. ~~The buildings in the back will be similar but will have less glass and overhead doors.~~

Dave Erlandson, Professional Engineer, explained that pursuant to the Chatham Health Districts review he will be revising the location of the property line between the two parcels. This revision is due to a recent change in the Public Health Code of which he had not been aware. The Public Health Code now requires a 25' separating distance to a downhill property line. The acreage will remain the same.

The special permit for self-storage is only being requested for the western parcel. The existing use, residential, on the eastern parcel will remain under this application. Mr. Furey

will provide information to the record that the current use of right, residential, will remain on the eastern parcel to be created by this subdivision.

Mr. Fury reported that there is an area available on site to be reconfigured for additional parking if the applicant chooses to modify the proposed uses in the future and it becomes necessary to have additional parking.

The Commission discussed the lot coverage required for this project and is concerned that the impervious surface is than allowed. The Commission would like the calculations to include both the parking areas and the buildings.

The Commission discussed the parking regulations required for both the retail area and the self-storage area. The application includes 81 parking spaces which include both the high threshold for the retail area and the threshold for self-storage as well as potential future additional parking demands.

Mr. Erlandson explained that the applicant investigated running sanitary sewer to the sight. They were informed it would not be possible by the WPCA. He discussed the future requirements of the project with the Commission. Phase 2 and Phase 3 will be fenced in and screened for outdoor storage of automobiles, boats, etc until such time as they are built out.

Mr. Fury explained that the landscaping would be completed during Phase 1 and the buffers along the borders would be maintained and augmented. The area for the temporary use of outdoor storage will also be away from the borders. The fencing surrounding the outdoor storage area will have mesh inserts. The Commission discussed with Mr. Carey what is permissible by the East Hampton Zoning Regulations in an outside storage facility and how the facility should be buffered from the surrounding areas.

The Chairman explained that this public hearing would not be closed at this meeting and he opened the meeting to the public.

Bob Chapone, 181 West High Street, owns the property to the east of this parcel. He is concerned about the hours of operation for the storage facility and whether businesses will be allowed to operate out of the storage bays. Noise and danger to drivers pulling in and out of the site are also concerning to him.

Mr. Fury reiterated that the State does require the applicant to obtain encroachment permits from the DOT after the P&Z has approved the project. He also indicated that he will provide the Commission with more information regarding hours of operation at the next meeting.

Len Johnson, 21 Long Crossing Road, confirmed that the site lines as reported in the area of this project on Route 66 are accurate.

Mr. Gauthier moved to continue the public hearing to the next regularly scheduled meeting on May 2, 2012. Mr. Rux seconded the motion. The motion carried unanimously.

Mr. Sennett moved, and Mr. Gosselin seconded, to continue this application to the next regularly scheduled meeting. The motion carried unanimously.

7. New Business: None.

8. Old Business:

A. Discussion – Motor Fuel Filling Station Regulation: Mr. Carey explained that the Commission has discussed with him the idea of revising the Motor Fuel Filling Station Regulations regarding its possible use in the Commercial Zone. It has become evident that an application for a site plan filed simultaneously with an application for a text amendment to the Regulation regarding that site plan would be unable to be approved. The application would be regulated by the old regulation prior to its revision. The Commission will need to receive, and approve, the request for the text amendment prior to the receipt of the application for the site plan.

9. Adjournment: *Mr. Rux moved to adjourn the meeting. Mr. Gauthier seconded the motion. The motion carried unanimously.*

The meeting adjourned at 8:51 p.m.

Respectfully submitted,

Daphne C. Schaub
Recording Secretary