East Haddam
Zoning Board of Appeals
May 2, 2023

1. Call to Order

The Regular Meeting of the East Haddam Zoning Board of Appeals was held on Tuesday, May 2, 2023, at 7:00 PM. The Chairperson and Secretary being present.

2. Attendance

Diane Quinn , Richard Fiala, William Smith, James Fennema, Laurie Alt, James Ventres – Land Use Administrator.

Others Present: Roger Nemergut, Fred Masotta, Scott Jezek, Bob Casner – Economic Development Chairman, Jim Curtin, Planning and Zoning Chairman.

3. Public Hearing

1) **Appeal #1154 – Fred Masotta (property owner & applicant), 273 EH Colchester Turnpike (property location). Requesting two variances of Section 10.1 of the East Haddam Zoning Regulations for construction of a proposed shed, continue of the side yard, non-conformity. Lot coverage 13.5 % where 12.7% exist, 10 % permitted. Map 067, Lot 008.**

Mr. Masotta provided an overview of the project, which is to build a shed. There are currently two sheds that are being combined into one. The proposed shed is 10' by 48'. The shed cannot be placed in the middle of the yard, and there is a septic system that has been recently installed and a shed cannot be placed on top of it.

Ms. Quinn opened the public hearing to the public; no comments were offered.

Mr. Masotta submitted a letter from his neighbor who expressed no concerns about the placement of the shed. He noted a fence was also on the property line blocking the shed.

Motion by Ms. Alt to close the public hearing part of the meeting. Seconded by Mr. Fiala, unanimously approved.

Motion by Mr. Smith to grant Appeal #1154 – Fred Masotta (property owner & applicant), 273 EH Colchester Turnpike (property location). Requesting two variances of Section 10.1 of the East Haddam Zoning Regulations for construction of a proposed shed, continue of the side yard, non-conformity. Lot coverage 13.5 % where 12.7% exist, 10 % permitted. Approval is based on existing non-conformity; the hardship has the lack of space due to the engineered septic system and the lake. Seconded by Ms. Alt, unanimously approved.

2) **Appeal #1155 – Shahani Incorporated (applicant & property owner), 416 East Haddam Moodus Road (Property location). Requesting a variance for a canopy nine (9) feet from**

the property line where thirty (30) feet is required. Continuance of an existing non conformity. Map 064, Lot 064

Mr. Nemergut, P.E., provided an overview of the project, which is the old Cumberland Farms. The new owner would like to renovate the building, reestablish the convenience store, and gas station. The new owner has experience of doing this in other parts of the state.

Mr. Nemergut, P.E. noted the building is not going to increase except for a slight bump out planned on the back side.

To re-establish the gas pumps, three (3) islands would be needed. Older convenience stores that sell gas had four (4) pumps, but the new ones now have six (6) pumps to move customers through faster. Mr. Nemergut, P.E., described the old canopy in terms of closeness to the building and described the sizing and distance of the new one.

The property is about 1.5 acres, but the back acreage is very steep. There is a lack of flexibility on the site due to topography, but this canopy is not the first canopy that has been on the site.

The new owner provided further information on the canopy and described how the flow of traffic will work and stated that the new traffic direction will limit accidents and problems. Only the canopy is part of the ZBA review as that is the part that is causing an issue with the zoning regulations.

Attorney Jezek joined the meeting representing the neighbors who have a concern related to the new development on the site. Attorney Jezek reminded the board as to their rights and responsibilities related to the consideration of a zoning appeal and variance. He outlined that the zone that his property lies in, which is Zone C3, is residential. Attorney Jezek provided a list of the uses that are approved with special exception for those properties deemed Zone C3, and in the Plan of Conservation and Development. He noted that it has been vacant for about 15 years, but the pumps were not removed until several years later. He also highlighted that the use as a gas station and convenience store were disused for multiple years.

Attorney Jezek noted that the existing zoning regulations also deemed that a non-conforming use cannot be expanded. In addition, he noted that as there was no drive-in window, and has never had a drive-in window, so even though that is not up for review by the ZBA, it would be a new use.

Attorney Jezek provided information from the Plan of Conservation and Development related to residential neighborhoods within Moodus. The Plan also references the old Cumberland Farms site, and it references redevelopment, which he outlined denotes new development not renovation. The canopy is 2.5 times the size of the old one, and it is on an abandoned site, in a C-3 zone which is residential in nature.

Mr. Ventres noted that the zoning regulations are not posted on the website, the system crashed, and Mr. Ventres stated that he sent the zoning regulations to Attorney Jezek via email on Friday. The drive-in window regulations were approved in 2021. Prior zoning

regulations noted that vacancy removes an existing conformity and that this is no longer a valid legal argument and has been removed from the regulations. Pre-existing non-conformance is still valid regardless of vacancy or abandonment. Mr. Ventres will have the Town Attorney provide information relating to this topic for the next meeting. He also noted that a gas station and restaurant are listed as an approved use within this zone.

Mr. Nemergut, P.E., submitted a request for continuance given the information Attorney Jezek brought forward.

Attorney Jezek asked Mr. Ventres when the Planning and Zoning regulations were updated for drive-through windows. Mr. Ventres asked Mr. Casner, who is Economic Development Commission chair, to provide some information on the Planning & Zoning changes. Mr. Casner noted that the regulations were changed but had nothing to do with the new applicant, it was changed at the request of the Economic Development and Planning & Zoning members discussed.

Mr. Casner also provided his feedback on how excited the Economic Development Commission is to see this property under consideration. There is currently only one (1) gas station in town when there used to be three (3). Economic Development believe that this is a great location, on a corner lot, good egress, two access points, etc., and noted that turning this back into a gas station was always thought to be a good idea to redevelop the location as a new gas station.

Mr. Curtin, who is a member of the Planning and Zoning Commission, noted that nothing has ever changed from a regulation perspective without a public hearing. Only spelling corrections or punctuation corrections are done without a public hearing.

Motion by Ms. Quinn to accept the continuance of the public hearing part of the meeting. Seconded by Mr. Smith, unanimously approved.

4. Minutes

   Motion by Mr. Fiala to approve the minutes from the April meeting. Seconded by Mr. Fennema and unanimously approved.

5. Bills

   No bills.

6. Adjournment

   Motion by Ms. Alt. to adjourn. Seconded by Mr. Fennema and unanimously approved.

   The meeting adjourned at 7:55 pm.

Respectfully submitted,
Shannon A. Goyette
Recording Secretary