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**PRESIDENT**

Edward Gorman (2007~2010)

# East Hampton CONSERVATORS

December 9, 2013

Hon. William Wilkinson, Supervisor  
 Hon. Sylvia Overby, Councilwoman  
 Hon. Theresa Quigley, Councilwoman  
 Hon. Dominick Stanzione, Councilman  
 Hon. Peter Van Scoyoc, Councilman

CC: Mr. Fred Overton  
 Town Clerk

Town of East Hampton  
 159 Pantigo Road  
 East Hampton, NY 11937

## IN RE: DECEMBER 19, 2013, TOWN BOARD MEETING & BALASSES HOUSE AND OTHER REZONINGS

Dear Supervisor Wilkinson and Town Board Members:

We implore you strongly to forego any consideration of or decision on any rezonings, including that of Balasses House, on December 19, 2013, the very last session of a lame-duck majority. It is especially important that you give this matter to the in-coming Town Board majority to consider since the voters have recently elected them to represent their longer-term interests. Also making this matter even more important for thoughtful and not rushed consideration is the substantial, cross-party outcry by a large segment of the voters who have made clear their opposition to the rezonings themselves as well as to the way in which they have been “walked-on” and aggressively pursued in an unnecessarily hasty manner by people who very soon will be out of office. The outgoing members of this Town Board should not grant themselves the legal or moral authority to commit this town to any long-term decisions, particularly those which prima facie contradict our town laws and the repeatedly expressed desires of voters as detailed in the still-binding Town Comprehensive Plan. Not only would this excessive speed create undue discord in the community, furthering the sense of tension engendered by this hurried attempt to circumvent the public will, but it would also threaten to tarnish the reputations and legacy of the outgoing majority to no good end.

There is no rush, no emergency, no reason—at least not one publicly and explicitly expressed by you—to hasten this decision. The process of government can appear cumbersome, even pointlessly burdensome, to some who want it to function with consistent efficiency, as if it were a business. Governing is not a business. It plays a very different role in our democratic society, and it is the nature of that very sometimes frustrating process that provides the opportunity for a level playing field and ensures maximum exposure of government officials’ action to the public and the opportunity for the development of a broad public consensus.

Balasses House is in a Limited Business Overlay (“LBO”) district and is currently being run as an art gallery. The applicant seeks a zone change to Central Business which would increase the types of uses, allowing for more intensive operations of the property. The properties in this well-established block are all zoned LBO and a change would set a precedent for the other properties to ask and likely be granted a similar zone change. This would have an adverse effect on the current Historic District in which it is situated and on the residential properties that border these sites. A change to Central Business would cause the suburbanization of Amagansett along Main Street, something that the Town’s Comprehensive Plan and those who fought for the Historic District do not support. Balasses House is currently for sale, and by the applicant’s agent own admission, the property would be worth more to the current owner if it was rezoned to Central Business, a classic case of spot-zoning, which, as you know, is illegal in New York State.

The context for this one rezoning comes in a much larger framework of other disputed rezoning issues you have said you would consider in this final session of the year. In what could appear as a means by which to subvert the proper planning process for East Hampton, the lame-duck Town Board majority on November 7, 2013, “walked on” three other resolutions all dealing with rezoning matters that will have a permanent and deleterious effect on East Hampton. “Walk-on” resolutions are generally reserved for emergency matters of various types. Rezoning is hardly an emergency. So, with no prior notification that we know of to the entire five-member Board, these “walk-ons” appeared in the form of Notices for Public Hearings on the rezoning issues. Without further discussion, the Town Board majority voted to hold the public hearings on the last meeting of the year, on December 19. It was a surprise, some might even say stealth, move, not only on the Board’s minority, but also on the public as well. This lack of notification, lack of discussion, lack of process, and lack of common courtesy to the entire board and the public has been a source of great dissatisfaction with this current Town Board majority, as demonstrated by the recent election results. In addition, the outcomes would not serve the public interest or even the applicants’ who are asking for zoning changes.

Proper review by the Planning Department and Planning Board were either negative or nonexistent for the four rezonings. It is our understanding that discussions between Town Board members had never occurred or had been minimal. Reinventing on the fly, or ignoring, well-established procedures confuses and weakens East Hampton’s Zoning Code and Town Comprehensive Plan, as well as the town’s other departments and the Board’s own reputation as entities that citizens can rely on for transparency and principled performance.

In what was either an act of ignorance, or possibly a preplanned move to subvert the town code, the lame-duck Town Board majority, as part of the four “walk-on” resolutions, noticed for public hearing the placement of a Senior Citizen Housing Overlay District (which does not exist in the town’s code, unless it were to be voted into law by calculated, but not explicit, intention on the same night as the public hearing on December 19) onto a 23.5 acre parcel in Amagansett known as 555 Montauk Highway.

How can you notice a public hearing to change the zoning that does not yet exist on one of the most visible parcels in the hamlet? It is reasonable to wonder was the outgoing Town Board majority signaling their predetermined approval of the Senior Citizen Housing Overlay District even before the public had a chance to voice its opinion during the requisite public hearing? It could appear so, as the new zoning district should have been law prior to any hearing that would have placed the zoning over the 23.5 acre parcel in Amagansett. Or, perhaps, that is the point? This Town Board majority was considering it in its purview to ignore existing law and public input?

On December 4, 2013, the Suffolk County Planning Commission rejected by a lopsided vote the proposal for rezoning, requiring a “super majority” of the East Hampton Town Board now to pass it. While that passage is highly unlikely, the point remains that this was rushed through in an opaque way. Moreover, the Senior Citizen Housing Overlay District was written by the applicant’s own agent, not the Town Attorney’s office or the Town’s Planning Department. There was apparently no input from the Town Board or from the public about the need for this new type of zoning district, nor the specifics of what is included, the infrastructure that is needed, or the tax implications. In short, it would appear to anyone not privy to the Town Board majority’s private discussions that this could well have been an attempt to change the code for the benefit of one out-of-town developer to gain maximum profits by doubling the number of residential units currently allowed on the property which was recently purchased.

The 23.5-acre parcel consists of all prime agricultural soils of which 70 percent would, under current zoning, have to be preserved. A portion of the property has a Limited Business Overlay District which would allow for commercial use of a less-intensive nature and an Affordable Housing Overlay that would allow for needed housing for all age groups at established affordable rates. All of these opportunities and positive benefits to the entire local community that are part of the Town’s Comprehensive Plan would have been obliterated by this proposal.

On the same night that the above massive rezonings were granted public hearings by the lame-duck majority, another zoning change was slipped in. Called Diamond T, it was also thankfully rejected by the Suffolk County Planning Commission on December 4, again requiring the unlikely “super majority” for it to pass. This rezoning asked for the redefinition of prime agricultural soils such that the requirement to preserve 70 percent of the farmable lands would be extinguished on this property—and that change in definition could well have had a precedent-setting impact on many more acres of the precious farmable soils that have been preserved and protected for decades. In addition, the applicants asked for the zoning on this 19-acre parcel on Cedar Street to be changed from A5 (1 house per 5 acres) to A (1 house per 1 acre).

The East Hampton Conservators believe that the Balasses House rezoning, and the other three rezonings, being heard on December 19 and possibly voted on that same evening, despite public outcry, were not only hastily and even covertly proposed—they are just plain bad ideas. Any and all should be voted down with a resounding “no.”

Residents of East Hampton have fought for generations to preserve open space, support farming and fishing, protect natural resources, maintain the character of the community, and safeguard the beauty that draws so many to this unique place. Any and all of the four rezonings would suburbanize the landscape, making it ordinary and predictable.

We plead with you—on behalf of the town’s future, on behalf of the hundreds of donors who have generously supported our mission, on behalf of the voters who have made their voices heard this past November, on behalf of what is right—to leave intact the Town’s Comprehensive Plan and your reputations as representatives of the entire community as you leave office.

Sincerely,

A handwritten signature in cursive script that reads "David B. Doty". The signature is written in dark ink and is positioned above the printed name.

David B. Doty  
East Hampton Conservators