

THE EAST HAMPTON STAR

SHINES FOR ALL

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SHHHH!

Noise Law Needs Redo

Changes proposed are just too ambiguous, many say

BY JOANNE PILGRIM

Proposed changes to the East Hampton Town noise ordinance, whereby unacceptable noise would be calculated by the degree of its loudness above a reading of ambient noise, drew criticism almost across the board at a hearing before the town board last Thursday night.

Some said that tying a standard to the ambient noise level is a fair way to go, though the draft law needs work. Others said the town should stick to its existing code — which restricts noise above 65 decibels during the day and above 50 decibels from 7 p.m. to 7 a.m. — and abandon the proposed new approach. The proposed ordinance, they said, sets no acceptable maximum standard for noise, so as the town gets noisier, the threshold for a noisy activity to be deemed a disturbance and subject to summons also goes up.

“It has no limit,” Jeffrey Bragman, an East Hampton attorney, said. “I call it a ‘battle of the bands’ law. If you have three bands cranking, then the fourth

band gets to play even louder. Wherever the most noise is, we’ll legalize more.”

“East Hampton has exceptionally quiet ambient noise throughout,” he said. “This is a part of the fabric of enjoyment of living here.”

The existing noise ordinance is “a good law,” Mr. Bragman said, and is consistent with others throughout the country. “It’s a stop-sign law. It has a fixed standard that’s relatively clear.”

Sixty-five decibels, he said, “isn’t an excessively strict limit.” The proposed ordinance, Mr. Bragman said, “fails to look at noise as a community impact. From my point of view, it looks at, ‘Gee, how can we make it easier for businesses?’ ”

“Let’s not legalize escalating noise,” he said.

Under the current code, said John Jilnicki, the town attorney, business owners have been complaining that they are receiving summonses for noise violations when the ambient noise in an area itself exceeds the maximum decibel level.

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Many Say Town's Proposed Noise Law Needs a Redo

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el prescribed by the code. Under the proposed new system, he said, "a business owner isn't penalized for the high background noise."

"We're here tonight because of 15 years of bad code, and with this law, the town will continue that streak," said Lawrence Kelly, an attorney representing the Sloppy Tuna, a Montauk bar, and other establishments.

Mr. Kelly said that the proposed law, by allowing, in some instances, noise reaching only five decibels above the ambient level, "outlaws normal human interaction." The limit, he said, should be 15 decibels above ambient noise, and the sound should be measured at a complainant's residence, not, as proposed, at a point 15 feet from the source of the noise.

The proposed law would allow readings to be taken from a public right of way. That, said Laraine Creegan, executive director of the Montauk Chamber of Commerce, would allow passersby to call in a complaint. Potential violations should only be measured at the property of those who are bothered by the noise, Ms. Creegan said. While tying the measure to ambient sound is the way to go, she said, "This ordinance is really not ready, as is. It's pretty restrictive."

Margaret Turner, the executive director of the East Hampton Business Alliance, agreed. Definitions used in the code, such as that of "unreasonable noise," are vague and could be subjective, she said.

"Nice attempt to try to clarify current law," said Paul Monte, the chief executive officer of Gurney's Inn in Montauk, who said that, in making his comments, he wore a number of additional hats, including as a resident, president of the Montauk Chamber of Commerce, member of the Montauk Citizens' Voice, and a patron of establishments that present music. But, he said, "I would appreciate if this would go back to the drawing board," with a business representative participating in new discussions. "Business zones should have a little more leeway, because it's business," he said. And, said Mr. Monte, the status of places that pre-exist and do not conform to current zoning should be considered.

"This issue is always posed as an issue of resident versus business," Mr. Monte said. "But let's not lose sight of the patrons. They enjoy music that may be too loud for other people. But they have rights also. They need to be recognized also."

decrease the hours that noise made by contractors or landscapers is allowed. "Seven is too early," he said, referring to the time in the morning that they may start, "and eight is too late," he said, referring to an 8:30 p.m. stop time prescribed in the current code. "I know it's a short season to make money," Mr. MacNiven said. "It's a short season to barbecue, too."

And, he added, he would like to see the town address helicopter noise, too. "None of this matters if you can't hear" the other noises due to aircraft noise, he said.

The proposed noise ordinance is "very confusing," said Debra Foster, a former town board member. It has "absolutely no standards. None. Zero."

"There is no incentive to just lower the volume a little bit," she said. "It rewards people that are cranking it."

"You are rewarding ambient noise that's louder and louder. There's a continuing vortex of escalating sound that's just going to go on, because you're always going to have some decibels above ambient. So let the good times roll."

Chris Pfund, a sound engineer who works for a number of Montauk establishments, said that comparing an alleged noise disturbance to the existing ambient sound is extremely important, as under the current law, "it's become impossible to comply, and the reason we have such enforcement issues."

Standards used across the country, he said, allow 10 decibels of sound above the ambient noise level, or 5 decibels above after 11 p.m. The various levels

outlined in the draft ordinance, and other details, he said, are problematic, and the draft needs more work. He offered to participate in fine-tuning it.

Anne Maegli shared comments made by her husband, a sound engineer who, she said, "owns one of the biggest sound companies in New York," and had reviewed the new and proposed noise ordinances.

She said he questioned "why a quiet town like the Town of East Hampton" would set a 50-decibel level for "noise" when New York City has a "hard and fast number at 42 decibels."

And, she said, there should be a difference between what's allowed in a business district and in a residential zone, "because you go to a business district" by choice, and do not have to be subject to its activities.

The couple lives near Ruschmeyer's bar and restaurant, and they have come to the board often to complain about disturbances in the neighborhood because of that site.

"Is that our ambient?" she asked. Much of the public discussion, she said, centers on music, but that's not always the problem. "It's too many people," she said. "I'm more concerned about crowd noise."

"Noise is a symptom of the fact that we're letting a lot of the pre-existing, nonconforming businesses expand well beyond" their original size, Ms. Maegli said.

"I'm looking at this as a cultural issue," Joe Nye said. "People come out to let their hair down. I guess I'm asking for a tolerance," he said.

"Mr. Monte just nailed it," said Tom MacNiven, an East Hampton resident. "I like loud music; maybe louder than it should be. But I also like peace and quiet at my home. So hopefully we can strike a balance."

Mr. MacNiven said that he would like to see the noise ordinance changed to