



TOWN OF OXFORD
S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
www.Oxford-CT.gov

Minutes approved by
Planning & Zoning
Commission on
_____ 2012.

Planning & Zoning Commission

REGULAR MEETING MINUTES

September 4, 2012

**7:30 PM, Main Meeting Room
Oxford Town Hall**

CALL TO ORDER

Chairman Bill Johnson called the meeting to order at 7:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Alternate Edna Cruz, Alternate Joe Dempsey, Harold Cosgrove, Chairman Bill Johnson, Secretary Pat Cocchiarella and Tanya Carver.

Also Present: Marni Soss, Clerk.

Not Present: Alternate Joe Rasberry, Wayne Watt, Vice Chairman Bonnie Bartosiak, Alan Goldstone and Jessica Pennell, Administrative Secretary.

CHAIRMAN'S REPORT

Chairman Bill Johnson briefly discussed the following items:

- (1.) The Grant Writer told him that they owe \$5,000.00 for the Incentive Housing Zone Study. She stated that it was paid, but she wanted the commission to take the money from a line item in their budget. He stated that he asked Jessica Pennell to send her a letter asking for an explanation, because the commission believed that they had \$25,000.00 to spend.
- (2.) New Office Hours beginning **October 1, 2012:**
Anna Rycenga, ZEO will work **Monday- Thursday 9 AM to 5 PM** and **Monday evenings from 5 PM to 7 PM.**
Jessica Pennell, Administrative Secretary will work **Tuesday – Friday 9 AM to 5 PM.**

He explained that the schedule is like this because they are opening Town Hall five days a week with no increase in individual's hours or pay.

- (3.) He stated that he spoke with Attorney Fred Stanek and Attorney Stanek stated that he spoke to First Selectman Temple about a client's house and driveway that are partially on town property. He stated that First Selectman Temple said that the town might sell the property to the client, but that he should speak to the chairman of Planning & Zoning. He stated that he spoke with Brian Miller and it is a non-conforming lot, but he did say that he could make the lot less non-conforming. He stated that he and Anna Rycenga, ZEO met with Attorney Stanek and he had a survey, the result is that he is going to get the adjacent property surveyed. He commented that the only thing that Planning & Zoning is concerned about is the setbacks requirements they are not concerned with whether or not First Selectman Temple sells the property.
- (4.) He stated that at the last meeting, Attorney Peter Olson stated that the agreement was complete and that it would be available to the public. He stated that it took over a week to obtain the agreement. He stated that the agreement has two changes which were unexpected.
- (5.) Informed the commission that Timberlake came in with a lot line revision and he was asked by Anna Rycenga, ZEO to be present. He stated that Andy Tedford was there along with others from Timberlake. He stated that it was a minor change that would be handled by the ZEO.
- (6.) He informed the commission that Attorney Peter Olson has been working with Glendale on a pre-application and he sent the Chairman a draft which is confidential and proprietary. He stated that it is going to be in the form of a special zone which will tie into the affordable housing regulations.
- (7.) He explained that he spoke to Attorney Peter Olson on the lack of affordable housing regulations. He stated that Attorney Olson did send him a draft copy of the affordable housing regulations and they will be distributed to the commission members for review.
- (8.) He mentioned that he is currently working with Anna Rycenga, ZEO on the ZEO reports, and he does not think they should discuss it in public at this time.

Z-11-120 - Oxford Greens Golf Course & Residential Development
Timberlake Development Partners, LLC & Pulte Homes of New England, LLC

Consideration of and action on a Settlement Agreement, pursuant to Practice Book § 14-7A To settle the litigation known as *Timberlake Development Partners, LLC, et al. v. Planning & Zoning Commission of the Town of Oxford*, docket no. AAN CV 12 6009281 S Settlement Agreement is on file in the Zoning Office.

Appointment of Alternates:

Chairman Bill Johnson appointed Alternate Joe Dempsey in Commissioner Goldstone's absence & he also appointed Alternate Edna Cruz in Commissioner Bartosiak's absence.

Tanya Carver questioned if they were going to make a motion to discuss this item.

Chairman Bill Johnson questioned if Tanya Carver was making a motion to approve with discussion.

Tanya Carver agreed.

MOTION: Tanya Carver moved to approve the settlement with Timberlake with discussion. **Second by Harold Cosgrove. All Ayes.**
MOTION PASSED UNANIMOUSLY.

DISCUSSION:

Tanya Carver pointed out page 2, condition #5, the first full sentence has different wording than the last time.

Chairman Bill Johnson stated that was the one change.

Tanya Carver also pointed out that in #11, the wording is a little different on the last paragraph. She also pointed out #6 on the same page, it is added in the CGS 8-8 with the "&" sign. She also stated that the last page of the agreement where the court signs it, #2, it stops at 14-7 but doesn't say anything about the Connecticut General Statutes.

A representative of Timberlake spoke and stated that the issues that are being brought up are very minor and technical. He stated that the document has gone back and forth between the attorneys's for each party many times, but this is the final document provided by the attorney for the commission.

Commission members discussed whether or not they were prepared to move on with this item until all the changes have been discussed.

MOTION: Tanya Carver rescinded her previous motion. **Harold Cosgrove rescinded his second.**

MOTION: Harold Cosgrove moved to table this item until the commission has further clarification. **Second by Chairman Bill Johnson. All Ayes.**
MOTION PASSED UNANIMOUSLY

AMENDMENTS TO AGENDA

MOTION: Secretary Pat Cocchiarella moved to amend the agenda to add Invoice # 5098 from Turner Miller Group New England under Other Business. **Second by Edna Cruz. All Ayes. MOTION PASSED UNANIMOUSLY**

AUDIENCE OF CITIZENS - NONE

ACCEPTANCE OF MINUTES:

- (a.) August 21, 2012 Regular Meeting Minutes

MOTION: Chairman Bill Johnson moved to approve the August 21, 2012 Regular Meeting Minutes. Second by Secretary Pat Cocchiarella. All Ayes.
MOTION PASSED UNANIMOUSLY

OLD BUSINESS

- (1.) **Z-02-209 - Jensen Farms Estates Section I & Z-03-301 - Jensen Farms Estates Section II**
(Request for Release of Maintenance Bonds) (Update from Town Engineer) (TABLED)
- (2.) **Z-04-006 - Susan Petinella, Governor's Hill Road - Petinella Subdivision/Randall Drive** (Update from Town Engineer)

Secretary Pat Cocchiarella read 2 letters of correspondence from Nafis & Young Engineers.

Anna Rycenga, ZEO explained briefly the history of this subdivision and the issues that have arisen. She stated that there are two reasons why this item is before the commission:

- (1) The subdivision is not ready for acceptance due to the deficiencies on site.
- (2) The engineer who designed the 3 lot subdivision has a detention pond through a water course and the detention pond is acting as a dam and the walls on the detention pond have collapsed four times.

She stated that she and the IWEO have monitored this issue. She stated that the owner is looking for approval to have the detention pond removed. She stated that she suggests to the commission that they approve the removal of the detention pond. She also informed the commission that there is a plan which Jim Galligan has approved for the removal of the detention pond.

Secretary Pat Cocchiarella read a letter from Nafis & Young dated May 14, 2012 which was addressed to the Chairman of OCCIWA.

MOTION: Harold Cosgrove moved to approve the removal of the detention pond with the additional comment that this item shall not be brought to the commission again unless the applicant has provided an arborist report and a letter stating that the owner has complied with Jim Galligan's report. Second by Chairman Bill Johnson.

DISCUSSION:

Secretary Pat Cocchiarella stated that there are still issues with the site and the road should not be accepted until all the work is completed.

VOTE:

All Ayes.

MOTION PASSED UNANIMOUSLY

- (3.) **Z-12-040 – Applicant: CNK Investments, LLC, Owner: Earthworks Excavating & Landscaping– 2 & 4 Fox Hollow Road, Fox Hollow Industrial Park** (Request for Bond Release)

- a. Letter dated 8/28/2012 from Town Engineer, Jim Galligan to William Johnson RE: **CNK Investments, LLC – Lot 8R Fox Hollow Industrial Park**

Secretary Pat Cocchiarella read a letter dated 8/28/2012 from Town Engineer, Jim Galligan.

MOTION: Harold Cosgrove moved to *recommend* to the Board of Selectmen that the Soil & Erosion bond be **released** for **Z-12-040, CNK Investments, Lot 8R, Fox Hollow Industrial Park. Second by Chairman Bill Johnson. All Ayes. MOTION PASSED UNANIMOUSLY**

- (4.) **Z-12-104 – 7 Fox Hollow Road – (Owner & Applicant): Entrepot, BUI, LLC – Matthias Neidhart** (Use Permit)

The applicant, **Matthias Neidhart** is present for any questions the commission may have.

Anna Rycenga, ZEO stated that the Health Department and Fire Marshal will be doing annual inspections to make sure the applicant is in compliance.

Secretary Pat Cocchiarella stated that at the last meeting when the commission voted on this, it was stated by the applicant that because of the type of state liquor permit the applicant has, they are not allowed to do conditions #10 & #12.

Matthias Neidhart, applicant, stated that there seems to be the idea that they are going to be opening up a restaurant, but the state liquor license prevents them from serving any liquor to consumers. There will be no consumer traffic at BUI. He stated that they need the kitchen for the following reasons: (1) extensive use of the lab for brew analysis (2) they want to provide a facility for the employees to prepare their lunches and, (3) when they talk about customers, they are not talking about consumers, they are talking about wholesalers who are interested in purchasing their products. He commented that conditions #10 and #12 will prevent them from being able to entertain their prospective buyers during the 3-5 hour business meetings that are held at BUI.

Anna Rycenga, ZEO stated that the conditions are in accordance with the Health Department's approval and per the letter dated July 3, 2012.

Tanya Carver stated that Mr. Neidhart is saying that customers and vendors are different.

Alternate Joe Dempsey suggested that they state in the motion that on site food preparation for customers and/or public is not permitted, on site preparation of employees' lunch is permitted.

Secretary Pat Cocchiarella referred to Mr. Neidhart's letter to the Health Department dated July 3, 2012. He referred to the 6th paragraph where it states that "no food will be prepared in the brewery lab kitchen for outside customers".

Mr. Neidhart stated that outside customer's means public consumers.

Secretary Pat Cocchiarella stated that there is a problem with definition. He commented that in Mr. Neidhart's letter to the Health Department, he meant "customers" as being someone walking in off the street. He stated that for the wholesalers and vendors that come in, Mr. Neidhart is excluding them from the definition of "customers". He stated that the Health Department's response was based on their interpretation of the language.

Anna Rycenga, ZEO stated that according to Mona from the Health Department, it was stated that there would be no food preparation.

Chairman Bill Johnson stated that he has a concern about a kitchen as well.

MOTION: Harold Cosgrove moved to APPROVE application Z-12-104 7 Fox Hollow Road Map: 25 Block: 18 Lot: 4 4A, Oxford, CT based on floor plans prepared by Kenneth M. Lynch dated June 28, 2012 with a scale of ½" = 1" with the following conditions:

1. Compliance with the Oxford Zoning Regulation in place as of this date.
2. Applicant and their assigns must comply with all representations made at the Planning & Zoning Commission meetings and/or the public hearings regarding this application.
3. Compliance with the Statement of Use dated August 16, 2012.
4. Compliance with the letter dated July 3, 2012 from BUI to P.D.D.H.
5. Compliance with the P.D.D.H. approval sign off dated July 19, 2012.
6. Compliance with the W.P.C.A. approval sign off dated July 20, 2012.
7. Compliance with the Fire Marshal's approval sign off dated August 9, 2012.
8. Any changes and/or modifications to the use permit must come back before the Planning & Zoning Commission for approval including any lease changes or change of ownership.
9. Per Article 3, Section 19.1 of the Town of Oxford Zoning Regulations, the applicant shall be responsible for rendering payment for any outside experts to review this application.
10. Food preparation for the public is not permitted.
11. ZEO will conduct routine inspections annually to ensure compliance.
12. The use permit is not approved for food preparation for public and or alike.

Second by Edna Cruz.

The reason for approval is that it meets Oxford Zoning Regulations in effect as of this date.

VOTE:

All Ayes.

MOTION PASSED UNANIMOUSLY

Anna Rycenga, ZEO stated that the commission should carbon copy the Fire Marshal and Health Department, as they requested copies of the Planning & Zoning Commission's approval.

NEW BUSINESS

- (1.) Z-12-110 – 76 Donovan Road - Carolyn Reichardt (Owner) – Carl Weston (Applicant) (Cottage Business) (Use Permit) (Awaiting Fire Marshal Approval)

NO ACTION TAKEN

- (2.) **Z-12-111 – 50 Great Oak Road, Town of Oxford/Parks & Recreation (Owner & Applicant)** (Sign Permit)

MOTION: Harold Cosgrove moved to approve Z-12-111. Second by Chairman Bill Johnson. All Ayes. **MOTION PASSED UNANIMOUSLY.**

- (3.) **Z-05-177 – 100 Oxford Road – DTI Enterprises, LLC – Dr. Robin Mahabir**
(Request for Bond Release) (*Refer to Town Engineer*)

- a. Letter dated 8/30/2012 from Margery Fox

Secretary Pat Cocchiarella read a letter dated 8/30/12 from Margery Fox.

MOTION: Secretary Pat Cocchiarella moved to refer this item to the Town Engineer for review. Second by Alternate Joe Dempsey. All Ayes.
MOTION PASSED UNANIMOUSLY.

CORRESPONDENCE

NO ACTION REQUIRED – ON FILE IN PLANNING & ZONING DEPARTMENT:

- (a.) Letter from John DiBiaso to Planning & Zoning Commission Members

Secretary Pat Cocchiarella read the letter from John DiBiaso.

Secretary Pat Cocchiarella read a letter dated 8/29/12 from Anna Rycenga, ZEO.

- (b.) Letter dated 8/17/2012 to Jennifer Young Gaudet from the CT Siting Council
(cc: Oxford Planning & Zoning Commission)
Re: EM-CING-108-120730 – Facility located at 338 Oxford Road

Secretary Pat Cocchiarella noted that this is on file in the P&Z Department.

- (c.) Letter dated 8/22/2012 to Key Air from DEEP (cc: Planning & Zoning Commission)
Re: Waterbury Oxford Airport – Proposed Hangar H & I

Secretary Pat Cocchiarella noted that this is on file in the P&Z Department.

- (d.) Letter dated 8/22/2012 from CT Siting Council to George Temple
Re: EM-SPRINT-108-120821- 106 Willenbrock Road

Secretary Pat Cocchiarella noted that this is on file in the P&Z Department.

POSSIBLE ACTION:

- (e.) Letter dated 8/20/2012 from Kevin Condon to Anna Rycenga, ZEO.

**Re: Legal Opinion – Z-06-040 – Tilquist Estates – 7 Tilquist Road
(2-Lot Re-Subdivision)**

Anna Rycenga, ZEO asked that a copy of this opinion be sent to Attorney Malafronte and Bill Alberti.

- (f.) Letter dated 8/22/2012 from Ralph Crozier to Anna Rycenga, ZEO (cc: Planning & Zoning Commission)
Re: 10 Park Road

Anna Rycenga, ZEO briefly explained this issue to the commission.

UPCOMING PUBLIC HEARING:

RE-SCHEDULE PUBLIC HEARING AT APPLICANT'S REQUEST

- (1.) **Z-12-086 (Owner): Ziat, LLC – (Applicant): 2nd Street Leasing, LLC – 315 Riggs Street, Unit 7, Building B** (Use Permit - Special Exception - Article 9, Section 3.16)

MOTION: Secretary Pat Cocchiarella moved to deny application Z-12-086 without prejudice because at this time the application is incomplete. **Second by Harold Cosgrove. All Ayes. MOTION PASSED UNANIMOUSLY.**

Chairman Bill Johnson noted that if the application comes before the commission again, the fees would be waived.

ZONING ENFORCEMENT – TABLED

OTHER BUSINESS

- (a.) Invoice # 267-12 from Nafis & Young Engineers

MOTION: Harold Cosgrove moved to approve payment of revised Invoice# 267-12. **Second by Secretary Pat Cocchiarella. All Ayes. MOTION PASSED UNANIMOUSLY.**

- (b.) Oxford Greens Phase 4 – Road Inspection Update

Anna Rycenga, ZEO stated that she was informed by Eric Swift that the Road Inspection Update was completed and there is a copy of the file in the Planning & Zoning Department.

- (c.) Invoice # 5098 from Turner Miller Group New England

MOTION: Harold Cosgrove moved to approve Invoice #5098 from Turner Miller Group New England. **Second by Secretary Pat Cocchiarella. All Ayes. MOTION PASSED UNANIMOUSLY.**

- (d.) Any other business the commission deems necessary for discussion.

ADJOURNMENT

MOTION: Harold Cosgrove moved to *adjourn* the meeting at 9:00 PM. Second by Chairman Bill Johnson. All Ayes. MOTION PASSED UNANIMOUSLY.

Respectfully submitted,


Jessica Pennell

Administrative Secretary

Planning & Zoning Commission

12 OCT -2 PM 4:47
TOWN OF GROTON, CT
Clerk's Office
TOWN CLERK