



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

Planning & Zoning Commission

SPECIAL MEETING/PUBLIC HEARING
MINUTES

Tuesday, October 15, 2013
7:05 PM
Main Meeting Room
Oxford Town Hall

Chairman Bill Johnson called the October 15, 2013 Special Meeting/Public Hearing for application **Z-13-138** to order at 7:16 PM.

ROLL CALL

Present: Alternate Joe Dempsey, Alternate Joe Rasberry (arrived at 7:39 PM) Harold Cosgrove, Alternate Arnie Jensen, Wayne Watt, Vice Chairman Bonnie Bartosiak, Chairman Bill Johnson, Jeff Luff (arrived at 7:24 PM) and Secretary Pat Cocchiarella.

Also Present: Peter Olson, Land Use Counsel, Allan Young, P.E., Town Engineer, Town Planner, Brian Miller, Anna Rycenga, ZEO and Jessica Pennell, Administrative Secretary.

PUBLIC HEARING – 7:05 P.M.

Z-13-138 – [COMM] Oxford Towne Center – 278 Oxford Road, 3 Echo Valley Road, 268 Oxford Road, 274 Oxford Road, Oxford Road (Lot 25) – Owner(s): Oxford Towne Center, LLC and Oxford Yard Masonry Supply, LLC, Applicant: Oxford Town Center, LLC
(Special Exception, Article 14, Sec. 2.2 – Excavation Permit)

Anna Rycenga, ZEO explained that the reason that this application is before the Commission is because under Article 14, Section 2.2 – Major Re-grading/Excavation, the application requires a Special Exception/Permit under Article 10.

Chairman Bill Johnson informed the Commission that the only item to be discussed this evening is the excavation of the site, not any site plans or possible buildings.

APPLICANT PRESENTATION

Dominick Thomas, Attorney for the Applicant, submitted the certificates of mailing and photos of the signs that were posted as a requirement of the Public Hearing process. He stated that there are six parcels of land involved in this, and the signs were posted on Echo Valley Road and Route 67. He commented that

this is an application for major re-grading to prepare the site located between Oxford Road and Echo Valley Road.

Chairman Bill Johnson noted that the Commission has received correspondence from Nafis & Young and requested that the Secretary read it into the record.

Secretary Pat Cocchiarella read a report dated 10/14/2013 from Allan S. Young, P.E., Nafis & Young Engineers.

Kyle Bogardus, Langan Engineering stated that they have been working with Town Engineers, Nafis & Young extensively over the last few weeks regarding this project. He gave a brief overview of the project beginning with site orientation. He presented the Commission with aerial views of the site. He commented that the site is approximately 30 (+/-) made up of several parcels. The site also fronts on Route 67 and Echo Valley Road. He stated that this application will bring the site to a final grade for preparation for development. He commented that about 160,000 cubic yards of material is currently stock piled on site. He explained that about 240,000 cubic yards of material that will continue to be excavated on site. He detailed the elevations for different areas of the site, elevations varying from 305(+/-) to 265. He commented that the 160,000 cubic yards (previously noted), the vast majority of that work will be placed in the low lying areas to create a relationship with Route 67. He noted that one of the concerns and discussions that they have had with Nafis & Young is the phasing of the project. He stated that they have broken it out into 3 phases. He commented that storm water management and soil & erosion control have been addressed in the applications materials. He noted that there is an existing storm water pond that will be maintained through the first phase of construction and there are plans to build a new storm water pond to replace that function as excavation occurs across the site. He noted that they would be maintaining the rock wall as long as possible, working from the back of the site toward Route 67, but eventually the wall will come down.

Kyle Bogardus stated that approximately 50,000 cubic yards is estimated to be removed from the site over a period of **18 months**. He commented that is a very small number of vehicles associated with the export of the materials.

Chairman Bill Johnson questioned the time frame of 18 months, stating that it was his understanding that this had to be done by **June/July 2014**.

Kyle Bogardus stated, that is correct, the **Phase 1** area where the pad preparation is really focused on, and is well within a **12-18 month** timeframe. He commented that there are other areas that may still need excavation after the pad is completed.

Town Planner, Brian Miller questioned the **Phase 1** delivery date.

Kyle Bogardus explained that it is June to **August of 2014**. He stated that is where the focus of the work will be initially, and then following that will be **Phase 3**. He noted that there may be some overlap of phases.

Harold Cosgrove questioned the elevation of the property in conjunction with Route 67 once the excavation (pad location) is finished.

Kyle Bogardus stated that the areas adjacent to Route 67 will be 2 to 3 feet above Route 67. It will be a very gradual grade as you work your way back through the site. He stated that the access is envisioned off Route 67.

Kyle Bogardus described in detail the elevations and slopes to Commission members that asked questions regarding these items.

Chairman Bill Johnson questioned the blue tent in the back of the property and when it would be coming down.

Kyle Bogardus stated that it will be taken down during **Phase 1**.

Chairman Bill Johnson questioned when the sales office will be coming down.

Tom Haynes, Owner stated that the store will be relocated down to Seymour. He stated that they will take the yard out to make room for the fill and that will happen within the first three months of the project. He stated that the store will probably be removed by **June 2014** at the latest.

Joe Dempsey questioned Lot 25.

Kyle Bogardus stated that the lot lines and the phase lines are not coincidental. The lot lines intersect throughout the parcels. He presented a map with the detailed lot lines.

Dominick Thomas stated that the reference to Lot 25 is to the assessor's lot number. He also mentioned Lots 31A & 31B, Lot 24, EV4A and EV6. He stated that it is a compilation of six assessor's lots, which constitute three or four addresses.

Dominick Thomas stated that Lots 31A & 31B and Assessor's Lot 24 are all under the same ownership. He pointed out the other lots explaining that two lots are owned by different LLC's and one lot is under contract.

Tom Haynes commented that when they come in for a site plan, all the lots will be combined.

Anna Rycenga, ZEO referred to **Article 14, Section 3.5** of the Oxford Zoning Regulations which states that there should be no excavation or removal within 50' of a property or street line except to an elevation equal with or above the grade of the adjoining street, or when done in conjunction with the regrading of an adjoining property, as determined by the Commission. She stated that because there are setback requirements, they are all considered separate parcels of land.

Peter Olson asked that the engineer address that issue.

Kyle Bogardus stated that they would maintain the 50' buffer with all adjacent properties.

Peter Olson stated that Anna's point is that you have internal lot lines to which the setback requirement replies by the language of the regulations. He commented that if it is made up of six lots you have to apply the 50 foot setback internal to each of those lots.

Dominick Thomas stated that he doesn't think that the application that they made includes all of the lots. He stated that the regulations say that when you either have permission through a contract purchase or you own or have some form of ownership, and five lots are under the control of Haynes, and one lot is under contract purchase. He commented that they have provided written permission from the owner of the one lot that is under contract purchase. He stated that the application that they submitted encompasses all the lots, so he does not think they have to have a buffer from their own property.

Peter Olson commented that he disagrees, the regulation requires it, whether you own it or not.

Anna Rycenga, ZEO stated that the commission can make a determination under Article 14, Section 3.5.

Peter Olson read the following from **Article 14, Section 3.5** "the Commission may permit excavation within 50 feet of a property or street line for property within the Commercial, Industrial, High Technology Industrial or Corporate Business Park districts if it determines that such excavation will have no detrimental

impacts upon the orderly use and development of the adjacent property". He stated that the requirement is there, the Commission can waive that requirement.

Tom Haynes stated that some lot lines will be changed based on uses, and they will come in with those lot line revisions when they come in with the site plan.

Commission members and Peter Olson discussed Article 14, Section 3.5.

Peter Olson stated that he'd like to hear from the engineer the extent to which the proposed excavation complies with the regulation.

Kyle Bogardus stated that the only areas on the site that will be below the grade of the road are in the very rear of the parcel, which does not have frontage on Route 67.

Harold Cosgrove asked that they identify the parcel of property that is under contract, and also what the status of Phoenix Propane, which is an adjacent property.

Chairman Bill Johnson stated that there is a 50' buffer between the property line and Phoenix Propane.

Kyle Bogardus depicted on a map the property that is under contract.

Dominick Thomas noted that Barbara Scianna, the owner of the property under contract, did submit a letter of consent for the file.

Arnie Jensen questioned the timing for the Phases.

Kyle Bogardus stated that they provided durations of the phases for Nafis & Young. He explained that the phases will be worked on simultaneously at some points throughout the project. He stated that **Phase 1** would take approximately **12 months**.

Town Planner, Brian Miller asked if that meant that **Phase 1** would be through **October 2014**.

Kyle Bogardus stated that is correct, and some phases are going to be coincidental. He commented that overall to get **Phase 1** completely done would be **12 months**. He also commented that there are areas with the pad prep that would be completed sooner.

Chairman Bill Johnson stated that during the pre application he thought the timing was very important, because there was a **June 2014** deadline.

Tom Haynes replied that they have a tenant that needs to be on site for a pad for **June of 2014**. He stated that is a lot of work to complete in that time period. He commented that they are going to focus on the site preparation for the pad area, and then they will finish the rest of the excavation and have that done **12 months** from the **June 2014** start date. He stated that he thinks that this whole project is going to take a minimum of **18 months to 2 years** to get it to pavement and have grass growing. He stated that the site excavation will be an ongoing process, with the first priority of getting the pad area prepped for the tenant.

Chairman Bill Johnson stated that the conditions of approval for the first permit for excavation were never met. His concern is that may happen again.

Tom Haynes explained that their permits did run out, they took the materials out and graded it as fast as they could, economy stopped sales, and they chose to not come back and ask for a permit at that time. The economy affected their ability to remove the materials. He stated that they are in front of the Commission because they have a tenant. He explained that the wall was left there intentionally so that the neighbors would be shielded from any activity on site. He said that it has always been the plan of this project to have

the wall come down last. He informed the Commission that with the previous excavation there was approximately 160,000 cubic yard to be removed; they were able to change the grading so that now only 50,000 cubic yards will be taken off site.

Chairman Bill Johnson stated that his concern was trucks coming in and out of the site for **2 years**. He would like to know when the 50,000 cubic yards will be removed.

Town Planner, Brian Miller commented that he is just seeing the phasing plan for the first time. He explained that **Phase 1** looks to be approximately **12 months**, and questioned the timing for **Phase 2**.

Kyle Bogardus stated that it is not a linear relationship; there will be work that will be done across the Phase lines throughout the construction process. He commented that is really the only way to achieve the desired grades.

Town Planner, Brian Miller stated that he believes the Chairman is looking for a more linear time proposal that would establish definitive dates.

Tom Haynes stated that this is a large construction project that will go on for more than **2 years**. This is a project they will start, and the center will be open in **18 months**.

Dominick Thomas stated that the pad preparation has to be done by **June 2014**. He commented that at that time, the pad area will be turned over to the tenant and the tenant will begin construction. He stated that during that time, Haynes will need to finish excavation on the rest of the site.

Town Planner, Brian Miller commented that the Commission wants to ensure some sort of schedule and Mr. Haynes and Dominick Thomas have indicated that there is a schedule. He stated that one of the problems in **Phase 1** is that the applicant is stating that some has to be done by **June 2014** and some has to be done by a later date. He questioned splitting **Phase 1** into A & B so that part of it has to be done by July 1, 2014 so the Commission has some comfort.

Vice Chairman Bonnie Bartosiak stated that this is just excavation.

Wayne Watt stated that the buffer along Route 67 should stay there as long as possible. He also commented that he would like to see the pad, with a timeline, and a timeline for the parking lots. He agreed with Town Planner, Brian Miller that it should be Phase 1A & Phase 1B.

Tom Haynes stated that the material will be removed as quickly as possible. He reiterated that the pad area needs to be level by **June 2014**, and then they need **12 months** to finish the entire site. He commented that they are going to be coming back to the Commission with a site plan that will have a more detailed timeline. He stated that it cannot be done one piece at a time.

Secretary Pat Cocchiarella stated that they will be building longer than they will be excavating. He commented that there will be overlaps within the building and excavating.

Tom Haynes stated that they would like a **2 year** excavation permit. He explained that he thinks they could get all the excavation done within **2 years**, possibly sooner.

Anna Rycenga, ZEO brought up the dust control plan, sedimentation & erosion control plan, storm water design, noise, blasting and truck traffic.

Joe Dempsey questioned if they would have to blast.

Tom Haynes explained that they will need to blast.

Joe Dempsey then questioned if they would need a rock crusher.

Anna Rycenga, ZEO stated a rock crusher is part of the application.

Joe Dempsey commented that when it comes to the blasting he hopes that a better job will be done than was done the last time.

Harold Cosgrove asked if Oxford would still have a Post Office.

Tom Haynes answered that the goal is to eventually have the Post Office as a storefront in the building that they intend to apply for when they come for a site plan.

Jeff Luff stated that he lives across the street from the site, and questioned how many days a week the operation would be running.

Kyle Bogardus answered that they would be working 5 days a week (**Monday-Friday**).

Anna Rycenga, ZEO and Brian Miller both stated that it is part of the regulations.

Anna Rycenga, ZEO stated that hours of operation would be **8 a.m. to 4 p.m.**

Jeff Luff commented that has not been the case for hours of operation in the past.

Joe Raspberry asked about the materials that will be taken offsite. He voiced his concern about construction traffic on Route 67.

Tom Haynes stated if the project takes **2 years**, it is 6 or 7 trucks per day.

Joe Dempsey asked if the material that is going to be excavated will be sold on site.

Tom Haynes stated that all but 50,000 cubic yards will be needed on site.

Joe Dempsey asked if any of the 50,000 cubic yards that will be removed will be sold to customers from the site.

Tom Haynes stated that it is not their intention to use the site as a customer base to sell materials.

Town Planner, Brian Miller stated that provisions can be put in the conditions of approval.

Wayne Watt stated that there seems to be some skepticism about the project timing. He suggested that there be a grace period put into the conditions of approval.

Secretary Pat Cocchiarella stated that little material will be taken off site.

Joe Dempsey questioned if there would be blasting where the pad would be going.

Tom Haynes answered "no".

Harold Cosgrove asked about run off into the pond.

Kyle Bogardus stated that they have a Sedimentation & Erosion Control Plan and a Storm Water Management Plan. He explained that all the details for the dust control and soil & erosion controls are noted on the plans.

Anna Rycenga, ZEO asked if Kyle Bogardus could elaborate.

Kyle Bogardus explained that they will be applying for a permit from the DEEP. He walked the Commission through the comprehensive storm water management plan, noting that they will be using both hay bales and silt fence for soil & erosion control as well as diversion berms to manage where the storm water will go. He pointed out the proposed storm water basin on the plans and explained that it will have a similar function to the storm water basin that is currently on site. He depicted the main access to the quarry and stated that they will manage the storm water and get it where they need it to go so that they can control run off and capture the sediment associated with it.

Kyle Bogardus stated that after working with Nafis & Young and Inland/Wetlands is the construction exit and entrance to the site. He explained that the anti-tracking pad has been doubled in length, increased the stone size and graded it downward to a small sediment basin.

Chairman Bill Johnson questioned if this application has been approved by Wetlands.

Kyle Bogardus answered "yes".

Anna Rycenga, ZEO noted that they have had previous problems with excavation with sediment being place on the paved surface and she had recommended that they install a wash rack.

Kyle Bogardus stated that was brought up by Nafis & Young and they have worked out a very good situation with the anti-tracking pad. He commented that the anti-tracking pad is pitched so it goes back to the site instead of out onto Route 67.

Joe Rasberry stated that hay bales sound temporary, is the basin going to be permanent.

Kyle Bogardus explained that it is a temporary sediment basin associated with earthwork activity.

Allan Young, Nafis & Young Engineers stated that all of the erosion control measures that are incorporated at this time are considered as temporary to work through the grading project. He commented that a site plan application would incorporate more permanent erosion control measures.

Harold Cosgrove questioned the pond and recycling the water.

Joe Dempsey stated that because of the use of the rock crusher, that the regulations might be imposed on them that were imposed on them for the previous excavation approval.

Anna Rycenga, ZEO questioned if the crusher will have a water spray bar.

Kyle Bogardus stated that it would have a water spray bar.

Chairman Bill Johnson asked if anyone in the audience would like to speak.

PUBLIC COMMENTS

Jennifer Bruno, 4 Echo Valley Road questioned if the trucks would be utilizing Echo Valley Road. She also questioned if there would be consideration of a natural buffer for the neighborhood. She inquired who the tenant was, but was told by the Chairman that they are not able to discuss that at this time. She stated to the Commission that she has had previous issues with her well, and was concerned that blasting may cause damage to the well.

Joe Persico, 2 Old State Road stated that previous blasting had totaled his car and that parts of the rocks damaged his house, therefore, this is of great concern to him. He questioned if the air quality would be monitored during excavation.

Sue Garafalo, 6 Old State Road questioned if pre-blast surveys would be done. She stated that last time a company came and photographed the houses and foundations before the blasting occurred. She also had concerns about the air quality, noting the smell of diesel fuel and dust. She questioned if work would be done on Saturdays. She also questioned if it would be a wet or dry crush. She commented that her house borders Little River and had concerns about overflow. Lastly, she asked if the pad is not completed in time for the tenant, will they back out, and has the tenant applied for any permits? She informed the Commission that after the previous blasting was done, she had to replace doors and windows in her house due to the rocking of her house caused by the blasting.

Paula Guillet, 175 Good Hill Road questioned if the Commission would take into consideration using natural slopes instead of possibly the chain link fence filled with crushed stone which is apparent in other shopping centers in surrounding towns.

Bill Burns stated that he owns 3 parcels across the street. He stated that the applicant would be hard coated to have to get the building piece of this done by a certain day. He asked the Commission the fallback if the applicant cannot meet the June deadline. He commented that last time they excavated the site, they worked on Saturday. He noted that a census was done of the adjacent property owners during the previous excavation. He questioned if Article 14 provides for the 50' setback.

Anna Rycenga, ZEO stated that in Article 14, Section 3.5 it is a setback of 50' from the property line.

Bill Burns questioned if the Town Engineer states that the 50' drainage of the temporary manner, that will address the concerns of the 50' limit if and when something prudent is built. He stated that according to the applicant, when the wall comes down, that slope will be upward, which means that the runoff held back by this area will go in a different direction. He asked if the proposed temporary drainage takes into effect all the water from the many cubic yards and starts running in a different direction.

Chairman Bill Johnson stated that the Commission has experts that have reviewed this and state that it isn't a problem.

Bill Burns commented that statements were made about taking the front wall down in Phase 3, and asked for verification. He then commented that it sounds to him that Phase 1 needs to be completed to build the pad by June 2014 and utilize a significant portion of the applicant's estimate of the 240,000 cubic yards to come out of there to fill the hole. He noted that is a conflictive statement and would like it resolved. He questioned the location of the crusher and also if there has been any consideration from the applicant to keep part of the wall to act as a natural buffer. He also questioned if the working hours stated in the Zoning Regulations are 8 a.m. to 4 p.m., Monday through Friday.

Anna Rycenga, ZEO stated that per the regulations, the hours will be Monday through Friday, 8 a.m. to 4 p.m.

Jennifer Bruno, 4 Echo Valley Road asked that the Commission take into consideration that the bus stop for the neighborhood children is at the corner of Echo Valley Road and Old State Road.

APPLICANT RESPONSES TO PUBLIC COMMENTS

Kyle Bogardus, Engineer for the Applicant issued the following responses to questions from the public;

Access to the Site:

The existing access to the quarry, located on Route 67 would be used throughout the excavation of the site.

Pad Location:

The materials submitted with the application included a site plan which shows the pad location (conceptual layout).

Blasting & Well Surveys:

The applicant will meet the Fire Marshal's requirements. A pre-blast survey is typically associated with any work and it will be done to the Fire Marshal's standards and specifications.

Chairman Bill Johnson questioned if Kyle Bogardus knows what the regulations are.

Kyle Bogardus stated that he cannot speak to the Fire Marshal's requirements; pre-blast surveys are usually associated within a radius of the blasting site.

Storm water Management:

The applicant has submitted a report and the storm water management plan with accompanying storm water calculations. There is a sediment basin located on the plan which addresses the question about the sheet flow out onto Route 67 once the wall is taken down. They have also worked extensively with Nafis & Young, they have incorporated diversion berms and silt fencing with hay bales as soil and erosion control measures all along the property line. The grade of the property is going to be toward Route 67, hence the basin located in the lower area.

Traffic:

The applicant submitted a traffic memo that outlines the removal of the 50,000 cubic yards of material from the site. It was noted that 13,000 vehicles a day are currently on Route 67 that is the typical traffic volume. He stated that 6 or 7 trucks per day will be associated with the removal of the 50,000 cubic yards of material.

Rock Wall:

The existing rock wall will come down as part of the excavation permit, that material is needed to fill the low lying areas of the site. The rock wall will be taken down as late as possible in Phase 1; they will keep it as a buffer for as long as they can.

Rock Crusher Location:

The existing rock crusher is shown on the plans, the Town Ordinance requires that it remain 150' from the property lines, and that is proposed as part of the application.

Allan Young, Nafis & Young Engineers stated that there was a question about what would happen if the project stalls and does not go forward. Inland/Wetlands is concerned about the impact on the wetlands should only the temporary soil & erosion control measures be left. They are talking to the applicant about posting a bond so that if the project does not go forward, there would be money to install permanent measures and provide some measure of restoration to the site.

Anna Rycenga, ZEO stated that currently, the town has a \$400,000.00 bond which will have to be amended to include all the parcels. The town will need an estimate for review for stabilization and to address Inland/Wetlands concerns.

Jeff Luff stated that he did not hear answers to the following questions; air quality, pre-blasting and noise control.

Noise Control:

The applicant will be in compliance with the Noise Ordinance for the Town of Oxford.

Pre-Blast Survey:

Falls under the purview of the Fire Marshal.

Air Quality:

Dust control, soil & erosion control, will be covered by the general permit required from the DEEP.

Jeff Luff questioned if that is monitored by the DEEP.

Kyle Bogardus stated that it is monitored by the DEEP under a general permit for construction activities.

Anna Rycenga, ZEO stated that the applicant has to have a copy of their inspections for the general permit from the DEEP on site on a daily basis for review by her and the DEEP.

Harold Cosgrove noted that to avoid litigation by owners in the areas of Old State Road, Seth Den Road and Echo Valley Road, they should require the applicant to have a house inspector come inspect the homes so that there will not be any problems with foundations or to check the water flow with the blasting. He commented that it should be addressed to protect the people.

Peter Olson, Land Use Attorney for Oxford stated that it is not within the jurisdiction of the Planning & Zoning Commission, it falls under the Fire Marshal and there is a state code that deals with blasting.

Anna Rycenga, ZEO stated that it is CGS (29-349) that outlines blasting.

Tom Haynes, Applicant stated for the record that the requirement for Oxford is 250' from the blast site and that it falls under the discretion of the homeowner. He stated that the Fire Marshal will manage that and for the record they will double that radius to 500' and do a pre-blast survey for anyone who would like one. He also stated that they are regulated by MSHA, which provides dust collecting and also puts dust collectors on employees who work with the crusher.

Harold Cosgrove wants to follow up on school buses. He stated that under the rare occasion that trucks would have to use Echo Valley Road, to make a condition that the trucks are not entering or exiting during student pick up and drop off times.

Tom Haynes stated that they run a business back there and to date he is not aware of any issues.

Town Planner, Brian Miller stated that the resolution of approval can state specifically that all truck access has to exit onto Route 67.

Dominick Thomas, Attorney for the applicant stated that when they take the building down and are doing demolition there, they will be using Echo Valley Road.

Town Planner, Brian Miller stated that will be for the demolition, which is something totally different.

Commissioners discussed the bus routes in relation to the truck traffic for this application.

Anna Rycenga, ZEO questioned the location of the crusher.

Kyle Bogardus stated that it would be movable.

Bill Burns stated that he thinks he heard someone say that there were "revised plans", were they just recently delivered to the Commission.

Anna Rycenga, ZEO stated that there were plans recently submitted to the Planning & Zoning department with the revisions per the Town Engineer.

Bill Burns questioned when those were delivered.

Anna Rycenga, ZEO stated that they were delivered this past Friday.

Bill Burns asked if the plans were available to the public.

Chairman Bill Johnson stated that all the documents and plans were available.

Harold Cosgrove stated for the record that Map CS-201 shows the existing location of the rock crusher.

ADJOURNMENT

MOTION BY Secretary Pat Cocchiarella to *CLOSE* the public hearing on **Z-13-138.**


Second by Wayne Watt. All Ayes.

Respectfully submitted,


Jessica Pennell

Administrative Secretary

Planning & Zoning Commission

13 NOV -6 AM 9:20
TOWN OF OXFORD, CT

TOWN CLERK