



Planning & Zoning Commission

TOWN OF OXFORD

S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
(P) 203.888.2543 (F) 203.888.4543
www.Oxford-CT.gov

Regular Meeting Minutes

Tuesday, September 20, 2016

7:30 PM

Oxford Town Hall
Main Meeting Room

CALL TO ORDER

Chairman Arnie Jensen called the Regular Meeting to order at 7:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Pete Zbras, Harold Cosgrove, Jeff Luff, Arnie Jensen, Pat Cocchiarella and Tanya Carver.
Not Present: Bob Costigan, Glen Persson, John Kerwin and Todd Romagna.
Also Present: Jessica Pennell, Administrative Secretary, Steven S. Macary, ZEO and Brian J. Miller, Town Planner.

CHAIRMAN'S REPORT

SEATING OF ALTERNATES

Chairman Arnie Jensen seated Alternate Commissioner Tanya Carver and Alternate Commissioner Pete Zbras.

AMENDMENTS TO THE AGENDA

CORRESPONDENCE

None.

AUDIENCE OF CITIZENS

None.

OLD BUSINESS

None.

NEW BUSINESS

1. Presentation for Audio/Video upgrades to Main Meeting Room

Chris Barry from Smarthome and Theater Systems presented the Commission with various options for updating the audio/visual equipment in the Main Meeting room.

2. Z-16-203 [IND] – 10 Robinson Lane

Owner: McNamee Construction Corporation c/o Dan McNamee

Applicant: Same as above

SET PUBLIC HEARING DATE:

- a. (Special Permit – Excavation & Contractor's Yard)
- b. (Site Plan Application for Building & Storage)

MOTION BY Commission Secretary Pat Cocchiarella to set the Public Hearing date for ***October 18, 2016 at 7:00 PM.*** **Second by Commissioner Harold Cosgrove.**
All Ayes.

3. Z-16-204 [VCMUD] – 300 Oxford Road

Owner: Oxford Towne Center, LLC

Applicant: Same as above.

(Site Plan Modification – Phase 1A & Phase 2B)

Kyle Bogardus, Langan Engineering, engineer for the applicant stated that these are minor application changes. He stated that the colors on the plan represent the Phases. They have made some modifications to the site plan:

- a.) Added four (4) parking spots by the bank. He noted that this would be temporary until the other parking lots are completed. He commented the modification was requested by the bank.
- b.) The rock pylon has shifted slightly and it has been finalized and surveyed for the record.
- c.) In the back they had a screened fence along the back portion, they changed the style of the fence to something more aesthetically pleasing.
- d.) The adjacent building now has all leases and square footages match.
- e.) Those are the changes from 1A.
- f.) He stated with the Goodwill (2B) they made changes to the driveway, it is connected.

Commissioner Harold Cosgrove questioned how this circular driveway is 5 feet from the property line.

Kyle Bogardus stated that is covered the approval for Phase 2A, none of the changes before the Commission today are for 2A, only 1A and 2B.

Commissioner Harold Cosgrove stated that Mr. Bogardus has not answered his question.

Kyle Bogardus questions if from looking at the drawing, the driveway looks to be further away than 5'.

Commissioner Harold Cosgrove stated that is correct.

Kyle Bogardus stated that it is further away; it is installed more than 5' away. He commented that

the 5.5' isn't associated with that driveway, it is right where it is supposed to be and there is no changing the approved site plan as far as where that drive is installed out there today.

Commissioner Harold Cosgrove questioned if the 5.5' is the drainage.

Vice Chairman Jeff Luff stated that the 5.5' is the corner of the Goodwill building.

Chairman Arnie Jensen questioned the intended construction entrance.

Kyle Bogardus stated that it is still part of the plan but has not been finalized.

MOTION BY Commission Secretary Pat Cocchiarella to approve application **Z-16-204** based on a plan dated 4/16/2014, last revised 9/14/2016 and drawn by Langan Engineers with the following conditions:

1. Compliance with the Oxford Zoning Regulations in effect as of this date.
2. Applicant and their assigns must comply with all representations made at Planning & Zoning Commission meeting regarding this application.
3. The Commission must approve lighting prior to installation.
4. Landscaping plan and architectural rendering must be as presented on the site plan; any variations must be approved by the Planning & Zoning Commission.
5. No material will be substituted without approval from the Planning & Zoning Commission Engineer.
6. Per Article 3, Section 3.19.1 of the Zoning Regulations, the applicant shall be responsible for rendering payment for any outside experts the Commission assigns to review this application from the initial review through inspection and issuance of a certificate of compliance.
7. Site plan approval expires if work is not completed within five (5) years from the date of approval.
8. Once the overall parking area is completed, the four temporary spots for Newtown Savings Bank will revert back to the parking configuration on original site plan.

Second by Alternate Commissioner Tanya Carver.

Vote: All Ayes.

BONDS/BONDS RELEASES

ZONING ENFORCEMENT

1) Complaints from Lorraine Tirella:

Chairman Arnie Jensen stated that since July 2016 there have been a series of approximately 13 letters, 3 emails, 4 formal complaints and 5 FOI requests from Lorraine Tirella. He noted that there are about 48 pages of documents submitted. The documents pertain to Oxford Towne Center, Haynes, Goodwill and subcontractors of Goodwill.

Chairman Arnie Jensen stated that on August 11, 2016 he summarized what was submitted on 2 complaint forms and 25 pages of other correspondence. He commented that from the complaints and documents 65 complaints/alleged violations were noted. He commented that of the 65, there were

duplicates and some that were very similar. He went through the documents and came up with a list of possible allegations/complaints that might be able to be addressed.

1. Encroachment (rock wall & silt fence)
2. Runoff onto Phoenix Propane property
3. Excavation being done was leaving the property unsafe
4. Excavation was occurring within 50' of the property line
5. Questions regarding ownership of Goodwill
6. Dust control
7. Hours of operation
8. Public notices
9. Proximity of Goodwill building to property line
10. Broken fence/destroyed driveway

Chairman Arnie Jensen stated that the non-zoning issues are encroachment, the cameras, garbage, urination, the broken fence and destroyed drive. He commented that the possible zoning issues are the proximity of Goodwill to the property line, and the notice of the public hearings. He commented that in regard to the claim of loss of significant business, that would be a civil issue.

Dominick Thomas, 315 Main Street, Derby, attorney for the applicant stated that in August 2016 he by the ZEO asked to prepare a report for the ZEO, which he did. He stated that in 2013 they held initial work sessions. He commented that at that time there were no zoning regulations that would permit the type of proposal that Haynes wanted to make. He stated that they wanted to start site work because the prior permits for excavation had expired. He noted that they applied for excavation permits in order to bring the site to developable status while the Commission was deciding what zoning regulations would be appropriate for development.

He explained that during the next few months, Town Planner, Brian Miller drafted the Village Center Mixed Use District (VCMUD) regulation. He stated that at the time of application, they didn't have a VCMUD, they only had a commercial district. Therefore, the excavation approval stated, in paragraph 18b, "the permit shall expire on 8/1/2014 unless the applicant a) completed all the earth removal or b) submitted a complete application for a site plan and special exception to the Planning & Zoning Commission for commercial development of the area designated as Phase 1 on certain sheets, and the application shall include a landscape buffer.

He explained that the excavation permit approval was worded that way because there was no VCMUD at the time; the point was that they were standing before the Commission to say that they wanted to have a commercial development, but they were going to propose mixed use so the regulation didn't yet exist. He noted that he also sent the report requested by the ZEO to Town Counsel, Kevin Condon.

He commented that the Commission then modified its regulations by adopting the VCMUD. He noted that the applicant submitted the zone change map and the conceptual plan, followed by a site plan. He stated that at that point the conditions of the excavation permit terminated and switched to the site plan with all the extensive plans. He stated that he could provide everyone with copies of the email and attachments that he prepared for the ZEO. He stated that is an overview of the permit issue, and now he would address the points that the Chairman identified.

Excavation within 50' of the property line:

Dominick Thomas stated that you now switch to what permit includes excavation. The excavation is now being done in accordance with site plan approvals and maps which were submitted to the Commission. He commented that it says where the excavation line ends, where the buffer goes and everything, so the excavation is in accordance with an approved site plan.

Complaint about applications:

Dominick Thomas stated that he is having difficulty understanding the complaint about the applications that he has participated in and he has reviewed the ones submitted by Langan. He commented that he thinks he knows what the problem is, which is that maybe to some extent the GIS, the assessor's map online has not caught up with what is in the land records and the local assessor's office. He stated that if the Commission recalls, one of the early requirements for this project was that they consolidate the properties. There was an extensive set of deeds that was presented to the Commission. He stated, in fact, that if you look at the earlier applications submitted, they were also signed by Barbara Scianna because at that point Kurt Lee, owned by the Scianna's, a portion of it was part of the application process. He stated that all those applications were signed by the applicant and property owner, Oxford Towne Center, LLC and earlier applications were signed by 278 Oxford Road, LLC, 274 Oxford Road, LLC, all the various sub-corporations which were part of that. (He circulated a map printed from the Oxford GIS). He noted that when you go on the GIS and you click on many of the properties you get absolutely nothing as the owner, the only one you get is the old one, they chose 300 because it was a nice number, rather than 278, for the address of the project. 300 was the VEMS building, if you click on that it will come up Oxford Towne Center, the rest of them don't so he assumes that, the only thing he can imagine, is that she is not caught up with fact that they have filed a consolidation map. He explained that the black outline depicts the properties that were consolidated. He also stated that they haven't yet consolidated the Oatley property, which the lines still show the separate properties because the map and GIS map is only updated once a year or once every couple of years. He stated that this isn't an issue.

Hours of operation:

Dominick Thomas stated that as far as the hours of operation go, and excavation on Saturday and Sunday, again it is in conjunction with a site plan approval and those things are usually discussed in any pre-construction meeting. He stated that they are not necessarily part of the approval as they would be if this were a quarrying operation.

Steven S. Macary, ZEO stated that he would like to discuss this further.

Dominick Thomas stated that he looked through the approvals and read all of them. He noted that there are no hours of operation in any of the approvals. He commented that there are hours of operation in the excavation permit regulations, but there are no hours of operation in all the approvals. He stated that normally, often times the hours of operation are part of the pre-construction meeting and often times that being done because developments like this run into problems and need to be accelerated to comply with certain things and it is usually done with the Commission's approval. He commented that what he is saying is that he could not find a violation because there is nothing in the

approvals about hours of operation. He explained that this Commission is very detailed in their conditions compared to some other communities in approvals. He stated that he doesn't see any violation with respect to hours of operation.

Steven S. Macary, ZEO stated that is going to be a huge issue. He stated that was his take as well, that the excavation being done is associated with site development. He commented that there are a lot of contractor's that work Saturday and Sunday in the Industrial and Commercial zones.

Tom Haynes stated that he also has a comment. He stated that with the issues of the hours of operation they have followed what they know to be the Town's regulations for construction of buildings, site work and site work associated with construction. He commented that they have worked in this town for 20 years and have never come across that they have worked outside the hours allowed by the town. He stated, additionally, that they know that they are restricted as far as crushing and blasting. He stated that those hours are very tightly regulated from 8 AM to 4 PM, Monday through Friday. He explained that they follow that. He commented that when they started the project it was assumed that the project would be regulated by all the regulations of the town; which allows them to work by the hours that anybody else in the town would work, there were no restrictions put on the actual construction site.

Chairman Arnie Jensen stated that the only thing that he could find in the regulations has to do with major re-grading and excavation and those are the hours that Mr. Haynes just cited, 8 AM to 4 PM, Monday through Friday. He stated that is the major re-grading part not the grading associated with site development.

Steven S. Macary, ZEO stated that the blasting is handled by the Fire Marshal. He questioned if the Fire Marshal is on site and if he sets the hours of blasting. He then questioned if Planning & Zoning has anything to do with the blasting.

Tom Haynes stated that Planning & Zoning doesn't have anything to do with blasting although the Commission may have set hours (8 AM - 4 PM, Monday through Friday) for blasting and crushing and they follow that schedule.

Steven S. Macary, ZEO questioned if the Fire Marshal is present.

Tom Haynes stated that the Fire Marshal is there for every blast.

Brian J. Miller, Town Planner stated that he is there for safety purposes, there are overlying regulations and the Fire Marshal has to comply.

Dominick Thomas stated that what the applicant is saying is that even though the operation for blasting and crushing is not in any approval, he is following the regulation for major excavation.

Ownership issue:

Dominick Thomas stated that he did get a copy of the site plan application for Goodwill and it is confusing to him because the applicant's signature was Thomas Haynes, Oxford Towne Center, LLC and he is an authorized member. He stated that listed as owner of the property was again, Thomas Haynes, Oxford Town Center, LLC. He noted that one of the complaints was that Goodwill signed as the owner.

Vice Chairman Jeff Luff stated that Mrs. Tirella is talking about the permit.

Steven S. Macary, ZEO stated that she is talking about the zoning permit.

Jessica Pennell, Administrative Secretary stated that she is talking about the building permit.

Steven S. Macary, ZEO stated that he thinks she may have been confused because Goodwill came in and Mr. Haynes signed for the ground, but when they came in for their building, he filled it out "Goodwill".

Tom Haynes stated that it is their (Goodwill's) building.

Steven S. Macary, ZEO stated that Goodwill applied for the building permit and I think she was confused about that.

Dominick Thomas stated that it is a ground lease so it is their building; they are the "owner" in that position.

Vice Chairman Jeff Luff stated that it is Goodwill's building, Tom owns the land.

Notices for property owners within 250':

Dominick Thomas stated that when the notices began he went through the zoning regulations and found that the regulations in Article 18 require notices for zone changes and text changes. He stated that the Commission also has another paragraph snuck into the Special Exception section that says for a special exception you must give notice in accordance with Article 18. He stated that he went to the source, then Anna Rycenga, ZEO and asked her if he was missing something. He stated that he knew that they were going to be going for a zone change and it was going to be followed by site plans. She answered that there was no requirement. He stated that after the Commission approved the text change which was done on the commission application, they then filed a zone map amendment for the properties, appropriately signed by all the owners involved. He explained that simultaneously therewith, they were filing the conceptual plan. He noted that her comment that she only got notice for the zone map amendment and did not get a notice for the concept plan is erroneous because what he did was he referenced only the zone map amendment in the opening paragraph of the notice because that is what is required by your regulations. He stated that you will note here, and this is her notice (showed a letter addressed to RKNE) that her address is Howe Avenue in Shelton. He stated that is who you send it to, the owner listed in the Assessor's records, you don't send it to the occupant of the property. He stated (referring to notice) that you can see that both applications are listed on the notice because he knows that they were going to have a simultaneous public hearing. He stated that she did have notice and she could have been there. He stated that he knows that one of the principles is Ken Schiabe, Jr. who was the one who was involved in Phoenix Propane and that is his address. He stated that he knows because he has represented him in the past. He reiterated that she did have notice and if she was at that public hearing that was more than just a zone/text change, the reason it only mentions that in the first paragraph is your regulations only require a notice for that, however to advise all the people getting notice that it was more than a zone/text change he put both application numbers in the notice. He stated that all they had to do was contact someone and ask if they were going to have a concept plan and once she saw the concept plan, at that point it didn't have a Goodwill, it had a Firestone Building right in the same spot. He stated to the Commission that they know there is no truth

to the fact that she didn't have notice. He stated, subsequent to that, there are no requirements in the regulations to give people notice for site plans. He explained that the Commission can choose to hold a public hearing; there is still no requirement on the applicant to give a notice. He stated that he just doesn't know how anybody who would follow Planning & Zoning would not know when these site plans are coming in because it is obviously a major project. He stated again that she did get notice of both the concept plan and the zone/map change which were done simultaneously.

Dominick Thomas stated that when you send out notices the requirement is to use the assessor's records. He stated that he takes advantage of the GIS, where he can plug in a number and it gives him a spreadsheet, a printout of all the people within the requested range. He stated that in this case it was more difficult because he had to GIS six properties. He stated that he does not rely completely on the GIS because there could be sales in the time that the GIS is updated. He explained that he also takes the land records and double checks.

Vice Chairman Jeff Luff questioned that if Attorney Thomas sent it to Ken, is there any obligation to send it to Ralph?

Dominick Thomas stated that the obligation is to send it to whoever is listed as the owner in the land records. He went on to share how interesting it was when they sent out notices for the enormous Oxford Greens project.

Financial Loss:

Dominick Thomas stated that the Chairman is right; it would be a civil matter.

Jessica Pennell, Administrative Secretary questioned the building permit again, she stated that Mrs. Tirella is requesting documentation that Goodwill owns something because they wrote in the space provided for the "property owner as listed in land records".

Dominick Thomas stated that the current application does not accommodate ground lease types of situations. He explained that the situation is the person who has to apply for this permit is the person who is constructing that building and who owns the building. He stated that on the building application, technically it should have been crossed out and replaced with "owns the building" because they are building a building that they own. He noted that a lot of the forms, not only in your town, but in all towns, do not accommodate the ground lease which is becoming a very popular way of developing these properties. He stated that is all he can explain, the complication, the impact of this is nothing, absolutely nothing. He stated that there is no violation, no repercussion; basically what Gordon could do is ask them to come in and have them cross out the phrase "as listed on land records".

Tom Haynes asked if they could file the lease on the land records.

Dominick Thomas stated that many people who have ground leases have filed notices on the land records to notice the lease. Owners name as it appears on land records could be an appropriate phrase if a notice of ground lease is filed on the land records. He stated that it creates a different situation if they were talking about the zoning application that would cause concern.

Steven S. Macary, ZEO stated that they also use consent forms.

Commissioner Harold Cosgrove questioned if anyone came back with an A-2 survey of the property. **Steven S. Macary, ZEO** stated that he has not seen one yet; he does have one from Goodwill.

Vice Chairman Jeff Luff questioned why Goodwill did one.

Steven S. Macary, ZEO stated that they require an as-built of all foundations, which he has from Goodwill. He stated that the Commission had asked Mrs. Tirella for an A-2.

Chairman Arnie Jensen stated that they have all the allegations about encroachment here, we asked for an A-2 survey because it is a he said/ she said. We asked to see the exact location of the property line. He stated that they asked for the A-2 to show the encroachment and then they can address it, until then they won't know.

Kyle Bogardus stated that what Steve was referencing was the foundation permit, which requires an as-built which was submitted three months ago.

Steven S. Macary, ZEO stated that he even asked them for a final showing all the plantings, slopes and grades.

Kyle Bogardus stated that they are currently working on that.

Steven S. Macary, ZEO stated that the as-built shows the building clearly 5' from the property line. He commented that there are sections in the zoning regulations regarding site plans where the Commission may waive setbacks; he spoke to Town Counsel, Kevin Condon for confirmation.

Commission Secretary Pat Cocchiarella questioned why the wall in the front has a break in it.

Steven S. Macary, ZEO explained that it is the wall that faces Echo Valley Road.

Kyle Bogardus stated that it is just the way the slopes ran out from the top bank down.

Steven S. Macary, ZEO stated that where Pat is talking about, the rock wall doesn't connect.

Commission Secretary Pat Cocchiarella stated that you have that grass slope that is subject to erosion.

Kyle Bogardus stated that it is 3:1 or 2:1, it is fine.

Commission Secretary Pat Cocchiarella stated that he thought the wall was going to go all the way around.

Brian J. Miller, Town Planner stated that it is actually on the plan, he commented that it was just the way the grading was done.

Vice Chairman Jeff Luff commented that he also thought that wall was going to be high enough so that you aren't going to be able to see the Goodwill from that side.

Brian J. Miller, Town Planner stated that was from Route 67.

Vice Chairman Jeff Luff stated that when he pulls out of his driveway onto Route 67 he can look right into the Goodwill.

Brian J. Miller, Town Planner stated that you can see it from Route 67.

Vice Chairman Jeff Luff stated that he thought the wall was going to be higher because the wall goes up to 11' and then drops down to about 6' and goes lower and then you have that slope.

Steven S. Macary, ZEO stated that he received a letter today dated 9/16/2016 and he would like Pat to read it into the record. He commented that for the record, the only thing he asked Attorney Thomas for was a copy of the excavation permit, he didn't ask him for any advice, he simply asked him for a copy of the permit.

Commission Secretary Pat Cocchiarella read a letter from Lorraine and Ralph Tirella, Jr. addressed to the Oxford Planning & Zoning Commission regarding the Oxford Towne Center Project, "Quarry Walk".

Steven S. Macary, ZEO commented that yes, the dust is hard to control right now, he did say that but this is the fourth letter we are seeing that blasted him.

Commissioner Harold Cosgrove questioned how many cars have been damaged by flying rock on Route 67?

Chairman Arnie Jensen stated that he is not aware of any.

Tom Haynes stated for the record "zero".

Vice Chairman Jeff Luff asked about houses.

Tom Haynes stated that years ago he knows that a rock rolled across Route 67 and hit Mr. Briggs guardrail on his bridge and they fixed that. He stated that it happened when they were shoot across the front along Route 67.

Alternate Commissioner Pete Zbras stated that when that complaint came in about the dust from the rock coming in and poisoning the children from the playground, George, Pat and he went to the daycare center and questioned the woman. He commented that she had no complaints, the only problem occurred when a bust was backing up.

Commission Secretary Pat Cocchiarella stated that the problem with the bus occurred when they were digging up the old Route 67, that was her only issue and it only happened once. He noted that they spoke to the director of the daycare.

Tom Haynes stated for the record that the operation that they run there is regulated by a lot of different agencies. He explained that for the crushing operation they are run by MSHA. He noted that MSHA is independent of OSHA, they come to the site on their own and do dust monitoring of people working in the plant and those are unannounced visits once or twice a year. He stated that if there are any issue then they have to be rectified. He commented that the operation has to meet that regulation. He commented that as far as they know Mrs. Tirella has filed complaints with OSHA, who has come in to inspect, she has filed complaints with DEEP, their dust people came in and did an

inspection a month ago. He went on to say that she also contacted the P.D.D.H. and Neil Lustig came out to inspect the site. He noted that they all came out to inspect the site unannounced and not a single complaint was founded and no violations were found. He commented that if DEEP had come out and found a violation, such as dust leaving the property, they would have issued a Notice of Violation. He stated that while dust is always a problem, especially in a drought they are working hard to keep it under control. He commented that there is water on that plant all the time; the dust control is on that plant. He also stated that if MSHA came to the plant and the dust control wasn't there, they would be fined.

Commissioner Harold Cosgrove questioned the future plans for the property in regards to moving a rock, rock crushing and re-grading?

Dominick Thomas stated that the future plans are whatever is on the site plan approved by the Commission. He commented that they have switched out of the excavation. He stated that Mrs. Tirella is living with a permit that is dead. He explained that what is live is your approval of all these things which I am sure Kyle includes excavation in all these site plans. That's what is being in control, that's why the numbers she has there are irrelevant, they were relevant to an application that was made before the VCMUD ever existed.

Kyle Bogardus stated that all the rock crushing is far away now.

Dominick Thomas stated that Kyle can make a comment speaking of that and the reason for switching to site plans, site plans are different from quarrying operations. When you are developing a site you don't want a site that's a bowl or something like that. He stated that since he represented them he is not going to comment on this, he is going to let Kyle comment on the site plan for Phoenix Propane.

Kyle Bogardus stated that this is just more in regards to the second page, top paragraph where it relates to the removal of bedrock that buffered the back of the property. He commented that happened on their (Phoenix Propane) side of the property as well, on their site plan application they cut down property and laid back those slopes and removed the buffer on their side of the property just the same is what is happening on this site. He stated that she is claiming that they took away the her buffer on our side with the site plan application, but that same buffer and removal took place on her site (Phoenix Propane).

Vice Chairman Jeff Luff stated that he wanted to pass along to the board what he discovered. He commented that Lorraine also had a complaint about Scott Pelletier not being there or giving notice when she was bleeding her tank. He explained that he spoke to Scott Pelletier and asked him that what the chance was of that happening and causing a public safety issue. He stated that Scott replied "none". He noted that Scott also said that he knows exactly when and how they are doing it and he felt very confident that was never going to be an issue. He also informed the Commission that Scott provided Lorraine all of the documents that she was requesting, such as permits and all the things that she was complaining about. He stated that Scott said that he answered all of her questions. He commented that Lorraine also mentioned that Haynes was not contacting her before the blasting during the releases of the bleeding of the propane tanks. He explained that he called Haynes and they provided him with a detailed list of when they called. He was told that she opted out of the phone calls made one hour before the blasting. He commented that Haynes provided him with three months of phone calls which he verified on his own phone because he is on the list to get the phone calls and emails before each blast. He noted that the dates and times reflected his phone records; so it was

accurate. He stated that Haynes has offered to provide another six months to a year of phone records and correspondence to notify people within 500 feet, which he is also a part of and that also matched up with his notifications. He stated that he just wanted to pass that on and what she stated was not very accurate.

Commission Secretary Pat Cocchiarella stated that Mrs. Tirella claims that there was damage done to her driveway, but for the record it is not her driveway, it belongs to Kurt Lee.

Tom Haynes stated that all three of them share a legal right to the driveway, so it is not her driveway.

Vice Chairman Jeff Luff questioned if that means they can park there.

Tom Haynes stated that they could, that Mrs. Tirella has zero control over that driveway, it is not on her property, she has nothing more than an easement, as they do to use that driveway. He claimed that she can't tell us not to use it because it is not her driveway.

Commission Secretary Pat Cocchiarella stated that he just wanted on the record that it is not her driveway.

Tom Haynes stated that he thinks they can go up and down a lot of the items, such as the trees falling and the broken fence. He commented that he doesn't know if these things happened, but everything has been fixed. He stated that when Phoenix Propane was clearing their trees they cleaned up more of their trees that were left after they cut them down. He stated that they didn't file any complaints, it just happens. He explained that any mistakes that anybody has made have been rectified and will rectify them. He stated that the Commission members have been out to the site, they have seen it for years. He commented that it is very difficult to constantly be asked to prove that you are not crazy, you know the dust, all of that, you can drive by and see what is happening. He stated that if they behaved the way that she has, accusing them and the town, the project would never be where it is. He stated that a lot of it is very inaccurate.

Steven S. Macary, ZEO questioned if they were going to respond to the letter or are they done with this? He asked what they should do about future stuff because this is really getting out of hand and not just about him, about everything.

Vice Chairman Jeff Luff stated that this is an approved application and if she wants to open it up she needs to bring it civilly.

Steven S. Macary, ZEO questioned future emails and letters.

Chairman Arnie Jensen stated that this is letter # 14 of the letters she sent and they cannot respond to every one of them.

Steven S. Macary, ZEO stated, ok, there will be no response to this letter.

Brian J. Miller, Town Planner stated that if there is litigation at some point, he is not an attorney but he would think that any response could be something that could be used against you.

Dominick Thomas stated that his suggestion is to send her the responses you have been given and that's it. He stated that the response that was given to the ZEO was also given to Town Counsel as well.

He commented that with respect to the other complaints when she complains about the dust, he thinks the Commission has responded appropriately and the response is that "we've gone out and investigated".

Alternate Commissioner Tanya Carver stated that she agrees.

Steven S. Macary, ZEO stated that he agrees.

Vice Chairman Jeff Luff stated that there is no more back and forth with her.

Steven S. Macary, ZEO stated that's fine.

Tom Haynes stated that their operation is currently probably a good 1,000' to 1,200' away from her property. He stated that four years ago, their scale house was right alongside her property and the crushing operation was 100' off her property line and there wasn't a single complaint. He stated that these complaints really started when the Goodwill building started to be erected. He commented that they were dealing with Ralph Tirella for about a year. He explained that he would come out whenever they were working on the property and he seemed to be very easy to work with. He commented that when they had a problem up in the back trying to dig along the back where we put the scale house, he came out and they talked about cleaning and grading the property, his and ours, it all seemed to be fine. He stated that now all of the sudden he has no involvement and they are dealing with Mrs. Tirella once the Goodwill building started to go up. He stated that they were a little confused, but that is where they are now.

Vice Chairman Jeff Luff questioned if Lorraine Tirella knew that Haynes was going to be here to answer her complaints and questions this evening.

Jessica Pennell, Administrative Secretary stated that she sent her an email.

Steven S. Macary, ZEO stated that they mentioned it at the last meeting when she was here.

Vice Chairman Jeff Luff stated that he just wants to make sure that Mrs. Tirella fully understands that they were here to answer all her issues and she is not here.

Steven S. Macary, ZEO stated that Mrs. Tirella wanted Haynes here.

Jessica Pennell, Administrative Secretary read the email that she sent to Mrs. Tirella.

APPROVAL OF MINUTES

1. **MOTION BY Alternate Commissioner Pete Zbras** to approve the 9/6/2016 Public Hearing Minutes as presented. **Second by Vice Chairman Jeff Luff. Ayes (4), Abstentions (2).**
Commission Secretary Pat Cocchiarella and Alternate Commissioner Tanya Carver.
2. **MOTION BY Alternate Commissioner Pete Zbras** to approve the 9/6/2016 Regular Meeting Minutes as presented. **Second by Vice Chairman Jeff Luff. Ayes (4), Abstentions (2).**
Commission Secretary Pat Cocchiarella and Alternate Commissioner Tanya Carver.

INVOICES

1. Turner Miller Group Invoices:

- a. MOTION BY Commission Secretary Pat Cocchiarella** to approve payment of invoice #5305 – General (Meeting Attendance). **Second by Alternate Commissioner Tanya Carver. All Ayes.**
- b. MOTION BY Commission Secretary Pat Cocchiarella** to approve payment of invoice #5306 – Special Exception- BMC Properties (Public Hearing Attendance & Resolution) **Second by Alternate Commissioner Tanya Carver. All Ayes.**
- c. MOTION BY Commission Secretary Pat Cocchiarella** to approve payment of invoice #5307 – POCD (Review & Committee Meeting). **Second by Alternate Commissioner Tanya Carver. All Ayes.**

2. Peter E. Karpovich, State Marshal – Invoice #1344

MOTION BY Commission Secretary Pat Cocchiarella to approve payment of invoice #1344 from Peter E. Karpovich, State Marshal. **Second by Alternate Commissioner Tanya Carver. All Ayes.**

OTHER BUSINESS

1. Committee Updates

Alternate Commissioner Tanya Carver gave a brief update of the POCD Committee. She stated that they are meeting every other week. Kathy Johnson and Pat Cocchiarella have joined the Committee, which is being considered an Ad-Hoc Committee. She stated that Brian Miller has gotten the information from COG and he is updating the graphs and information that is in the first part of the POCD. She noted that Brian Miller has been charged with completing, if at all possible, the entire first section.

Chairman Arnie Jensen asked if the first section is almost done.

Alternate Commissioner Tanya Carver stated that it is almost done, and it is the most important section. The next section is regarding the sewer, which is also a large section. She told the Commission that once Brian Miller's report becomes available it will be forwarded to all the Commission members.

2. Updates/discussion regarding Audio/Video System.

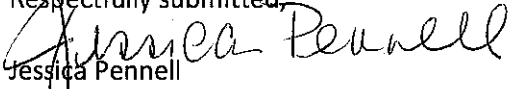
The Commission had a brief discussion regarding the options for a new Audio/Video system, they discussed possible items and how they would affect the meetings and audience. They discussed ways to keep the cost down and update the equipment. They also discussed trying to lessen the amount of paper if they do implement a more modern audio/visual system.

3. Any other items the Commission deems necessary for discussion:

ADJOURNMENT

MOTION BY Commissioner Harold Cosgrove to adjourn the meeting at 10:00 PM, second by Alternate Commissioner Tanya Carver. All Ayes.

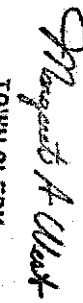
Respectfully submitted,



Jessica Pennell

Administrative Secretary

Planning & Zoning Commission

16 OCT -4 PM 3:26
TOWN OF OXFORD, CT

TOWN CLERK