

TOWN OF OXFORD
PLANNING & ZONING COMMISSION
S.B. Church Memorial Town Hall
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www.Oxford-CT.gov



Planning & Zoning Commission
Regular Meeting Minutes
Tuesday, October 17, 2023
7:30 PM – Main Meeting Room
S.B. Church Memorial Town Hall

I. Call to Order

Chairman Cocchiarella called the meeting to order at 7:33 PM.

II. Pledge of Allegiance

III. Roll Call

Present: Sara Locke, Carl Bouchard, Joshua Dykstra, Pete Zbras, Pat Cocchiarella, Brett Olbrys, and Robert Carr.

Not Present: Dan Wall and Ed Rowland.

Also Present: Steve Macary, ZEO, Kevin McSherry, Land Use Counsel, and Jessica Pennell, Coordinator.

IV. Seating of Alternates

V. Public Hearings

VI. Regular Meeting Business

A. Amendments to the Agenda

MOTION BY Commission Secretary Olbrys to amend the agenda to add an invoice from McSherry Law Office under invoices as item (c).

Second by Commissioner Carr.

All (5) Ayes.

Motion passed unanimously.

B. Correspondence – None

C. Old Business – None

D. New Business – None

E. Pre-application Presentation – Property located at 360 Oxford Road

Chairman Cocchiarella stated that the Commission is allowing the pre-application meeting in accordance with CGS §7-159b.

Attorney Dominick Thomas, 315 Main Street, Derby, CT presented a conceptual plan for mixed use multi-family housing to be located at 360 Oxford Road. He handed out various documents, including a site plan and architectural rendering to the Commission. He explained that currently the Commission does not allow high density multi-family housing in the commercial zone, therefore the applicant would also need to apply for a text amendment to the zoning regulations. He noted that the proposal would include properties along Route 67 in the existing commercial zone, include those served by public sewer and water, and require a Special Exception application.

Commissioners asked questions and commented on the mixed use (commercial on the first floor, residential above). Many commissioners expressed their interest in the property being cleaned up; it has been vacant for a long time. There was also discussion regarding an affordable component to the development.

Attorney Thomas stated that he will likely move forward with a draft regulation amendment, and site plan; he will work with Attorney McSherry before submitting the application.

F. Zoning Enforcement

a. Discussion with possible action resulting from the Show Cause Hearing - Old Good Hill Road

Commissioner Carr stated that this is a neighbor dispute as it does not involve a town road.

Linda Czaplinski, 30 Freeman Road called for a Point of Order and asked if the Commission was reading from a motion. She stated that customarily the Commission reads the motion and then initiates discussion.

Commission Secretary Olbrys read the following motion:

Whereas, the Commission conducted a Show Cause Hearing regarding Houk Nichols and Old Good Hill Road.

Attorney Kevin Condon detailed the status of Old Good Hill Road as a right of way and not a town road as determined in case of Nichols v Town of Oxford.

Steve Macary, ZEO, provided information regarding the Cease-and-Desist Order.

The Commission heard testimony from the parties and their representatives.

Photographic evidence was presented to the Commission.

Testimony indicated that between 400 to 500 cubic yards have been brought to the right of way over time.

There was no A-2 Survey presented.

The Commission determines the following as to the right of way and the Cease-and-Desist Order.

This right of way is privately owned and falls under Conn Gen. Statute §47-42f.

This Act makes the owner of single family to four family homes located in Connecticut, who uses a private easement or right-of-way to access his or her property (i.e., the “benefited property”), responsible for the cost of maintaining, including snow removal, repairing, or restoring any damage to the easement or right-of-way.

Under the act, benefited property does not include property owned by the state or its political subdivisions, but includes the property burdened by the easement or right-of-way if its owner uses it.

Under the act, in the case of more than one benefited property, the owners must share the cost according to (1) any enforceable written agreement, or (2) the proportion of benefit received by each property if there is no agreement. The act does not specify how to determine the proportion of benefit.

Additionally, owners falling under Conn General Statute §47-42f do not have the authority granted to municipalities under 13-138 to discharge water.

Owners should work together to formulate an engineered plan for the right of way and drainage, then submit the plan to the Zoning Enforcement Officer.

DISCUSSION:

Commission Secretary Olbrys asked some questions regarding the motion.

Commissioner Zbras asked if Mr. Nichols had the right to bring in fill and rocks.

Attorney McSherry explained that Mr. Nichols has a right to repair the road, the manner in which he repairs the road is the subject of the Cease & Desist. He also noted that all the owners have an obligation to repair the road.

Commissioner Zbras asked if he needed permission from the other homeowners to fix the road.

Attorney McSherry stated that he has a right to repair the road and put the fill in place, but he doesn't have the right to cause harm to anyone.

Chairman Cocchiarella stated that this doesn't address one of the primary issues; the diversion of water onto another person's property.

Attorney McSherry stated that the Commission can address any issues they wish to address.

MOTION BY Commission Secretary Olbrys that the Commission decline to take action and dismiss the Cease & Desist based on the nature of the right of way being privately owned.

Second by Commissioner Carr.

Commission Secretary Olbrys the way he reads the motion, the owners are the abutting property owners of the road and it is up to them, as it is their responsibility to fix, repair, and share the cost of fixing the road. He asked who determines if the road needs to be fixed.

Attorney McSherry stated that ideally it would be among the parties who abut the road to work together but, in some situations, that is not possible.

Commission Secretary Olbrys asked if the property owners dug out the road and left it impassible, can the property owner at the end of the road come in and fix it to make it passable because they need access to their property? He also questioned if the person that brings in the fill, then send a bill to the abutting property owners?

Attorney McSherry stated that the way the statute read, is that the costs of maintaining or repairing the road are supposed to be shared among the parties. He stated that there should be some type of agreement.

A discussion ensued regarding who is responsible for work done to the road to make it accessible to all property owners.

Attorney McSherry reiterated that everyone should share the cost.

Commissioner Zbras asked if they had an engineer working on this.

Attorney McSherry stated that it was mentioned that someone was preparing a plan.

Commissioner Zbras stated that Mr. Nichols should let the other homeowners know what it is going to cost to repair the road.

Discussion continued regarding how the owners abutting the road could resolve the issue.

Attorney McSherry stated that eventually this would have to go to court for an injunction or they will have to find another way to resolve this issue.

Chairman Cocchiarella stated that the Commission is still not addressing the damage to the adjoining properties.

Alternate Commissioner Locke stated that without an A-2 survey it may not be possible to determine where the property lines are, where the damage was done, and where the water was discharged.

Chairman Cocchiarella moved the motion.

Commission Secretary Olbrys moved the motion.

Second by Commissioner Carr.

Ayes (4), Nays (1)-Chairman Cocchiarella.

Motion passed 4-1.

b. ZEO Approved Permits

Steve Macary, ZEO briefly went over some of the complaints that he has received since the last meeting. He also discussed, in greater detail, issues on Pisgah Road. He noted that a house was built, along with a stone wall. He stated that the stone wall was not on the plan, and was built on the neighbor's property. He noted that he has a \$30,000.00 bond and would like to take half of it, to fix the drainage which cut into the neighbor's property. He also stated that one property owner took another property owner's trees down, which was past the limit of clearing.

Chairman Cocchiarella stated that he visited the property and one of the photos shows where one neighbor has trespassed onto the other neighbor's property with the construction of the stone wall. He also referred to photos that depicted two water puddles, one near the driveway and one in front of the house.

Steve Macary, ZEO stated that he found out there is no as-built for the septic, and now they are requiring an as-built for everything, so that they are on file. He explained that he doesn't want to take the bond without informing the Commission; he doesn't want to take the bond, he wants the work to be completed. He reiterated that he would take half the bond in the next two weeks, and that he would get together with Attorney McSherry to move forward.

G. Approval of Minutes

- a. **MOTION BY Commission Secretary Olbrys** to approve the July 18, 2023 Regular Meeting Minutes as presented.
Second by Commissioner Zbras.
Ayes (4), Abstention (1), Commissioner Dykstra.
Motion passed
- b. **MOTION BY Commission Secretary Olbrys** to approve the August 1, 2023 Regular Meeting Minutes as presented.
Second by Commissioner Carr.
All (5) Ayes.
Motion passed unanimously.
- c. **MOTION BY Commission Secretary Olbrys** to approve the August 15, 2023 Regular Meeting Minutes as presented.
Second by Commissioner Carr.
All (5) Ayes.
Motion passed unanimously.

H. Invoices

- a. **MOTION BY Commission Secretary Olbrys** to approve payment for Nafis & Young Invoice #240-23 as presented.
Second by Commissioner Carr.
All (5) Ayes.
Motion passed unanimously.
- b. **MOTION BY Commission Secretary Olbrys** to approve the reimbursement for Commissioner Zbras in the amount of \$48.88.
Second by Commissioner Dykstra.
All (5) Ayes.
Motion passed unanimously.
- c. **MOTION BY Commission Secretary Olbrys** to approve payment for the invoice from McSherry Law Office.

Second by Commissioner Dykstra.

All (7) Ayes.

Motion passed unanimously.

I. Audience of Citizens – Items not listed on the agenda

Linda Czaplinski, 30 Freeman Road questioned who is responsible for the Town Engineer signing off on a portion of work being completed on Old Good Hill Road. She asked who deems it complete and passable.

Steve Macary, ZEO stated that it is a private issue; he received approval from George Temple.

Mrs. Czaplinski asked who approves the finished work, she stated that she is trying to understand who she would contact because the Town Engineer was involved.

Chairman Cocchiarella asked for clarification; was it the Town engineer or the P&Z Engineer.

Mrs. Czaplinski stated that it was Nafis & Young.

Chairman Cocchiarella confirmed that Nafis & Young is the Commission's engineer.

Steve Macary, ZEO stated that he was told it was a private issue.

Chairman Cocchiarella asked if Nafis & Young actually approved anything.

Steve Macary, ZEO stated that he emailed them the plan, it is a private issue, it is a driveway/right of way.

Chairman Cocchiarella stated that if it is a driveway, then it would be the Driveway Enforcement Officer.

Steve Macary, ZEO stated that it is a right of way to get to the houses at the bottom of Old Good Hill Road. He stated that the Driveway Inspector may handle that.

J. Other Business

a. Discussion with possible action – November 7, 2023 Meeting (Election Day)

MOTION BY Commission Secretary Olbrys to cancel the November 7, 2023 regularly scheduled meeting.

Second by Commissioner Dykstra.

All (7) Ayes.

Motion passed unanimously.

b. Any other business the Commission deems necessary for discussion.

Commissioners began discussing the ADU Regulations that were acted on during the October, 3, 2023 regular meeting. There were questions regarding whether or not the Commission actually approved the regulation, the square footage, and the adjustments that needed to be made to the final regulation.

Attorney McSherry noted that the Commission approved the regulation with an effective date of October 17, 2023.

Jessica Pennell, Coordinator, noted that the regulation will not be available to the public until she receives it will all adjustments.

K. Adjournment

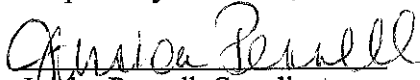
MOTION BY Commissioner Dykstra to adjourn the meeting at 9:07 PM.

Second by Commission Secretary Olbrys.

All (7) Ayes.

Motion passed unanimously.

Respectfully submitted,


Jessica Pennell, Coordinator

2023 NOV 15 P 4:07
TOWN OF CANTON, CT
TOWN CLERK
