

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION
Regular Meeting
Wednesday, March 4, 2020
Clifford B. Green Meeting Center
69 South Main Street
6:30 p.m.**

MINUTES

- I. Call to Order** – Michelle Sigfridson, Chair, called the meeting to order at 6:31 p.m.
- II. Roll Call** – Michelle Sigfridson, Carlene Kelleher, Jules D’Agostino, Earl Starks, Alan Fitzgerald, Charles Sczuroski. Austin Tanner arrived at 6:36 p.m.

Staff Present: Jana Roberson, Director of Community Development; Richard Ives, First Selectman and ex officio Member of the PZC (left at 9:37 p.m.).

- III. Seating of Alternates** – None.

- IV. Adoption of Minutes:** Regular Meeting February 18, 2020

Motion was made by C. Kelleher to approve the Minutes of the Regular Meeting of February 18, 2020, as presented. Second by C. Sczuroski.

Discussion:

- Page 7, sixth bullet point, third paragraph, “Ms. Roberson explained that she agrees with most of Attorney Heller’s statements, but there are endangered species known to be on the property. She said that any condition relative to that would be an illegal condition which would make the Town extremely vulnerable to an appeal.”
J. D’Agostino stated that, according to a retired State Supreme Court Attorney, to interpret a condition of the State Statute that is different than what the Statute says is not illegal. Mr. D’Agostino suggested that Ms. Roberson change the word “illegal” to a less aggressive term (e.g. unintended).

There was discussion and it was decided that no change would be made.

Original Motion carried unanimously (6-0-0). A. Tanner was not present for this motion.

- V. Public Commentary** – None.

Motion was made by C. Kelleher to move Agenda Item VII.b.1 to follow Agenda Item V. and also to add to the Agenda, Item VII.b.2. Preliminary discussion with Paul Archer and Jeff Weaver re: Six-lot Subdivision on Day Street. Reason stated: to allow these items to be presented before the public hearings. Second by E. Starks. No discussion. Motion carried unanimously (7-0-0).

VII. New Business:

- b. Other New Business:
1. Preliminary discussion with Keith Crossman re: Potential zone change application at 340 Christian Hill Road.

Keith Crossman explained that he would like to have a small, hobby farm and would like to eventually have a farmstand on his 7-acre property which is zoned R-30. He said that a previous owner had planted over 100 blueberry bushes, over 50 years ago, which are still producing. He explained that Eversource is helping to restructure the land and have clear cut through some of his forested land and have agreed to put in an orchard for him. He would like to have goats, more than six chickens, possibly bees. Nothing commercial and no large livestock.

Ms. Roberson explained that Mr. Crossman is considering applying for a Zone Change within the next few weeks. Mr. Crossman's property is part of an R-30 block on one side of Christian Hill Road and the other side of the road is zoned RA.

2. Preliminary discussion with Paul Archer & Jeff Weaver re: Six-lot Subdivision on Day Street.

Paul Archer, Archer Surveying, represented Jeff Weaver, he provided plans to the Commission Members and gave an overview:

- Six-lot subdivision on 60 acres of land which abuts to the westerly side of another 10-lot subdivision on Day Street (by Mr. Weaver).
- Part of the property (along the southerly side of Day Street), which is proposed to contain four residential lots, is in the R-30 Zone. The other two lots would be in the RA Zone.
- He explained that they would be requesting fee-in-lieu of open space. The question they ask is whether it would be acceptable to the Commission to have the appraisal done only on the nine acres of land that is being subdivided, and not on the entire 60 acres of land. Therefore, the fee-in-lieu of open space would only be on the subdivided lots (9 acres). They are not proposing, at this time, that the remaining 50+ acres be a building lot. He said that there would be a note stating that if it were to be developed in the future, it would need to come back before the PZC for approval under the Zoning Regulations.
- Four lots would have access on Day Street.
- One 50-foot access strip would serve two lots off of Day Street.

Ms. Roberson asked if the undeveloped parcel could be an open space parcel. Mr. Archer stated that it is not what the Applicant would be choosing and he explained that, when Mr. Weaver did the 10-lot subdivision, the Conservation Commission had not expressed interest in open space at that time. Mr. Archer stated that the 50 acres would be the next phase, but Mr. Weaver is not looking to develop it at this time.

There was discussion. Mr. Archer indicated where the four front lots and two rear lots would be located. Mr. Archer asked if the Commission would like Mr. Weaver to get an appraisal on the nine acres using Vision Appraisal. Ms. Roberson feels that this would be a premature decision as no Application has been received and the Conservation Commission has not reviewed it. Discussion continued. Mr. Archer explained that the fee had been taken and created the 10-acre subdivision and the 60-acre lot. He said that the 50 acres would be left as remaining land, so if one house were to be proposed there, it would need to come before the PZC to be approved as a building lot. Discussion continued. Ms. Roberson explained that she is not certain, at this point, if a subdivision would be required to develop the 50-acre lot. Mr. Archer stated that if Mr. Weaver wanted to build on the 60 acres, he would not need a subdivision because the lot was created by the fee split. Mr. Archer asked for the opinion of Attorney Heller (seated in the audience). Attorney Heller referred to Statute 8-18 and, in his opinion, he was in agreement with Mr. Archer. Attorney Heller explained that whatever the developer chooses to submit is what is presented to the Commission for consideration and the remaining land would lose its status as an existing lot (if done as proposed by Mr. Archer). Attorney Heller further explained that any future development on that remaining land (whether to be built on as one lot or subdivided again) would require subdivision approval by the PZC. Discussion continued.

Fee-in-lieu would be paid at the time of transfer. Ms. Roberson stated that it would be referred to the Conservation Commission. Discussion continued.

Mr. Archer stated that they will be submitting to the IWWC next week.

Mr. Archer explained that it would be appraised for the nine acres, which the Town would get ten percent of that appraisal. Then, when they come back for the development of the 50 acres, another appraisal would be done for the fee-in-lieu of open space, on those 50, acres at that time.

Ms. Sigfridson asked if any of the Commission Members have a problem with Mr. Archers' proposal for fee-in-lieu of open space and there were no objections expressed.

VI. Unfinished Business:

a. Reading of Legal Notice: None.

b. New Public Hearings: None.

c. Continued Public Hearings:

1. **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel.

Ms. Roberson displayed the plans.

Ms. Sigfridson noted that the Traffic Engineer's Report was included in packets to Commission Members and that it had been made available to the public. Ms. Roberson noted the following that were included in the packets to Commission Members:

- Hydrogeologist's Report (dated February 13, 2020, prepared by Wayne H. Bugden, PG, LEP, One Earth Environmental, LLC), including e-mails (dated February 14, 2020) between the Hydrogeologist, Mr. Bugden and Project Engineer, David Held.
- Traffic Review of the Potvin Property (dated March 1, 2020), prepared by Kermit Hua, P.E. and Professional Traffic Operations Engineer (Certified by the Transportation Professional Certification Board), KWH Enterprise, LLC. Ms. Roberson stated that Mr. Hua has visited the property, he has examined Maynard Road, and his recommendations were included in his Report. Mr. Hua was present in the audience to answer questions.

Attorney Harry Heller, 736 Route 32, Uncasville, CT, represented the Applicant.

- Attorney Heller requested that the public hearing be kept open because the IWWC has not yet acted. The PZC should receive the IWWC's report before the PZC's next meeting and the Applicant needs to have the opportunity to comment.
- As a preliminary matter, Attorney Heller, asked about Mr. D'Agostino's comment earlier on the Agenda, regarding the Minutes of the PZC Meeting of February 18, 2020, where he had stated that he had spoken with a retired judge. Mr. D'Agostino confirmed that he had. Attorney Heller commented that Mr. D'Agostino had obtained information that is outside of the record of this proceeding which, he said, is a serious problem.
- Attorney Heller asked if Ms. Roberson was going to introduce into the record for this proceeding, the GAZ Report (Hydrogeologist Report done for the IWWC) noting that it is not a stand-alone report as there is a lot of other evidence that the IWWC is considering in conjunction with it. Attorney Heller noted that it was included on the Exhibit List for this proceeding and he stated that, if the PZC will be considering the Report, he will need to enter additional evidence into the record of this proceeding.

Ms. Roberson stated that it is not germane. Ms. Sigfridson explained that it is not before the PZC for consideration and it should not be on the Exhibit List. Ms. Roberson will remove it from the Exhibit List. There were no objections.

- Attorney Heller stated that they have reviewed Mr. Hua's Traffic Report and noted that an error was found. Average daily trips for Wauregan Road was indicated as 2,200, which is inconsistent with the Table 1 (which indicates 534 trips per day). Attorney Heller introduced into the record, a response from David Held of Provost & Rovero, including, as an attachment, the 2013 ADT Count Map from the DOT which indicates an average of 550 trips per day.

Regarding Mr. Hua's comments about road width, Attorney Heller referred to the Table (Figure 4E) in the Report, Attorney Heller explained that existing conditions on Wauregan Road and Maynard Road, as cited in the Report, meet the requirements contained in the Table.

Regarding the two accidents cited in the Report: Attorney Heller explained that they do not believe that either are related to gravel hauling on the road.

Regarding the recommendation for hours of operation being limited from 9 a.m. to 4 p.m.: This is a serious problem for the Applicant. Attorney Heller stated that operations start at 7 a.m. and he referred to the Report noting that there is really no significant difference in background traffic from 7 a.m. to 9 a.m. Attorney Heller's interpretation of Mr. Hua's Report is that the capacity for roads like Wauregan Road and Maynard Road is about 1,200 vehicle trips per hour, so the background traffic is really minimal.

Attorney Heller stated that the Report does not address the Canterbury Agreement. He explained that the Canterbury Agreement is contractually enforceable and they have no objection, and recommend, if the PZC approves this Application, that the Commission incorporate the parameters in the Canterbury Agreement into the conditions of approval, so that the Brooklyn PZC would have enforcement powers within its jurisdiction. He noted that the traffic under the Canterbury Agreement can exist whether it is coming from the Potvin site or any other site to the east bringing material to the Laframboise Processing Facility.

- Attorney Heller introduced into the record, written responses from David Held, to comments received earlier in the day from Syl Pauley (Engineering Plan Review, dated March 3, 2020), for SPG 19-003 SPG 19-004.
Responses as follows:
 - Comment #1. If the Town wants silt/compost stocks instead of staked hay bales or silt fence, they are okay with that.
 - Comment #2. They feel that jute netting for slope stabilization is an unnecessary expense. They have provided the methodology for slope stabilization: To apply a good depth (2 feet) of a fine silt material to the embankment slopes, then topsoil, loam, seed and hay; proposing 30 percent final slopes.
 - Comment #3. No locations shown for stockpile material because the methodology is to not stockpile material (they show a stockpile location for topsoil because all topsoil will be retained on-site for final stabilization. Excavated commercial material will immediately be loaded onto the truck to be brought to Laframboise.
 - Comment #5. Detail for the anti-tracking pad will be added to the plan: typical 100-foot width, crushed stone anti-tracking pad in accordance with the 2002 E&S guidelines.
 - Comment #6. Fueling pads are drawn to scale and a note will be added indicating that a fuel-spill kit will be maintained on-site during all operations..
 - Comment #7. Concerns relating to over-excavation were addressed on the February 14, 2020, plan revision, which was in response to

comments from the Hydrogeologist (One Earth Environmental, LLC). Only material (which is washed material from the processing plant) which is clean fill will be utilized for slope stabilization. Regarding over-excavation, Attorney Heller explained the down-cutting methodology: they will always be working internal to the excavation area, never working on the exterior slopes. He explained that they are limited by the parameter that they must maintain a minimum of five feet above monitored groundwater. He said that what they mean by over-excavation is that they will stabilize and reshape the vertical face for final loaming and seeding at a 30-percent grade.

Comment #8. They are committed to operating within the parameters of the Canterbury Agreement and they suggest that the Brooklyn PZC incorporate those parameters into any approval that is granted.

Comment #9. This is a matter of clarification. The note is on the plan.

Comment #10. Mr. Heller said that if Mr. Pauley wants the wetland boundary signs on posts, they will put them on posts.

Attorney Heller requested that the public hearing be continued to the PZC meeting scheduled for March 17th, and he stated that he had confirmed with Ms. Roberson that this would still be within the parameters of the extension that had been granted.

Kermit Hua, KWH Enterprise, LLC, reviewed his Traffic Report.

- He confirmed that Mr. Held is correct regarding the mistake he had pointed out. He explained that it was an oversight and that the average daily traffic (ADT) is in a range of 500.
- Recommendation #1 - Mr. Hua explained his reasoning for his recommendation regarding limiting the hours of operation from 9 a.m. to 4 p.m. He spoke of shoulder width and lane width which, according to recommendations in the ConnDOT *Highway Design Manual*, should be a total of 24 to 28 feet, but he measured only 19 to 22.5 feet. Based on field observation, he noted that the trucks, essentially, drive in the middle of the road, and although it is a relatively low volume street, vehicles have to slow down and move to the side for opposing traffic. He said that this is not as much of a concern for passenger vehicles, but he has more concern regarding the size and the way the large trucks drive on the way to the excavation facility and to the facility in Canterbury. He commented that most of the commuting/school traffic happens before 9 a.m. and, in the afternoon, school traffic is probably around 3 p.m. He said that he tried to recommend something that is realistic and workable and, at the same time, be cognizant of the needs of the residents living on these streets and trying to separate the facility-related trucks and the passenger vehicles. He explained that his error regarding the ADT 500 vs. 2,200 does not change his recommendation for hours of operation.
- Recommendation #2 – On Maynard Road there is about ½ of a mile between the Town line to the State road and there are a lot of single-family driveways and he understands the concern regarding speed. He recommends replacing the two existing speed limit signs near both ends on Maynard Road with combinations of solar-powered radar speed signs and normal speed limit signs on a single post. He said that he would check with ConnDot to see what the policy is regarding whether approval is needed from OSTA or DOT.
- He explained that his recommendations have nothing to do with volumes because Maynard Road is a relatively low-volume street. He explained that traffic accident records do not raise a red flag.
- He mentioned that there are some curbs, so you cannot go off the road if needed.

Ms. Sigfridson noted that the Traffic Recorder Data had been recorded from 7 a.m. on Monday, March 22, 2010, until 11 a.m. on Tuesday, March 23, 2010, and Mr. Hua confirmed that is correct. Mr. Hua stated that normal residential morning and afternoon peaks in traffic in suburban areas would be 7 to 9 in the morning and 4 to 6 in the afternoon and, in more rural areas such as Brooklyn, people start a little earlier in the morning and end their day a little earlier. He explained that he didn't base his recommendation on volumes at all (it is a low volume street). He said that the interaction between passenger vehicles and excavation trucks is a valid concern for safety. He said that, ultimately, the decision is up to the Commission.

COMMENTS FROM THE PUBLIC:

Linda Trahan, 26 Maynard Road, expressed concern that traffic was looked at for one day in the winter. She said that these things are normally done over a period of time. Ms. Trahan spoke of the way traffic has to pull over and wait until trucks (which are either going to or coming from Laframboise) pass by because of the narrowness of the road, which is a safety concern all day, every day. Ms. Trahan, for clarification purposes, stated that all of the heavy truck traffic is coming from or going to Laframboise.

Marion Kervin, 48 Maynard Road, stated that she observes trucks travelling to Laframboise as early as 5 a.m. She asked about what happens if the permit gets approved and the trucks don't adhere to the approved hours of operation and the speed limit. She asked if there would be fines.

Ms. Sigfridson explained that the Brooklyn ZEO has the authority to enforce the Brooklyn Zoning Regulations and conditions placed on zoning permits. So, there would be some authority over the trucks going into and out of an approved gravel operation in the Town of Brooklyn, but the ZEO would not have authority over trucks, in general, on the road.

Mr. Ives asked Madeline Smith, Corporate Counsel, Rawson Materials, (seated in the audience) if trucks are currently lining up before 7 a.m. Attorney Smith stated that the hours of operation are 7 a.m. to 4:30 p.m. and that they cannot cross the scale and leave the site before 7 a.m. She explained that they cannot stop a truck from arriving at the site early. Mr. Ives said that everyone needs to be on the same page with this. Attorney Heller stated that they can only control their trucks and if the scales do not open until 7 a.m., then Laframboise is in compliance. Mr. Ives commented that they are lining up in the driveway and they can control that. David Held noted a significant difference: there is no scale, no consumer sales proposed for the site, it is completely under the control of Rawson Materials, there are no outside people that would be coming into the site. Mr. Held said that it is not the same as Laframboise. Attorney Heller stated that they certainly can control the Potvin site.

Attorney Heller stated that 4 p.m. is fine, but 9 a.m. is not because they start at 7 a.m. and they cannot send them somewhere else for two hours and then come to Potvin.

Linda Trahan asked for clarification on the truck number in the Canterbury Agreement. She said that the trucks are coming at 6 a.m. and are using Maynard Road. She said that it is not true when they say they have no control over that. She said that those people are contracting to get things from that property, so they know who is coming, when they are coming and what they are coming to get. She said it has to be controlled. She feels the same about the two Applications (SPG 19-003 and SPG 19-004). Mr. Held noted that the hours of operation in the Canterbury Agreement are 7 a.m. to 4:30 p.m. He said that, if there is an enforcement issue in Canterbury, it is not inappropriate to take it up with the Town of Canterbury.

Ms. Sigfridson reiterated that Mr. Held stated that the Applicant does have control over this property.

A. Tanner stated that he has an issue with referencing the Canterbury Agreement. There was discussion and Attorney Heller suggested that, if the Commission is uncomfortable relying

on the Canterbury Agreement, the parameters of the Canterbury Agreement could be incorporated into conditions of approval. Mr. Held explained that they would have to abide by what is approved. Ms. Sigfridson stated that it had been discussed at a previous meeting and that the Applicant has no objection to the Commission putting conditions or limitations in place consistent with what is in the Canterbury Agreement at this time. Ms. Kelleher commented that the Canterbury Agreement would not be mentioned at all and Ms. Sigfridson stated that the Commission does not have to.

A. Tanner asked about vertical grade/two feet of silt and whether it would be leveled out. Mr. Held explained that it would be leveled out and that two feet of silt is a minimum. Attorney Heller explained that the limits of excavation shown on the plan are the limits of excavation and he also said it is a minimum of two feet. There was discussion regarding maximum which, Attorney Heller explained, is calculable. Ms. Roberson stated that the over-excavation would be creating slopes greater than 30 percent (vertical face). Attorney Heller explained that the operating face is vertical when they are downcutting the slope. He said that final slopes will not be greater than 30 percent.

Ms. Kelleher began discussion regarding Mr. Hua's recommendation for hours of operation being limited to 9 a.m. to 4 p.m. Ms. Sigfridson stated that the Applicant had indicated, at a previous meeting, that they plan to take advantage of the full amount of trips allowed under the Canterbury Agreement. So, if the hours were limited, there would still be the same number of trips on the road in a shorter amount of time. Although, avoiding the hours when school buses are on the road seems like a good idea.

Linda Trahan requested that, if approved, there be a condition that the new speed limit signs, with radar, be installed as she feels that they would be helpful. She commented that she had asked for counters.

Ms. Roberson stated that she had received correspondence from Attorney Brouillard (dated March 2, 2020) on behalf of Troy Sposato regarding that Mr. Sposato had never been presented with any agreement from Strategic Commercial Realty, nor have they been contacted by any lawyer or representative of Strategic Commercial Realty. A motion to intervene will be filed in the Superior Court for the Judicial District of Windham on March 16, 2020. Attorney Brouillard expects the Court to allow Mr. Sposato to intervene as a third-party plaintiff. The Brooklyn Land Use Attorney has been consulted and he advised Ms. Roberson to inform the PZC of this. Ms. Roberson stated that she believes that this matter applies to both this Application SPG 19-003 and to Application SPG 19-004.

Attorney Heller stated, for the record, that he does not believe that it applies to either of the Applications. He said that it is not intervention in this proceeding, it is intervention in the case of Sadlowski vs. LaFramboise Sand and Stone. He explained that if it is granted, it makes Mr. Sposato a party to that proceeding, but it is extraneous to these permitting proceedings.

Motion was made by A. Fitzgerald continue the public hearing for **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc., d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel, to the next regular meeting of the Brooklyn Planning and Zoning Commission to be held on Tuesday, March 17, 2020, 6:30 p.m., at the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT. Second by C. Sczuroski. No discussion. Motion carried unanimously (7-0-0).

2. **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres+ on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.5 million cubic yards of sand and gravel.

IWWC approval was granted.

J. Roberson explained that, if approving the ponds, it would need to be a separate action. She explained about the sample motions/conditions that she had drafted (included in packets to Commission Members). She stated that, should the Commission not incorporate the Canterbury Agreement, there were no conditions drafted to address the issue of truck traffic. She asked the PZC how they wish to proceed. There was discussion. There is no longitudinal traffic proposed in this Application.

Mr. Fitzgerald suggested a condition that every truckload of gravel that comes out of the Rukstel property go across the street to Laframboise. Attorney Heller stated that it has been presented to the PZC and is part of their Application and he said that it could be a condition. David Held stated that it is on the plans. There was discussion and Ms. Sigfridson read from Excavation Note #13 which states that they will not be importing or removing material over roads in Brooklyn. Attorney Heller referred to a map contained in the Environmental Impact Statement indicating how trucks are to cross Wauregan Road into Laframboise (perpendicular crossing).

Attorney Heller's comments:

- He warned against ex parte communications outside of the public hearing record as there would be no opportunity to cross examine or to determine what impact it may have on the Application or the decision making process.
- There are a few (6 or 7) items that need to be added to the proposed Exhibit List, to be included in the record. He specifically noted the following: Natural Diversity Data Base Request; two e-mail communications between Wayne Bugden, One Earth Environmental and David Held.
- Regarding the draft motion to deny the Application for provision to create a pond, regarding possibly polluting groundwater, Attorney Heller referred to the Report from Wayne Bugden, One Earth Environmental, hired at the Applicant's expense to advise the PZC regarding groundwater quantity and quality. He referred to two e-mails between David Held and Mr. Bugden regarding what constitutes clean fill. The consultant advised, after considering the information, that all of his concerns had been addressed. Attorney Heller explained that, when a Land Use Agency acts on technically complex matters (such as pollution), according to Connecticut Case Law, the Commission has to act on substantial evidence. Expert evidence is required on whether or not an activity constitutes pollution and the only information on groundwater impacts, in the record of this proceeding, are the conclusions from the consultant that the proposed activities will have minimal, if any, impacts on groundwater quantity or quality. He said if the Commission denies the request to excavate ponds on the property, which he submits are in compliance with the permitting parameters of the Regulations, would be a denial of the excavation permit itself. He said that they are simply digging deeper in order to excavate the ponds. He said if that permit were denied, it does not impact the scope of the proposal, only the depth of the proposal which can easily be modified in conditions of approval.
- Attorney Heller stated that he gave his summation at the last public hearing and he believes that they are in compliance with all of the permitting criteria contained in the Regulations and the Application should be approved.

There was discussion regarding hours of operation. Mr. Held explained that the hours of operation listed on the plans were taken verbatim from the Regulations, but the Canterbury Agreement is more restrictive and they would abide by those (7 a.m. to 4:30 p.m. with no hours on Saturdays).

Ms. Roberson stated that she had received correspondence from Attorney Brouillard (dated March 2, 2020) on behalf of Troy Sposato regarding filing a motion to intervene.

Attorney Heller stated, for the record, that the intervention is in the matter of Sadlowski vs. LaFramboise Sand and Stone. It is not an intervention in this proceeding. It is extraneous to deliberations on this Application.

Ms. Roberson commented that she had prepared sample motions.

Gene Flemming, 567 Wauregan Road, asked, if the Application is approved with the ponds, if ongoing groundwater monitoring would be required.

Ms. Roberson explained that there isn't anything in the Zoning Regulations that addresses a requirement for groundwater monitoring, but she said that the Land Use Attorney has recommended it and drafted it as a condition of approval if the ponds were permitted.

Ms. Roberson explained that the Hydrogeologic Review included the distance of the ponds. She referred to the Report and explained that his main concern was about clean fill. She said that the Applicant had made changes to the plans based on the Hydrogeologist's comments. She explained where the fill will come from and she referred to the e-mail between Mr. Held and Wayne Bugden, One Earth Environmental.

Ms. Roberson suggested that the Commission discuss draft conditions and the pond.

Mr. Tanner suggested that Excavation Note #3 on page 14 of the plans be changed to reflect hours of operation to match the Canterbury Agreement. He proposes to make the more limited hours a condition of approval. Mr. Held stated that he would change the note on the final plans. Attorney Heller said to make it a condition of approval.

Ms. Sigfridson asked if there was an objection from the Applicant regarding making groundwater monitoring a condition of approval. Attorney Heller indicated that there was no objection and he suggested that it should be submitted with each renewal. There was discussion and suggested language was, "thereafter, upon each permit renewal."

Motion was made by C. Kelleher to close the public hearing for **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres+ on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.5 million cubic yards of sand and gravel. Second by C. Sczuroski. No Discussion, Motion carried unanimously (7-0-0).

3. **SP 20-001** – Special Permit for Business-Related Uses at 15 Hyde Road, 1.55 acres in Village Center Zone (Map 25, Lot 58), Applicant: Evan Sigfridson.

M. Sigfridson recused herself, turned over the position of Chair to C. Kelleher, and took a seat in the audience.

J. Roberson explained that the following were included in packets to Commission Members:

- Revised Application: Bank and Child and Adult Daycare Center were removed from the proposed Uses. Ms. Roberson stated that she had made a note of the plans at the Applicant's request.
- Written description regarding the general inspiration and design of the building: siding colors; retaining existing stone walls; building a new dry stone wall that will act as a retaining wall, but will also be attractive; keeping many of the existing trees on the site.
- Letter from Syl Pauley (dated March 4, 2020). Ms. Roberson stated that there are some minor things. She noted that Mr. Pauley brought up some things that he had not identified in his first review of the property.
- Letter from Dan and Stephanie Kosoff, neighbors (dated February 24, 2020), who express concerns regarding review of the development.

Ms. Roberson displayed the revised plans and gave an overview of her Architectural Design Review Report:

- Southern elevation will be the side that faces Route 6 (the narrower dimension).
- The side with the front door faces west.
- She indicated what would be seen from Hyde Road.
- She stated that new construction and substantial reconstruction in the VCZ should be consistent with the character of that area. The POCD identifies this as a very important part of Town with a lot of integrity in terms of architecture and landscape. She noted that most of the other buildings in the neighborhood of this development have their longer façade facing the road (which is typical). She said in this case, the building has a different orientation so the narrower façade is facing the road to help harmonize with landscape and it allows both, less sitework to be required and enables both stories of the building to be handicap accessible. It helps the building harmonize with the landscape while providing for modern use of a commercial building without the need for an elevator.
- Retaining all existing stone walls on the site and building a dry stone wall (rather than a concrete retaining wall).
- Retaining existing trees.
- Ms. Roberson read aloud the Design Statement.
- Ms. Roberson finds that the Application is consistent with the Design Standards.
- Ms. Roberson noted that the Parking Standards favor traditional materials such as the stone dust that is proposed for the parking area. She said that the handicap spaces would have to be paved.
- Ms. Roberson displayed and orientated the neighborhood from Google Earth.

There was discussion regarding the driveway and parking spaces (20 proposed). Ms. Roberson stated that, based on the square footage of the building, 20 spaces is in excess of what is required (3 spaces per 1,000 s.f.).

The initial use of the building will not require 20 parking spaces and Ms. Kelleher does not like seeing parking spaces that are not required yet. She said the neighborhood has a residential feeling. Although she likes the project, she commented that she is not comfortable approving so many uses (such as a restaurant) ahead of time, without having more information. She cannot recall when the PZC has approved that many uses in the VCZ. She suggested that if it were approved for a use now, it would not be a big deal to add a use or change a use in the future.

COMMENTS FROM THE PUBLIC:

Dan Kosoff, 94 Providence Road, asked how the front of the building is identified. He noted that the Regulations state that there are to be no parking lots in the front yard except by special permit.

Ms. Roberson explained that the lot has two frontages because it is a corner lot (Route 6 - along the southern property line and Hyde Road - along the eastern property line). She said that the Regulations do not allow parking in the front yard. However, there is also the ability to flex that. (She referred to Section 4.A.5.3 which authorizes the use of front yard/parking lot/corner lot if the standards of Section 9.D.5. - Special Permit Criteria, have been met).

Ms. Roberson stated that she had found some issues with the landscaping plan and has spoken with Mr. Sigfridson about it earlier in the day. He said that he plans on doing landscaping, but he does not have a plan showing it yet. Ms. Roberson commented that, in her experience, landscaping plans prepared by Surveyors or Engineers are not the best.

The following are additional items that were addressed when Ms. Roberson spoke with Mr. Sigfridson:

- There is a row of boulders shown along the southwestern edge of the western parking area which Ms. Roberson feels will draw attention to the parking area. This is to keep people from driving over the septic system. Mr. Sigfridson is willing to do anchored curb stops (which would delineate parking spaces and prevent damage to the lawn) instead of the boulders. This will also address the issue of people potentially driving off of the track rock.
- No Light Fixtures Identified. Ms. Roberson suggested a condition that, before a Final Certificate of Zoning Compliance could be issued, the fixtures would be reviewed and approved by Land Use Staff and they would have to be full cut-off light fixtures in compliance with the Regulations and also would have to meet the Design Standards of the District.
- Ms. Roberson suggested a condition that a landscaping plan meeting the full Landscaping Requirements be provided for review by Staff and installed prior to issuing a Zoning Permit or Final Certificate of Zoning Compliance.
- Ms. Roberson explained that parking standards for a restaurant cannot be determined without knowing the number of seats, so she had drafted a condition that, should the Applicant seek approval for a restaurant, the ZEO would have to determine whether the parking met the requirements at that time.

Dan Kosoff referred to his letter and asked if Section 4.A.6.3.5 could be enforced requiring an architect or architectural firm. Ms. Kelleher explained that it is being enforced because Ms. Roberson is qualified as a Planner and has done a review and has commented on it. Mr. Kosoff said that it would give it more due diligence in a sensitive area. He feels that it would be a reasonable expenditure to ensure that it is in keeping with that vernacular.

Mr. Dagostino commented that there is a question regarding front yard and he commented that a landscaping design had not been submitted with the Application and that the landscaping plan that was submitted does not meet the requirements.

Joann Perreault commented that she feels that the Town should not be so cautious to allow new developments into neighborhoods.

Marion Kervin, 48 Maynard Road, asked what the building would be used for. Mr. Sigfridson explained that he and his wife were looking for space for her law office. He said that, ideally, it will be a professional building.

Stephanie Kosoff stated that she has little objection to the building itself, but as a resident of the VDZ, they owe it to the Town to maintain that area and the historic character could be gone forever by letting in commercial that is not suitable to the area. She said that the VCZ has its own set of regulations so the historic character can be maintained. As a resident across the street, she objects to the parking and the types of businesses. She said that the site should be developed sensitively to the VCZ.

Gene Flemming, 567 Wauregan Road, asked if the Regulations for the VCZ specifically stipulates restrictions on uses. Ms. Kelleher explained that the Regulations specifically list the uses that are allowed (which are subject to special permit). She also explained the change of use procedure and site plan modification.

Marion Kervin spoke about how it would be good to have more taxes coming into the Town from businesses. She said that it would be good for the growth of the Community.

Ms. Kelleher asked Ms. Roberson about landscaping. Ms. Roberson explained that, if the Commission is not comfortable with landscaping being a condition of approval, then revised plans would be needed because the current landscaping plan does not meet all of the current standards. Ms. Roberson suggested the following condition:

- A landscaping plan consistent with the landscaping regulations contained in Sec. 7.C. including but not limited to: 200 s.f. of landscaping islands within the parking area including 2 2.5" caliper deciduous trees (Sec. 7.C.5), a 10' wide and 3' high front yard landscape buffer between the parking areas and the streets including 9 2.5" caliper deciduous trees (Sec. 7.C.4) shall be provided and approved by Land Use Department staff and the landscaping installed. Prior to issuing a Certificate of Final Zoning Compliance.

Mr. Fitzgerald asked if Dan and Stephanie Kosoff were satisfied regarding architectural review. **Mrs. Kosoff** said that she is good with the plans on the house. **Mr. Kosoff** prefers that an architect be hired to review the exterior of the building.

Mr. D'Agostino asked about the entrance to Hyde Road being on the portion where it is one-way. He asked if there was a report regarding a safety issue. Ms. Roberson explained that right where the driveway intersects (north of the island) is where Hyde Road becomes one-way. Ms. Roberson stated that the Engineer, Syl Pauley, had not identified the driveway openings as a safety issue (Mr. Pauley's Report, dated March 4, 2020, was included in packets to Commission Members). Ms. Roberson displayed the area on Google Earth and indicated where the Road splits, where the entrance drive would be, the exact location where the outlet drive would be (using the existing apron). From the island to the stop sign, it is a two-way Road.

Mr. Tanner feels that more information is needed regarding the landscaping plan and lighting. Mr. Fitzgerald suggested that the public hearing be kept open. Ms. Roberson suggested that the Commission discuss the use of the front yard for parking. Ms. Kelleher suggested that Syl Pauley's comments could be addressed at the March 17th meeting.

Mr. Tanner made a suggestion that the house be moved down fifteen feet.

Motion was made by C. Sczuroski to continue the public hearing for **SP 20-001** – Special Permit for Business-Related Uses at 15 Hyde Road, 1.55 acres in Village Center Zone (Map 25, Lot 58), Applicant: Evan Sigfridson, to the next regular meeting of the Brooklyn Planning and Zoning Commission to be held on Tuesday, March 17, 2020, 6:30 p.m., at the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT. Second by A. Fitzgerald.

Discussion:

Ms. Kelleher asked the Applicant if he feels that he had been provided enough information to know what the Commission is looking for.

- A landscape plan
- Parking in the front yard is an issue that needs to be resolved by the Commission (whether it will be allowed)
- Lighting
- Uses
- Parking – Volume and Location

Ms. Roberson asked how Mr. Sigfridson developed the number of parking spaces and the configuration. Mr. Sigfridson explained that the configuration is utilizing the lay of the land. There was discussion regarding possible solutions for the volume. Ms. Roberson suggested a decorative stone wall in lieu of landscape buffers to minimize the visual of the parking area (if the Commission finds it consistent with the Regulations). She suggested that landscape islands could be located at the ends of the parkings areas.

Mr. Tanner noted that he does not have a problem with the one on Hyde Road, but the one on Route 6 is much more visible.

The law office would require two or three spaces (three is the minimum).

There was discussion regarding the eastern parking area eliminating some spaces and putting trees there and adding some on the other side (reserved for future parking).

Ms. Kelleher voiced concern for approving so many uses under one special permit with lack of clarity.

Mr. Sigfridson stated that, if a restaurant were to come in, it would have 42 seats and he asked if the

Commission would deny it. Ms. Kelleher stated that more information would be needed and she would rather see it come back, by itself, to the Commission with more details such as traffic.

Mr. Tanner suggested allowing parking in the front yard with a proper landscape plan. Ms. Kelleher stated agreement with that. There was discussion and there was consensus for the following:

- Remove the southernmost two spaces on the western parking area

Motion carried unanimously (6-0-0). M. Sigfridson had recused herself.

M. Sigfridson returned to the table and resumed the position of Chair.

d. Other Unfinished Business:

1. **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel.

Public hearing was continued to Tuesday, March 17, 2020, 6:30 p.m., at the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT.

2. **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres+ on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.5 million cubic yards of sand and gravel.

THE COMMISSION REVIEWED THE DRAFT MOTION PREPARED BY J. ROBERSON REGARDING THE CREATION OF THE PONDS:

- Ms. Sigfridson stated that, in light of the Hydrogeologist's Report, she does not see much choice other than to approve the ponds as there is no basis for not doing so. She likes the idea of the monitoring by the Applicant. Agreement was expressed by other Commission Members.
- Ms. Roberson commented that the second paragraph of the draft motion is regarding groundwater testing and the Commission may decide whether it is needed. However, it is recommended by the Town Attorney and the Applicant stated that they are amenable to it. Ms. Sigfridson added that concern had been expressed from the public. She suggested leaving out the suggestion that it be done on an annual basis.

Motion was made by A. Fitzgerald, in accordance with Section 13.5.1 of the Brooklyn Zoning Regulations, to approve the proposal of Strategic Commercial Realty d/b/a/ Rawson Materials to create two ponds as a result of the gravel excavation below the groundwater table on the 200 acres+/- on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16), identified in the files of the Brooklyn Land Use Office as **SPG 19-004** on the grounds that based on the evidence provided during the public hearing, the proposal does not appear to have present potential to significantly affect the quantity of groundwater and that potential impacts to groundwater quality can be lessened through mitigation actions as more particularly outlined in the plans and reports provided by the applicant. Said ponds are to be created in the configuration, depth and location as shown on said plans and all mitigation actions shall be implemented in accordance with the plans and reports on file in the Brooklyn Land Use Office.

As a condition of said approval in order to monitor the potential impacts on groundwater quality, the following shall be implemented by the applicant: At the outset of excavation, the applicant shall supply the commission with groundwater testing results to establish a baseline of the water quality of the groundwater. Thereafter at the time of permit renewal, but not later than within thirty days of the anniversary of the initial testing, the applicant shall provide the result of groundwater testing to demonstrate that there has been no change in the quality of the groundwater as compared to the initial testing. If any diminution in the quality of the groundwater is disclosed by the testing, the applicant shall within thirty days present to the commission expert advice as to proposed

protocol(s) to be undertaken to mitigate the change in water quality and to prevent further impacts on water quality.

Second by C. Sczuroski.

Discussion:

A.Tanner asked why the ponds have to be by separate motion if they are part of the plans. Ms. Roberson explained that the Regulations specify that it must be done that way.

Motion carried (6-1-0).

J. D'Agostino was opposed for the following reason:

The proposal submitted to the Commission is not consistent with the purposes of 13.5.1. to protect the quantity and quality of the groundwater at the proposed excavation. The applicant has failed to provide sufficient evidence to satisfy the purpose of the regulation, 13.5.1 to protect the groundwater supply as to quantity and quality. There is insufficient information to conclude that the creation of the ponds will not have an adverse impact on the quantity or quality of the ground water.

THE COMMISSION DISCUSSED THE EXCAVATION:

- Ms. Sigfridson asked the Commission to consider whether over-excavation is appropriate or if it should be prohibited.
- The goal for tonight should be to come to a consensus regarding what conditions the Commission would be looking for to approve so that the language could be drafted.
- There was discussion regarding Ms. Kelleher's question about referring to the Canterbury Agreement (which is part of the Application) regarding truck traffic. She prefers that it not be referred to.

Ms. Roberson commented that it is within the PZC's authority to specify truck volumes as they have with other gravel operations.

Ms. Sigfridson stated that each truck that leaves the site goes into Laframboise and she asked if the concern is the trucks going into the site (going up and down the road in a residential area) or is it the number of trucks crossing the road. She stated that the PZC has the authority and the jurisdiction to limit the number of trucks coming out, if the PZC wants to. Discussion continued and Mr. Tanner read from the Canterbury Agreement and it was determined that it does put limitations on the number of trucks. Ms. Sigfridson asked if the Commission wants to specify explicitly or to just rely on the Canterbury Agreement being part of the Application. Ms. Kelleher stated that she prefers to specify rather than having to consult with the Canterbury Agreement. Mr. Tanner stated that it is part of the record and recommended that the date of the particular version of the Canterbury Agreement should be documented. Mr. Sczuroski stated agreement with Ms. Kelleher. Ms. Roberson asked about the increase and Mr. Tanner read the following from the Canterbury Agreement (185 or 370 trip ends).

The following language was suggested for Condition #11:

- Truck traffic shall be limited to that allowed by the Canterbury Agreement, Section 16.3 which outlines 250 trips per day, but may be increased in accordance with the Agreement.
- There was discussion regarding hours of operation. The plans state 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to noon on Saturday. It was decided to change, as agreed to by the Applicant, to match the Canterbury Agreement: 7:00 a.m. to 4:30 p.m. Monday through Friday. No hours on Saturday.
- There was discussion regarding over-excavation. J. Roberson referred to and read from Note #7 (Excavation Notes) and she explained that they are specifying the edges of the hole and that over-excavation would be beyond the contours shown as the final contours on the plan, minus the fill material that they are laying out under the topsoil as part of the reclamation. She said that the issue is that approval would be for a certain volume and that

volume is clearly going to change if they over-excavate. Discussion continued. Ms. Roberson displayed the plan and indicated limits of disturbance. She said that, if the limits of disturbance are three-dimensional, she does not understand the comment about over-excavation. She said that there does not seem to be a need. She said that this needs to be considered.

Ms. Sigfridson asked what concern would be addressed by prohibiting over-excavation. Ms. Roberson stated that, if there is a concern that more material will be removed than the Applicant appears to apply for, this would address that concern. Mr. Tanner asked if it could be verified. David Held, seated in the audience, offered clarification of quantities reported on the plan which were to create final slopes (he said that it had been brought up during the public hearing). Ms. Sigfridson alleviated the confusion by explaining that it is possible to display limits of disturbance in a three-dimensional way with cross-sections in the plan, and that what was meant in the Note was within the perimeter of the disturbed area.

- There was discussion regarding slopes. Ms. Roberson commented about Draft Motion Note #4. She suggested that the Commission consider whether or not the existing Zoning Regulations should be interpreted. She read from Section 13.5.3 which states that “no slope shall exceed ten percent in the area 25 feet to 200 feet from the highway and thirty percent elsewhere.” She stated that, as discussed during the public hearing, the method of excavation and removal of material creates faces that are steeper than thirty percent (those are not stable). However, she stated that it is, once it is properly stabilized. She cautioned the Commission that Section 13.5.3 does not specify “final grade.” Discussion continued. Ms. Kelleher expressed that she does not feel that it is reasonable to expect them to keep to nothing exceeding thirty percent during excavation. Ms. Sigfridson asked if any Commissioners felt otherwise and there was no opposition stated. Consensus to remove Draft Motion Note #4.

Ms. Sigfridson asked that the Commission Members plan to be ready to take action on this Application at the meeting on March 17, 2020.

Motion was made by A. Tanner to table discussion regarding **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres+ on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.5 million cubic yards of sand and gravel, to the next regular meeting of the Brooklyn Planning and Zoning Commission to be held on Tuesday, March 17, 2020, 6:30 p.m., at the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT. Second by C. Kelleher. No discussion. Motion carried unanimously (7-0-0).

3. **SP 20-001** – Special Permit for Business-Related Uses at 15 Hyde Road, 1.55 acres in Village Center Zone (Map 25, Lot 58), Applicant: Evan Sigfridson.

Public hearing was continued to Tuesday, March 17, 2020, 6:30 p.m., at the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT.

VII. New Business:

a. Applications:

1. Potential amendment to **ZRC 20-001** re: \$500 financial guarantee for donation bins (Sec. 6.K.2.2 of the Zoning Regulations).

Motion was made by A. Tanner to table discussion regarding Potential amendment to **ZRC 20-001** re: \$500 financial guarantee for donation bins (Sec. 6.K.2.2 of the Zoning Regulations), to the next regular meeting of the Brooklyn Planning and Zoning Commission to be held on Tuesday, March 17, 2020, 6:30 p.m., at the

Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT. Second by A. Fitzgerald. No discussion. Motion carried unanimously (7-0-0).

Ms. Kelleher asked if there is a definition in the Regulations for non-profit. Ms. Roberson stated that it is not defined in the Regulations.

- b. Other New Business:
 - 1. Preliminary discussion with Keith Crossman re: Potential zone change application at 340 Christian Hill Road. – See Above (after Item V.).
 - 2. Preliminary discussion with Paul Archer & Jeff Weaver re: Six-lot Subdivision on Day Street. – See Above (after Item V.).

VIII. Reports of Officers and Committees:

- a. Staff Reports (Report dated March 2, 2020 - included in packets to Commission Members).
- b. Budget Update (included in packets to Commission Members).

There was discussion regarding an increase in legal services.
There was discussion regarding professional services. Ms. Roberson will research on the most ever spent in one year on State Marshal services.
- c. Correspondence.

There was discussion regarding sending a letter to the Connecticut Siting Council regarding the Quinebaug Solar Project. Ms. Roberson will e-mail the letter previously sent to Ms. Sigfridson who will update it and mail it by the deadline (needs to be postmarked by March 5, 2020).
- d. Chairman's Report – No Report.

IX. Public Commentary

Mr. Fitzgerald reported that J. D'Agostino has resigned from the PZC and the Commission Members thanked him for his service to the Town of Brooklyn, both as a Member of the PZC and as a citizen.

X. Adjourn

The meeting was adjourned at 10:59 p.m.

Respectfully submitted,

J.S. Perreault
Recording Secretary