

**TOWN OF CHATHAM
MEETING MINUTES December 29, 2014**

**ZONING BOARD OF APPEALS
FINAL COPY-revised**

ZBA MEMBERS PRESENT:

David Everett, Chairman

JP Henkel

Robert Leary

Jeffrey Lick

Adrianus Ooms

Tal Rappleyea, Town Attorney

Marilyn Cohen, PB Chairperson

Donna Staron, PB Vice Chairperson

Brenda Marelllo, Stenographer (Crawford)

Paul McCreary, PE Morris & Associates

Absent: Vice Chair Mitchell Khosrova and Kary Jablonka-Notified

PUBLIC PRESENT: Brandee Nelson, PE Crawford & Assoc, Andrew Howard, Esq. Freeman & Howard, Heather & Mark Uhlar, Don Clark, Lynn Sallowski, Dori Hanswirth, Karin Mason, Loretta Stillman, Peter Lyden, Karen Murphy, William Eimiche, David Levow, John Wapner, Cynthia Bobseine, Robert Pulver, James Johnson, Michael Young, S. Lachterman, Scott Longstreet, David Kahn, Scott Lukowski, Evan Stoller, Judy Grunberg, Susan Davies, Melony Spock, James Kraft, Paul Veillette, Frances Veillette.

The Pledge of Allegiance was recited at 7 PM. The meeting opened at 7:01 PM. Chairman Everett asked if everyone on the board had a chance to review the minutes from October 25, 2014 meeting, the answer was yes. Ms. Franks stated that there was one small typo on page two, which she changed. Chairman Everett asked for a motion to approve the October 25, 2014 meeting minutes with this change. Motion was made by JP Henkel and seconded by Jeff Lick. All ZBA members were in favor, motion to approve the minutes was carried.

Item #1: Life Serve Youth Foundation Tennis Camp

Brandee Nelson of Crawford and Associates was in attendance on behalf of Life Serve Youth Fdn. and for Nicholas Vamvas (he was ill) of Crawford and Andrew Howard, Esq. of Freeman and Howard, was in attendance on behalf of the applicant, Adam Slone of Life Serve Youth Foundation. Chairman Everett confirmed with Ms. Nelson correspondence received by the CZBA from Crawford dated December 15, 2014 and a letter received from Nick Vamvas of Crawford dated December 29, 2014 summarizing the noise testing that was done by them. Chairman Everett then confirmed with Mr. Howard a letter from his firm responding to some comments that Jeff Baker had provided to the board. He then asked both parties if there was anything else we were missing. The response was no. Mr. Everett then referred to the letter on December 29th from Paul McCreary, the town engineer regarding comments to the SWPPP. Mr. Everett then asked Mr. McCreary if there was anything else he needed to submit and the reply was "no." Mr. Everett then asked him if he was planning to submit comments on the new packet of material that was received and Mr. McCreary replied yes and when asked when they could be ready, Mr. McCreary replied, "I'll say two weeks." The chairman then stated the board received a letter dated December 23rd from Jeff Baker who is the attorney representing the concerned neighbors of the project and that the board also was in receipt of some e-mails from other folks as well. He stated that all the documents are available to any member of the public who wishes to see them under the Freedom of Information Law. A FOIL request can be made to Shari, ZBA secretary for copies. The secretary then

handed out to the public that was present copies of Mr. McCreary's letter dated December 29th commenting on the SWPPP.

Ms. Nelson spoke about correspondence her firm supplied to the CZBA and that they were in response to the October board meeting and to comments they had received from the town engineer as well as a comment letter that was received from the Thomas Road Conservation Alliance. She stated that there has been a primary change made to The Life Serve Youth Foundation Tennis Camp proposal in that Mr. Slone has decided to opt out of the pool construction and that he is trying to find ways to integrate the youth into the community citing various places the kids could go, including Crellin Park. She indicated that they have met with the Columbia County Department of Health (CCDOH) and that the town engineer was present and referred to the camp safety plan that was provided in the packet submission dated December 15, 2014 with a note that things would need to be updated and would need to be updated annually. The camp plan just represents the generic aspects of the camp at this time. In general, Ms. Nelson indicated that the CCDOH hasn't expressed any concerns with the camp. They have reviewed the basic sanitary requirements for the water and septic as well as the floor plan. Ms. Nelson went on to state that Crawford has done some basic field requirements with regard to the septic and the CCDOH is in agreement with them to the change in the septic. There are two wells on site that yield 8 to 10 gals of water per minute that do not during the pump test seem to influence one another. The water is good quality and they are meeting the state health requirements as far as providing water. Ms. Nelson stated that they met again as requested with the Tri-Village Fire Chief and there are no issues with that. His letter is included in their packet. Included in the documentation are floor plans that show a conceptual layout of the dormitory and the indoor tennis court in the existing barn building as well as information as to how the house will be used during the camp. This information was also asked for by the CCDOH according to Mr. McCreary as well as the CZBA according to Chairman Everett.

Ms. Nelson then referred to the outdoor and indoor noise testing that took place at the Ichabod Crane Schools and the Old Chatham Tennis Club and that the results of the data are included with the information that was emailed to the board prior to this evenings meeting. Chairman Everett then asked for Ms. Nelson to review all of the information they have collected and at the end the CZBA can figure out whether there is additional information required or if they can move ahead with the public hearing. Mr. Leary asked about the ages of children being revised to include ages 12 to 17. Ms. Nelson explained that previously the ages would have included children 10 to 17 with the total number of attendees to the camp remaining the same. With reference to Ms. Nelson's earlier comment about the CCDOH being okay with the plan so far, Mr. Henkel asked her if it would be reasonable to ask for a formal okay from the CCDOH. Ms. Nelson explained that Mr. McCreary was asked to be there for the meeting with the DOH so that he could hear firsthand what the issue was. She then stated that they are not at the point in the process yet to make a formal application to them. She also stated that "they (the DOH) don't often write us immediate letters." Chairman Everett stated that if the board decides they want to approve this application, the board can make a condition upon the applicant obtaining all the permits and approvals before they can even apply for a building permit. He asked for any other questions from the board.

Ms. Nelson went on to say that Crawford had received Mr. McCreary's letter referring to the technical

things that may need to be “tweaked” like the grading. She did not foresee any critical issues there. She referred to the storm water and grading for the septic system and a comment about them in Mr. Baker’s letter about them not being shown in the plan. Ms. Nelson stated that it is not shown on the grading plan for the tennis camps, but is shown on the plan that the board received on December 15th for the septic and water systems. There is a separate infrastructure plan that shows the grading there according to Ms. Nelson.

Traffic estimates during construction were addressed. Ms. Nelson stated that construction would be limited to the tennis courts and septic. Any other construction would include retrofitting the stable and the other buildings and there are no new structures being proposed. She estimated that this would begin in June 2015, continue for approximately nine months and the camp would be open for 2016. The estimate she provided is five round trips per day on average. Ms. Nelson indicated that the work proposed on construction would be similar to renovation to a house. Mr. Everett had a question on the road issue and the ZBA requested that Crawford have a conversation with Joe Rickert, TOC Highway Supervisor, and ask for his comments as to road impacts. He asked Ms. Nelson if this had happened yet and she replied she did not know if anyone from her firm had spoken to Mr. Rickert yet. The board asked that Crawford obtain a letter and get Mr. Rickert’s thoughts on that in writing between now and the next meeting.

Ms. Nelson moved on to the other comments from Morris and Associates. She said there was a question about whether or not the application meets the intent of a summer camp. Mr. Simonsmeier, the Town CEO, determined that the application does meet the intent of a summer camp. She believed this had been previously discussed at the October meeting and asked the board if they had a question on this. Chairman Everett replied “no.” Ms. Nelson then talked about the question of Crawford consulting the CCDOH about the waste water disposal system. She said this was already done in November with the CCDOH.

Ms. Nelson addressed the comment about meeting the NYS Building code with regard to fire protection and also having the fire company review the fire access. She stated that all new construction must meet fire code. “That is a requirement in the NYS DOH laws regarding camps,” and in addition, she added that the fire chief did, as previously mentioned, prepare a letter to the CZBA dated October 29, 2014.

With regard to the comment on Visual Impact Assessment, Ms. Nelson stated the members of the ZBA had visited the site and thought that the board members present could see for themselves that the tennis courts being proposed are flat and reiterated that there wouldn’t be light poles or vertical structure constructed. They don’t see any visual impact from those tennis courts. Ms. Nelson felt that there is no need to implement any screening out there just because the “are sited very sensitively down lower on the property and kind of tucked into a corner of the property where they are somewhat screened.” Chairman Everett was not able to visit the site at the time and would like to view the site. Ms. Nelson stated that the gate is not locked and he could do so at his convenience. He said he would try to get there within the next week or so.

With reference to the SWPPP, Ms. Nelson said that Crawford will work to address comments from

Morris and Associates. Information was provided to the board. There was a question as to whether or not there are DEC mapping of wetlands or streams on the property. Ms. Nelson confirmed that there are not any.

With regard to camper arrival and camp trips, Ms. Nelson read Morris and Associates review. Morris Associate's letter says the effect seems minimal. It is dependent on statements made such as no parental drop offs or pick up, no truck or trailer traffic or limited excursions with campers and tennis professionals arrival and departure. Mr. McCreary suggested that the board entertain some conditions in the application as it moves forward. According to Ms. Nelson, "In our opinion we want to be careful to not absolutely restrict anything. We're concerned about whether or not there might be a family emergency where a parent would need to come up. So obviously we need to be able to maintain some access by parents. But I believe as Mr. Slone has maintained, the primary goal here is for us to coordinate children coming by mass transit from communities in the Boston or New York area, and we would be arranging to pick them up at a central location such as the Amtrak station or the train at Wassaic in the camp's passenger vans. I believe there have been some more recent comments about if the camp is open to members of the community or town a more local area, like the Albany area or whatever, how would those kids arrive. I believe that the intent at this point is still the same, is to have the kids come to a central location where everybody meets. So if camp starts Sunday night, everybody is meeting at the Amtrak station, will embark on the vans and from the vans to the camp. So there's not the intent for this to be like a day camp where there's pick up and drop off in the morning and in the afternoon; however, we do need to reserve the right to have family emergencies and the camp to be accessible for that purpose."

With reference to this comment from Ms. Nelson, Mr. Leary asked Mr. McCreary if he thought there should be some type of control. Mr. McCreary replied, "Again, what the board will be operating on is statements made by the applicant that they will do A, B, and C. Obviously, if A, B, and C is not done, then you would have a different traffic aspect happening at the site. So whether that gets accomplished through some sort of condition or agreement, arrangement...I don't know. It is more a matter of bringing it to the board's attention in terms of if they don't meet up with that expectation, the volumes will be different." Chairman Everett then stated that the board can discuss potential conditions if and when the project gets to that point.

Ms. Nelson reported that the Tri-Village Fire Dept. was consulted. The entrance gate at the driveway will remain unlocked. Pump information was provided. There are no wells located to the south and within several hundred feet of the neighbors well. Ms. Nelson doubts it will interfere with other wells in the area. She stated that they did not locate every neighbor's well, but given that the two wells on the property are within 150 feet of each other and don't communicate with each other, she doubts that it is likely that any of the neighbor's wells are going to communicate either.

Ms. Nelson next addressed the Thomas Road Conservation Alliance questions. The first was the question about providing a written safety plan. She said they provided a conceptual safety plan, which she stated is sort of a standard document that is used statewide, so it is not something they created. It is the standard template from the state. The second question was about fire suppression. Ms. Nelson

explained that their plan for fire suppression in the commercial kitchen is provided according to code. She stated that they provided a conceptual floor plan.

The third question was lighting. Ms. Nelson stated there is no new lighting plan and no new lighting is required for the camp plan.

Next question was fire apparatus access: The Tri-Village Fire Dept. has addressed this as previously stated.

The question regarding driveway grade was addressed by the fire chief who visited the site again and did not see the grade posing any limitations.

With the question of camp traffic, Ms. Nelson referenced the Cornell Local Roads program, which she stated did not apply to Chatham as Chatham (Town) has their own road specification. She stated that they are not proposing any other traffic on the road. She didn't believe that paving the roads was necessary. According to Ms. Nelson with reference to the former site traffic on Thomas Road, the property at 307 Thomas was operated as a stable and riding arena. She stated that the infrastructure at the site suggests that there was "pretty hefty capability to have 14 horses in the stalls." Hay and shavings were delivered by tractor trailer. There was a lot of traffic when there were horses. "What we're proposing as far as a couple of passenger vans and some kids for eight weeks out of the year is very minimal. It's very limited both in duration throughout the year. It happens in the summertime generally under drier conditions.

With regard to funding for the project, Ms. Nelson replied that Mr. Slone could not be in attendance at this evening's meeting but she did state that Life Serve Youth Foundation is in the process of forming their 501c3 and doing initial fundraising. They recently hosted an informal meet and greet at the OC tennis club, and according to Mr. Slone there is a strong local response as well as a strong response for donations to the organization. Ms. Nelson then indicated that if the board should have any other questions regarding the foundation, they could send them to Mr. Slone's attorney, Mr. Howard.

The Thomas Road Alliance wanted to know whether there should there be a reclamation plan and bond in place. Ms. Nelson commented that in their opinion, there does not need such a plan in place for where the tennis courts are proposed. She stated that tennis courts are allowed on the road, referencing a neighbor's court across the street from Mr. Slone's property. As far as slopes and grading, she stated that the SWPPP is in place and they will have a sediment and erosion control plan in place to ensure site stabilization. Cuts and fills will be managed on the property. They do not plan to haul any material off the property.

Ms. Nelson addressed the question about whether or not there's room to expand the driveway. She stated that they have looked at the grading that is required to add the shoulders to provide the 20 ft. access width and there is adequate space there. She answered the question about additional soil testing for the septic and mentioned that this had been responded to.

Ms. Nelson expressed her opinion about whether or not the tennis courts are visible from public places. Her reply was they do not believe they are. The CZBA has seen the space. Mr. Leary then asked about construction schedule stating that they have listed the construction occurring six days a week excluding holidays and will run for 12 hours per day from 7 AM to 7 PM. Ms. Nelson confirmed this was correct

and then Mr. Leary asked for a definition of six days a week. Ms. Nelson responded that typical construction schedules are Monday through Saturday keeping in mind that a bulk of the construction would take place inside. Mr. Leary expressed concern that 7 PM is a little too late on a Saturday during the summer for construction work. Ms. Nelson stated that this is something that can be further talked about.

Chairman Everett then had questions. He asked if there were any federal wetlands on the site. Ms. Nelson replied there are not. The chairman then asked if there are any perennial, ephemeral or intermittent streams. Ms. Nelson then corrected herself stating that there is a wetland on the property. There was a pond that was excavated and man-made; it has created a wet area upslope from it. Chairman Everett asked if it is affecting it, and Ms. Nelson replied that they are not doing any activity in that area, it's on the opposite side of the property. Chairman Everett asked if there were streams. Ms. Nelson replied no, but that there is an overflow for the pond, but it's not a stream. She went on to say that there is no stream proposed by the tennis courts and she indicated this on the map provided. Ms. Nelson went on to explain that the property had been subdivided a couple of years ago and it left a base parcel as a flag lot. She showed a map referring to the stream referenced in the Thomas Road Alliance letter and it is primarily off the property and will not affect the stream. Chairman Everett asked again if they were affecting the stream and Ms. Nelson replied that they were not. He asked about the erosion and sediment plan and said he assumes that they are going to handle the proper protections in there and that Mr. McCreary is going to evaluate that. Ms. Nelson replied that there will be erosion and sediment control as needed.

Chairman Everett asked Mr. Howard if he needed to review anything. He replied that with regard to road construction: these are existing public roadways and it is prudent that they get a letter from the Town of Chatham DPW. In terms of a project when the roads are drier and frequency of traffic and with Mr. Slone making the investment, the volume of traffic is minimal. He went on to say that there is a detailed grading plan and with the septic and design and must be reviewed by all entities. We have provided the conceptual safety plan. "Noise is the next issue....Notwithstanding...we have done the testing with teenagers, the sound volumes are not significantly higher...we provided additional testing inside....the noise levels would be higher inside....the amount of noise is not significantly higher than the ambient background noises." "The board wanted some additional information based on recommendations made by our engineer, so we took another step and went forward and did additional testing this time inside...I don't think it's real shocking to find out that the amount of noise generated from tennis is not significantly greater than the ambient background noise. I don't think that's an earth shattering statement and I think the data proves that."

At this point Chairman Everett asked the board if they had any other questions before delving into the noise issue. Mr. Henkel asked if the existing house will be renovated. Ms. Nelson replied that the house will be renovated according to what is seen on the site plan. He asked if it would be up to code. Ms. Nelson replied that yes, but for the most part it is a new building and already up to code. The kitchen will be up to code, bathrooms will be accessible. The barn will be converted to a dormitory and a restroom facility will be modified. Mr. Henkel stated there is one bath area in the dormitory and asked

if it would be co-ed. Ms. Nelson replied that the camp will be divided age appropriately and gender appropriately. Chairman Everett asked if anyone else had anything else to add. Mr. McCreary said he had nothing else to add. Mr. Howard then spoke to Mr. Slone's character and investment in this project. "He has invested a significant amount of money in this project and will continue to do so, and is really encouraged by the reception and the word that he's getting from the Chatham community. He is really looking forward to doing a project which he really feels will benefit the community, while at the same time, being sensitive to his neighbors." Mr. Howard then referred to the pool and Mr. Slone's choice to remove it (from the plan) was due to the neighbors. "If he can take away from the visual impact to the neighbors he is being thoughtful in what he is doing to the property."

NOISE IMPACT: Ms. Nelson confirmed that the board was familiar with the first noise testing that was done at Ichabod Crane Central School. She explained that while tennis was being played on the courts they were getting a noise level reading of about 49 decibels from center court to where they were measuring approx. 85 ft. away. There was one group of kids playing with one instructor running drills. Mr. Henkel asked how many kids were in a group. Ms. Nelson replied that there were two kids on the court playing and a couple of kids standing around waiting for their turn and they expected some low talking, however, according to her client, Mr. Slone, tennis is structured, and the instructor expects a certain amount of discipline from the kids. They are supposed to be listening and watching each other on the court. She felt that what was exhibited at the ICC courts was a good example of what would be happening on Mr. Slone's property. There was a desire to have Mr. McCreary present but that there was no outdoor tennis being conducted at this time of the year, so Ms. Nelson explained why they did noise testing at OC tennis club. According to Ms. Nelson, both Mr. McCreary and Crawford monitored the activity separately on the court. They found the background level inside was higher than ambient outside at the ICC courts. The overhead fluorescent lights attributed, in part to that as there is no insulation and lots of echoing in the building. They logged two sets of data for 90 mins. The first test was 60 decibels the second was at 58 which results in a six to eight decibel increase above the background level of 52 decibels. Ms. Nelson went on to say that they "aren't talking about jets going overhead or jackhammers...we're talking about conversational levels." Mr. Henkel asked what they are calling an average noise level and is that a mean? Ms. Nelson confirmed this was the average and takes into account the highs you get when the tennis ball hits the racket or somebody makes an exclamation when they have a good shot. Generally there is not conversation going on back and forth, there is not really a lot of talking according to Ms. Nelson. She asked Mr. McCreary if he had a separate analysis of the information. He replied he had done a bunch of different things with the info but asked Ms. Nelson to continue with her assessment. Ms. Nelson compared the tennis courts to the property line and that the courts are 114 feet from the property line. She stated that the sound was not even close to 90 decibels, which is Chatham's current noise standard at a property line. She went on to explain more about the decibel level. "If we take the sound level in what we would consider the most conservative fashion and say the sound level we had at Old Chatham of 60 decibels average, if we put that on our property and we project it to the property line, we'd be 54 decibels on the property line, which is an 8.3 decibel increase above the 46 that we had measured at the property line. Now, again, it's an eight decibel increase, but we're going from quiet to conversational level, not quiet to jackhammers." She believes this is a very conservative way to look at it, to take the loudest average that was inside the club

and project that from the courts nearest the property line. She explained another way which she felt was more realistic. "We took that six to eight decibel increase above ambient, and we applied that to our ambient level at the sites. We took the 46 plus the eight to get 54 decibels at the source, the tennis court, and then project that to the property line, because you are going to get attenuation over distance. We end up with a decibel level at the property line of only 48.3, which is just 2.3 decibels above the ambient property line. So either way you look at it, it's a small increase." Mr. Henkel inquired as to the range of sound asking what the high is and what the low is. Ms. Nelson replied that she would have to go back to the data get that info to him. She stated that they have talked about noise many times and maximums may be instantaneous peaks and same with minimums. Mr. Henkel explained that he is trying to discern what is loudest and softest, if ball strikes are the loudest than ball strikes are a consistent sound in the game of tennis. He is trying to figure out if that is what they have to be talking about...he would like to know "what the maximum was and what was causing that so that we could extrapolate the frequency." Mr. McCreary then spoke. He reported that Session 1, the L max was 77.8 decibels, and the L max in Session 2 was 74.5 decibels. This is all on the A scale according to Mr. McCreary. Mr. Henkel asked him what was causing that. Mr. McCreary replied for the most part it was ball strikes and six teens that were of high school teen ability. They struck the ball well and hard and frequently. That was predominantly the loud sounds. There were also thuds from the mats on the wall to the back of the court when a ball hit them. It was effective in determining an LEQ for that session.

Mr. McCreary went on to give the opposite end, the L minimum was 50.8 dba for session 1 and for session 2 the L min was 50.9 DB at 59 feet from the center of court. He stated that he could not speak to the ICC information other than having seen the data as reported.

Chairman Everett asked Ms. Nelson if Nick Vamvass was the person who submitted the report and if he is an engineer in training. She replied yes and then Mr. Everett confirmed that Mr. Vamvass is not a professional engineer. He then asked Ms. Nelson if she agreed with Mr. Vamvass' assessment of the noise data and she responded "yes." Chairman Everett asked that Ms. Nelson send a letter that is from a professional engineer with the data results. She asked him if she should sign it jointly with Mr. Vamvass and Chairman Everett replied that she could, but stressed he wants a letter from a professional engineer submitting engineering data to the board.

Chairman Everett then recited the last line of the letter from Crawford and Associates which basically states, "It is our opinion that the anticipated noise levels at the property line nearest the tennis court will range from zero to three DB above ambient per the DEC noise policy, increase in the range of zero to three DB should have no appreciable effect on receptors." He asked Mr. McCreary if he agreed with it or if he needed to still evaluate Crawford's analysis. Mr. McCreary replied, "Well, I will qualify what I say next with, I do need to run some more analyses. Chairman Everett asked Mr. McCreary to include this opinion in his letter to the ZBA. Mr. McCreary replied he would. Mr. Everett asked if there were any other questions. Mr. Lick commented that he is extremely suspicious of comparing indoor tennis courts to outdoor. He suggested that Mr. McCreary address this. Mr. Everett stated that the other issue is that the noise testing seems to be focused on one or two people on a court. He asked what the noise level would be when there are more kids, 30 to 40 of them cheering on the players and standing around the tennis court, congregated in one area. To him that seems to be the potential largest noise impact. He

asked the engineers how they will deal with this and what they think the potential noise impacts will be. Ms. Nelson wanted to address Mr. Lick's comments first. She stated "The reason why our conclusion is that we get a zero to three decibel change is because we believe that the more appropriate approach here is to look at the sound level increase caused by tennis. So doing the indoor tennis monitoring, the sound level increase above ambient caused by the tennis was six to eight decibels. So we took that six to eight decibels, and we added it to our site's ambient level, which is 46. And then we project out the sound attenuation over distance to get to our 2.3 decibel increase. So we believe that this is a sound way to measure it. And we believe that it represents the typical condition that's going to be occurring at that property with morning tennis practice."

She stated that she would speak to Mr. Slone to discuss this issue and to see if he intends to have some sort of celebratory end of session tournament or celebration. She said it is four camp sessions in an 8-week period. That's not the average daily occurrence, she stated, it's an infrequent event. To Ms. Nelson, "It is no worse than a barbecue that someone might host and have music playing and 30 or 40 people over or a political fundraiser or pig roast that someone might host...it's an infrequent." Chairman Everett responded by saying "I guess it's the frequency of how often that occurs and how that's going to play out. So if you can get some more information from him (Mr. Slone) on that." Ms. Nelson replied she would. Mr. Howard stated that Mr. Slone has no intention of holding tournaments at the property and he could definitely provide the board with that definition. Mr. Howard said the nature of the sport of tennis is generally quiet...you may have an occasional gallery clap and ball noise, but if at the end of a week-long tournament with a rousing point and there is some noise, does that violate SEQR? He thought not.

Ms. Nelson then read an email she received from Mr. Slone with regard to what a typical day would look like on the tennis court for the camp. *"As for tennis instruction, it initially would start with stretching and short run, both of which would be no noise. That usually takes about fifteen minutes. From there, usually kids hit with an instructor feeding balls to kids and rotating. Again, very low noise and no noise from kids. To be clear, not only is it completely inappropriate to talk during tennis, but you can lose a point by talking in middle of play. After about 45 minutes of drills, there will likely be point plays. Half the kids play points and then they rotate in. Again, you don't talk to your opponent during play. One of our instructors might suggest hitting cross court, down the line, come to the net or strategy. There is stretching during last fifteen minutes."*

Mr. Henkel, referring to testing only being done on one court, asked Mr. McCreary what the impact would be having six courts. Mr. McCreary responded that there were six teens in attendance and four played at any given time. They did stretch and warmed up on the court. They then volleyed at the net and progressively moved to overhead shots and then their own competition on one single court, two on two, one on one. The kids that weren't participating were seated, watching. The kids were nervous seeing two recording devices. But the kids didn't hold back, they behaved as they would have as they would at any other tennis lesson. They did hear some serious ball strikes, exclamations, instructor's comments, sneaker squeaks, etc. Mr. McCreary felt good that the representation was good for the six kids with one instructor. He thinks that's basically what it will be for this facility (proposed). He went on to say that you really can't have three out on the court. It's going to be four at any given time with two

rotating in and out. Mr. Henkel stated the facility will have four to six courts outside. Mr. McCreary explained as follows: "the thing about noise is, if you make a 60 decibel sound here and a 60 decibel sound relatively close by, that doesn't mean you're making 120 decibels worth of sound, you're making 63, because it adds on a logarithmic scale. So one of the things that does have to be looked at is the proximity of the courts. What we're looking at is sound from the center of a court. So if you have another court nearby, you'll have to see where that overlaps. And if the sound is 60, well then the overlap is 63." Mr. Henkel asked if Mr. McCreary was comfortable extrapolating that analysis. His reply was "absolutely." Mr. Leary stated with six courts that there could potentially be 26 kids playing at one time. Mr. McCreary replied that full build out with all the courts. Mr. Henkel said to Mr. McCreary that he need to make sure this is incorporated into his analysis. Chairman Everett asked Ms. Nelson if their conclusion was on page 3 about zero to three DB increase and asked if this was the worst case scenario. Ms. Nelson replied, "That's the closest court to the property line, so that's looking at our worst case in that respect...the subsequent courts are further away, so they're going to have sound attenuation that occurs before the closer court. But like Paul (McCreary), we can certainly look at if from a cumulative impact as well." Chairman Everett stated that the board has to look at the worst case scenario and if both Ms. Nelson and Mr. McCreary could include this in their follow up letters. They both responded they would.

Chairman Everett then asked if there was anything else on this issue, and there was not. He then asked the board if they want to deem the application complete at this point to go to public hearing subject to the submission of the additional items that we've identified, or do you want to wait for those documents to be submitted and then make a decision. Mr. Lick asked to go through what was missing again. He stated that a highway letter from Mr. Rickert on road impact is needed, one or two documents from Mr. McCreary, a letter from Ms. Nelson on noise. Mr. Henkel mentioned the revised grading according to Mr. McCreary's comments. Ms. Nelson then stated Crawford would update the SWPPP and their response to the town engineer. Mr. Henkel also asked for the six courts max and min noise levels and what they are attributed to from Ms. Nelson's letter. Mr. Everett asked Ms. Nelson to address group gatherings and the frequency of such. Mr. Henkel mentioned that they have trip generation and rise in traffic information. At this point, the chairman asked if the board was ready to deem the application complete subject to the submission of these additional items and set the public hearing for next month, or do they want the information before that? Mr. Henkel and Mr. Lick both replied they were comfortable with this. Mr. Leary was more inclined to make sure the board gets everything before they open the public hearing. Mr. Henkel replied they wouldn't open the public hearing if there's a question. Chairman Everett and Mr. Henkel both stated that the information has to be complete and available before the public hearing. The Chairman stated that once they review the material, if they feel there is additional information needed and the public makes some good points, they can just continue the public hearing. Mr. Lick stated that he didn't think there is that much outstanding and thinks the board needs to hear from the public.

Chairman Everett then made a motion to deem the application complete for purposes of scheduling the public hearing subject to the submission of the items that were recently listed. He then asked all that information to be submitted by January 8, 2014 (two weeks prior to the public hearing). Mr. Henkel

seconded the motion. All board members were in favor with AYES received from Lick, Ooms, Henkel, Leary and Everett. No one was opposed. The motion was carried. Chairman Everett asked Ms. Nelson if there is a need to do GMO referral from the county, asking if we are within 500 feet of any county resource at this point, state or county highway. She replied that she would check on this and let the CZBA know. Chairman Everett asked her to double check and if she believes a referral is necessary she needs to let the board know because all of this information will need to go to the county ten days before the public hearing.

For Informational purposes: Item #2: PS21 Black Box Performance Space

In attendance representing Questaterra, LLC & PS 21 was Maribeth Slevin, Counsel for PS 21, Brandee Nelson, PE, Crawford and Associates, Evan Stoller, Architect on the project and David Kahn, who did the acoustical report. Chairman Everett welcomed everyone in attendance. He explained the need to talk about the establishment of escrow before anything can move forward. Town Attorney Rappleyea spoke on behalf of the Chatham Town board who he stated is the contracting agency. The contract would be executed between the Chatham Town Board (Jesse DeGroot is the Supervisor), and the applicant, Questaterra, LLC. Attorney Rappleyea stated that typically we have had an estimate done by the town and the engineer, it has been suggested that there be some additional requirements of the escrow account to make sure that the replenishment is done during the application, and that way the experts that may be required are timely paid. He stated that the town board is considering some variations at the moment. Chairman Everett asked if these variations had been shared with the applicant yet and the attorney replied "not to his knowledge." The chairman then asked if the attorney had any sense as to what escrow amount is going to be established in the initial instance. He replied that "from a legal standpoint it's probably not going to be a whole lot more, probably for me, about \$2000." Chairman Everett asked about how much for engineering. Mr. McCreary replied he did not know yet and admitted he has done nothing with the materials he received. He stated that his firm was owed a lot of money at the end of the last application and that didn't come to fruition until just recently.

Chairman Everett asked Mr. McCreary if he wants more money in the escrow account and that the replenishment occur on a frequent basis and is not overspent. Mr. McCreary said he can be comfortable with this arrangement. Chairman Everett stated that this needs to get squared away before the next meeting. He would like to have the escrow amount set so that everyone is comfortable with it and we need the proper amount of escrow in order to move forward on this project. Attorney Rappleyea stated that a higher escrow amount is necessary and if it is not replenished in a timely manner the Town will suspend the project. The attorney agreed to work this out with the town board and the applicant.

Attorney Slevin then presented the new PS21 project. She stated that this a little different than what was submitted previously, this now has a year round and a seasonal component. The modifications are embodied in the site plan of the project. There will be a reduction in the footprint in Phase Two: a reduction in amount of parking and seating. It's a 300 seat facility not 400 plus. Ms. Nelson explained that the last application is withdrawn, this is a new application and is separate from the previous one they have submitted. Mr. Lick explained that many of us were not here in 2005 so he asked that Ms. Nelson be more specific if she is to compare this project with the previous one. Ms. Nelson went on to

say that when the tent was constructed ten years ago, they put in a parking area. The tent has really become the signature of the summer program and well known. Although they did make an application for an outdoor pavilion, the PS 21 board of directors has given a lot of thought to long term goals and objectives for this site. What has come to the forefront: when a permanent building is there 365 days a year operational requirements are different from a tent. A lot of thought has gone in to what is appropriate for Phase 2 and what is best suited for the long term cost wise. The mission is to provide a black box theater, to provide a wide variety of performance types. All of these things have different technical requirements. A design team has come up with this black box theater that can operate in the winter and become a 100 seat performance space. In the summer they can then open up the box to expose one side to be an outdoor space during warm weather season. What this does is provide an opportunity for a year round facility and still keep the indoor outdoor venue to still exist. The tent would go away completely. The black box will be heated, but there is no need for air conditioning. There will be ventilation, total climate control. The site improvements proposed are to modify the existing parking area to add handicapped parking spaces and a drop off lane. The building is half the footprint of the original phase two proposal about 14,500 ft. roughly under one roof. The summer season capacity would be 300 persons and the indoor would be 100 persons. It does not require additional increase in parking, seating is underneath the pavilion and there is no lawn seating. There's a plaza and walkway, patio, loading facility, and inside there will be restrooms, green rooms, and ticket booth. The basement level will have spaces for the performers, mechanical systems, fire suppression system, and the building would have full sprinklers. The building has a septic system that is on the east slope of the property, about a couple hundred feet south and east of the building. The well, which was originally drilled back in the early 2000's was pump tested and tested for quality. Ms. Nelson stated that this is the proposed water supply well for the building. The septic system has been modified and the CCDOH was at the site to bring the well a little bit closer to the building but in the same general location. The CCDOH has approved the new location. The well exists near the crest of the hill in the northern central portion of the property about 300 ft. uphill from the green barn. She went on to explain that there would be some site grading around the building. All the cuts and fills are managed on the property, so there is no construction excavation.

Lighting proposal will match the existing on the property and will need three new pole mounted lights. They have a 12ft. height and have hood covers. They will be reclaiming bollards from the tent area and repurposing them up in the main area. Any other proposed is for egress but nothing substantial. Chairman Everett asked for floor plan info and how the removable panels will work with the building. Mr. Stoller then spoke that the panels are being designed now but because they are maintaining an open stadium up to the ridge for acoustic purposes, it might be advantageous and cost effective to design their own innovative system of closing off the proscenium in the winter. The walls would be custom made and only need to be moved twice per year. The space is meant to be very flexible, safe and efficient.

Ms. Nelson went on to review the floor plan on the map provided. Mr. Henkel asked if this was the same location as last year's proposal. The reply was yes. The seats are telescoping seats. Chairman Everett asked what the elevation change was from grade to the top of the stadium. Mr. Stoller replied

that the black area is about 6 ft deep, 7 ft. above the main level. The main level of the stage is 2.8 ft above the main level. The black area is 6.8 ft. above the main level.

The stage elevation is 485 inches and the rear is 489 inches, roughly 6.5 feet. Mr. Henkel wondered what the max height was to the top of the ridgeline to the east. Ms. Nelson replied that the slope of the hillside is about 498 ft. and the top of the building is 516, so roughly 18 feet above. She asked if the board had any other questions regarding building configuration and Chairman Everett replied not now.

Ms. Nelson explained the storm water management and there will be a need to disturb more than one acre so they will need a SPDE permit for general construction activities. There will be underground detention units underneath parking area and to the west of the building. It is consistent with current management. She addressed the water supply. She stated that there would be less water consumption than their original application. They have a daily demand of 1260 gals per day demand during the summer when more people are there, obviously it will be less in the winter approx. about 460 gals it will be potable and a public water supply.

Fire protection will meet NYS code. Mr. Leary stated that the last letter was dated November 27, 2013, and he requested an updated one. Chairman Everett asked if the fire suppression had changed. Ms. Nelson replied they are more robust due to the nature of the project being a year round one. He asked for an updated letter from the fire chief.

Overall, a variance is not needed for height since it is less than the 35 foot height limit that the town has for structures.

The number of vehicular trips will be about the same, there is no increase in traffic projected. Sound is always a big concern.

Crawford has engaged the services of David Kahn of Acoustic Distinctions to review the sound protocol. The board has a copy of his report. He compared noise impact of the proposed facility with the noise impact of the tent that has been in operation for a number of years. He stated that they are looking at both the town noise code and the DEC guidelines that the noise impact of the facility not increase the ambient noise levels at the property line by more than six decibels, which is actually a more stringent requirement than the code that's currently in effect in the Town of Chatham. He said they are using this info as a basis for their analysis.

Mr. Kahn showed a map that showed four locations all four sides and calculated the noise levels at the property line that exist with noise levels in the town. He said they now have a facility that is more enclosed and limits some of the sound escaping out of it, there is a solid roof, the grading is important in terms of whether or not there's direct line of sight from the facility to the property line. To the east and to the north you can't see the facility so that means the sound has to sort of bend around the topography which provides some additional attenuation. The sound levels are a lot lower to the west where the facility is enclosed...the north sound level will still be lower because of the enclosure of some of the building. Noise impact will be lower in general and lower than the tent. Mr. Kahn went on to say they did additional calculations to explore the DEC guidelines, that the noise not be increased at the property line above 6 decibels. Based on the data, they looked at the loudest thing and how would they

compare to the ambient. They intend to provide a limiter so the sound can't go any higher than 90 decibels around the perimeter. He spoke about anticipated levels and stated they plan to put a limiter on the sound system so the sound will not be able to go louder than 90db. Chairman Everett asked if this limiter is going to be available for parties and weddings. Mr. Kahn replied only if they use PS21 sound system. Everett asked if they don't use the sound system and bring their own, could it be louder. Mr. Kahn replied that it would be possible but could be "deafening" to the ear to go louder than that inside the facility.

Mr. Lick asked for clarification on page 4 of the report of the total change in sound pressure levels, Mr. Kahn responded that the numbers are minus in decibels compared with the tent. Mr. Lick referred to table 3 about expected sound pressure levels at the property line, and asked if that is expected based on this new design and the reply was yes. He asked if something changed in the design that is lowering this from what we have seen before and what has happened architecturally to bring it down because we have had some of these same things before. Mr. Kahn responded that one of the differences in design that had an effect but a very small one was the previous design to the north of the facility there was a berm or some landscaping that would further block the line of sight to the property line. So the difference between that design and this design is one decibel. The grading is such that we have a natural berm there. With the berm being higher in the previous design, it did block a little more sound but not a lot more sound. The difference was about one decibel. Mr. Lick asked if the building is sited differently. Ms. Nelson stated its one decibel higher than the last application...this is slightly higher, one decibel, but that's not at a level that's general noticed by the human ear. Chairman Everett asked Ms. Nelson for her conclusion at the property line as far as what the level would be. She confirmed that noise level will be below ambient. Mr. Kahn then stated that in order to do that calculation, one needs to make an assumption about what the levels are emanating from the tent, which is why 90 DB was the level picked. Chairman Everett referred to the ongoing debate of whether sound can be heard from the tent or not, but now finds the point more compelling about the property line and the restriction here of 90 DB and the level over ambient or below ambient. Ms. Nelson then spoke as to why they brought David Kahn on board to help make sure they are getting off on the right foot technically.

Chairman Everett stated their approach was helpful in viewing this. In this project noise has always been the issue.

Mr. Leary asked about weddings and other activities in fields and what kind of control there will be in terms of sound. How would we predict that a DJ setting up a speaker at the facility or what kind of noise is going to be generated? Mr. Kahn responded that this is certainly outside of the intent of the facility which is really what we've been focused on, "but it seems to me that the issue that you're raising really relates to the town code and the guidelines and the guidelines don't allow them to hold any kind of event anywhere on their property that would push the levels up beyond the code limits." He stated that those activities should not be allowed if they are exceeding the guidelines. Mr. Henkel said that the applicant made a commitment to not hold outside events a year ago, maybe they would be willing to again. Ms. Slevin said they would talk about it.

Ms. Nelson stated that this is a performance venue, not a wedding venue. We are not here tonight asking for approval as a wedding venue for Chatham. That would be an entirely different application. If there is an occurrence it's going to be an "off" occurrence not a regular one for this venue. Chairman Everett stated that the CZBA had given approval to them to have those kinds of events to sort of help with the fundraising and the charitable nature of the organization. He indicated he was still comfortable with that. The CZBA can limit the amount of what happens.

Ms. Nelson inquired about the SEQR. Chairman Everett asked her if she wanted the CZBA to circulate for lead agencies. Her response was that we do not need to do that unless the attorney disagrees with me. She said she assumes the CZBA would be lead agent. Chairman Everett indicated that the planning board members in attendance were in agreement.

Chairman Everett made a motion evidencing the ZBA's intent to be the lead agency and to circulate the coordinated review under SEQR. Mr. Leary seconded the motion. Ayes were received from members Lick, Ooms, Leary, Henkel and Everett. There were no Nays, motion was carried. The Chairman asked Attorney Rappleyea to take care of the circulation on this. His response was yes. Ms. Nelson stated a long form was included in the application. Mr. Henkel inquired as to timeframe for the project and Ms. Nelson explained that the new concept is what is driving them. Ideally they would like to break ground in spring 2015 and open in 2016. Chairman Everett asked Mr. McCreary, assuming they can work out the escrow issues, for his comments on the documents in within two weeks. He replied "sure." Mr. Henkel asked if the neighbors had been notified and Ms. Nelson replied "no." Chairman Everett stated that the ZBA is required to do that, it is part of the public hearing, but we always publish notices in the paper of the agenda items. Ms. Nelson said that everything has been made available digitally and that they have hard copies too. Ms. Nelson also offered copies of the transcript of tonight's minutes when they are made available. Chairman Everett asked for any other comments or questions. There were none.

Attorney Rappleyea sent an email to the CZBA including a copy of temporary bylaws that could be used for the planning and zoning boards. He stated that it's not necessary to have them but it can be used against board members who don't abide by the rules. Mr. Lick asked how much is covered in state law. Rappleyea replied most of it is covered other than the "for cause" piece. Chairman Everett said that if the town board wants to establish some parameters than the town board should do it. He went on to say that some boards have members that don't do what they are supposed to do. Mr. Henkel doesn't see anything objectionable but it seems it is redundant with state law. Rappleyea stated with regard to alternates the town board can now appoint an alternate. Our current boards are good and everyone shows up when they are supposed to. Everett said he discussed the issues with the town board and there doesn't seem to be a need for alternates especially as a 7-person board. The chairman's view is to keep going as we are.

The secretary noted that two of the board members were short an hour each for training. Mr. Ooms would go to the town hall for training the following day and Mr. Khosrova will take an online course to

satisfy his one hour as well. A motion to adjourn the meeting was made at 9:26 PM by Chairman Everett and seconded by Mr. Leary. Motion carried.

David Everett, Chairman

Respectfully submitted by

Shari Franks, ZBA Secretary