

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

April 13, 2015

MEMBERS PRESENT:

John Boehrer, Vice Chair Richard Harrison Julie Nicoll

MEMBERS ABSENT:

Phil Carter Linda Petty

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Terry Bane	George McNaughton	Chris Rowen
Aaron Butler	Mariel Meringolo	Chris Valente
Beverly Butler	Ralph Michael	Richard Walsh
Chris Callahan	Joe Poston	Lisha Klaiber, Recorder
Jules Chatot	Robin Reilly	Patrick Cody, LPC TV
Mariann Conlan	Joe Rolka	
David Grayck	Steve Rolka	

I. CALL TO ORDER

1. Meeting opened at 6:06 p.m. by John Boehrer. All members present, except Phil Carter and Linda Petty.

II. OPEN THE PUBLIC HEARING FOR CHRIS AND CHRISTA VALENTE

1. John Boehrer advised that this is an application to amend a Conditional Use Permit and for Flood Hazard Review. The application is to allow for an additional food trailer and to show movies, sell Christmas trees and add a miniature golf course behind The Cooks Cupboard. The project is located at 211 Main Street in the Village Residential Commercial District.
2. Rose Goings advised that this is application 185-01-CU, Amendment #2 . Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on March 20, 2015, advertised in THE VERMONT JOURNAL on March 25, 2015 and abutting property owners were notified on March 26, 2015.
3. John Boehrer administered the oath to all wishing to speak at this hearing.
4. Chris Valente advised that they currently have a trailer where they sell ice cream located behind Cooks Cupboard. They wish to add a second trailer to sell food, a small outdoor movie screen, sell Christmas trees and also add a miniature golf course. He said that the new trailer would be 6' x 12' and they would sell food.
5. John Boehrer asked if the type of food they would sell would be burgers, fries and hot dogs.
6. Chris Valente said yes.
7. John Boehrer asked if they had contacted the State Division of Fire Safety or flood.

8. Chris Valente said not yet.
9. John Boehrer asked for more information about the movies.
10. Chris Valente said it would be a small, movable screen, with projector and speakers. They would show movies for children.
11. John Boehrer asked the hours of operation.
12. Chris Valente said the same as the existing trailer, 7:00 a.m. to 11:00 p.m., and seven days per week.
13. John Boehrer asked if they would additional lighting for selling Christmas trees.
14. Chris Valente said there are already spots on the existing trailer.
15. John Boehrer asked about lighting for the miniature golf.
16. Chris Valente said the lighting would stay the same.
17. John Boehrer asked about letters from town departments.
18. Chris Valente said that he had sent out requests, but had not heard back.
19. Rose Goings said that she also had not heard anything.
20. Richard Harrison suggested that Chris Valente call the department heads.
21. John Boehrer said that the applicant still needs letters from the Police and Fire Chiefs, Ambulance, Fire Safety and State Flood Plain.
22. Julie Nicoll confirmed that none of the structures are permanent. She asked about parking.
23. Chris Valente said parking would be on-site and at the Municipal Parking lot.
24. John Boehrer asked the number of on-site spots.
25. Chris Valente said 7 that are paved and marked.
26. John Boehrer asked if there is also parking on the sure-pack areas.
27. Chris Valente said yes.
28. John Boehrer about a possible crossover with Cooks Cupboard's hours of operation and the applicants.
29. Chris Valente said they could crossover.
30. John Boehrer asked if there is a lot of foot traffic.
31. Chris Valente said yes, the people are mostly foot traffic.
32. Rose Goings asked about the movies.
33. Chris Valente said they would be on either Friday or Saturday evenings for children.
34. Chris Callahan said that the record should be clear that the hours of operation between Cooks Cupboard and the applicants business could crossover.
35. John Boehrer asked what are the hours for Cooks Cupboard.
36. Chris Valente said 10:00 a.m. to 5:00 p.m. and his hours will be 7:00 a.m. to 11 p.m.
37. **MOTION by Richard Harrison and seconded by Julie Nicoll to close this hearing, pending a total of the five outstanding letters from the Police, Fire and Ambulance departments, State Division of Fire Safety and Flood Plain. Motion passed unanimously.**

NOTE: John Boehrer advised that the hearing for IMERYS Talc would be addressed before the hearing for Okemo Tutorial Program.

III. **IMERYS TALC VERMONT, INC.**

1. John Boehrer advised that this is an application to amend a previously approved Conditional Use Permit and Variance to allow for added square footage and a minor shift in

- the building location for the addition to the mill. The project is located at 73 East Hill Road in the Industrial District.
2. Rose Goings advised that this is application 88-207-CU, Amendment #7 and 428-15-VA, Amendment #1. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on March 20, 2015, advertised in THE VERMONT JOURNAL on March 25, 2015 and abutting property owners were notified on March 26, 2015.
 3. John Boehrer administered the oath to all (Robin Reilly and George McNaughton) wishing to speak at this hearing.
 4. George McNaughton advised that the trigger for this application was the soil study. The soil study showed that the proposed new footers may cause damage to the existing footers and the new footers would need to be 6 feet away from the existing footers. The increase in square footage is the result of changing the location of the footers and enclosing that area. He submitted an elevation drawing and the photo simulation showed that there is not much impact. Another change is that they will bury the water line to the wells. Also, they discovered an abandoned telephone corridor and will use that to bury the water line. This will cut down on disturbance to the land. He referred to drawing C-9 and indicated the water line and a new water storage tank. The tank, 1,500 gallons, would not be visible from the road. The reason this was added is that it is critical for the pelletization process that the water not stop for any reason. The tank is not potable water, but if the wells fail, there will still be water for the processes from the tank. Another change is the addition of one large pad to accommodate up to eight (8) smaller, 2,000 gallon propane tanks replacing the one large underground tank.
 5. John Boehrer asked if they would be in the same location.
 6. George McNaughton said yes, but they would be above ground
 7. John Boehrer said administered the oath to Beverly Butler and Aaron Butler.
 8. Beverly Butler said that she is an abutting property owner and asked where the new building and tanks are located.
 9. George McNaughton said they would not be near the shipping center.
 10. Robin Reilly said they would be up at the mill, itself, further up and the tanks would be behind the mill.
 11. George McNaughton said that there had been a request for a wider road on the north side of the building and this will be done. They will also look at the other side of the building. This is to improve access to the building. They propose to move the new building to the north about 18'8" and that would still put it not even with the existing building, but further away from the hillside. They can't use the road on the north side to move equipment, but will put in a temporary access along the south side of the building during the construction period. When the road on the north side of the building is open, they will close the temporary road on the south. He said that at their previous hearing, they discussed widening the road along side of the mill for better EMS access. They are also trying to reduce traffic as much as possible on East Hill Road. He said that they found some soil when they were removing it for the foundation and will keep it for the Black Bear project in 2019. Additionally, they want to be able to crush more rock to replace the fill and are requesting a one time, short portable crusher period and an 11 day extension.
 12. Robin Reilly said they have two 5-day crushings set in the permit, this will allow us to crush what we need.
 13. Julie Nicoll asked if it would be the same hours, noting that people are sensitive to the crushing noise.
 14. Robin Reilly said the hours would be the same.

15. George McNaughton said there are also ladders to the top of the silos. He said that he is not sure if lighting will be needed, but if it is, it will be focused down and not visible from the other side of the building. Other minor changes include a power upgrade, with an additional line up to the pumps. He said that this proposed amendment has a minimal impact.
16. Julie Nicoll noted that with the change of the fire department access during construction, would the applicant keep in touch with the fire chief, letting him know about the changes.
17. George McNaughton said yes, adding that the changes were prompted by the fire department.
18. Richard Harrison asked about letters from the fire, police and ambulance departments.
19. Pam Bruno said yes, a split lip and she hit the back of her head.
20. George McNaughton said that he had sent out requests, but had not received any of them.
21. Rose Goings asked if the requests had been for this amendment.
22. Robin Reilly said they had not been done.
23. Chris Callahan asked about the variance for the height.
24. George McNaughton said that the changes are indicated on page 2 and it is what was approved.
25. Chris Callahan asked about the original variance.
26. Robin Reilly said the original was for it to be higher.
27. Chris Callahan asked if it was granted.
28. George McNaughton said it was two-fold. The penthouse for equipment was dropped to the existing level. There will be 6 feet between the two buildings and they want to make sure they are the same height.
29. Robin Reilly said that they are extending the roofline of the existing building.
30. George McNaughton said that the existing building had a variance for the height and the variance for the new is to make the 2 buildings the same height. He said that all of the same factors in the original variance are the same, except for the new six foot space between the buildings. The site was not suitable to place the new building where they had originally planned so they have to move the new one because of the soil and the possibility that the new footers would cause damage to the existing ones.
31. Chris Callahan asked if the hardship is the gravel. It is an engineering restriction that would allow them to apply for a variance.
32. George McNaughton said yes, it is the dirt.
33. Chris Callahan said that is what they have to prove for the variance.
34. Beverly Butler asked if they would be making finer talc, how efficient is the emissions control.
35. Robin Reilly said there is an air quality permit in process, with filtration. The air quality should not be affected.
36. George McNaughton said it is not a grinding process.
37. Chris Callahan asked about Act 250.
38. Rose Goings said Local Act 250 is complete.
39. George McNaughton said that they are still going through the state process.
40. **MOTION by Richard Harrison and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

IV. **OKEMO TUTORIAL PROGRAM, INC.**

1. John Boehrer called this hearing to order.

2. Chris Callahan advised that basically we are here to rehear this application that has been remanded back to the DRB by the Environmental Court for further evidence on the Conditional Use Permit. Project is located at 53 Main Street in the Preservation and Village Residential Commercial Districts. He advised that both parties have agreed to submit new evidence for the DRB to rehear this application.
3. Rose Goings advised that this is application 86/87-155-CU, Amendment #3 . Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on March 20, 2015, advertised in THE VERMONT JOURNAL on March 25, 2015 and abutting property owners were notified on March 26, 2015.
4. John Boehrer administered the oath to all (David Grayck, Steve Rolka, Joe Rolka, Jules Chatot, Mariel Meringolo, Mariann Conlon, Joe Poston, Ralph Michael and Larry Slason) wishing to speak at this hearing.
5. Larry Slason advised that this hearing is to consider the application for the Okemo Tutorial Program, dba Okemo Mountain School, to construct a training facility adjacent to Okemo Mountain School. They will review the revised site plan and provide additional evidence. They will address all criteria for the conditional use permit. They will do site plan review and Preservation District design review. He said that the training facility is an integral component of the Okemo Mountain School (OMS) and as such is subject to limited zoning review. He said that OMS is subject to limited use review and public use exemption based on 24 VSA §4413(a) and Section 510.3 of the Village of Ludlow Zoning and Flood Hazard Regulations. OMS is a licensed and certified school. They will address all zoning criteria. He stated that OMS does not waive its right and reserves its rights for limited review, but we will present proposed findings of fact and conclusions of law to support our proposal. He said that on October 9, 2014 OMS was approved for construction of the training facility in accordance with the Village of Ludlow Zoning and Flood Hazard Regulations dated September 5, 2006. He said that a revised site plan was filed with the DRB on March 12, 2015 and a few days later he submitted notebooks to the DRB that contains Exhibits 1 to 25 to be considered in its entirety and as part of the application. He said that he was just made aware today that the Village of Ludlow Zoning and Flood Hazard Regulations were amended effective February 10, 2015 and adopted April 8, 2015. He said that we need to figure out which regulations will govern this hearing. The new regulations were in effect at the time of the remand application. He said that the revisions appear to be substantially in the same form. He added that a change was made to add schools as a conditional use in the Preservation District, but that is not controlling here as this is subject to limited review, because it is a licensed and certified school. Prior to this revision, schools were not listed anywhere in the any of the districts in the Town of Ludlow.
6. David Grayck indicated that he wished to speak.
7. Chris Callahan asked if David Grayck's questions are concerning which regulations and could save his comments until this turn.
8. David Grayck said that he is concerned because MAPA says that rules of evidence as applied in civil cases in Superior Courts in the state shall be followed, so I believe that I am compelled by the law that applies to this proceedings to make evidentiary objections in a timely manner and that if I don't do that the argument is that I have waived them, so I feel compelled because it is an on the record review to at least attempt to follow that statutory provision. 24 VSA....
9. Chris Callahan said there are two ways to deal with this and if it is not going to take ½ hour, we will hear them now and that Mr. Grayck's objections are noted on the record. It is a fairly complex issue that Larry Slason has brought up.

10. David Grayck said that, in general he wants to understand how the board wants to proceed with respect to objections and again, he is compelled by statute to make them and he has a number of objections to make. He said that he looked at the website and followed the links to and was so confused and went to the Village ordinances and went down to 18 Village Zoning Ordinance and clicked on it and page 1 of 67 says adopted January 3, 2006 and amended September 5, 2006 .
11. Chris Callahan asked David Grayck to just state his objection.
12. He said that his objection is that his clients have been denied proper opportunity to prepare for this hearing, that the website doesn't have the bylaws in effect and he has been using the bylaws that are on the website and are still on the website, that this constitutes a due process violation to proceed absent proper determination that the zoning bylaws are available. That he relied on the website.
13. Chris Callahan said that David Grayck's objections are noted.
14. Larry Slason said that if one goes to your website and clicks on the Zoning and Planning Office, and then goes to Downloads, and that the Zoning Ordinances are there in its entirety. They were amended February 10, 2015 and adopted on April 8, 2015. He said that he is not clear of the distinction and that is why he raised the question. He said that the zoning ordinances are available. The regulations that were in effect at the time of this application, September 5, 2006 are the same except for the addition of Schools as a conditional use in the Preservation District. I did that in terms of full disclosure for this board.
15. Chris Callahan asked David Grayck if he had any argument that the law doesn't say that the zoning regulations in effect at the time of the application would apply.
16. David Grayck said that Mr. Slason referred to this as a remand proceeding. That is one issue. I understood him to be saying that he claimed a vested right as of the timing of the original application. He said that his next objection is that it is not clear to him that the application material properly addresses the new zoning bylaws. He said maybe they do. He said he doesn't know what the new bylaws are, but if the application was prepared based upon the old zoning bylaws and now the new zoning bylaws are being used, and then we'll need to make a determination whether the application is complete relative to the new zoning bylaws. He asked the board to take official notice of its own website
17. Chris Callahan asked David Grayck if he was looking at the village or town zoning regulations.
18. David Grayck said Ludlow Vermont US.
19. Chris Callahan said there is a Village and a Town. There's two separate...
20. David Grayck said it says Village of Ludlow Ordinance and if you go to number 18...
21. Larry Slason said it is not under an ordinance.
22. Rose Goings said it is not under ordinances. She added that David Grayck is looking in the wrong place.
23. Larry Slason said it is a download under the Zoning guidelines...
24. David Grayck said Larry Slason please, let me finish. We're trying to make a record do you want me to start objecting that you're over talking me. That I'm being interfered with as to the record.
25. Larry Slason said I am trying to help you get to the right download.
26. David Grayck said that he understands that, but there's no instruction on the website that say 18 Village Zoning Ordinance, don't use this.
27. Chris Callahan said that even he figured it out.
28. David Grayck said maybe that is perhaps because you work for the municipality
29. Chris Callahan said that he is not all that when it comes to these things.

30. David Grayck said that right now, on the website, publicly available.
31. Chris Callahan said that he believes that they are there.
32. David Grayck said that he is not disputing that they are there; I am saying that the old ones are there also. So, you've got two different versions on the website and that's clearly not...
33. Chris Callahan said he is not sure that what's on the website controls or doesn't control. I suggest, Mr. Chairman that we clear the room for a minute and make a decision on which bylaws are going to apply so we can move on with this hearing.
34. John Boehrer said that he agrees.
35. David Grayck said he would like a copy of the bylaws or he could go download them or whatever. He said that he also had multiple objections with respect to the exhibits, so to the extent that they have already been provided, I would request that that board give them back to the applicant so can be properly offered and through a proper sponsoring witness., In particular I have to get on record that Exhibit #3 is signed by Attorney Slason and appears to be a full, substantive narrative of compliance and that he cannot imagine that Attorney Slason wants to be testifying, so I have to at least to get out, initially on the record that there is an objection to all exhibits having been provided prior to the convening of the evidentiary hearing. It appears that was done. Again this is a violation of due process, a violation of the MAPA rules, and a violation of the rules of evidence and in particular Exhibit #3 is signed by Attorney Slason and I am assuming that he is not going to be the sponsoring witness.
36. Chris Callahan asked the people to step out.
37. There was a recess from 7:00 to 7:08 for the DRB to discuss which regulations will apply.
38. John Boehrer advised that the new regulations will apply to this hearing and noted Mr. Grayck's objections.
39. Larry Slason asked Rose Goings when the new regulations were adopted.
40. Rose Goings said the Planning Commission held its public hearing on February 10, 2015 and the Village Trustees held their public hearing on April 7, 2015 and adopted the amended Village of Ludlow Zoning and Flood Hazard Regulations on that date.
41. John Boehrer said that Larry Slason has submitted Exhibits 1 through 25 and that Attorney Grayck has the opportunity to any of those right now.
42. David Grayck renewed the objection that was made which is my understanding that they were provided to all the board members. I object to that. If we're following the rules applicable to court as the statute requires, those exhibits need to be provided only after properly offered through the appropriate sponsoring witness and it appears, from what I can see at the table in front of you that you have all of the exhibits already. Presumably, you have reviewed them in anticipation of tonight's hearing and therefore you have viewed the evidence prior to the convening of the hearing. My clients object to that. That violates MAPA, it deprives them of their appropriate due process rights and my client is prejudiced by your prior receipt of them. It's my anticipation that Attorney Slason is going to have an appropriate sponsoring witness for each of the exhibits he intends to offer. If he doesn't, I again object that they haven't been properly authenticated, they constitute hearsay, they have not been properly admitted into the record, and they're not admissible. In particular, Exhibit 3 is the document, page 1 of 23, which is signed by Attorney Slason and if that truly is being offered by the applicant, then I am going to have to cross examine Attorney Slason and it would be my expectation that... I won't speak for him, but if he's really going to offer that as an exhibit and he's the sponsoring witness for it because he's signed it, then I object to it in that offers expert opinions for which, unless Larry's got a professional engineering degree or a landscape degree, he's not qualified to make.

-
43. Chris Callahan said that it is just a typical zoning application. Is that what we're talking about? He's signing on behalf of the client.
44. David Grayck said that he does not know what it is, other than he's offering it as an exhibit. If it is not being offered as an exhibit, and it's going to be withdrawn and offered as proposed findings, then I won't object to it.
45. Chris Callahan said it is the general procedure of this board and probably any other board that I have seen that is application is simply that, and put into evidence and used by the board as the application. I have never seen a hearing or any type of zoning application that wasn't used and relied upon and entered into the evidence. He added that he hopes that this is not an attempt by Mr. Grayck to obfuscate and delay.
46. David Grayck objected and moved that the board dismiss for the town attorney as he is obviously prejudiced. That he would make such an accusation in light that I'm simply trying to follow MAPA and that, in fact, the applicant's application is Exhibit #2 with an illegible signature and Exhibit #1 is the Zoning/Building Application. He said that so now, he would renew all of his objections. He said that he would also say that your council's comment has now deprived my clients of the fairness that they are entitled to. It's a due process violation. This is no different than a situation where in prior circumstances where inappropriate behavior in front of a Development Review Board denies people the rights to due process. Your attorney has just done that by making the comment and the suggestion that I would intentionally obfuscate or seek to delay. He said he finds personally offensive and if he would like to give you an explanation as to the applicability of 24 VSA §1206(b) – the rules of evidence applied in civil cases of the Superior Courts of the state shall be followed. I think that would be appropriate if you would like to take another break and get some counselling on that, that would be helpful. He said that Exhibit #3 is not an application and that he objects to its submission. It is offered for the truth of the matter and contains substantive information relative to the project's compliance with the criteria and he believes that it is being provided to you for you to rely on to the truth of the matter.
47. Larry Slason said that Exhibits 1 through 25, we intend to submit those and under no circumstances, will agree to a withdrawal, The materials submitted to this DRB are customary and appropriate in on the record dep (sic) proceedings and the Town of Ludlow requires that the narrative that's called Information for Public Hearing Before the DRB be filed on behalf of the applicant and it has done so and insists that the board in our overview of the entirety of the project. All of the exhibits are in part and an integral part of the application and to the extent that now we have the opportunity to identify some of those materials and have witnesses speak to those and that's where an on the record proceeding is applicable. MAPA does provide that evidence is to be introduced as in a legal proceeding, but it also gives the DRB additional flexibility to receive evidence if of the type customarily relied upon by individuals and their affairs. The legislature never meant to shackle the DRBs as lay people to the procedural requirements of a legally trained judge in a court of law. So there has to be some flexibility here to enable this DRB to do its function and I think both attorneys now have made the record clear and we can let some higher authority sort this out at another time and that he would like to get on with this application.
48. David Grayck requested a ruling from the board on all the objections made.
49. John Boehrer said that David Grayck's objections and comments are duly noted and we are going to move on.
50. Larry Slason advised Mariel Meringolo that she is under oath. He asked her what is her position at OMS.
51. Mariel Meringolo said she is the Head of School and has just completed her fifth season.

-
52. Larry Slason asked Mariel Meringolo if OMS is a fully licensed school.
 53. Mariel Meringolo said OMS is a fully licensed school and approved by the State of Vermont
 54. Larry Slason asked if that was by the Department of Education.
 55. Mariel Meringolo said yes.
 56. Larry Slason asked Mariel Meringolo to refer to Exhibit 18 and asked if the document is a copy of the school's certification by the Vermont Department of Education.
 57. Mariel Meringolo said yes.
 58. Larry Slason asked how many students attend the school.
 59. Mariel Meringolo said 48.
 60. Larry Slason asked the number of staff members.
 61. Mariel Meringolo said 33. She said that students are provided with ski/snowboard and freestyle training at Okemo and academic instruction at the school at 53 Main Street. They also do dryland and physical fitness training at the school. The students spend just as much time off and on snow. They have an existing fitness room that is too small and the ceiling is too low. They also sometimes use the Spring House at Jackson Gore and Community Center by the High School for training. She said that the time used for traveling and scheduling is not convenient. She said they want to keep the students on campus. They need a training facility on site to better serve the students.
 62. Larry Slason asked if the new facility would also have office and administrative space.
 63. Mariel Meringolo said yes. She said that currently, there is not space for athletic or administrative personnel. This facility would provide office space for coaches, directors and trainers. She added that there would be two locker rooms, one for men and the other for women.
 64. Larry Slason asked if they expect any increases in students or staff.
 65. Mariel Meringolo said no. The additional space is just for our current needs.
 66. Larry Slason asked if, based on her knowledge of the OMS and its needs, if she has any opinion as to if there will be any increase in traffic as a result of the new training facility.
 67. David Grayck objected, saying that Mariel Meringolo is not qualified to offer an opinion with respect to traffic.
 68. Larry Slason said that she may answer the question.
 69. David Grayck said excuse me and that he would like a ruling on his objection.
 70. John Boehrer said the objection is noted.
 71. David Grayck asked if it was sustained or overruled.
 72. John Boehrer said overruled.
 73. Larry Slason asked again based on her experience with 5 years as headmaster and knowledge of your students participating in daily training at OMS, do you have an opinion whether the new training facility will result in an increase in traffic to the site.
 74. Mariel Meringolo said no, it won't, and in fact, traffic will decrease because they won't have to take students offsite in vans to other training facilities.
 75. Larry Slason asked if he would be correct in saying that by keeping your students at home, if you will on the site, it will reduce traffic demand.
 76. David Grayck objected, saying that this was leading a leading question.
 77. John Boehrer said overruled.
 78. Larry Slason asked if training facility is an integral component of OMS.
 79. Mariel Meringolo said it is absolutely critical to our mission.
 80. Larry Slason asked if she considered it an essential component to OMS program.
 81. Mariel Meringolo said yes.

-
82. Larry Slason asked if she would like to add anything else she would like the DRB to have in mind as it considers approval of the training facility.
 83. Mariel Meringolo said that over the last few years we have not only witnessed exceptional academic performances, but also great athletic results. She added that recent graduates have gone on to excellent colleges such as Cornell. She said that the students are capable of achieving much more athletically and that if we have this off snow training facility, we will see the athletic success increase and we will, as a school be able to truly meet the needs of the students, both academically and athletically .
 84. Larry Slason said to the board he is not sure if the board wants David Grayck to question Mariel Meringolo now or how they wish to proceed.
 85. David Grayck said that he requests the right to ask questions now.
 86. Larry Slason said he was not surprised, but told David Grayck to go ahead. He has no objections.
 87. David Grayck asked her name.
 88. Mariel Meringolo said she is Mariel Meringolo.
 89. David Grayck asked if it would be okay for him to call her Mariel.
 90. Mariel Meringolo said yes, absolutely.
 91. David Grayck congratulated her on the success of the students, saying it must be very gratifying. He asked when the idea for this expansion first came about.
 92. Mariel Meringolo said over the course of last winter, 2013-2014. She said that she wouldn't call it necessarily an expansion.
 93. David Grayck asked what she would call it.
 94. Mariel Meringolo said it is a facility to meet our current needs of the school.
 95. David Grayck said okay, it's an addition to what you have.
 96. Mariel Meringolo said yes.
 97. David Grayck said so the idea first came about in the winter of 2013, yes?
 98. Mariel Meringolo said 2013 into 2014.
 99. David Grayck said and then an application was made for it originally when, do you recall that. He said that it would be in the record, but does she recall approximately when that date was.
 100. Mariel Meringolo said it would have been completed in time to comply with the deadlines for the September hearing in 2014.
 101. David Grayck said okay, so the application was filed before September 2014.
 102. Mariel Meringolo said yes.
 103. David Grayck said is that a yes.
 104. Mariel Meringolo said yes.
 105. David Grayck said thank you because there is a recording and he has to make sure that the record is clear. He said, so it was done in 2014 and there was a hearing held and a permit was issued and they started building. Yes?
 106. Mariel Meringolo said yes.
 107. David Grayck asked when did construction start.
 108. Mariel Meringolo said in mid-October.
 109. David Grayck said so that would have been mid-October of 2014. Yes?
 110. Mariel Meringolo said correct.
 111. David Grayck said so that construction was even started before the new Village zoning ordinances was even proposed. He asked if he was right?
 112. Mariel Meringolo said that she did not know when the new village zoning ordinance was proposed.

-
113. David Grayck said he thought he heard someone say it was proposed in February of 2015. He asked if that sounded about right?
114. Mariel Meringolo said she believed that is what Rose Goings said but that she does not know that, herself.
115. David Grayck asked Mariel Meringolo if she was aware that the proposed change in zoning.
116. Chris Callahan said that he is not sure where David Grayck is trying to go, but just trying to save a little time. This was by agreement that both parties are here at a remand and it is by agreement of both parties that a new application would come in and based on that agreement, the board has determined that the new regulations would apply. So, if that's what you're going on, it's now on the record that is the thought process as to why they are going on the new regulations by agreement of both parties.
117. David Grayck said he appreciates what Chris Callahan has said, and he doesn't mean to be argumentative, but that he wants to clarify, but that to the best of his recollection, when we were discussing the timing of the remand, that there was never any discussion about zoning changes. He said that he thinks that Mariel Meringolo has said that when construction started it was in October 2014. He said he would ask this board to take official notice of those municipal documents which establish the proposal consideration and proper adoption of the new zoning bylaw. He said that he would make that request of the board and ask you to take official notice of those documents.
118. Larry Slason said that he thinks that the law speaks for itself on that.
119. David Grayck said that is okay, but he still needs a ruling on his request. He said that he moves that the board take official notice of the documentation that substantiates and supports the proper proposal, circulation, public hearing, publication, notification and adoption of the zoning bylaws of which you are choosing to apply tonight. He said that's his request.
120. Larry Slason said that he would like to respond to that. He said that he objects to the request that this board be compelled to immediately make a ruling on whether or not to take official administrative notice at this point, of regulations or otherwise. He said that he thinks this is the sort of thing that the board can do after additional deliberation. There is going to be a request, by the applicant that you take official notice of the permit history of OMS, for example, and some of the zoning regulations of record. So, it's not an uncommon request, but I think it's unfair to this board to feel that it's compelled to make rulings at the request of counsel, immediately.
121. David Grayck said he is not asking you to agree to do it, but that he is at least asking that you either say that you won't do it, will think about it or yes. That's all.
122. John Boehrer said that the board would think about it.
123. David Grayck said he takes it that it is under advisement and that he has taken the proper steps. He said yes?
124. John Boehrer said yes.
125. David Grayck confirmed that the program has an academic component to it?
126. Mariel Meringolo said yes.
127. David Grayck said and it also has a ski component?
128. Mariel Meringolo said yes, ski and other snow sports.
129. David Grayck asked how long has it been in operation?
130. Mariel Meringolo said about 23 years.
131. David Grayck asked if the curriculum has been basically the same academics, as well as ski and eventually snowboarding. He said that he doesn't know when snowboarding started, but that he assumes that is essentially what it's been for the 23 years.

-
132. Mariel Meringolo said yes.
 133. David Grayck asked if over the course of those 23 years, you've had an opportunity to provide the skiing services to the students.
 134. Mariel Meringolo said yes.
 135. David Grayck asked if the school provides snowboarding services to students.
 136. Mariel Meringolo said correct.
 137. David Grayck said and those services include conditioning, yes?
 138. Mariel Meringolo said yes.
 139. David Grayck said and that's been successfully done even 'til now because the new addition isn't even been built yet?
 140. Mariel Meringolo said that she would not say that it has been successfully done. She said that she would say that they have managed to make it work, but as with all sports, the physical demands on the athletes increases as equipment improves and they are able to ski faster. Snowboard offers bigger features and jumps and so the physical demands increase which requires any type of school in our position to keep up with that and improve physical conditioning facilities.
 141. David Grayck said right, and so, he asked where do they do all those activities that I'm sure you offer to your students.
 142. Mariel Meringolo said they have a small, makeshift physical conditioning training room at the school, but also use the facilities the Spring House at Jackson Gore and Community Center by the high school, but the scheduling is very difficult and there are times when we are not able to use those facilities and the equipment available at those facilities and the equipment that we can fit in our facility are inadequate.
 143. David Grayck said okay, and said so when you say the current facility, what does that mean.
 144. Mariel Meringolo said our school building at 53 Main Street.
 145. David Grayck said that we saw at the site visit.
 146. Mariel Meringolo said yes.
 147. David Grayck said okay, thank you. He asked about Jackson Gore.
 148. Mariel Meringolo said that is part of the Okemo Mountain Resort and that there's a fitness facility there for the use of guests at the Mountain and the public can pay to have memberships.
 149. David Grayck asked if they let the students use the facility. He said that was very nice of them, I think.
 150. Mariel Meringolo said yes.
 151. David Grayck asked what she meant by the high school.
 152. Mariel Meringolo said the Community Center that is next to the Black River High School in the old armory building. She added that several years ago, Ludlow refurbished it into a community center. It has a basketball court, small weight room.
 153. David Grayck asked if Mariel Meringolo had a copy of the Exhibit books that the lawyers were so cranked about earlier. He asked her to look at Exhibit #1 and said that he can't read the signature.
 154. Mariel Meringolo said it's mine.
 155. David Grayck said so that's your signature on the form.
 156. Mariel Meringolo said yes.
 157. David Grayck asked Mariel Meringolo if it was also her signature on form 2.
 158. Mariel Meringolo said that is correct.
 159. David Grayck asked her to go through the book and if there were any other exhibits that she had signed.

-
160. Mariel Meringolo said that she had not signed any others.
161. David Grayck said so it's just 1 and 2.
162. Mariel Meringolo said yes.
163. David Grayck asked Mariel Meringolo about the project design process, itself and asked her to help him understand the process which was undertaken to approve it, by the school.
164. Mariel Meringolo said they decided we wanted to look into building a training facility, we put it out to bid and reviewed the plans that were submitted. She said that we, ourselves thought that, as far as the design looked, as long as it looked harmonious with the current building and was fitting with the style of the current building, that would, potentially be a nice addition to the property and town. She said that they knew they were in the Preservation District and would be subject to design review. We wanted a building that would be architecturally fitting with our existing building.
165. David Grayck said he should have been a little more specific. He asked about the internal process, if it was a decision by the board, was it approved by the board of the institution that you work for. He said that he assumes that it was.
166. Mariel Meringolo said there were several different small decisions.
167. David Grayck said and ultimately approved by the board and authorized to go ahead with.
168. Mariel Meringolo said yes.
169. David Grayck asked if at all, whether there were any changes to the design from when it was first approved by the board in, he said he thinks she got it right, was it September 2014, and since the DRB approved the project.
170. Mariel Meringolo asked which board.
171. David Grayck said this board. He asked if she knew if there had been any changes to the design since construction started.
172. Mariel Meringolo asked him to be more specific with design of the building. Have there been any changes to the design of the building
173. David Grayck said yes, we'll start with the design of the building.
174. Mariel Meringolo said no.
175. David Grayck asked if there had been any changes in landscaping.
176. Mariel Meringolo said they added some additional landscaping just to try to make the project more appealing and to try to screen our property from the abutting property.
177. David Grayck said so, the change in landscaping. He asked if there are any proposed new physical improvements or structures such as fences.
178. Mariel Meringolo said that she does not believe that the fence was on the original application.
179. David Grayck said so; there was more landscaping and a fence. He asked if there was anything else that she was aware of.
180. Mariel Meringolo said that she believes that the pavement of the parking surface was redesigned slightly, but other than that, no.
181. David Grayck asked if those three changes are somewhere reflected in the exhibits which are being offered to the board.
182. Mariel Meringolo said yes.
183. David Grayck okay, they're in there. He asked if she knew which exhibits show them, and if she doesn't, that's fine. He's just trying to understand what's what and what's where.
184. Mariel Meringolo said they would be in the developed conditions.
185. David Grayck asked if Larry Slason had given her some help.
186. Mariel Meringolo said she has been through this.
187. Larry Slason said we are going to go through the site plans with the project engineer and which will highlight all of these. He said understanding that Mariel Meringolo is not a

- project engineer. He said that he has asked her questions, if you wish to continue to ask her these types of engineering questions, you are welcome to, but we do have Ralph Michael.
188. David Grayck asked about the three changes.
189. Mariel Meringolo indicated Exhibit 5 Developed Conditions Sheet 2 shows additional crabapple trees and the fence to screen the parking area because that is especially mentioned in, I don't know exactly where she has read it, but I know that I did read it and you should always try to screen parking and so we decided to add the fence just to strengthen the project and some crabapple trees to soften the effect of the fence and provide further screening as well.
190. David Grayck said okay, that's very helpful. He said the adjoining neighbor is Mr. Rolka, yes. .
191. Mariel Meringolo said on the westerly side of the property, yes.
192. David Grayck asked if she know what use he makes of his property.
193. Mariel Meringolo said she believes he uses it as a residence.
194. David Grayck said maybe Mr. Michaels will tell us, but asked if she knows the distance between the fence and the property line.
195. Mariel Meringolo said on this Developed Conditions sheet it mentions that it will be 12 inches from the property line.
196. David Grayck said he could ask Mr. Michaels more about that. He asked if Mr. Chatot has anything to do with the design, or was it all Mr. Michael.
197. Mariel Meringolo said about the fence and crabapples?
198. David Grayck said yes.
199. Mariel Meringolo said that was primarily coming from Mr. Michael.
200. David Grayck asked Mariel Meringolo if she knows how visible the finished project will be from Mr. Rolka's property.
201. Mariel Meringolo said that she can't speculate how visible it is.
202. David Grayck said so that is not something you feel comfortable talking about?
203. Mariel Meringolo said correct.
204. David Grayck said okay. He asked if, in approving the design, did the board, your board, of, it's not OMS is it. Your official name is?
205. Mariel Meringolo said we were originally went into business as Okemo Tutorial Program Inc., but we d/b/a as OMS.
206. David Grayck said okay. Can I call you OMS?
207. Mariel Meringolo said yes.
208. David Grayck asked if OMS, at any time think it was important to protect the privacy of adjoining property owners.
209. Mariel Meringolo said yes. That is why the entrance to the fitness building is between our existing building and the new building so that students are walking between the current building and this building and so therefore they would be blocked. Any movement of them back and forth is actually by the building by the westerly point. Then we added the fence which is a privacy screen and the crabapple trees, as well.
210. David Grayck said okay. He said, so in terms of specific visibility, I'll save it for Mr. Michael or Mr. Chatot. He said in terms of noise, was there any consideration about noise and privacy.
211. Mariel Meringolo said this actually will help to reduce some of the noise that would go on. She said that the facility currently has an in ground trampoline that is outside of and to the west of our existing building and this will move into the silo, so that will be enclosed. So it would actually be quieter. She added most of our operation is primarily from November to early April and the months are cold and aside from spending time outside on the

- trampoline, there isn't a lot of time spent outside, and so there isn't much noise generated, in her opinion.
212. David Grayck said okay. He asked about lighting. Will there be security lighting. He said he guesses that Mr. Michael will testify about that, but was there any consideration about the visual impact of lighting in the building.
213. Mariel Meringolo said they paid careful consideration to it.
214. David Grayck said that he may have already asked this, but it is a very important issue and asked Mariel Meringolo if she was aware of the changes to the zoning bylaws when it was being proposed.
215. Mariel Meringolo said no, that she was made aware of that today.
216. David Grayck asked if anyone at the school, to her knowledge knew about it.
217. Mariel Meringolo said no.
218. David Grayck said okay, thank you.
219. Larry Slason asked Ralph Michael to refer to Exhibit 4 – Site Existing Conditions and asked to add OMS #4 into evidence, saying that the DBS have copies. He said that he does have a full sized set of the drawing, we will use an 11' x 17' for now. He asked if Ralph Michael had prepared that OMS Site Plan dated August 21, 2014.
220. Ralph Michael said yes.
221. He asked Ralph Michael if he was the project engineer for OMS training facility project.
222. Ralph Michael said yes.
223. Larry Slason asked for how long have you been involved in this project.
224. Ralph Michael said he can't recall exactly, but since last winter.
225. Larry Slason asked Ralph Michael if he had been at the original presentation.
226. Ralph Michael said yes.
227. Larry Slason asked if Ralph Michael had prepared Exhibit #4 dated August 21, 2014.
228. Ralph Michael said yes.
229. Larry Slason asked if Ralph Michael is a professional engineer and for how long.
230. Ralph Michael said yes and for 50 years.
231. Larry Slason asked if the existing conditions site plan drawing accurately reflects the existing conditions as they appear today.
232. Ralph Michael said this is the site when we did the survey last winter or last year. It shows everything that was there and we surveyed and located.
233. Larry Slason noted the paved parking area and existing tennis court toward the westerly side of the boundary and closer to the Rolka property.
234. Ralph Michael said that is correct, It was formerly there, before the school and has not been used as a tennis court for last several years. He indicated the actual parking lot closer to Deeplawn Court.
235. Larry Slason asked about the existing mature trees in the front lawn area along Main Street.
236. Ralph Michael said indicated a hedge row along Deeplawn Court kind of in front of the actual and between the 2 parking lots.
237. Larry Slason asked about the three maple trees which front on Main Street.
238. Ralph Michael indicated the location of three very large maples trees and said they are over 100 years old and in good shape.
239. Larry Slason asked about other trees.
240. Ralph Michael said there are 2 apple trees on the westbound line of the property.
241. Larry Slason asked if these trees would remain as they are on the drawing.
242. Ralph Michael said yes they are all labeled as existing.
243. Larry Slason asked Ralph Michael to refer to OMS Exhibit #5.

-
244. David Grayck said point of order, saying that he was assuming that Attorney Slason was going to move the introduction of OMS Exhibit #4 and that he would be able to conduct questioning at this time. He said that he thinks that he is entitled to do that.
245. Larry Slason said he was going to move for the admission of his exhibits at the end of his inquiry and all at once. He said that he can do it in the fashion that works for town counsel or the DRB.
246. David Grayck said that he just wants to begin to question each exhibit before we go on to the next exhibit and it's more foundational and not substantive.
247. Larry Slason said that he does not have a problem doing that. He addressed the DRB to move to admission of OMS Exhibit #4 Site Plan Existing Conditions Sheet 1 into evidence.
248. David Grayck said real briefly, to Mr. Michael, he said that on the site visit he thought we saw physical improvements which have been constructed and asked if he is right.
249. Ralph Michael said yes.
250. David Grayck said that he does not believe that this exhibit shows the improvements which have been constructed and asked if he was right.
251. Ralph Michael said only, in part did the foundation fits the footprint is shown on this one (#5.) He said that they are not on drawing #4. He said the date of this plan is August 21, 2014.
252. John Boehrer confirmed that we are speaking specifically about Exhibit 4.
253. David Grayck said so, when it's offered as site plan, it's offered with the understanding that since that time, there have been physical improvements constructed on the site, yes?
254. Ralph Michael said the answer is yes.
255. David Grayck asked if Ralph Michael if it is possible that he could draw on Exhibit 4 what has been physically constructed or is there some way we can we have an amended version of the drawing.
256. Ralph Michael said he could do an overlay and then revise the drawing.
257. Larry Slason objected to having this existing condition exhibit marked up. He said it whether or not Ralph Michael is physically capable of marking up the drawing is irrelevant. We want the exhibit introduces as is. He said that he could qualify the question and said that David Grayck makes a valid point. We can say that it reflects the existing conditions prior to any improvements. He asked Ralph Michael if this site plan shows the existing conditions prior to any improvements.
258. Ralph Michael said yes.
259. Larry Slason said with that qualification, he again moved for it to be admitted into evidence.
260. David Grayck had no objection.
261. Larry Slason referred to Exhibit #5 – and asked Ralph Michael to tell us what it is.
262. Ralph Michael said it is Site Plan Proposed OMS Developed Conditions dated 3/11/15, sheet 2.
263. He asked Ralph Michael if he prepared this drawing.
264. Ralph Michael said yes.
265. Larry Slason asked Ralph Michael if is his professional opinion that the OMS Exhibit #5, Site Plan Proposed OMS Developed Conditions dated 3/11/15, sheet 2 accurately reflect the conditions upon completion of the Okemo Training Facility project.
266. Ralph Michael said yes.
267. Larry Slason said to Ralph Michael that it would be helpful for the DRB to understand some of the changes on the new site plan OMS Exhibit #5 as contrasted with the original project that was approved last October. Has the parking been revised?

-
268. Ralph Michael said the parking has been revised in that it is now connected all the way through to the west end at the same width. There was a bump out (indicated by Ralph Michael on the drawing) where the sewer line was, but it will be insulated.
269. Larry Slason asked how many parking spaces are now delineated on the site.
270. Ralph Michael said there are 50 spaces.
271. Larry Slason asked Ralph Michael if he had reviewed the Village of Ludlow zoning regulations specific to required parking spaces.
272. Ralph Michael said yes he had.
273. Larry Slason asked Ralph Michael if the 50 parking spaces conform to the Village of Ludlow Zoning Regulations.
274. Ralph Michael said that, in his opinion, this meets the standards. There is adequate parking for the number of staff and the very few students (3 or 4) that may drive.
275. Larry Slason asked Ralph Michael, of the 33 staff members, do you remember how many are there in the morning and how many in the afternoon.
276. Ralph Michael said he did not remember exactly, but roughly about 1/3 in the morning and 2/3 in the afternoon. He added that this is not exact and may vary. He also said that, typically, all 33 staff are not there at the same time.
277. Larry Slason said 2/3 would use about 22 spaces with maybe 5 to 6 students.
278. Ralph Michael said it would be about 40 spaces required. No more than 40 in a typical day.
279. Larry Slason asked the size of the parking spaces, as designed.
280. Ralph Michael said they are in accordance with the Village of Ludlow Zoning Regulations, 9 feet wide and 22 feet long.
281. Larry Slason asked the width of the parking lot.
282. Ralph Michael said the width from north to south is 70 feet.
283. Larry Slason asked the width of the central lane of the driveway.
284. Ralph Michael said subtracting 22 feet on each side of the north and south sides, 26 feet travel, maneuvering lane, adding that zoning only requires 20 feet wide. He said the parking lot exists at 70 feet and we did not want to change that. He said that it had not changed from the original (the existing conditions plan) and had been the same for many years.
285. Larry Slason asked Ralph Michael does the parking lot, as designed, in your professional judgement, safely accommodate vehicles entering and exiting the OMS premises.
286. Ralph Michael said yes.
287. Larry Slason asked Ralph Michael if he could elaborate on why he holds that opinion
288. Ralph Michael said that the parcel is quite flat has very little grade. The access, off Main Street, is relatively flat. He said that Deeplawn Court is a village street. He said that the access to the main parking lot which is on the south side of the building, the intersection is also very flat. He said that the entrance to the school main parking lot is relatively flat, probably not more than a couple percent overall. It has extra wide travel and maneuvering area between lots accommodates not only cars that enter, but also serves as loading zone. It is easy for trucks to pull up on the right side of the street access the parking lot which is a loading area and simple to maneuver. The same would apply for EMS vehicles. He said that as far as the maneuver for students when they arrive, being transported by their parents, they can drive up and enter the parking lot or there's a good place to turn around where Deeplawn intersects Washburn and there's a big parking lot here to the east where the Ludlow parking lot is. He indicated these on the drawing. So, it is an easy place to maneuver, there's the opportunity for cars to turn around and drive back, unload, either in the parking lot to the east.

-
289. Larry Slason asked Ralph Michael to describe the places that he had indicated.
290. Ralph Michael Deeplawn Court at the intersection of Washburn Lane cars can easily maneuver a turn and then drive back south going on Deeplawn Court and unload the students in either 2 locations, either on the parking lot that's on the east side of the existing OMS building. Another thing is that they can park here in the front of the parking lot, on the west side of the Deeplawn Court to park and unload their passengers and continue driving out, not having to make a turn in and out of the parking lot on the south side of the main building, in other words, the main parking lot.
291. Larry Slason asked Ralph Michael to describe drop-offs. He asked with respect to the parking lot itself, is the lot is ample size for students to park.
292. Ralph Michael said that he thinks they could, if they were vacant, but this parking lot is primarily for staff, but also, students that do drive can park there.
293. Larry Slason asked if some of the students are brought to the school by small minibuses.
294. Ralph Michael said he understands that it is. They can drive into the parking lot because it is substantially wider than a typical parking lot. A standard parking lot is 64 feet wide, instead of 70. So, a good sized minivan can easily come in here, to this parking lot from Deeplawn Court and turn, unload and drive out.
295. Larry Slason asked, with respect to unloading commercial vehicles, do you know how frequently that may happen at OMS.
296. Ralph Michael said, well, this is a school so there are UPS trucks, maybe on a daily basis when school is in session and maybe other delivery trucks for paper goods or whatever. It would be very infrequent, I think.
297. Larry Slason asked if the vans currently unload students in the existing lot. Do the minivans currently use the existing lots to unload students?
298. Ralph Michael said that he does not have firsthand knowledge about that, but it could accommodate vans.
299. Larry Slason asked about the access to OMS site from Main Street. Tell us about the intersection of Main Street and Deeplawn Court.
300. Ralph Michael said that Main Street is a posted 30 miles per hour street, except when the high school and grade schools are in session and then it is 25 miles per hour. The sight distance is 400+ feet to the east on Main Street and about 800+ feet to the west, worst case considering snow banks.
301. Larry Slason asked if, in Ralph Michael's professional opinion, are those sight distances considered safe and adequate for the volume of traffic entering and exiting OMS.
302. Ralph Michael said that those sight distances are in excess of AOT standards for both stopping and turning sight distances.
303. Larry Slason asked if he is correct in his understanding that that intersection has been used, the intersection of Main Street and Deeplawn Court has been used for the access to OMS since its inception.
304. Ralph Michael said yes and before.
305. Larry Slason said, looking at the site plan, let's identify any additional changes in the landscaping. Tell us what changes you have made as project engineer in the landscaping since this project was first reviewed.
306. Ralph Michael said the first project; he had proposed a screen along the cedar hedge to replace the trees along the stone wall along the west property line. It would have extended from that stone wall on the Rolka property. Then that did not provide enough screening for the headlights, driving into the parking lot driving west it would also screen parked cars. To enhance the landscaping, he proposed to plant some ornamental crabapples which will

- bloom. They have a very wide apron and dense leaves to screen. When planted they will range from 5 to 7 feet high and will grow to probably about 20 feet high.
307. Larry Slason asked, in your experience, what period of time it would take for them to reach full height.
308. Ralph Michael said, these type of trees, one reason I selected them, is they grow rather rapidly, in good soil, once the first 2 to 3 years have passed, they really start growing higher per year.
309. Larry Slason asked Ralph Michael to show the locations of these trees on the site plan.
310. Ralph Michael indicated that they would be south of the west end of the parking lot in front of the parking and 3 more to the north. They are placed to take full advantage of the screening once they have developed into a full tree.
311. Larry Slason asked Ralph Michael about the fencing proposed on the westerly boundary.
312. Ralph Michael said it would be good looking and 5 to 6 feet high, depending on what fence is selected. They are several kinds available. The front side of the fence would face the Rolka property and the back side, with posts, would face the parking lot.
313. Larry Slason asked the length of the fence.
314. Ralph Michael said 96 feet long, beginning on the north side, almost in line with the north end of the parking lot and angling 96 feet to the south. It will cut off the view of the parked cars from the residence on the Rolka property.
315. Larry Slason asked, in terms of cars entering the parking lot, what are the OMS hours of operation.
316. Ralph Michael said he does not know for sure, probably 8:00 a.m. to 3:30 p.m., maybe similar to the high school. He said maybe Mariel Meringolo would know that better. He said that he is not familiar with the operation of the school.
317. Larry Slason said he would ask Mariel Meringolo. He asked Ralph Michael if it is likely that there would be any significant number of vehicles entering the parking lot after dark.
318. Ralph Michael said he didn't expect they would be. The school would be closed after dark and even in the winter it gets dark around 4:30 p.m.
319. Larry Slason asked if Ralph Michael thought there would be an issue with headlights.
320. Ralph Michael said no, unless somebody comes in and turns around on their own. It's a public street with a big parking lot; somebody could possibly do that, certainly not from traffic associated with the school.
321. Larry Slason asked if the site plan also show location of proposed lighting.
322. Ralph Michael said, yes it does.
323. Larry Slason said that we have Mr. Chatot who will tell us about the specifics of the lighting, but he would like Ralph Michael to show us the location of the different types of lighting.
324. Ralph Michael said the lights that light up the walkway between the two structures would be located, numbered on the drawing, numbers 7, 8, 9, 10 and 11 and more lights on the walkway on the east side of the building, and it would go around to the north side of that building for the purpose of guiding people along the walkway. They will be very low lights.
325. Larry Slason said that there is lighting at 3 entrances and does the site plan show the 3 entrances where there would be wall mounted luminaries.
326. Ralph Michael said that is correct. There are lights #1 and #2 are on the south main entrance of the new facility; #3 and #4 on the east side of the building and #5 and #6 over the entryway where the silo is.
327. Larry Slason asked if there would be any lighting on the westerly side of the proposed fitness facility.
328. Ralph Michael said no.

-
329. Larry Slason asked about lights in the parking lot.
330. Ralph Michael said, no. There are 2 existing lights already existing on the front on the south side and each side of the walkway that goes into the existing building, just little walkway lights.
331. Larry Slason said right and asked again will there be any parking lot lights.
332. Ralph Michael said none.
333. Larry Slason asked Ralph Michael if the site plan also shows the dimensions of the existing OMS classroom building and the proposed new fitness facility.
334. Ralph Michael said yes it does.
335. Larry Slason asked Ralph Michael if the site plan shows the zoning district boundaries for the Village Residential Commercial and the Ludlow Preservation District.
336. Ralph Michael said yes it does.
337. Larry Slason asked Ralph Michael to show us where the boundary of the Residential Commercial in relationship to the entire lot.
338. Ralph Michael indicated the boundaries. He said that the line just misses the north end of the existing OMS building and goes through the proposed new facility and that is determined by the distance of 75 feet from the property line on Washburn Lane.
339. Larry Slason asked would the new proposed fitness facility be located partially in the Preservation District and the Residential Commercial districts.
340. Ralph Michael said yes.
341. Larry Slason said, now looking at the OMS building and asked if the existing OMS building is located entirely in the Preservation District.
342. Ralph Michael said the existing building is entirely in the Preservation District.
343. Larry Slason asked Ralph Michael if, when preparing the site plan, did he do so with the intention of placing the buildings and structures on the site in a manner that would conform with the Village of Ludlow Zoning Regulations.
344. Ralph Michael said yes. He said he sited the building based on the requirements of the architect. One of the essential parts was to line up the two buildings up precisely so the face of the two buildings were the same and parallel.
345. Larry Slason referred to the requirements for the Ludlow Preservation District to the extent there are any. He represented and asked the board to take official notice of the Ludlow Preservation District, Section 410. It establishes a lot area minimum of 10,000 square feet. He asked Ralph Michael if the lot area within the Preservation District a minimum of 10,000 square feet.
346. Ralph Michael said the lot is 69,177 square feet.
347. Larry Slason said, so in your judgement, is that requirement satisfied.
348. Ralph Michael said yes.
349. Larry Slason asked if there are any dimensional requirements in the Preservation District for frontage depth setbacks or coverage.
350. Ralph Michael said no.
351. Larry said now let's talk about conformance with, stopped and asked Mr. Michael, if in his professional judgement, does the training facility as sited, conform with the dimensional requirements of the Ludlow Preservation District to the extent that they appear in Section 410 of the bylaws.
352. Ralph Michael said yes.
353. Larry Slason said now let's talk about the Village RC District and asked if Ralph Michael had prepared the legend on the site plan summarizing the actual dimensions and comparing those against the required standards of the RC District.
354. Ralph Michael said yes.

-
355. Larry Slason asked Ralph Michael to point that out on the site plan. He said that he knows that the DRB members have a copy.
356. Ralph Michael said the legend appears on the lower left half of the site plan, just to the left of the LP District.
357. Larry Slason, said, now mindful of the hour, we can go into more detail, if we are required to, asked Ralph Michael having in mind of your understanding of the requirements and your professional opinion, do the dimensions, reflected in the legend, do you have a professional opinion of the training facility as sited conform with the requirements of the Village Residential Commercial District.
358. Ralph Michael said yes. He said that the table gives the standards, the next column states what that standard is and final column shows what is being provided and what is being provided is in conformance with the standards.
359. Larry Slason asked Ralph Michael if the site plan provides or show the location of the water and sewer lines and asked Ralph Michael to indicate water and sewer lines on the drawing.
360. Ralph Michael indicated the sewer line for the proposed new facility, saying that it leaves the building near the southwest corner of the building and runs parallel to the property line and goes across to a proposed manhole and from there runs to where it joins with the sewer line for the existing building and then goes out to the Main Street sewer line, actually very close to the center line of Main Street.
361. Larry Slason asked Ralph Michael if are there any other features on the site plan that you wish to point out or emphasize at this time or do you believe we have described them in sufficient detail for this board to evaluate the project..
362. Ralph Michael said the water service line to the existing building is about 4" water service and serves the sprinkler system in that building. It used to go almost along the same route as the sewer line, but when this water line was put in, what I have proposed is to use for domestic water supply for the existing building, so it complies with all of the separation requirements, even though it's existing and does not have to, but will comply with all of the separation distance standards for wastewater and water supply permits. There will be a connection with a curb stop on that line a few feet from the existing building and runs parallel with Main Street, going west, to the new facility, a 1" copper service pipe. He already has the permit for it.
363. Larry Slason asked if we can talk about some of the other permits, but he wants to limit his questions about the site plan for the moment. He asked, going back to the legend, if the project conforms with Section 430, the Village Residential Commercial District. He said the building height as provided is set forth as 24' 2 5/8" and says see Banwell A201. He said you've placed that measurement there on the site plan but are we correct in understanding that it was Jules Chatot of Banwell, the architect, who has evaluated the height and he will be providing testimony on that later.
364. Ralph Michael said Barnwell provided the information and he put it in this table so that it would be on the site plans.
365. Larry Slason moved, at this time, for the admission into evidence of OMS Exhibit #5 Site Plan of Developed Conditions, dated 3/11/2015 Sheet 2.
366. David Grayck said that he has no objection with respect to its authenticity, but reserves the right to question the witness with respect to the truth of the matter which it asserts and asks to move forward with questioning on that basis. He said that he does not dispute that it is authentic, that he's laid a proper (someone coughed. I think he said foundation) for it, so he does not object to it on those grounds - to the extent that it is asserting or the exhibit

- asserts substantive compliance at issue. He said that he does not want his lack of objection to be deemed as not contesting it for the truth of the matter.
367. John Boehrer said that David Grayck's objections are duly noted.
368. Chris Callahan asked David Grayck if he would like to question him (Ralph Michael) now.
369. David Grayck said yes. He said that he believed that Larry Slason asked you about compliance with Section 410.
370. Ralph Michael said yes.
371. David Grayck confirmed with Ralph Michael said he had been in this business a long while.
372. Ralph Michael said yes.
373. David Grayck confirmed that Ralph Michael had been an engineer for 50 years.
374. Ralph Michael said yes.
375. David Grayck asked Ralph Michael if he had been doing work in Ludlow for a long time.
376. Ralph Michael said yes.
377. David Grayck asked Ralph Michael if he is familiar with the zoning bylaws.
378. Ralph Michael said quite familiar with them.
379. David Grayck said he is sure that Ralph Michael is quite familiar with them. He said okay, so do you have a copy of Section 410 in front of him because it would greatly facilitate my questioning of you if you would have a copy of the zoning bylaws with you or at least Section 410.
380. Ralph Michael said he does not have it with him.
381. Larry Slason asked David Grayck if he had a copy that he could refer it to Ralph Michael.
382. David Grayck asked if he (Ralph Michael) had a copy of Section 410 with him.
383. Ralph Michael said no.
384. David Grayck said, you don't have a copy of the zoning bylaws with you?
385. Ralph Michael said no. He said he has a copy back at his office.
386. David Grayck said let me get you a copy.
387. Larry Slason asked from which ordinance was David Grayck pulling a copy?.
388. David Grayck said that he is taking it from the ordinance that I understand to be in effect that I obtained from the website today.
389. Larry Slason said, which is?
390. David Grayck said he did not know, I don't know what you've got on your website, anymore.
391. Larry Slason said we don't really know what Mr. Michael is reviewing.
392. David Grayck said that he guesses that he'll tell us. He said that Ralph Michael testified that he is very familiar, that he understands the Ludlow Zoning bylaws and that he designed the project in compliance with it. So I suspect that he has the ability to recognize it as the ordinance and its validity, but if he doesn't he can tell us. .
393. Larry Slason said he would like to see a copy of what David Grayck is going to show Ralph Michael before David Grayck shows it to him.
394. David Grayck asked Ralph Michael to hand that to Attorney Slason.
395. Larry Slason asked David Grayck if he is going to represent to Ralph Michael where he pulled this and what the face sheet of this ordinance looks like.
396. David Grayck said that's from the Town, Village of Ludlow Zoning bylaw that's on the website. He said he got it today. He said he downloaded and printed it today.
397. Larry Slason asked if it was from the Village Flood Hazard Regulations.
398. David Grayck said that Larry Slason had said Flood Hazard and that he had not done Flood Hazard.
399. Larry Slason said that there are 2 regulations.

-
400. David Grayck said it's the village. It's the village. He said you asked me what I represented., He said that he just represented what he told you.
401. Larry Slason said the Village of Ludlow Zoning and Flood Hazard Regulations, Section 410 appears on page 25, excuse me, appears on page 20 and that's what you just handed him.
402. David Grayck said I handed him Village of Ludlow Vermont Zoning and Flood Hazard Regulations. That's what I handed him and I obtained it from the town/village website today.
403. Larry Slason said what David Grayck is representing is that face sheet of that and showed it and said this is what it looks like from the one you downloaded.
404. David Grayck said he couldn't see it and asked Larry Slason to show it to him.
405. Larry Slason said, rather than just take a page out of the 100 page document, it would be helpful if David Grayck would show him where it came from, with the page and the table of contents and then he'll talk about it. You just can't pull random pages out of a document.
406. David Grayck said okay, we'll do it the hard way if that's what you want.
407. Larry Slason, well hard way, you guys set the tone tonight.
408. David Grayck said you want to do it this way, we'll do it this way. David Grayck said that Ralph Michael had already said that he is familiar with the Village Zoning Bylaws, yes?.
409. Ralph Michael said, yes, the ones effective September 5, 2006 revision.
410. David Grayck said okay and asked if that was the version of the bylaws that you relied on to design this project for the board, tonight.
411. Ralph Michael said yes.
412. David Grayck asked if it is Ralph Michael's testimony that the project . So your testimony was given in conformance with the Zoning and Flood Hazard Regulations adopted January 23, 2006, yes.
413. Ralph Michael said yes.
414. David Grayck said and amended September 5, 2006.
415. Ralph Michael said yes.
416. David Grayck asked if there were any subsequent amendments which he designed this project to comply with.
417. Ralph Michael said no, that's the document.
418. David Grayck asked Ralph Michael if he had heard the testimony that there has been an amendment to the zoning ordinance which was adopted in 2015.
419. Ralph Michael said he heard that this evening.
420. David Grayck said, but you didn't' design the project to comply with the new zoning regulations, correct.
421. Ralph Michael said that he does not know if it complies or not, because he has not seen those, but he suspects that it still complies.
422. David Grayck said that beyond your suspicion, you haven't done any review of the amended bylaw from 2015 to determine compliance, right.
423. Ralph Michael said no, but his suspicion is based on the past 9 years since that village document was accepted.
424. David Grayck said right, but beyond your suspicion, have you reviewed the document adopted in 2015 to determine compliance, yes or no.
425. Ralph Michael said no.
426. David Grayck said thank you. So in terms of Section 10, Article 4, it's your testimony that the lot area minimum is 10,000 square feet, correct.
427. Ralph Michael said more than 10,000 square feet. The standard is 10,000 square feet.

-
428. David Grayck said right, that's what I mean, the district standard is 10,000 square feet. David Grayck said for purposes of the Zoning District Regulation, Section 410, and Ludlow Preservation District what the lot frontage minimum.
429. Ralph Michael said he does not believe there is one.
430. Larry Slason said that Ralph Michael could look at the exhibit.
431. David Grayck said he is not asking what is on the site plan, I am asking what the regulations provide.
432. Larry Slason asked if Ralph Michael has page 20 any longer.
433. Ralph Michael said no, he doesn't.
434. David Grayck asked if it was okay to give Ralph Michael a copy of page 20.
435. Larry Slason said sure.
436. David Grayck gave a copy of page 20 to Ralph Michael,
437. David Grayck said that because it is a non-residential use, we don't look at lot frontage minimum. Is that what you're saying.
438. Ralph Michael from page 20 and said lot frontage is 70 feet for residential purposes and for non-residential purposes there is no requirement.
439. David Grayck said okay, so what I was saying is, because this is not a residential project, the 70 feet lot frontage minimum doesn't apply, right.
440. Ralph Michael said that's right.
441. David Grayck said and the same thing for lot depth minimum, right.
442. Ralph Michael said yes.
443. David Grayck asked about front yard setback minimum, does that only apply to residential uses or residential and non-residential uses.
444. Ralph Michael said that he believes that the way this is listed here, it only applies to residential listings.
445. David Grayck said, the front yard setback minimum.
446. Ralph Michael said yes, there are no setback requirements in the historic district.
447. David Grayck said that he is looking at Ludlow Preservation District and it says the front yard setback minimum is 30 feet from the edge of the right of way including sidewalks if they exist and I am asking whether that provision is applicable to the proposed project.
448. Ralph Michael said that he believes it isn't because not under non-residential uses.
449. David Grayck said, okay and therefore you did not design the project to comply with the front yard setback minimum.
450. Ralph Michael said well, it certainly does, the distance is 286 feet from the property line on Main Street.
451. David Grayck asked what about the other road.
452. Ralph Michael said this one is 128 feet from the property line on Deeplawn Court.
453. David Grayck asked about Washburn Lane.
454. Ralph Michael said it is in a different zoning district at that point.
455. David Grayck said thank you for your explanation. He asked about rear yard minimum setbacks. He asked if that applied to non-residential uses.
456. Ralph Michael asked in the LP District?
457. David Grayck said in the LP District, Section 410 Ludlow Preservation District, and page 20.
458. Ralph Michael said there is no dimension.
459. David Grayck said it only applies to residential uses, yes.
460. Ralph Michael said that's right.
461. David Grayck asked about side yard minimum setbacks, 8 feet side. Does that apply to non-residential uses .

-
462. Ralph Michael said no.
463. David Grayck said the lot coverage maximum is not to exceed 12%/ not to exceed 2, 500 square feet total, not including accessory building and that does not apply to non-residential uses.
464. Ralph Michael said no.
465. David Grayck asked and what's the basis of your reason that the provision that I just read, lot coverage maximum does not apply to non-residential uses
466. Ralph Michael said the lot minimum, the 10,000 square feet does apply.
467. David Grayck said let me ask you again. He said that he is looking the lot coverage maximum says 12%/ not to exceed 2, 500 square feet total, not including accessory building. Does that provision apply to this project.
468. Ralph Michael said lot coverage maximum does not apply to this in the LP District.
469. David Grayck asked why it doesn't apply
470. Ralph Michael said because it is not shown under non-residential uses .
471. David Grayck asked if there were any other reasons.
472. Ralph Michael said no, that what he believes it is, is the Ludlow Preservation District does not include these standards.
473. David Grayck asked, lot coverage maximum.
474. Ralph Michael said the only standard it applies to is the one-family dwelling, but this is not a residential use.
475. David Grayck said with respect to building height maximum, he said it says 35 feet or three stories whichever is less and asked if that applies to non-residential use.
476. Ralph Michael said yes, I believe it does, but he said that he does not know why.
477. David Grayck asked why Ralph Michael believes it does.
478. Ralph Michael said that he has always, on all of the projects that he has been involved in , in Ludlow, he has used 35 feet maximum being height as defined the definition section of the village zoning.
479. David Grayck asked does the proposed project (limited to the portion in the Ludlow Preservation District) exceed 25,000 square feet total.
480. Ralph Michael asked for the question to be repeated.
481. David Grayck asked does the proposed project (limited to the portion in the Ludlow Preservation District) exceed 25,000 ...
482. David Grayck repeated the question because the tape was being changed
483. David Grayck repeated the question a third time but with a change in the square feet. David Grayck asked does the proposed project (limited to the portion in the Ludlow Preservation District) exceed 2,500 square feet total.
484. Ralph Michael said no. Well, it contains 3,877 square feet in the LP District.
485. David Grayck said okay, so 3,877 square feet is greater than 2,500 square feet.
486. Ralph Michael said yes.
487. David Grayck said we will fight over whether that provision applies, but at least the square footage of it that's proposed in the LP District does exceed 2,500 square feet total.
488. Julie Nicoll said for a matter of record, she must be getting tired but swore that he has originally said 25,000 or 2,500 square feet. Just to clarify, what is it. She said she heard it three times out of his mouth.
489. David Grayck said thank, so I'll do it again. I think Ralph Michael has clarified it. So on the drawing, it says area LP District 3,877 square feet. yes.
490. Ralph Michael said yes.
491. David Grayck said and that's, the 3,877 is the square footage of what.

-
492. Ralph Michael said it is the square footage of the portion of the fitness facility in the LP District.
493. David Grayck said okay, it's not the lot, it's meant to define the square footage of proposed fitness facility in the LP District.
494. Ralph Michael said that the standard you're looking at, lot coverage maximum, he believes, does not apply in the Ludlow Preservation District.
495. David Grayck said yes he knows that and he is not trying to suggest that it is your testimony and that you do believe that it applies I am just trying to make it clear what the number 3,877 square footage is.
496. John Boehrer said that has been made clear. Move on.
497. David Grayck said, now the site plan also refers to conformance to Section 430, yes.
498. Ralph Michael said yes..
499. Richard Harrison said you know, we are not getting anywhere here. We're sitting here, biting our tongue. It's pretty damn bad that we can't all just play nice and work together. This is getting to be ridiculous right now
500. David Grayck said he wants to discuss the provisions of Section 430 and looking at that provision...
501. Chris Callahan just responding to Mr. Harrison's response where are you going with this. I mean, this stuff seems factual and every question you've asked is basically a fact that is before everyone and it is not really an opinion and really not changing anything. You're basically saying is this what this says here and he says yes. Where are we going with this?
502. David Grayck said he has extensive questions regarding the facts of this project.
503. Chris Callahan said you may, but as we are all falling asleep and this is going on and on. Could you help us out and guide us where you might be going with this.
504. David Grayck said he is going with this to determine whether the project properly complies with the criteria, what criteria are applicable and what Ralph Michael did to determine that. He said that he has extensive questions.
505. Chris Callahan asked why would that matter.
506. David Grayck said because...
507. Chris Callahan said you can argue...
508. David Grayck said because I believe the project might not comply with the criteria and he is entitled, on behalf of my clients to ask questions about this site plan He said he didn't interrupt Mr. Slason. I want to ask questions of this witness. He prepared this site plan and offered opinions in relation to this site plan, he's offered opinions in relation to its compliance with the zoning bylaws and I intend to go through and ask very specific questions about all the applicable criteria which may or may not apply to this project to determine whether it complies with the criteria at issue.
509. Chris Callahan said it is not Ralph Michael's decision whether or not it complies.
510. David Grayck said Ralph Michael offered an opinion that it does. He said that he offered an opinion that it does. I'll do what you tell me to do and if you're saying that I can't ask the questions, put it on the record and I'll move forward.
511. Chris Callahan said that no one is not saying that you can't ask questions, but what we've asked you, is where are you going with this.
512. David Grayck said I've told you. I am determining whether it complies with the criteria at issue
513. Chris Callahan said David Grayck is asking Ralph Michael or you're cross examining him to show that it doesn't. I mean, where are you going.
514. David Grayck said well yeah, I mean that's the part, to show that it doesn't comply.
515. Chris Callahan said but you're not. You're asking him does this say 344 or 345.

-
516. David Grayck said he is pursuing questions that are relative to the facts and opinions that he has testified to.
517. Chris Callahan said you've got a general feeling.. He said that this is kind of dragging quite a bit.
518. David Grayck said that he objects to Chris Callahan's intrusions. I believe that the board member has tainted this process. My client's due process rights have been violated. It's the same all over with a case involving a Walmart and a board member. I'm prepared to move forward.
519. Chris Callahan said wait a minute. Walmart with the gentleman with the hat that said "NO WALMART"
520. David Grayck said that is the case I am referring to. .
521. Chris Callahan said okay, that is not what Mr. Harrison is talking about. He's asking you to pick it up.
522. David Grayck said that he believes Mr. Harrison and ultimately a court will decide, for the record, I am renewing the due process violation claims. He said that he is prepared to move forward with the questioning and if the board wants to say I'm not allowed to ask questions, I will, of course follow the board's ruling.
523. John Boehrer said that he did not have anywhere to go tonight.
524. David Grayck said that he takes that as permission to continue. He asked about Section 430 and asked Ralph Michael if he had a copy..
525. Ralph Michael said no. It's on the plan. He said that he answered all questions that you are going ask about that on the plan..
526. David Grayck asked if the project is listed as a Conditional Use permit.
527. Ralph Michael said yes.
528. David Grayck asked Ralph Michael identify which criteria it fits into under the Conditional Use.
529. Ralph Michael asked him to repeat the question.
530. David Grayck asked Ralph Michael to identify the criteria under the Conditional uses list which the project fits in.
531. Ralph Michael said Section 430 for the Residential Commercial District, is that correct.
532. David Grayck said Village RC District Section 430, yes.
533. Ralph Michael said this is in compliance with it.
534. David Grayck said but which conditional use category does it fall under.
535. Ralph Michael said it falls under all the categories that are in the RC District that are applicable . He said there is a standard rear yard minimum that is not applicable because it can't meet the rear yard minimum because it's in both, it's on the line, and it's on the RC boundary line. The setback is logically 0 feet for the rear yard, even though it says 20 feet, but it can't be 20 feet because the zoning district boundary runs through the same building that's in the LP District, also .
536. David Grayck said that Section 430 RC District has a list of permitted uses. Do you agree with me that the project is not included on the list of permitted uses.
537. Larry Slason said that he objects.
538. John Boehrer asked objection on what grounds.
539. Ralph Michael said no, I don't agree with you.
540. Larry Slason asked Ralph Michael to take a look again at Section 430 page 25. He said that while I have the floor on the objection, I wish to note again, I am not going to ask you, David Grayck, not to ask your question, but what I ask the question on conformance is whether or not it conforms with the dimensional requirement of the Section 430, RC

- District, no questions were asked of Mr. Michael whether it was a permitted or conditional use.
541. David Grayck said right, so.
542. Larry Slason said that he thought that you (David Grayck) were alluding to that we had opened the door and somehow had asked that question, but we had not.
543. Ralph Michael said he thinks he can answer the question. He said that David Grayck is asking the question of compliance with a conditional use. It isn't because it isn't a conditional use. It isn't stated as a conditional use because it's a school.
544. David Grayck said thank you. So in looking at the exhibit, where it says conformance with Section 430 Village RC District. He asked Ralph Michael if he wanted to look at his own exhibit.
545. Larry Slason said that he sees the standards and provisions, he said he sees nothing there about whether it conforms as a permitted or conditional use.
546. David Grayck said it is making a representation that it conforms with a conditional use, Section 430 Village RC District and I am asking the witness and I think he's said it, it is self-evident that this project is not a permitted use and it's not a conditional use for use in the 430 district.
547. Larry Slason said that he disagrees with David Grayck on that and I could argue and articulate why it is a conditional use but that's not for you or I to decide.
548. David Grayck said he agreed with that, so that's why in the questioning of the witness, I believe he's testified that the project, as a conditional use is not listed, because he said it's a school, which is fine
549. Ralph Michael said that's right.
550. John Boehrer said okay, he's answered. Let's move on.
551. David Grayck referred to Section 410 and gave a copy to Ralph Michael. He said that school is not a conditional use in Section 410, right?
552. Ralph Michael said that is correct.
553. David Grayck said, no school. So, this exhibit is only intended to show conformance with Section 430 standards and compliance with the 10,000 square foot requirement of Section 410. Am I right?
554. Ralph Michael said Section 410, LP District, this project has a requirement of a lot area minimum of 10,000 square feet, but that's for a one family dwelling.
555. David Grayck said that he is trying to understand and have you make clear for us the criteria in the zoning ordinance which this exhibit demonstrates compliance for and it is his understanding that it's only pertaining to Section 410 and Section 430. Am I right or wrong?
556. Ralph Michael said you're right. It's to those two districts.
557. David Grayck asked if on this exhibit, that was there nothing else.
558. Ralph Michael said correct, nothing else.
559. David Grayck and this is Exhibit #5, correct?
560. Ralph Michael said yes.
561. David Grayck said there was some testimony regarding days and hours of operation relative to lighting issues. He asked if Mariel Meringolo is going to provide a clarification on that.
562. Larry Slason said she can, yes.
563. David Grayck asked if she could do that now, please.
564. Larry Slason said Mr. Grayck asked an appropriate question and asked Mariel Meringolo for clarification of the days and hours of operation of OMS and the training facility as contemplated once it's constructed.

-
565. Mariel Meringolo said for the months of November through the end of March, sometimes going into the beginning of April, we operate from 7:30 a.m. to approximately 6:00 p.m.. She said that, at that point, typically, all students are picked up and there is no one living at the school. We operate on a more limited basis on the weekends and during the off-season, that is early April through the end of October, we're there on a much more limited basis, hardly ever on weekends and typical business hours, during the day. They will use the fitness facility or the training facility will only be used during the hours of operation, the normal hours of operation on, and it doesn't anticipate that it will extended hours for dryland training. The school operates in blocks and the blocks are within our typical daily academic schedule in the afternoons, from about 12:20 p.m. to 5:40 p.m. It will primarily be used at the very beginning of the day at 7:30 a.m., when students arrive they get warmed up, then head up to the mountain in the morning and then when they return, they rotate through different blocks of time and use the training facility in the afternoon. She asked if that answered the question?
566. David Grayck asked her to clarify whether she said they were there until almost 6:00 p.m. He said that is what his client asked him.
567. Mariel Meringolo said yes, classes end at 5:40 p.m. and then we have pickups.
568. David Grayck. referring to Exhibit #5, said that Ralph Michael had testified about traffic circulation patterns, yes?
569. Ralph Michael said yes.
570. David Grayck asked if that was because that's a criteria for review under Section 410 or Section 430..
571. Ralph Michael said neither. It is a different section.
572. David Grayck said he is trying to understand for what purpose this exhibit is being offered. He asked what criteria it is intended to show conformance to. He said so I take it the testimony regarding traffic circulation was not pertaining to Section 410 or 430.
573. Ralph Michael said not specifically, no. There is another section in the zoning that deals with traffic circulation.
574. David Grayck said it that was the point of the traffic circulation testimony, to deal with another section of the zoning bylaws. He said he just wants to know and understand.
575. Ralph Michael said he was explaining what is shown on the site plan. That was my intent
576. Larry Slason noted that he had asked Ralph Michael the question about traffic. You can ask me what the intent was and I'd be happy to tell you. Mr. Michael's answered the questions I asked of him.
577. David Grayck said right, He noted it seemed like the questions about traffic were not based on sections 410 or Section 430, so he said he was wondering there was another provision that you had in mind when you were offering that testimony..
578. Larry Slason repeated that Ralph Michael did not offer it, I asked him about traffic.
579. David Grayck said I guess he answered your question so...
580. Larry Slason asked what was David Grayck's objection.
581. David Grayck said that he is not objecting, I'm just trying to find out whether his traffic testimony was applicable to criteria beyond 410 and 430.
582. Larry Slason said that he has a witness on the floor who I am going to ask to identify further exhibits about traffic and since traffic is an issue, both in terms of site plan review and other considerations of this DRB, he said he took the opportunity to ask Mr. Michael those questions at that time. He said that he hopes that helps clarify it.
583. David Grayck said it does. He asked if Larry Slason was going to return to those criteria or if he should ask questions about traffic now.
584. Larry Slason said he thinks you should ask some questions about traffic now.

-
585. David Grayck so you reached conclusions about traffic, yes.
586. Ralph Michael said yes.
587. David Grayck said that he assumes that the school provided you with estimates regarding the numbers and vehicles and trips.
588. Ralph Michael said yes. He said they sent me and provided information regarding the number of people that are staff, the number of people that typically came to the school in vehicles, cars or minibuses or whatever means and that . They also advised me as to how many of those cars will be parked, including non-staff and students who drive and park there. So, I believe I've provided some comments on that and testimony on previous response to some questions asked by Attorney Slason.
589. David Grayck asked if the exhibits include any statements about traffic counts or projected traffic counts.
590. Ralph Michael said no.
591. David Grayck said so, it's just your testimony that we've heard today relative to projected numbers, yes?
592. Ralph Michael said no. There's no reason to perform a traffic study for an existing use that's already here and simply adding another building to that use.
593. David Grayck said, but I did not ask you about a traffic study, I asked you about data and numbers and you gave testimony about traffic circulation based on an understanding of numbers of vehicles and numbers of students and from that you've made conclusions regarding traffic circulation and sufficient safety, yes?
594. Ralph Michael said yes.
595. David Grayck said okay. He said that he is just trying to find out because I didn't think in the exhibits there was any data which states projected trips or increase of trips or numbers of vehicles. Did I miss it?
596. Ralph Michael said no, you didn't miss it because I did not do that for a project of this caliber.
597. David Grayck said thank you. He noted that Mr. Slason has asked Ralph Michael a question with respect to the crabapple trees and you had indicated that they would be 5 to 7 feet tall when planted and could grow to as many as 20 feet. He said that he thinks Mr. Slason asked how long does it take them before they would be 20 feet tall. He said that he did not hear you give a projected answer. He asked if Ralph Michael could tell him approximately, if they are planted at 5 feet to 7 feet, how many years it would take to get to approximately 20 feet for the crabapple trees.
598. Ralph Michael said that he does not have that information here. It is in the planting and tree plan volume that he has on all types of trees and that is the maximum height. But it does say in there that it would depend somewhat, on the type of soil as to rapidly it grows.
599. David Grayck asked what are the soils in which the crabapple trees will be planted.
600. Ralph Michael said these soils are listed under the Natural Resources, the NRCS data sheet urban, but it further goes on to designate it as Colton soil.
601. David Grayck said okay, and said having identified them as Colton soil, asked if Ralph Michael is able to give us some kind of estimate on it take for the trees to reach approximately 20 feet.
602. Ralph Michael said he does not have that information here.
603. David Grayck said he believed that the alignment of the buildings was to keep them parallel and that you said that Mr. Chatot would provide further testimony, yes?.
604. Larry Slason said that Mr. Chatot is our architect.
605. David Grayck asked Ralph Michael if he had relied on Mr., Chatot for the alignment of the buildings and that testimony was just a reference to what I should be asking Mr. Chatot.

-
606. Ralph Michael said, yes, that he located the building footprint based on the distance they wanted to have in between the two buildings and they wanted to align the front because that was an architectural feature to make it setback from the street the same distance as the existing building, which is probably the largest setback in the entire LP District and to be lined up so it looked like part of the building. The whole design was that you had a very fine looking house that's been there for many, many years where the school is and they wanted to have and this is supposed to look like a barn attachment to that building.
607. David Grayck said okay, so, it was architectural concerns which controlled for the building layouts.
608. Ralph Michael said yes.
609. David Grayck asked Ralph Michael what investigation, if any, did you make as to alternate alignments where the proposed new fitness facility could fit on the land owned that would be sufficient parking. What alternative designs, if any, did you consider. .
610. Ralph Michael said none. He said that he designed the building location with respect to where the architect wanted it.
611. David Grayck advised that the other Mr. Rolka wants to participate and be heard.
612. Joe Rolka said that he is wants to go on record.
613. Chris Callahan said just a second. He asked Mr. Grayck is he was representing Mr., Joe Rolka, or is he a separate party.
614. David Grayck said no, that he is only representing Steve Rolka.
615. Joe Rolka President/ CEO of Sports Odyssey at 63 Main Street and has common property with the zoning of property of the abutting property, which is Steve Rolka. He said that he never received any party status, so he objects with not receiving any notice on any of this hearings. He said that he would like to establish himself with the board, today, that he does have party status.
616. Chris Callahan said well there are substantial requirements for party status and you haven't quite gotten there, yet, but certainly, you might.
617. Joe Rolka said in Sports Odyssey's application, we had to use 59 Main Street as part of our project and it does abut OMS. There was restrictions on that property, so we feel, Sports Odyssey as a corporation, that we have due rights to party status. Also, the fact that we can see the building.
618. Chris Callahan said let me interject. There is a procedure going on here and we are questioning basically, the exhibits as they are coming in. If you have a specific concern, and I presume that the chairman will give you an opportunity to speak and you can express your concerns, etc. I don't think you are going to be excluded or overlooked, I mean if this can wait, or if this has to do with Mr. Michael, I think now is the time to talk about it.
619. Joe Rolka said that he has a few questions, first about the landscaping and asked Ralph Michael, on the record, if he had been aware that Steve Rolka had applied for a permit to remodel his home prior to this permit process..
620. Ralph Michael said no.
621. Joe Rolka said that Steve Rolka had gotten a permit prior to this project for extensive remodeling of his home. He said that at one time, prior to the construction that started last fall, there were 20 to 30 hemlocks and some white pine that were right along the building, the proposed building that were 40 to 60 feet tall and blocked the view of the trampoline. He asked if OMS has done anything to add value, you cut them all down. He said that Mr. Rolka and Sports Odyssey see the lights from the soccer field are visible and that was all blocked at one time. Now, the building is only going to be 25 feet tall, so it's only half of what the tree heights were.
622. Ralph Michael said that he doesn't know about the trees.

-
623. Larry Slason said to Mr. Michael, that before he responds, that just to clarify, where we are here, that if Joe Rolka is not an adjainer, that in order for him to join and participate, he must establish status as an interested person. At least that was his understanding. He said that he is more than happy to have him provide the DRB and himself with additional information as to why he would qualify as is an interested person.
624. Chris Callahan said that he had thought that was where he was going.
625. Larry Slason said he thought so too, but he (Joe Rolka) jumped right in and started questioning about the site plan which seems to have skipped a step and that is what was bothering me and if , in fact, he demonstrates that he's truly an interested person, and this board determines he's an interested person, then I don't have a problem with him asking questions..
626. Chris Callahan asked Joe Rolka what the specific interest that he has.
627. Joe Rolka said the Preservation District that was presented to us from the town.
628. Chris Callahan asked what Joe Rolka's specific concern to you.
629. Joe Rolka said that he is a property owner that is 150 feet away from the proposed building and he thinks that he has the right to be a party status.
630. Chris Callahan said right, but I guess what we're asking is what is your specific concern, is it the lighting.
631. Joe Rolka said there's the trees that were cut down, lights shining on to Sports Odyssey, storm water that will be flooding the fish bowl that Mr. Rolka lives in because his property is much lower in elevation since they raised.
632. Chris Callahan said that is Mr. Rolka's property, not yours. Your Sports Odyssey. He said he guesses the question is how does this project, specifically affect Sports Odyssey.
633. Joe Rolka said that he mentioned about the lighting. He said he mentioned the big building now that we see instead of the trees and the water.
634. Chris Callahan said that is 3 issues.
635. Joe Rolka said and the water that comes off the property from OMS that goes onto my brother's property and eventually drain onto Sports Odyssey property.
636. Chris Callahan said that he is sure that Mr. Slason, either has or will continue to address those. He said that the important thing is that you've got them on the record and he thinks that Joe Rolka has done that.
637. Joe Rolka said then I will, if I have Mr. Steven Rolka's permission, to represent his...
638. Chris Callahan said that he (Steve Rolka) has an attorney, here.
639. Joe Rolka said that he thinks that Steve would like to say something about me helping him.
640. Chris Callahan said that he's (Steve Rolka) has hired Mr. Grayck to do that already, and we have one attorney to do that.
641. David Grayck said that he is only representing him (Steve Rolka) individually and is not representing the business entity.
642. Joe Rolka said that Mr. Rolka is also a public corporation and has over 290 feet of boundary
643. Chris Callahan said we can talk about whether you're allowed to be an interested party and that's an appeal issue and whether you have been able to participate and I think that you have participate here.
644. Joe Rolka said he is not close to being done.
645. Chris Callahan said that the way this is done, and unlike most of the DRB hearings, this is a little more formal because we have Mr. Grayck and Mr. Slason and they are basically proceeding in a certain way and here we are at this point and Mr. Slason has put into evidence Exhibit #5, Mr. Michael has come up to discuss it and David Grayck has cross-

- examined MR. Michael on Exhibit #5, He said that if Joe Rolka, as a party would like to cross examine Mr. Michael on Exhibit #5, this is the time to do it.
646. Joe Rolka asked if the trees that were cut down are going to be replaced, those 40 to 60 foot trees.
647. Ralph Michael said no.
648. Joe Rolka said the traffic with the headlights are going to be shining on Mr. Rolka's windows. He said that he knows that the review board is very sensitive to the lights.
649. Chris Callahan asked Joe Rolka if he could keep his questions confined to how they affect your property, not Mr. Rolka's property. He said if the lights were on Sports Odyssey.
650. Joe Rolka said that we have had been numerous problems, over the years with OMS pedestrians and kids crossing our parking lot and driving across our lawns behind Mr. Rolka's house to and asked if there is anything the review board is going to do to eliminate that.
651. Ralph Michael said that he does not know, that he is not aware of those issues.
652. Joe Rolka asked who he could direct that to.
653. John Boehrer said that he thinks that Joe Rolka would want to direct that to the Chief of Police.
654. Joe Rolka said that the Chief of Police said to take it upon yourself, so that's the answer we got from the Chief of Police. He said so, no one is going to answer if there is any type of ... is the review board concerned at all?
655. Chris Callahan said that Joe Rolka can have an opportunity to voice his concerns at the end, so you won't be cut out, He said that this is the time for specific questions for Ralph Michael, but whether or not the police was involved in something, that would be a separate question. If you have a concern that you want the board to consider, that would be the time for it. So, right now what we are doing is talking about what Mr. Michael has testified to.
656. Joe Rolka said the building has been raised up from the foundation above the existing grade.
657. Ralph Michael said that is to provide drainage away from the building.
658. Joe Rolka asked where will that drainage go to.
659. Ralph Michael said to the north, there's a wall right here,
660. Larry Slason asked Ralph Michael to be very specific when he is talking about where drainage flows and reference that to the site plan, please.
661. Ralph Michael said the roof on the center of the building
662. Larry Slason asked if that was the training facility.
663. Ralph Michael said of the training facility building. That ridge follows the center of the roof.. He said that the water that would run toward, off the roof, the portion of the building on the west side of the ridge, would drain down onto the land opposite the Rolka's stone wall. Indicating on the plan, he said from there,, he said these are 6" contours on this survey, that water will run down a drip shown on the architectural plan, on the ground on the west side and that water will be caught in a stone base and that water will run to the north along the stone wall and go into a low area on the south side of Washburn Lane near the east end of the silo of the fitness facility. He said this is a low area and this is where the water will go and then seep into the ground under normal runoff conditions.
664. Joe Rolka asked from you foundation, how much of an overhang do you have over the foundation .
665. Ralph Michael said about 12 inches.
666. Joe Rolka said that you're saying that the closest point to the boundary is 12 feet.
667. Ralph Michael said it is 13 feet.

-
668. Joe Rolka said so, actually the water, by the time it comes off the slope of the roof would be close to half that distance.
669. Ralph Michael said that would be the very southwest corner of that roof..
670. Joe Rolka said which is a very low spot that goes towards Sports Odyssey. He said that he is somewhat mystified at how all this water coming off this roof is going to nicely collect in a reservoir that you're claiming and will be presented all off the north side.
671. Ralph Michael said if there is a problem, this, where the drip is shown on the architectural drawing, could be a deeper trench with crushed stones in it and then it could be directed. So that if it doesn't come out on the grass,
672. Joe Rolka asked, in Ralph Michael's professional opinion, do you think there would be a problem if that is not done.
673. Ralph Michael said no, because of the soils here. If this is grass, and it will be when the project is complete, the water that runs off this roof will be caught on the east side of your stone wall and that whole grassed area and it will seep in to the ground or run off to the north.
674. Larry Slason asked about the soils in that area.
675. Ralph Michael said the soils here are Colton soil and they are very well drained. It has rapid permeability.
676. Joe Rolka asked from the flow off that fitness facility, that's like 2 ½ feet and the grading is sloping all the way to that landscaping and he does not know how you can generate that water flow toward the north when that water is all flowing off that roof at a high rate of speed. It is not going to drip straight down, it would drop down about half that distance and it would be even closer to that boundary line. How do you expect that water to travel north with the grade.
677. Ralph Michael said that it's almost flat so it goes into the surface because it is almost flat and the finished flow for the elevation of the fitness facility is 1000.5 feet. He said to provide drainage away from that foundation, the elevation where that drip would be 6" lower, elevation 1000 and there is 2 more feet to native ground.. It will just slope off there. It would run at the top of that slope east of the property line and east of the stone wall to seep into the ground and/or if there's enough runoff, to where it can't go into the ground immediately, to the north because that's where the lower .
678. Joe Rolka said he understands what Ralph Michael is saying, but you have the slope and you don't have any flat spots, because you're saying you're going to be 6 inches away from the foundation and the drip is a foot and six inches. So if you're even closer to the boundary line where it's flat before you come up to Mr. Rolka's property.
679. Ralph Michael said well halfway across to the building is it is 15.5 feet.
680. Joe Rolka said that all that water would still drain toward Sports Odyssey. He said that he does not know how Ralph Michael is negotiating that water to go north. He said he is mystified how that will happen.
681. John Boehrer said that Ralph Michael has answered the question.
682. Joe Rolka asked about the formulation about parking. Is it by student or square footage.
683. Ralph Michael said the parking is by the need for parking, by the number of staff and students.
684. Joe Rolka said so it's not done by square foot of facility.
685. Ralph Michael said it's not done by one parking space per.
686. Joe Rolka asked if they have accounted for 6 to 8 busses are parked there full time.
687. Larry Slason said just a clarification. How are the questions about our site parking at OMS affecting Sports Odyssey.
688. Chris Callahan said that he was having the same thought, himself.

-
689. John Boehrer said we are going to move on to the next topic.
690. Joe Rolka asked if they were going to deny him to finish up this question.
691. John Boehrer said yes, I am going to deny you the question about the parking.
692. Joe Rolka said the lighting would be seen from Sports Odyssey. He said there are 15 windows on the western side of the building and you mentioned on the south side you might have 2 lights up by this entrance. He would like to know the height and wattage and if they would be using LED or will they be halogen lights.
693. Larry Slason said Mr. Michael cannot answer that question, it would come from the project architect.
694. John Boehrer asked if Joe Rolka has any other questions.
695. Joe Rolka said, on the crabapple trees that are going to be blocking some of the lighting that's going to be hitting our Sports Odyssey store, and you mentioned that they are going to grow up to about 20 feet, He said that at this time, no one's done an acidity test on the soil to see how much those trees would take .
696. John Boehrer said that has been answered already.
697. Joe Rolka said he doesn't believe they asked about the acid test.
698. John Boehrer said we asked about the soil already.
699. Larry Slason said that, not only that, but the lighting point is that the Rolka residence is between the parking lot and Sports Odyssey and he is having a difficult time seeing how lights from the parking lot could conceivably reach Sports Odyssey.
700. Joe Rolka said that Mr. Rolka's property is only covering up 40% Sports Odyssey building.
701. Richard Harrison said, you both are brothers and should be working together
702. Steve Rolka said that he agrees that Joe Rolka should be speaking.
703. John Boehrer asked if Joe Rolka has another question.
704. Joe Rolka said , so the soil test, no answers.
705. John Boehrer said no answers.
706. Joe Rolka asked if there was any more stuff that they are going to deny him. He said that he has a question with regards to activity. He said that the young lady that runs the OMS mentioned that the timing of the school would be from 7:30 a.m. to 6:00 p.m. He said that many Sports Odyssey customers and employees have seen kids screaming and jumping on the trampoline well into the evening, from 8 to 9 to 10:00 p.m. He asked if that would change or is that something that just happens because that's an outside trampoline.
707. John Boehrer said that we are addressing Exhibit #5, that's what we're sticking with, with Ralph Michael up there right now and said that anything other than that we can address at a later point.
708. Joe Rolka said he would wait for the next witness.
709. Larry Slason asked Ralph Michael that, as the project engineer if he was responsible for obtaining for the waste water system and potable water permits and has a copy of that permit been provided as OMS Exhibit #13.
710. Ralph Michael said yes.
711. Larry Slason asked Ralph Michael to turn to Exhibit OMS #13 and asked if the wastewater permit provided is a true and accurate copy of the wastewater permit, what we call WW permit, wastewater system and potable water permit and was that permit issued for the training facility.
712. Ralph Michael said yes.
713. Larry Slason said he would like to offer Exhibit #13 into evidence at this time.
714. David Grayck said no objection.
715. Larry Slason asked Ralph Michael if he was responsible for obtaining the Division of Fire and Safety permit or is that Mr. Chatot.

-
716. Ralph Michael said Mr. Chatot.
717. Larry Slason asked Ralph Michael to please refer to OMS Exhibit #15, which is identified on our evidence list as the Natural Resources Atlas and if Ralph Michael had prepared and downloaded this map
718. Ralph Michael said he had directed the preparation of this .
719. Larry Slason asked from the Natural Resources official , website?
720. Ralph Michael said yes, it's what they call the Natural Resources Atlas and something that we use a lot because you can see an aerial view of whatever you want to look at.
721. Larry Slason asked if Ralph Michael had modified, in any way, the download which you received from this website.
722. Ralph Michael said he made a larger version.
723. Larry Slason asked he had modified it other than a bigger version..
724. Ralph Michael said no.
725. Larry Slason said so the lot lines that are depicted on this map are the lot lines that appear on the official Natural Resources Atlas website.
726. Ralph Michael said that's right, but that he has to say that that the lot lines are not exactly the same because they are from the tax map and the tax map covers the entire town and we're covering a section of the town..
727. Larry Slason said so it would be fair to say that the value of this exhibit is not so much in determining precise lot lines, but it does give one a general idea of the character and topography of the area.
728. Ralph Michael said that is correct.
729. Larry Slason asked if that was the intention, your intention of providing this exhibit.
730. Ralph Michael said yes, I thought it was a very good exhibit to show how all of the properties and where the buildings are located with respect to the street and the size of the building and those kinds of things that show up. He said his intent of including it was to assist the DRB's look at the property in a very picturesque way.
731. Larry Slason noted that we have had some comments tonight about the hemlocks (and I don't know if they were hemlocks) to the west of the OMS building. He asked does this atlas show the location of those trees.
732. Ralph Michael said yes, the atlas still shows them.
733. Larry Slason asked if it is fair to say that the new OMS training would be located in substantially the same area as those trees .
734. Ralph Michael said yes.
735. Larry Slason moved to admit OMS Exhibit #15 – The Natural Resource Atlas into evidence.
736. David Grayck said no objection. He referred to the Natural Resources Atlas, his understanding is that it's done to show natural areas, for example natural resources.. He said to Ralph Michael, you're not offering this with respect to like show wild life or anything like that.
737. Ralph Michael said correct, not for wildlife, just to show the area.
738. David Grayck confirmed that it is just an orthophoto to show generally the layout.
739. Ralph Michael said that is the only intent of this. He added that there are many things you can out on here, but I didn't do that.
740. David Grayck said that he just wants to clarify that it is not being offered for purposes of natural wildlife habitat or wetlands anything like that, right?
741. Ralph Michael said right..
742. David Grayck just as Mr. Slason said to kind of show general layout , it's an orthophoto that is showing the general of the properties and structures..

-
743. Ralph Michael said that is correct.
744. David Grayck said there is a date on it February 26, 2015 and asked if Ralph Michael has added that.
745. Ralph Michael said that was the date we prepared it, February 26th.
746. David Grayck asked if Ralph Michael know that date of the orthophoto. Does it say.
747. Ralph Michael said he does not know. There was a Google Earth file of Ludlow Village in 2014.
748. David Grayck asked the approximate time the orthophoto was taken, is it a year old, is it 2 or 3 years old.
749. Ralph Michael said he did not know.
750. Larry Slason asked Ralph Michael as project engineer, were you also responsible for contacting the Municipal Department heads to obtain what we, in our profession, call ability to serve letters.
751. Ralph Michael said yes.
752. Larry Slason asked Ralph Michael if he had contacted the Ludlow Police Department, Fire Department and Ambulance Service..
753. Ralph Michael said yes.
754. Larry Slason asked if Ralph Michael had obtained ability to serve letters from each of those departments.
755. Ralph Michael said yes.
756. Larry Slason asked Ralph Michael to take a look at his exhibit book and referred to Exhibit #19.
757. David Grayck had no objection to Exhibit 19.
758. Larry Slason moved to offer Exhibit #19 into evidence.
759. David Grayck said no objection.
760. Larry Slason referred to Exhibit #20 and asked Ralph Michael if this is a letter from the Chief Kolenda of Fire Department and asked if that is a true and accurate copy of the letter that Ralph Michael received from Chief Kolenda..
761. Ralph Michael said yes.
762. David Grayck said no objection to 20.
763. Larry Slason referred to OMS Exhibit #21 and asked Ralph Michael if this is a true and accurate copy of the letter from Carl Matteson, the EMS Coordinator of the Ludlow Ambulance Service.
764. Ralph Michael said yes.
765. David Grayck said no objection to 21.
766. Larry Slason said that Exhibits 19, 20 and 21 are admitted. He asked Ralph Michael as project engineer, was he also responsible for obtaining a sewer allocation from the Ludlow Village Trustees,
767. Ralph Michael said yes.
768. David Grayck said no objection to 22.
769. Larry Slason said that #22 is admitted for the record. Larry Slason referred to Exhibit #23 and asked Ralph Michael if, as project engineer was he responsible for obtaining the water allocation from the Ludlow Village Water Commissioners for the Training Facility.
770. Ralph Michael said yes.
771. David Grayck said no objection to 23.
772. Larry Slason said OMS #23 is admitted. He thanked Mr. Grayck. Larry Slason asked, looking back at the exhibit list and asking Ralph Michael to look at the exhibit list in the front. He said that while he has Ralph Michael here as a witness, he wants to make sure we get in any other materials or exhibits that Ralph Michael is personally involved in

- preparation as author or arranged in Exhibits 1 through 25 that can be offered into evidence for this hearing.
773. David Grayck addressed Larry Slason and said he has no objection to Exhibits 15, 16, 17, and 18.
774. Larry Slason said the #15 was the Natural Resources Atlas, which we agreed upon already, #16 is the Ludlow Tax Map, that's admitted.
775. David Grayck said no objection.
776. Larry Slason said that Exhibit #17 is the Adjoiners List, again, part of the application.
777. David Grayck had no objection to that.
778. Larry Slason said #17 is admitted. He said that he failed to ask about 18.
779. David Grayck said 18 is admitted, that he has no objection.
780. Larry Slason said he was going to ask David Grayck to take official notice, but that 18 is admitted.
781. Larry Slason asked about the building applications, signed by Mariel Meringolo, now that she's authenticated.
782. David Grayck said 1 and 2 are admitted.
783. Larry Slason said they will be but they weren't,
784. David Grayck said that 1 and 2 were admitted. He said that he has 1, 2, 4 and 5, subject to his objections, and 13 through 23.
785. Larry Slason said if you are agreeing to 14, because Mr. Chatot would identify the Fire Safety Construction permit.
786. David Grayck said it's fine.
787. Larry Slason asked if David Grayck agrees to that.
788. David Grayck said yes.
789. Larry Slason and that 14 through.
790. David Grayck said 13 through 23.
791. Larry Slason said that exhibits 13 through 23 have been admitted.
792. Chris Callahan advised that the following Exhibits were still in play: 3, 6, 7, 8, 9, 10, 11, 12, 24, and 25.
793. David Grayck said that anything with Banwell on it is still in play.
794. Chris Callahan said those exhibits are: 3, 6, 7, 8, 9, 10, 11, 12, 24, and 25.
795. Larry Slason said correct.
796. John Boehrer asked if there were any other questions for Mr. Michael.
797. Larry Slason said no.
798. John Boehrer called a 5 minute recess starting at 9:50 p.m.
799. John Boehrer reconvened the hearing at 10:01 p.m.
800. Larry Slason said we have Mariel Meringolo back as a witness and she is the headmaster of OMS. He said that while we are here, this evening, he wanted to finish up with a couple of additional questions regarding both traffic generated by the project and the types of traffic movement she observed in her day at OMS. He, first going back to a question he had asked earlier, to reemphasize it, he asked Mariel Meringolo if she believes that the training facility would result in increased traffic to OMS site.
801. Mariel Meringolo said no.
802. Larry Slason asked Mariel Meringolo why she holds that.
803. Mariel Meringolo said because the training facility designed to increase the number of staff or students using the facility or using the school property. It is only meant to service the existing student body and staff members.

-
804. Larry Slason said now let's talk about the existing traffic flow and existing traffic movements at OMS as it presently operates. He is he understands that they have 33 staff members and 48 students.
805. Mariel Meringolo said yes.
806. Larry Slason said let's start with the staff members. How many staff members typically drive their cars to OMS on a daily basis?
807. Mariel Meringolo said all of them, but since the day is divided into athletic training and academic classes, the coaches are there, typically only for the morning hours and most of them leave. She said that teachers only come in in the afternoon hours. So, they're not typically parked there all at once.
808. Larry Slason asked, so what is the largest number of faculty that parks at OMS on a typical day.
809. Mariel Meringolo said around 20 to 22.
810. Larry Slason said 20 to 22 staff members at one time. He then asked how many students typically drive their cars to OMS.
811. Mariel Meringolo said it varies on a year, with the age groups of the students, but no more than 5 or 6.
812. Larry Slason asked if there are any other are any other persons who drive vehicles or automobiles to OMS on a typical day.
813. Mariel Meringolo said that parents drive to the school for the purpose of dropping their students off and then they leave.
814. Larry Slason asked, in terms of vehicles that park within the parking lot, are there any other vehicles that utilize parking spaces other than the staff members and the 5 or 6 students.
815. Mariel Meringolo said yes, we use vehicles for the purpose of transferring students from the school building to the mountain and then currently we are having to use those vehicles also in the afternoon to move students from the school to some offsite training facilities at some time. And those, this year are 8 vehicles.
816. Larry Slason noted, so that if you add the 8 vehicles to 22 for staff and 5 or 5 for students, you'd end up with 35 or 36 parking spaces required on a typical day?
817. Mariel Meringolo said yes, that's correct.
818. Larry Slason asked Mariel Meringolo if there was a training facility is constructed and operational, will the need for some of those vans transporting students to other training facilities be reduced?
819. Mariel Meringolo said it would be almost completely gone. They would still need to transport the students in the morning to the mountain, but when they came back at about 11:30 a.m., they would stay there for the rest of the day.
820. Larry Slason said, so based on your experience at OMS and you've been there 5 years?
821. Mariel Meringolo said she has been in her position as head of school for 5 years.
822. Larry Slason asked, based on your position for 5 years, so you have a judgement as to whether 50 dedicated parking spaces, which are kept open and plowed in all types of the year, and is adequate for your school.
823. Mariel Meringolo said it's more than adequate.
824. Larry Slason asked if it is adequate for both the school and the training facility.
825. Mariel Meringolo said yes, because there is no difference.
826. Larry Slason said that he believes that's it. He said he is trying to keep his promise to be brief. He said that he has no other questions for Mariel Meringolo and asked her if there is anything she thinks he should have asked her while she's here.
827. Mariel Meringolo said no.
828. Larry Slason said thank you and said sounds like you're going to have to adjourn.

829. John Boehrer said we are going to adjourn to next month, May 11th.
830. Rose Goings said that we have a very full schedule that night. So, she is not sure how that will play out. She is not sure if this hearing would be put first or last.
831. Larry Slason said it would be wonderful and very much appreciated for OMS, because of the delays that it has encountered already, if there were any way we could schedule a meeting earlier than May 11th, even if it is a special meeting to finish up this application. He does not expect them to commit to it now, but if they could take it under advisement, that would be very much appreciated for my clients.
832. John Boehrer said they would take it under advisement.
833. David Grayck said he has obvious scheduling concerns, also and he is available for a hearing on May 11th. He said if you are not adjourning to a definite day and time, will we receive notice.
834. Rose Goings said yes, as soon as they decide.
835. David Grayck said okay, great.
836. John Boehrer asked if they had some suggested dates, the board would take them now.
837. David Grayck asked Larry Slason if he had suggested dates. David Grayck suggested Friday, May 8th.
838. Larry Slason said that he is available this week and not available next week over school vacation. He said he would make himself available any time after that. The only time that he is not available is the school vacation week of April 20th.
839. Rose Goings asked about Monday, April 27th.
840. David Grayck said he has that booked.
841. Larry Slason said the last week in April would be certainly appreciated and asked if there is any way we could squeeze one in that week.
842. David Grayck said that Mr. Rolka has a serious family issue, a sibling who has a serious issue and it requires trips to Michigan and there is a trip to Michigan scheduled for the end of April. He asked about Friday, May 1st.
843. Rose Goings said no Fridays.
844. David Grayck said he is retrieving a child from Chapel Hill, NC and not available from May 5 to May 7th. He has a trial to do on May 13th and 14th.
845. John Boehrer said May 11th seem to be it.
846. David Grayck said if the board says May 11th, he's good to go.
847. Larry Slason confirmed that David Grayck is not available any time the last week of April?
848. David Grayck said that Mr. Rolka has got to go tend to his sibling.
849. John Boehrer said it sounds like the earliest possible would be May 11th.
850. **MOTION by John Boehrer and seconded by Richard Harrison to recess this hearing until Monday, May 11, 2015. Motion passed unanimously.**

V. **APPROVE MINUTES**

1. This agenda item was not addressed at this meeting.

VI. **OTHER BUSINESS**

1. Permit Extension – Chris Rowen
 - i. John Boehrer asked Chris Rowen if there were any changes in the project.
 - ii. Chris Rowen said no.
 - iii. John Boehrer asked how long Mr. Bowen would like for an extension.

-
- iv. Chris Rowen said 2 years.
 - v. Julie Nicoll asked if this is the 2nd or 3rd extension.
 - vi. Chris Rowen said he had a one year extension, then a 2 year extension. He said that the market is down.
 - vii. There was general consensus among board members to grant a 2-year extension.

2. Permit Extension – IMERYYS Talc

- i. Robin Reilly said that they wish to extend the demolition permit for the houses located at 24, 30 and 127 East Hill Road. She added that IMERYYS has been working the town of Ludlow towards a FEMA buyout.
- ii. There was general consensus among board members to grant a 2-year extension.

3. Approved Permits

- i. Rose Goings advised that the Bruno permit has been approved.

VII. ADJOURN

- 1. **MOTION by Julie Nicoll and seconded by Richard Harrison to adjourn this meeting. Motion passed unanimously.**
- 2. Meeting adjourned at 10:12 p.m.

Respectfully submitted,

Lisha Klaiber

John Boehrer, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison