



TOWN OF OXFORD
S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
www.Oxford-CT.gov

Planning & Zoning Commission

Regular Meeting Minutes
Tuesday, September 1, 2015
7:30 PM
Oxford Town Hall
Main Meeting Room

CALL TO ORDER

Chairman Carver called the Regular Meeting of September 1, 2015 to order at 7:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: John Kerwin, Pete Zbras, Harold Cosgrove, Arnie Jensen, Tanya Carver and Pat Cocchiarella.

Staff Present: Jessica Pennell, Administrative Secretary, Steven S. Macary, ZEO, Micci and Brian J. Miller, Town Planner.

Not Present: Ed Rowland, Jeff Luff, Glen Persson and Todd Romagna.

CHAIRMAN'S REPORT

SEATING OF ALTERNATES

Chairman Carver seated Alternates John Kerwin and Pete Zbras.

EXECUTIVE SESSION – Discuss litigation regarding Garden Homes

MOTION BY Commission Secretary Cocchiarella to *ENTER* Executive Session at 7:31 PM to discuss litigation regarding Garden Homes Management Corporation.

Second by Commissioner Jensen. Vote: All (6) Ayes.

The following were invited into Executive Session: All Commission members present, Brian J. Miller, Town Planner, Steven S. Macary, ZEO and Jessica Pennell, Administrative Secretary.

MOTION BY Commissioner Cosgrove to *EXIT* Executive Session at 8:00 PM.

Second by Alternate Commissioner Zbras. Vote: All (6) Ayes.

AMENDMENTS TO THE AGENDA

MOTION BY Commission Secretary Cocchiarella to *AMEND* the agenda to add two items under correspondence as (f) and (g).

Second by Commissioner Jensen. Vote: All (6) Ayes.

MOTION BY Commission Secretary Cocchiarella to **AMEND** the agenda to add “authorize the Chairman and Secretary to sign the mylar dated June 18, 2015 with a revision date of July 13, 2015 titled “Lot Line Revision Map showing the merger of lots 12 & 15B for 589 Investments, LLC” under Zoning Enforcement.

Second by Alternate Commissioner Kerwin. Vote: All (6) Ayes.

AUDIENCE OF CITIZENS

CORRESPONDENCE

Commission Secretary Cocchiarella read the following correspondence into the record and noted that all correspondence is on file in the Planning & Zoning Department during regular business hours.

- a.) Letter from the CT DEEP
Re: The Masonic Charity Foundation of CT
- b.) Memorandum dated August 6, 2015 from the Selectmen’s Office
Re: Hire Assistant Zoning Attorney
- c.) Letter dated August 6, 2015 from Patricia & Steven Fetyko
(Forwarded from the Board of Selectmen’s Office)

It was noted that this correspondence was forwarded from the Selectmen’s Office and the intent of the Commission receiving this letter was unclear. Jessica Pennell, Administrative Secretary will send a memo to the Board of Selectmen regarding this letter.

- d.) Letter from the State of Connecticut – Department of Housing
Re: 2015 Affordable Housing Appeals List
- e.) Letter dated August 15, 2015 from Christopher J. Smith
Re: Oxford Greens

The Commission discussed this item briefly and questioned if it was a conflict of interest. It was noted that this has been allowed before and that Brian J. Miller, Town Planner would be working as an agent for the Town. Any costs incurred will be sent to Planning & Zoning, and then forwarded to Timberlake for payment.

MOTION BY Commission Secretary Cocchiarella to **AUTHORIZE** Brian J. Miller, Town Planner to consult with Timberlake Development Partners, LLC as an agent regarding Oxford Greens with the understanding that Timberlake will pay any costs incurred.

Second by Commissioner Cosgrove. Vote: All (6) Ayes.

OLD BUSINESS

- 1.) **Extension Request - Z-10-011 – Central Park Associates, LLC – 94 Christian Street & Larkey Road** (8-30g Application) (Site Plan Modification)
(Awaiting Response from Owner)
- 2.) **Z-15-052 [RESA] – 149 Punkup Road – Owner: Chris Petronis** (Lot Line Revision)

Steven S. Macary, ZEO noted that at the last meeting there was a question regarding ownership of the subject property. Deeds have been provided to the Planning & Zoning Department as proof of ownership of the property.

MOTION BY Commission Secretary Cocchiarella to *RECOMMEND* to the Board of Selectmen that they release the bond for 149 Punkup Road pending the filing of the mylar on the Town of Oxford Land Records.

Second by Commissioner Cosgrove. Vote: All (6) Ayes.

NEW BUSINESS

- 1.) **Z-15-082 [COMM] – 357 Oxford Road – Owner & Applicant: Alliance Energy Corp.**
(Site Plan Modification)

Commission members requested that staff forward this application, plans and supporting documentation to James H. Galligan, PZC Engineer and Brian J. Miller, Town Planner.

- 2.) **8-24 Referral – Proposed Library Building on Great Oak Road** (Conceptual Plan)

Commission members were presented with a Conceptual Plan prepared by Nafis & Young regarding the use of property owned on Great Oak Road for the purpose of constructing a library that they were asked to consider under CT General Statute 8-24.

MOTION BY Commissioner Cosgrove to *APPROVE* the Proposed Library Building on Great Oak Road Conceptual Plan prepared by Nafis & Young Engineers. The proposal is in conformance with Oxford's Plan of Conservation and Development and pursuant to Section 8-24 of the Connecticut General Statutes.

Second by Commissioner Jensen.

DISCUSSION:

Commission Secretary Cocchiarella noted that he does not believe this is the right place for this project.

Alternate Commissioner Kerwin stated that he believes the intention of this project being located on Great Oak Road is the proximity to the two schools also located on Great Oak Road.

Commission Secretary Cocchiarella stated that this library will be open to the public, anyone can visit the library and that is going to bring in many strangers into an area where there are many students.

Vote: Ayes (4) – Chairman Carver, Commissioner Jensen, Commissioner Cosgrove and Alternate Commissioner Kerwin. Nays (1) – Commission Secretary Cocchiarella. Abstentions (1) – Alternate Commissioner Zbras.

MOTION PASSED 4-2.

- 3.) **Appeal for Z-14-012 – Garden Homes Management Corp. “Oxford Commons” – Memorandum of Decision from Judge Frazzini** (Acknowledge & set hearing date)

Chairman Carver stated that the Commission has received the Memorandum of Decision for this appeal. She stated that the Commission would need to hold a hearing.

MOTION BY Commission Secretary Cocchiarella to **SET A HEARING** date for **Tuesday, September 15, 2015 at 7:30 PM** and that this item be New Business #1 on the agenda.
Second by Commissioner Jensen. Vote: All (6) Ayes.

BOND RELEASES

1.) Central Park Associates – Bond Release Request (TABLED)

ZONING ENFORCEMENT

1.) Commission discussion with ZEO regarding various items, complaints and zoning violations.

a. 38 Jenny Lane 2

Commission Secretary Cocchiarella read a letter dated August 20, 2015 from Lawrence K. Secor, CHMM of Nafis & Young Engineers, Inc. The letter submitted by Mr. Secor explained that based on the analysis results, Nafis & Young Engineers is of the opinion the soils sampled do not exceed any RSR criteria and can remain at the subject site.

Nathan & Rachel Teodosio, owners of 38 Jenny Lane 2 were present.

Steven S. Macary, ZEO stated that they are still waiting for the owner's engineer to submit plans explaining how they are going to stabilize the site.

Commission Secretary Cocchiarella noted that staff should check with James H. Galligan, PZC Engineer to make sure that he has received the plans from the owner's engineer.

Chairman Carver commented that they need to find out what is going on with Beacon Falls, James H. Galligan, PZC Engineer was going to check in with Beacon Falls, and will hopefully report back to the Commission with their response.

Rachel Teodosio stated that their engineer has sent plans to James H. Galligan, PZC Engineer. She also stated that they are still awaiting a response from Beacon Falls.

Chairman Carver also mentioned that she needs James H. Galligan, PZC Engineer's comments regarding the slopes.

b. 360 Oxford Road

Steven S. Macary, ZEO stated that the property has been mowed, the machine has been removed and Mr. D'Amico stated that he built a ramp for the cement truck. He commented that at the last meeting Mr. D'Amico told the Commission he would have the property in compliance within a month and that has not been done. He questioned the Commission as to how they would like to proceed with the situation.

Chairman Carver stated that they will give Mr. D'Amico another two weeks.

Alternate Commissioner Zbras stated that there is a question about his permits and they are expired. He is working without permits and that is a dangerous site, not only is there a wall falling down, but there is a 12 foot hole there that, by Mr. D'Amico's own admission, he did not know about. He commented that they gave him a month and that he said he would have it completed within a month, and this is the same thing the town has gone through for 11 years with him. He stated that something has to be done with that site.

Commission Secretary Cocchiarella stated that he agrees with Alternate Commissioner Zbras, but questioned what the Commission can do.

Alternate Commissioner Zbras commented that they should set a bond, and that might get him to move a little faster.

Commission Secretary Cocchiarella commented that they have stated that there is an issue with the site, but questions the solution.

Steven S. Macary, ZEO stated that he needs a site plan and after they get the site plan they can set a restoration bond per James H. Galligan, PZC Engineer.

Commission Secretary Cocchiarella stated that the Commission has never told him specifically what to do with the site. The Commission needs to tell him specifically what they want done and when it done that is when they can release his bond.

Alternate Commissioner Zbras questioned if Mr. D'Amico submitted a site plan prior to this?

Commission Secretary Cocchiarella stated that the site plan was submitted back in 2005.

Alternate Commissioner Zbras questioned why he is not going by his original site plan.

Brian J. Miller, Town Planner stated that Steven S. Macary, ZEO's suggestion was a good one, the he revise the site plan and ask for an extension and that there be very firm dates on that extension and that they collect a bond on that, and in the case that the work does not get done, then the Commission can call the bond.

Commission Secretary Cocchiarella questioned how Mr. D'Amico is in violation. He suggested that they get a list of items together, which are very specific and then give them to Mr. D'Amico so that he knows exactly what the Commission would like done.

Steven S. Macary, ZEO questioned if the Commission wants him to write a list.

Chairman Carver stated that they want a revised site plan and a restoration bond.

Brian J. Miller, Town Planner suggested a schedule of what the Commission wants done, and by what date, and it can be done according to the site plan.

Steven S. Macary, ZEO stated that he will give Mr. D'Amico the regulations for the Article 11, Site Plans.

Commission Secretary Cocchiarella stated that the list should be more specific than just referencing the regulations.

Steven S. Macary, ZEO stated that if Mr. D'Amico puts up a \$75,000.00 bond, it would cost him approximately \$8,000.00.

Alternate Commissioner Kerwin questioned if they can force Mr. D'Amico to submit a site plan.

Brian J. Miller, Town Planner stated that you can require this or the Commission can declare the site plan null and void, then Mr. D'Amico would not be able to continue any work on the site.

Alternate Commissioner Kerwin questioned if there is any other course of action that the Commission can take.

Brian J. Miller, Town Planner stated that Mr. D'Amico is in violation.

Alternate Commissioner Kerwin questioned what he is in violation of specifically.

Brian J. Miller, Town Planner stated that he is in violation of the site plan requirements.

Steven S. Macary, ZEO stated that the site plan has expired, his special exception has expired, no fees have been collected and he does not have proper soil and erosion controls in place. He stated that he would make Mr. D'Amico a list and send it to him Certified and let him know that Commission is giving him 2 weeks.

Brian J. Miller, Town Planner stated that last option would be to send it to court.

Alternate Commissioner Zbras stated that Building Official, Gordon Gramolini already has an order against Mr. D'Amico. He commented that Mr. D'Amico cannot keep working without permits.

Brian J. Miller, Town Planner stated that Steven S. Macary, ZEO's recommendation is very valid, the final outcome that the Commission wants is to see the building completed.

Commissioner Cosgrove stated that within that two week period he would like to have James H. Galligan, PZC Engineer get together with Mr. D'Amico to prepare a checklist and time schedule.

Steven S. Macary, ZEO stated that he would contact Mr. D'Amico and report back to the Commission in two weeks.

Commissioner Cosgrove stated that the Commission wants a flow charts showing what will be done and by when and have it reviewed by James H. Galligan, PZC Engineer.

Alternate Commissioner Zbras stated that Mr. D'Amico cannot work on that site for the next two weeks.

Steven S. Macary, ZEO stated that he would have Mr. D'Amico come in pull the permits and pay the fees.

Alternate Commissioner Zbras questioned if the Commission was going to let Mr. D'Amico work another two weeks without permits.

Chairman Carver stated “yes”.

Commission Secretary Cocchiarella stated that he has expired permits, not that he did not have any permits at all.

Chairman Carver stated that the Building Official has ordered Mr. D’Amico to work on the building to make it safe.

Commissioner Cosgrove stated that if Steven S. Macary, ZEO is going to be speaking to Mr. D’Amico, he should inform him that after the two week period, the Commission will set a bond for completion. He also stated that James H. Galligan, PZC Engineer will get involved and Mr. D’Amico will have to pay the cost for his services.

c. **Peachwave**

Steven S. Macary, ZEO explained briefly to the Commission that there is a dispute between the owner of Peachwave and the owner of the salon next door.

Chairman Carver stated that Peachwave has been approved for the tables, chairs and the benches. She asked that Steven S. Macary, ZEO, send a letter to the salon owner letting him know that Peachwave has permits for the tables, chairs and benches.

Commission Secretary Cocchiarella stated that this is a neighbor dispute and should be handled by the landlord. He requested that a copy of the letter sent to the salon also be sent to Peachwave and Wally Archer.

Steven S. Macary, ZEO reiterated that if he gets any phone calls regarding this issue, he will inform the party that this needs to be handled by the landlord.

d. **North Larkey Road**

Commission Secretary Cocchiarella stated that there is extensive correspondence for the Commission, including e-mails, pictures, videos and sound clips.

Sue Kasmin, 14 North Larkey Road stated that a little over two months ago, Marcus Dairy brought in their dairy business next to her at 16 North Larkey Road. She stated that the noise from the refrigerator trucks running 24/7 is constant. She noted that she is on an industrial lot, but was grandfathered in as a residence. She explained that the noise is unbearable as well as the diesel fumes, and both are not good for the horses on her property. She stated that she understands that she is in an industrial park, and the company can run their business, she feels they are not being a respectful neighbor. She noted that the noise starts up at around 3:30 PM and sometimes doesn’t end until 11 PM. She stated that the smell of fumes causes her to have to close the windows in her house as well as in the barn. She commented that she has sent videos taken from different times of the day and there have been visits from the State Police. She explained that she had a meeting with Sean Marcus and the Russo brothers, and she was promised a buffer belt of evergreens, and that was four weeks ago and she has seen nothing. They also promised to redirect the refrigerator trucks because where they are running is directly in the turnout for the horses. She requested that they get electricity for those to keep them quiet. She stated that in the beginning they parked tractor trailers lengthwise to use as a buffer from the noise. She stated that the buffer belts with trees will be great; there are eight unregistered

trucks along her property line. She stated that she was also promised that they were going to change the dock so that it wasn't facing her horses.

Alternate Commissioner Zbras questioned how many horses Ms. Kasmin has on her property.

Sue Kasmin stated that she has six horses.

Alternate Commissioner Zbras questioned if she owned all the horses.

Sue Kasmin stated that three horses are hers, two of them she boards and she has one sheep.

Chairman Carver stated that she has a few questions. She stated that she has to assume that summertime is not a good time to plant trees, so she will give the applicant time to plant the trees. She stated that Ms. Kasmin mentioned unregistered trailers; she will have Steven S. Macary, ZEO check with the Assessor regarding the unregistered vehicles. She explained that in regards to the noise, there is a noise ordinance in Oxford, and it is 80 decibels to her property line.

Alternate Commissioner Kerwin questioned how long Marcus Dairy has been at the location.

Chairman Carver stated that they were approved a couple of years ago. She stated that she would like to review the conditions of approval for Marcus Dairy, she does believe that Marcus Dairy is willing to work with Ms. Kasmin.

Sue Kasmin stated that for the buffer belt, they are using a strip in the back and she would like to request as it states in 9.11, from property line to property line. She requested that they be planted on the east side and the north side of the property.

Alternate Commissioner Kerwin stated that he does not know that the Commission has the right to tell them where to plant the trees.

Steven S. Macary, ZEO stated that the buffer that Ms. Kasmin is referring to is a definition, and they cannot apply that in this case. He stated that Marcus Dairy put up twenty trees which was most likely a condition of their approval or site plan.

Chairman Carver stated again that she wants to review the conditions of approval for Marcus Dairy.

Alternate Commissioner Kerwin stated that Ms. Kasmin has the right to put up trees on her property as well.

Alternate Commissioner Zbras commented that he visited the site and spoke to Mr. Russo. Mr. Russo explained to him that he was going to be putting up a fence with a sound barrier and that he was also going to be spending about \$60,000.00 on electric work so that they would be able to connect the refrigerated units. He also noted that Mr. Russo stated that it might take some time.

Sue Kasmin stated that in the beginning when they first moved in, they used to put the tractor trailers lengthwise near her property line, which acted as a buffer. She stated that they took those trucks away and asked that they put them there again to help with the noise. She noted

that they also excavated a strip of her property in the back and she requests that they remove the stone and replace the topsoil and the grass.

Commissioner Cosgrove questioned how many acres Ms. Kasmin owns.

Steven S. Macary, ZEO stated that it is approximately 2.5 acres, a little less.

Chairman Carver stated that there is an issue here, the horses that are being boarded.

Steven S. Macary, ZEO stated that she cannot board horses there, that you need at least five acres for commercial boarding in a residential zone; there is no allowance for boarding horses in the industrial zone.

Commission Secretary Cocchiarella stated that it is boarding horses is not allowed in the industrial zone.

Anthony Russo, Larkey Land Investors, LLC, also representing Marcus Dairy, was present. He apologized for the noise and the disruption that has been caused. He stated that they did have trailers across the property line as originally requested, and then he received a complaint that they were too close to the property line so he removed them. He stated that he would be more than happy to put them back as a temporary barrier to block out any sound, noise or sight if that would make their neighbor happy. He stated that he did agree to add trees along the property line at their own expense but in the meantime they had received a great deal of harassment via text message, phone calls to their tenant, numerous visits from Town Officials, visits from State Officials, media inquiries, personal defamation and insults to their business at their place of business. He explained that put everything on hold and put Marcus Dairy in a bad position where they no longer want to sign a long term lease.

Steven S. Macary, ZEO questioned if Mr. Russo lost Marcus Dairy as a tenant.

Anthony Russo stated that they have not lost them, they asked to lease month to month until they find somewhere else to go. He stated that they are more than happy to do whatever it takes to put up a permanent sound barrier of pine trees. He stated that he originally wanted to put up a fence, but Ms. Kasmin did not like the idea of a fence and asked for a pine tree buffer. He again stated that they would be more than happy to do so. She had asked for an extension of pine tree buffers in the front so she had no line of sight and they agreed to do so. He and his company want to apologize for the mistake made during excavation. He stated that they did excavate an area in the back and put down some stone and parked trucks that were recently retired there, he noted that he spoke to Sue and told her that it would be temporary. He commented that they are not registered and they will be removed. He stated that when they excavated they did go onto her property and after the fact there was a survey done because they couldn't find the corner pin. He stated that there is approximately three feet of Ms. Kasmin's property that they are more than happy to remove the stone, replace the topsoil and that is the area where the tree buffer will be planted. He commented that they have been exemplary neighbors and really want to apologize for any disruption and they really want to correct this as long as their tenant can stay and they can afford to pay for the corrections.

Steven S. Macary, ZEO gave Anthony Russo a copy of the email that was sent to the Planning & Zoning Department by Ms. Kasmin.

Chairman Carver stated that as far as the Commission is concerned, Mr. Russo's approval is valid, and the Commission does not enforce the Noise Ordinance.

Chairman Carver stated that the Commission has review both parties in complaint situations.

Steven S. Macary, ZEO stated the it is difficult because both parties have to be in compliance with the regulations, and because she is boarding horses in an industrial zone she is not in compliance, it is illegal to board horses in the industrial zone.

Sue Kasmin stated that she would stop boarding horses.

Alternate Commissioner Kerwin commented that they should find a neighborly way to resolve this issue. He stated that there has already been an approval for Mr. Russo and the Commission cannot add conditions after an application has already been approved.

e.) **Riggs Street**

Steven S. Macary, ZEO explained that he has been receiving complaints regarding beeping noises from a truck that comes to the corner of Riggs Street and Jack's Hill Road. Matt Zaloumis owns the building, one truck comes and goes between 6:00-6:30 AM, and another one comes and goes at approximately 6:00 PM each day.

Chairman Carver stated that Mr. Zaloumis has all his approvals for the site; therefore, he is in compliance and has an approved use for this site.

Commission Secretary Cocchiarella stated that the beeping on trucks is a state or federal regulation and is not handled by the Planning & Zoning Commission.

The **Commission** agreed that the beeping of the trucks in the industrial zone is does not fall under the purview of Planning & Zoning, that it would fall under the noise ordinance which is enforced by the Police Department.

f.) **New Use**

Steven S. Macary, ZEO explained briefly a new use that is going into the Century 21 building on Oxford Road. The applicant paid the fees and understands the sign requirements.

g.) **Pies and Pints**

Steven S. Macary, ZEO mentioned the sign for Pies and Pints, he thought that he had already brought it to the Commission, there may have been a misunderstanding, but they did come in for a sign permit and he did approve the sign.

h.) **Authorize Chairman & Secretary to Sign Mylar for Stihl**

MOTION BY Commission Secretary Cocchiarella to *AUTHORIZE* the Chairman and Secretary to sign the mylar dated June 18, 2015 with a revision date of July 13, 2015 titled "Lot Line Revision Map showing the merger of lots 12 & 15B for 589 Investments, LLC"
Second by Alternate Commissioner Kerwin. Vote: All (6) Ayes.

APPROVAL OF MINUTES

MOTION BY Commission Secretary Cocchiarella to *APPROVE* the following minutes as presented:

- 1.) August 4, 2015 Public Hearing Minutes – 10 Oxford Road
- 2.) August 4, 2015 Regular Meeting Minutes

Second by Alternate Commissioner Zbras. Vote: All (6) Ayes.

Brian J. Miller, Town Planner left the meeting at 9:20 PM.

INVOICES

MOTION BY Commission Secretary Cocchiarella to *APPROVE PAYMENT* for the following Nafis & Young Invoices:

- 1.) Nafis & Young Invoices
 - a. #234-15
 - b. #235-15
 - c. #236-15
 - d. #237-15
 - e. #238-15

Second by Alternate Commissioner Kerwin. Vote: All (6) Ayes.

- 2.) Micci & Korolyshun Statement dated August 1, 2015 – Garden Homes

MOTION BY Commission Secretary Cocchiarella to *FORWARD* the statement for Micci & Korolyshun, P.C. to the Board of Selectmen for payment.

Second by Alternate Commissioner Zbras. Vote: All (6) Ayes.

- 3.) Invoice # 2307 from Arrow Printers

MOTION BY Commission Secretary Cocchiarella to *APPROVE PAYMENT* of Invoice #2307 from Arrow Printers.

Second by Commissioner Jensen. Vote: All (6) Ayes.

- 4.) Turner Miller Group Invoices

MOTION BY Commission Secretary Cocchiarella to *APPROVE PAYMENT* of the following invoices from Turner Miller Group:

- a. #5261
- b. #5264
- c. #5265

Second by Commissioner Cosgrove. Vote: All (6) Ayes.

OTHER BUSINESS

- 1.) Any other business the Commission deems necessary for discussion.
- 2.) Naugatuck Valley Council of Governments Recommendation to Board of Selectmen.
- 3.) Authorization for Court Stenographer.

MOTION BY Commissioner Cosgrove to *AUTHORIZE* hiring a court stenographer for the September 15, 2015 Meeting.

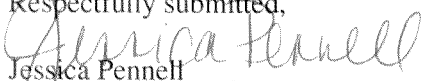
Second by Commission Secretary Cocchiarella. Vote: All (6) Ayes.

ADJOURNMENT

MOTION BY Commissioner Jensen to *ADJOURN* the meeting at 9:30 PM.

Second by Alternate Commissioner Kerwin. Vote: All (6) Ayes.


Respectfully submitted,



Jessica Pennell

Administrative Secretary

Planning & Zoning Commission

15 SEP -9 PM 4:03
TOWN OF OXFORD, CT

TOWN CLERK