



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

Planning & Zoning Commission

Special Meeting Minutes

Tuesday, May 24, 2016

7:00 PM

**Oxford Town Hall
Main Meeting Room**

CALL TO ORDER

Chairman Arnie Jensen called the Special Meeting to order at 7:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Pete Zbras, Harold Cosgrove, Jeff Luff, Arnie Jensen, Pat Cocchiarella and Bob Costigan.

Also Present: Jessica Pennell, Administrative Secretary, Steven S. Macary, ZEO and Land Use Counsel, Peter S. Olson.

Not Present: John Kerwin, Tanya Carver, Glen Persson and Todd Romagna.

SEATING OF ALTERNATES

Chairman Arnie Jensen seated Alternate Commissioner Pete Zbras.

RECESSED HEARING FOR THE FOLLOWING:

Chairman Arnie Jensen stated that they are continuing the recessed hearing on complaints filed by Attorney Fran Teodosio on behalf of his client Susan Kasmin.

1. **16 North Larkey Road – Zoning Complaints filed by Susan Kasmin and Attorney Fran Teodosio (on her behalf).**

The Commission will reconvene the hearing recessed on May 3, 2016 on all complaints related to the Property, alleging ongoing violations of the Regulations as follows:

1. That the use of the Property for “asphalt processing” has not been approved by the Commission;

2. That areas of the Property are being used for parking in violation of the requirements of Regulations § 3.15.1 and § 3.24, and prior Commission decisions and approvals; and
3. The areas of the Property that are being used for storage, in violation of the buffer requirements of the Regulations § 3.15.1, and prior Commission decisions and approvals.
4. That Larkey Land Investors, LLC has built an elevated “structure” as defined in § 2.50 of the Oxford Zoning Regulations and has not been approved by the Commission.

The hearing may continue on additional dates, after which the Commission will decide whether and how to act on the complaints under Articles 19 and 20 of the Regulations. Members of the public are invited to attend and comment.

Chairman Arnie Jensen questioned if Attorney Teodosio had any evidence to add.

Attorney Fran Teodosio, 481 Oxford Road questioned how the Commission will proceed after he makes his presentation.

Chairman Arnie Jensen stated that then the Commission would hear from the owners of 16 North Larkey Road.

Attorney Teodosio questioned if the makeup of the board was the same as the last Commission, specifically the Alternate that was seated for the May 3rd hearing.

It was determined that **Alternate Commissioner Pete Zbras** had been seated for that hearing as well.

Vice Chairman Jeff Luff stated that he is caught up on the May 3rd hearing proceedings.

Attorney Teodosio continued his presentation and stated that the work being done at 16 North Larkey Road is not authorized and is in violation of the Zoning Regulations. He commented that there were two (2) complaints that he submitted on 5/9/16. He produced pictures of the mafia block containment area and he stated that it is a structure as defined in the Zoning Regulations. He explained that the view from his client’s property is of that “structure”. He noted that in the approved plan dated 2015 there are no structures shown. He also noted that there is unauthorized parking on the strip that is directly behind Ms. Kasmin’s property. He explained that the zoning regulations have a 25’ setback, and the area of the structure is at least 5’ into the setback. He went on to say that the “structure” is violative of the zoning regulations, has not been approved by the Commission, is not depicted on previous site plans, specifically the one from October 2015, and there is supposed to be parking where that “structure” is located. He submitted a second picture and stated that his argument is the same regarding the two (2) structures, they are two (2) asphalt-recycling areas labeled by the applicant which are servicing fifteen (15) to twenty (20) vehicles and they also intrude into the setback. This use was also never authorized by the Commission. He stated that he wants to make clear, his argument to the Commission, that the asphalt-recycling operation is not authorized, if no site plan has been submitted then they are in violation of the Commission’s entire regulation for Article 9, Industrial Uses. He also wants to make clear to the Commission that his complaint is also violations for parking and buffers as defined by the zoning regulations.

Attorney Tom Kaelin, representing Angelo and Anthony Russo, owners of 16 North Larkey Road stated that there are new complaints before the Commission, which deal with alleged structures on the property. He responded by stating that what has been placed on the property has been approved by the Zoning Enforcement Officer.

Attorney Teodosio stated that he is going to object every time the Zoning Enforcement Officer is used in this proceeding because we were told that the Zoning Enforcement Officer is not part of this proceeding. We were told that this will be handled as though the Commission was the Zoning Enforcement Officer.

Attorney Kaelin stated that what the Zoning Enforcement Officer has said in the past is relevant particularly when Attorney Teodosio is suggesting that none of the activities in question were ever run by the Town. He stated that everything was run by the Zoning Enforcement Officer, Steve Macary. He explained that the plans for what they wanted to do, where they wanted to do it and how they wanted to do it was run by Steve. He stated that the ZEO inspected the area before, during and after it was done. He commented that what they have from Steve Macary is a verbal certificate of compliance. He noted that when it is stated that the Town had no knowledge of the company and its use is factually incorrect. He went on to discuss the two (2) structures that Attorney Teodosio and his client are complaining about. He stated that these are not structures under the definition, Section 2.50 of the zoning regulations. He read the definition of “structures” into the record. He explained to the Commission why these mafia blocks are not “structures”.

Attorney Barry Knott representing Burns Construction Company referred to a letter from Attorney Peter Olson to Chairman Arnie Jensen about who is acting as Zoning Enforcement Officer on this matter.

Attorney Olson stated that it was determined that the Commission would be acting as the Zoning Enforcement Officer, and the formal motion was made at the previous meeting.

Attorney Knott questioned if the Commission would be handling the noise complaint.

Attorney Olson stated that the noise complaint would not be addressed by the Commission.

Attorney Knott stated that the site has been approved as a contractor’s yard since 2005; he referred to the definition of contractor’s yard from the zoning regulations. He noted that Burns Construction Company is a paving contractor and as such it is in the conduct of his contracting business to engage in asphalt processing in his contractor’s yard. He stated that this is Burns contractor’s yard under the lease with the landlord and Burn’s use of this yard for asphalt processing is consistent with the definition of contractor’s yard in the zoning regulations. He stated that under the Commission’s own regulations this is a permitted use. He also explained that the issues regarding the parking and buffers were decided by the Commission when they approved the application Z-15-148 in October of 2015. He noted that it was noticed in the paper and no appeal was made within the statutory time frame. He commented that the complaints by Attorney Teodosio and Ms. Kasmin have no merit.

PUBLIC COMMENTS

Roberta Olson, 126 Jack’s Hill Road spoke in opposition of the continuing activity and asked that the Town do the right thing.

Gary Gittings, 14 North Larkey Road explained some hazards regarding the asphalt recycling and opposed the activities.

Wayne Johnson, 68 Dorman Road questioned how this could even be considered an approved application and opposed the use of the property.

Scott Beisiegel, 74 Jack's Hill Road stated that he is against the use of this property as an asphalt processing area and does not consider the activities a contractor's yard.

Susan Kasmin, 16 North Larkey Road restated her complaints regarding lights and odor, she noted that she even had to call the police because of the lights. She also explained that she visited Guerrero Construction and Sinopoli Construction to see how they run their contractor's yards. She commented that she understands that business needs to be done but it can be done respectfully. She asked the Commission to consider that she is a resident and that she should be respected.

James Lacobelle, 3 Wildflower Drive expressed potential health concerns regarding the asphalt processing.

Vice Chairman Jeff Luff noted that he is a business owner approximately a ¼ of a mile from the property located at 16 North Larkey Road.

Attorney Teodosio disputed that Attorney Knott's statements regarding the mafia blocks on the 2005 map are untrue. He stated that there is an argument being made that his client did not take an appeal. He noted two rebuttals to that. The first is that there is nothing in the October 2015 approval that says anything about a contractor's yard, the Commission cannot be in violation of its own zoning regulations. The second thing is that Susan Kasmin was here and she tried to complain about the Marcus Dairy operation and the process was directed toward her because of her horses and she was fined \$6,000.00 which your own appeal process threw out as incorrect. He also stated that if they are not structures, they still cannot be allowed in a setback. He noted that the last point is that the applicant's attorney is stating that they have an oral/verbal approval to run an asphalt plant, the Planning & Zoning Commission used to protect the town and used to be more diligent in processing applications and outlining conditions in detail. He stated that as for the parking, you cannot give an approval for parking on the strip because it doesn't fit in with the zoning regulations; it was approved for storage trailers and miscellaneous use. The map that he received from the Zoning Enforcement Officer suggests that Burns was coming in for an application, but it never happened. He challenged anyone to go to the Tax Assessor and see if anything that is being used on that property is being taxed by the Town, the only thing being taxed by the Assessor is the real estate. He commented that trees are shown in the setback in 2005 and no application has been made for the present use.

Attorney Kaelin stated that this is industrial property in an industrial zone; the owners purchased it in 2005. He stated that seven (7) years later Ms. Kasmin bought a non-conforming lot in an industrial zone. We know that it is asphalt recycling, you've seen the machine, they are not making asphalt. He commented that the use is permitted, they regulations are clear they can conduct their business there, store equipment there and have an office. The Zoning Enforcement Officer and the land use office has advised his client every step of the way. Parking and buffers were presented to the Commission and they were approved by the Commission; the appeal time has long since passed. He stated that his rebuttal regarding the mafia blocks as structures is that it is movable and temporary; it is a temporary containment area.

Attorney Knott reiterated that it is an approved contractor's yard by a special exception, which runs with the land. He stated that it is still approved and being used as a contractor's yard.

Attorney Teodosio stated that the approval of 2015 has no indication of buffers or parking.

COMMISSION QUESTIONS

Chairman Arnie Jensen questioned the structures on the property, the height and the locations.

Anthony Russo, owner, Larkey Land Investors, LLC stated that they are four (4) blocks high.

Chairman Arnie Jensen questioned how far the blocks are from the property line.

Anthony Russo stated that they are 45' from the north, and 120' to the east.

Mitch Flynn, Burns Construction Company, stated that the mafia blocks are used to maintain any material that comes in.

Commissioner Harold Cosgrove asked if there is a way that the lights could be directed away from Ms. Kasmin's house.

Mitch Flynn stated that absolutely they could direct the light towards the trees or the ground.

Chairman Arnie Jensen stated that there should be a measurement of the storage areas to the property line.

Steven S. Macary, ZEO stated that measured it and it is well within the setbacks.

Commissioner Harold Cosgrove questioned how large the lot at 16 North Larkey Road.

Attorney Kaelin stated that it is 5.67 acres.

Commissioner Harold Cosgrove questioned the size of Ms. Kasmin's lot.

Gary Gittings stated that it is 2.5 acres.

Vice Chairman Jeff Luff requested that the police report be submitted, the one from the call to the police about the lights at 4:00 AM.

Sue Kasmin stated that she would get that for the Commission.

Alternate Commissioner Pete Zbras stated that regarding Ms. Kasmin's pictures of the town trucks, he checked that out and the Town never purchased any asphalt from Burns Construction.

Attorney Teodosio stated that his client went out with a video camera

A brief discussion ensued regarding the accusations made regarding town trucks being at 16 North Larkey Road.

Sue Kasmin questioned why the town trucks would be there.

Alternate Commissioner Pete Zbras stated that he was told that they were getting a price for asphalt. He then requested that any pictures submitted have time and date stamps.

Attorney Teodosio asked that the record reflect that he is arguing with a Commission member about evidence to be submitted before they have arbitrated.

Attorney Olson requested that Attorney Teodosio please submit a letter with times and dates on them.

Attorney Teodosio stated that he did not submit more pictures because he was asked not to continue complaining every day.

Alternate Commissioner Pete Zbras made a statement regarding the blue spruce trees. He had a letter dated 7/30/15, which stated that Ms. Kasmin would allow white pines.

Attorney Teodosio stated that the letter says that he is going to put up white pines, not that Ms. Kasmin has agreed. He noted that letter was regarding Marcus Dairy, not Burns.

Vice Chairman Jeff Luff stated that he would like the video put into evidence as well. If Ms. Kasmin can't provide that then the Commission should strike anything she has said about our town.

Discussion ensued regarding what was said regarding town trucks on the property and what was on the video that was taken by Ms. Kasmin.

Commissioner Bob Costigan questioned if the DEEP was ever called and if so can Ms. Kasmin provide dates, time and any results of the phone calls.

Sue Kasmin stated that she would put it in a letter and submit it to the Commission.

Chairman Arnie Jensen asked if Steven S. Macary, ZEO had followed up on the other contractor's yard applications.

Steven S. Macary, ZEO stated that Ms. Kasmin mentioned Guerrera and Sinopoli.

Jessica Pennell, Administrative Secretary stated that she found some applications, H.I. Stone located at 101 Willenbrock Road, Guerrera, located at 103 Willenbrock Road, Oxford Hardware, located at 113 Oxford Road and Ferris Properties, 62 Prokop Road.

Attorney Olson questioned if there are any others.

Vice Chairman Jeff Luff stated that there is Louis Mangione at 83 Prokop Road, M&O at 103 Jack's Hill Road and Earthworks, located on Fox Hollow Road.

Commission Secretary Pat Cocchiarella stated that there seems to be a number of separate issues involved.

Chairman Arnie Jensen stated that they are going to have to separate out the issues and address them one at a time.

Attorney Olson questioned if the Commissioners were available for a special meeting for final deliberations and decisions. He suggested that the hearing be continued to May 31st, but only to accept the documents requested. He stated that there would be no testimony or arguments on that night.

Mitch Flynn, Burns Construction offered to give the Commissioners a demonstration of the operation on site.

Attorney Olson suggested that only one (1) or two (2) Commissioners go, otherwise it will become a meeting which would have to be posted.

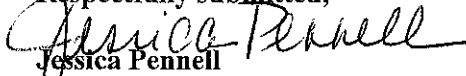
Attorney Knott stated that he will not attend on May 31st.

MOTION BY Commission Secretary Pat Cocchiarella to continue the hearing to *Tuesday, May 31, 2016 at 7:00 PM*, seconded by **Commissioner Bob Costigan**. All Ayes.

ADJOURNMENT

MOTION BY Commission Secretary Pat Cocchiarella to adjourn the special meeting at 8:45 PM, seconded by **Commissioner Harold Cosgrove**. All Ayes.

Respectfully submitted,



Jessica Pennell

Administrative Secretary

Planning & Zoning Commission

16 JUN 23 AM 12:10
TOWN OF OXFORD, CT
Margaret H. West
TOWN CLERK