

# **TOWN OF OXFORD**

## **PLANNING & ZONING COMMISSION**

S.B. Church Memorial Town Hall  
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### **Special Meeting Minutes**

**Tuesday, May 31, 2016**

7:00 PM

Oxford Town Hall  
Main Meeting Room

### **CALL TO ORDER**

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

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

**Present:** Pete Zbras, Glen Persson, Jeff Luff, Chairman Arnie Jensen, Pat Cocchiarella and Bob Costigan.

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

**Not Present:** John Kerwin, Tanya Carver, Harold Cosgrove and Todd Romagna.

### **SEATING OF ALTERNATES**

Chairman Arnie Jensen seated Alternate Commissioner Pete Zbras.

Chairman Arnie Jensen reiterated the reason for the hearing this evening.

### **RECESSED HEARING FOR THE FOLLOWING:**

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. That areas of the Property 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.

## **2. Deliberation**

**Attorney Peter Olson** stated that at the last hearing it was requested that Attorney Teodosio submit the date and time for all photos that were presented throughout the hearing. He also noted that a copy of police report was to be submitted for the record.

**Vice Chairman Jeff Luff** stated that he spoke with Sinopoli and Guerrero and noted that he investigated the accusations regarding public works trucks seen at 16 North Larkey Road; he received an email from Public Works Director, Wayne Watt.

**Alternate Commissioner Pete Zbras** stated that he went to the Wetlands department and found that there are no wetlands violations regarding 16 North Larkey Road.

**Chairman Arnie Jensen** introduced an email from Anthony Russo to Steven S. Macary; ZEO dated March 27, 2016.

**Attorney Teodosio** introduced the video that had been discussed regarding Public Works trucks at 16 North Larkey Road.

**Commission members** viewed the video presented by Attorney Teodosio.

**Chairman Arnie Jensen** stated that the Planning & Zoning Commission does not regulate noise or odor and the lighting at 16 North Larkey Road is a movable structure so he believes these allegations can be dismissed.

**Attorney Olson** noted that it was a special permit for a contractor’s yard, which runs with the land, much like a variance.

Commission members discussed items 1-14, listed below.

**MOTION BY Commission Secretary Pat Cocchiarella** to recess at 8:31 PM, **seconded by Vice Chairman Jeff Luff**. All Ayes.

**MOTION BY Commission Secretary Pat Cocchiarella** to come out of recess at 8:48 PM, **seconded by Vice Chairman Jeff Luff**. All Ayes.

**Commission Secretary Pat Cocchiarella** read the Decision into the record.

**TOWN OF OXFORD**  
**PLANNING & ZONING COMMISSION**

**DECISION**

The Planning & Zoning Commission of the Town of Oxford hereby issues its decision on the various zoning complaints filed by Francis Teodosio on behalf of Susan Kasmin and by Susan Kasmin individually, concerning the property located at 16 North Larkey Road, to wit:

- a. Complaints contained in a zoning complaint filed on April 5, 2016 by Francis Teodosio on behalf of Susan Kasmin;
- b. Further complaints contained in a letter from Francis Teodosio on behalf of Susan Kasmin dated April 11, 2016;
- c. Further complaints contained in two zoning complaints filed May 9, 2016 by Francis Teodosio on behalf of Susan Kasmin.
- d. Further complaints on the same alleged violations as have been received by the Commission and its staff.

At its meeting of May 3, 2016, the Commission adopted a motion, assuming jurisdiction over all of said complaints, including ancillary and incidental complaints related to the foregoing, to the exclusion of the jurisdiction of any other official of the Town of Oxford or other individual, board or commission.

The Commission has held three hearings, on May 3, 2016, May 24, 2016, and May 31, 2016 wherein it received written and oral testimony, and other documents in relation to the zoning complaints from the Complainant, the Property Owner, and the Tenant on the Property. All parties were represented by counsel at the hearings.

**FINDINGS**

Based upon the evidence presented to it during said hearings, the Commission hereby finds as follows:

1. The activities complained of are of an ongoing nature, and as such, the complaints filed are sufficient to place the entire scope of activity within the Commission's purview.
2. The Zoning Regulations do not contain any provisions regulating noise, and therefore such complaints are not within the purview of the Commission.
3. The Zoning Regulations do not contain any provisions regulating smell, and therefore such complaints are not within the purview of the Commission.
4. The Zoning Regulations do not contain any provisions regulating non-permanent or mobile lighting equipment, and therefore such complaints are not within the purview of the Commission.
5. The Property located at 16 North Larkey Road is approved for use as a contractor's yard, based upon the granting of a Special Exception on January 5, 2006 (See Approval Z-05-305).
6. The activities which are occurring on the Property are within the definition of contractor's yard, as set forth in Section 2.14a of the Zoning Regulations, as historically applied by the Commission. The Commission has historically allowed the processing of material, such as mulch, paint, tar and other building materials

on properties designated as contractor's yards. The recycling of asphalt product on this property for use in the contractor's business meets that criteria. The Commission finds it important that the asphalt recycling which occurs on the property is performed by mobile vehicles rather than a permanent structure. The sale of such product to third parties would not meet the Regulations' definition of "contractor's yard" and the Commission's historical interpretation of same.

7. The strip located in the southeastern rear of the property, the panhandle, is being used for parking of personal vehicles in a manner, which does not comply with the Zoning Regulations, particularly:
  - a. the buffer requirement of Section 3.15.1;
  - b. the requirements that parking be provided as set forth in Section 3.24.1; and
  - c. the design standards for parking areas as set forth in Section 3.24.3;
  - d. The design standards and screening requirements of Section 9.8;
8. The prior site plans do not provide for personal vehicle parking in the area identified in Paragraph 7, but storage of the contractor's vehicles such as concrete trucks and dump trucks is permitted under Site Plan Z-15-148.
9. Areas of the Property are being used for storage in a manner that the buffer is not in compliance with the Zoning Regulations, particularly:
  - a. the buffer requirements of Section 3.15.1; and
  - b. the buffer requirements of Section 2.10;
  - c. the screening and buffer requirements of Section 9.10 and 9.11, 9.14.4, 9.14.5, 9.14.6;
  - d. the site plan requirements of Section 11.3.3 and 11.3.4.
10. The approval of prior site plans (particularly, Z-15-148) for the property provided for storage in the areas identified, and therefore the Commission has approved such use. No appeal has been taken from that decision, and as such, without opining on the strict compliance of such activities with the Regulations, the Commission cannot go back and modify that site plan. The Commission does note the provisions of Schedule B which permit the Commission to waive setbacks in certain circumstances.
11. The plantings of evergreen trees on the Property are found to be in substantial compliance with the approved site plans, including Z-15-148.
12. Neither of the concrete enclosures meet the definition of "structure" as set forth in Section 2.50 of the Zoning Regulations because even though they are walls in excess of 42" high, they do not consist of parts which are joined together in some definite manner.
13. Both concrete enclosures meet the definition of a wall under Section 3.25 of the Zoning Regulations, as they do not exceed six feet in height, and as such, the setback requirements of the Regulations do not apply.
14. The construction of the concrete enclosures does not require any zoning approval under the Zoning Regulations.

**ACTION**

Based upon the previous findings of fact, the Commission hereby decides and directs as follows:

1. The complaints concerning noise, odor and lighting are dismissed. The Commission shall not take any enforcement action thereon under Articles 19 and 20 of the Zoning Regulations.
2. The complaint that the activities on the property are not approved or are not within the definition of a contractor's yard are dismissed. The Commission shall not take any enforcement action thereon under Articles 19 and 20 of the Zoning Regulations.
3. The complaint that parking of personal vehicles is occurring on the property in areas, namely the southeastern strip in the rear of the property, which violate the buffer and setback provisions of the regulations are found to be valid. The Commission's counsel shall prepare a Notice of Violation concerning the same, issue it to the property owner, and tenant under the signature of the Chair of the Commission. The property owner and tenant shall be directed to attend a meeting of the Commission to discuss the violation and efforts to resolve, and to show cause why a cease and desist order should not issue.
4. The complaint that storage activities are occurring on the property are not approved or are within setbacks or buffers are dismissed. The Commission shall not take any enforcement action thereon under Articles 19 and 20 of the Zoning Regulations.
5. The complaint that there are insufficient setbacks or buffers on the Property are dismissed except as stated herein.
6. The complaint that the concrete enclosures are structures requiring zoning approval is dismissed. The Commission shall not take any enforcement action thereon under Articles 19 and 20 of the Zoning Regulations.
7. The complaint that the concrete enclosures are located within required setbacks or buffer areas is dismissed. The Commission shall not take any enforcement action thereon under Articles 19 and 20 of the Zoning Regulations.
8. The complaint that the activities on the property violate the noise ordinance are dismissed since the Commission is not the enforcement authority thereunder. The Commission shall not take any enforcement action thereon under Articles 19 and 20 of the Zoning Regulations.
9. The complaints concerning odor and lighting are dismissed since there no provisions of the Zoning Regulations governing the same. The Commission shall not take any enforcement action thereon under Articles 19 and 20 of the Zoning Regulations.

**Attorney Olson** asked for suggestions or revisions from the Commission.

Several minor changes were made to the Decision.

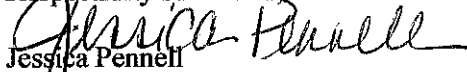
**MOTION BY Commission Secretary Pat Cocchiarella** to accept all changes to the Decision and to adopt the Decision, **seconded by Vice Chairman Jeff Luff. All Ayes.**

**Commission Secretary Pat Cocchiarella** moved to close the hearing on violations/complaints regarding property located at 16 North Larkey Road, **seconded by Vice Chairman Jeff Luff. All Ayes.**

**ADJOURNMENT**

**MOTION BY Commission Secretary Pat Cocchiarella to adjourn the meeting at 9:15 PM, seconded by Vice Chairman Jeff Luff. All Ayes.**

Respectfully submitted,



Jessica Pennell

Administrative Secretary

Planning & Zoning Commission

16 JUN 23 AM 12:10  
TOWN OF OXFORD, CT  
*August A. Clark*  
TOWN CLERK