



TOWN OF OXFORD
S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
(P) 203.888.2543 (F) 203.888.4543
www.Oxford-CT.gov

Planning & Zoning Commission

Regular Meeting Minutes

Tuesday, August 16, 2016

7:30 PM

Oxford Town Hall
Main Meeting Room

CALL TO ORDER

Chairman Arnie Jensen called the meeting to order at 7:50 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Tanya Carver, Pete Zbras, John Kerwin, Harold Cosgrove, Glen Persson, Jeff Luff, Arnie Jensen, Pat Cocchiarella and Todd Romagna.

Not Present: Bob Costigan.

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

Also Present: First Selectman, George Temple.

CHAIRMAN'S REPORT - None

SEATING OF ALTERNATES

Chairman Arnie Jensen seated Alternate Commissioner Tanya Carver.

AMENDMENTS TO THE AGENDA – None

AUDIENCE OF CITIZENS

CORRESPONDENCE

Commission Secretary Pat Cocchiarella read the following correspondence into the record:

- a. Memorandum dated 8/8/16 from the Selectmen's Office

Re: 2015-2016 Annual Report

Commission Secretary Pat Cocchiarella noted that the following correspondence would be discussed under Zoning Enforcement.

- b. Letter dated 8/11/16 from Lorraine & Ralph Tirella Jr.

OLD BUSINESS – None

NEW BUSINESS

- 1. Z-16-192 [VCMUD] – 300 Oxford Road
Owners: Oxford Towne Center, LLC
Applicant: Robert Gidwani – “Wine Market”
Application for Use Permit: (Liquor Store)

MOTION BY Commission Secretary Pat Cocchiarella to approve application Z-16-192 based on the following:

- a. Compliance with the Zoning Regulations in effect as of this date.
- b. Application is complete and all fees have been paid.

With the following conditions:

- 1) Applicant and their assigns must comply with all representations made at P&Z Commission meetings regarding this application.
- 2) Compliance with the Statement of Use dated 8/4/2016.
- 3) Compliance with P.D.D.H’s approval dated 8/4/2016.
- 4) Any changes and/or modifications to the use permit must come back before the Planning & Zoning Commission for approval including any lease changes or change of ownership.
- 5) Per Article 3, Section 19.1 of the Zoning Regulations, the applicant shall be responsible for rendering payment for any outside experts the Commission assigns to review this application.
- 6) The applicant must present his sign rendering to the Planning & Zoning Commission for approval before installation and final approval.

Second by Commissioner Harold Cosgrove. All Ayes.

Approval Effective: August 16, 2016

BONDS/BONDS RELEASES

- 1. Belmar Farms, LLC Application (Bond Release Request) *(TABLED)*

ZONING ENFORCEMENT

Steven S. Macary, ZEO noted that he has received complaints about the following properties:

- 1. Oxford Towne Center & Goodwill – Complaints submitted by Phoenix Propane.

Lorraine Tirella, 11 Larkey Road stated that she is here tonight on behalf of property at 268 Oxford Road, owned by RKNE Realty, LLC.

Commission Secretary Pat Cocchiarella read a letter received on 8/11/16 from Lorraine & Ralph Tirella, Jr.

Chairman Arnie Jensen stated that two weeks ago Mrs. Tirella submitted a long list of issues and the Commission has gone through and pulled out specific potential zoning violations. He stated that if Mrs. Tirella had evidence that she would like to present that the Commission would hear it.

Mrs. Tirella stated that their surveyor has proved that their land has been taken.

Chairman Arnie Jensen asked Mrs. Tirella if she has an A-2 survey from her surveyor that she is going to submit.

Mrs. Tirella stated that she does not have a survey to submit. She stated that what their issue is with the surveyor is that they were told by the ZEO that they were not going to take any action unless they had a surveyor come out. She stated that they asked the surveyor what the ZEO had asked them to do, which was to come out and mark off their properties lines. She commented that if they could find out where their property lines were and if they were taking their property, action would be taken. She stated that they did what they were asked to do by the ZEO. She stated that they called the ZEO and he refused to do anything, that it was a police matter. She commented that they have taken it up with the Police Chief, the First Selectman Temple and if they have to pursue criminal trespass, they will do that. She noted that Haynes came over and verified the property line and there is no property line dispute here. She stated that Haynes is in agreement with them about the property line, this is not a property line dispute.

Alternate Commissioner John Kerwin asked if Mrs. Tirella had anything in writing to confirm that.

Mrs. Tirella stated that her husband and herself can witness, and if Haynes was here, both parties should be here.

Alternate Commissioner John Kerwin stated that rather than just having one side, they need to give the other party an opportunity to respond.

Mrs. Tirella stated that is why they are requesting a hearing. She commented that they were told to request a hearing, so both sides can be heard.

Vice Chairman Jeff Luff stated that for the Commission to enforce any valid violations, they need to have a distinct A-2 survey to determine who is in violation of what. He commented that a survey would allow them to look at any potential violations, that is why they need the A-2 survey. He stated that if Mrs. Tirella can get the representative from Haynes to put whatever she stated to Mrs. Tirella in person, into writing, and if she herself can submit a letter as well, then they can move forward, but until then these allegations can't go on.

Mrs. Tirella stated that she understands, except that they have talked to Haynes and they have admitted that they took their property, they don't have it in writing, but she was here at the last meeting.

Vice Chairman Jeff Luff said to just get it in writing.

Mrs. Tirella stated that they were told that they could request a hearing from Planning & Zoning and they could hear both sides.

Vice Chairman Jeff Luff stated that the Commission has a process which they have to go through, there are steps. He stated that it is not within the rules to reopen it unless they have something showing a violation that they can enforce. He stated that the only other way to open this is with a civil case.

Alternate Commissioner John Kerwin stated that they need to be fair to property owners of the Town. He commented that there are two property owners here so each party should have an opportunity to respond. He stated that with property lines and property disputes generally, you need an A-2 survey.

Mrs. Tirella stated that they would go back to the surveyor and get the A-2 survey and they will come back. She stated that in the meantime, they have excavated and blasted, their permit is expired as of November 1, 2015. She commented that was reiterated by Dominick Thomas in an email that he had sent to the ZEO.

Vice Chairman Jeff Luff stated that these are the same things that she brought up at the last meeting.

Mrs. Tirella stated they are not, the excavation permit has expired and the Commission is allowing them to continue to excavate without a permit.

Vice Chairman Jeff Luff stated that he hasn't gotten that complaint.

Mrs. Tirella stated that this is a new complaint, she had a written letter to submit to the Commission.

Vice Chairman Jeff Luff stated that the letter from Mrs. Tirella has to be submitted and the Commission has to have the chance to read it they can respond.

Alternate Commissioner John Kerwin stated that they should also get some input from the respondent.

Commission Secretary Pat Cocchiarella stated that to his understanding the excavation work was done on that site, prior to Goodwill taking over. He stated that what is being done there by Goodwill is site preparation, not excavation.

Mrs. Tirella stated that is not true, they did major regrading, they went over ten feet higher.

Commission Secretary Pat Cocchiarella stated that they need documentation and engineering to show that.

Mrs. Tirella stated that the Commission does have the documentation that the permit has expired.

Chairman Arnie Jensen stated that she was in front of the Commission at the last meeting and that she submitted many pages of allegations. He commented that they have gone through and tried to pull out specific zoning violations that they will address. He said it looks like there is another complaint they need to look at and determine if there are specific violations. He commented that they will start with the old complaint and talk about that now, and then look at the new complaint.

Chairman Arnie Jensen stated that the first group of zoning violations are encroachment, silt fences, rock walls, hay bales, property 8 feet in the back and runoff. He commented that these items would be addressed by the A-2 survey. The next one is the concern of how close the building is to the property line and emergency access, the Commission will look at that and address it. The excavation 50' from the property line, the Commission will also investigate that allegation. Notification of the different hearings, Jessica will make a list of all notifications, what went and when. Ownership and signatures on the various applications will be looked at by the Commission.

Alternate Commissioner Tanya Carver stated that the only notices that Jessica needs to list are the Public Hearing notices.

Chairman Arnie Jensen stated that the next one is dust control; he asked that Steve look into the dust control allegation. He requested that Steve make sure that they are complying with any dust control measures that were in the approval. He also asked Steve to look into the hours of operation, he asked that Steve find out the hours that they are operating and then they can compare that to the regulations. He asked if the Commission had anything other to add.

Alternate Commissioner Tanya Carver noted that Steve could go back to the special meeting minutes of October 15, 2013 and it has all the information regarding excavation. The motion for approval of Z-13-138. She also added that there was a meeting in February 2014 where a request for an extension of hours was discussed.

Alternate Commissioner John Kerwin stated that this is commercial property owned by a commercial entity. He stated that they generally require documentation from the owner of the property that a representative can conduct business on their behalf.

Chairman Arnie Jensen questioned which company, the real estate company or the gas company.

Alternate Commissioner John Kerwin stated the documentation would be from RKNE Realty, LLC.

Alternate Commissioner Pete Zbras stated that Mrs. Tirella is saying that they are blasting, he questioned if she knows if the Fire Marshal was present when they blast.

Mrs. Tirella stated that the Fire Marshal was supposedly out there when she had a tanker truck come in and she was in the office. She stated that they are supposed to call her and notify her if they are going to blast because they have these tanker trucks that come in and they let off gas into the air.

Alternate Commissioner Pete Zbras questioned if the Fire Marshal was there.

Mrs. Tirella stated that she did not see him.

Alternate Commissioner Pete Zbras questioned the permit.

Mrs. Tirella stated that there is a blasting permit.

Alternate Commissioner Pete Zbras stated that the Fire Marshal is the one who gives out blasting permits.

First Selectman Temple stated that the Fire Marshal does give out the permits and no one blasts unless he is present.

Vice Chairman Jeff Luff stated that when something happens that Mrs. Tirella questions, she should make a note with the date and time.

Chairman Arnie Jensen stated that were various other items that were brought up by Mrs. Tirella which were non-zoning issues.

Alternate Commissioner John Kerwin pointed out that Mr. Temple is not an actual law enforcement officer, if you have a criminal complaint; you call the police department, not the First Selectman.

First Selectman Temple agreed that he has no enforcement authority.

Mrs. Tirella stated that the police department has to report to him as the Police Chief.

Alternate Commissioner John Kerwin stated that the police department reports to him on administrative matters.

Mrs. Tirella stated that the Planning & Zoning Commission does not want to take any action regarding this matter.

Vice Chairman Jeff Luff stated that they need evidence in order to investigate and make any decisions.

Jessica Pennell, Administrative Secretary stated to Mrs. Tirella that she has sent in various FOI requests. She questioned if Mrs. Tirella was satisfied with the information that she has received or if she needs any other documents.

Mrs. Tirella stated that there is one, 14.4 regarding excavation and regrading.

Jessica Pennell, Administrative Secretary stated that she will add that to the list and ask Steve if he has received the proper documentation.

14 North Larkey Road – Complaint regarding panhandle parking at 16 North Larkey Road

Steven S. Macary, ZEO stated that he took pictures of the strip where the cars had been parking. There was one car, which was removed right away. He stated that Mr. Russo also put up a “no parking” sign.

Attorney Francis Teodosio, representing Susan Kasmin, questioned the date of the last meeting.

Chairman Arnie Jensen stated that it was August 2, 2016.

Attorney Teodosio stated that since the last meeting on August 2, 2016 and since the ZEO has been out there, no other parking on the panhandle has occurred except the BMW, which was moved.

16 North Larkey Road – Complaint from Mitch Flynn of Burn's Construction regarding various zoning violations at 14 North Larkey Road

Steven S. Macary, ZEO stated that this complaint came in on August 15, 2016.

Mitch Flynn, Burns Construction Company stated that he doesn't really care about this complaint, the fence doesn't bother him, the horses don't really bother him. He stated that this is simply an attempt to ask Ms. Kasmin to stop harassing us and bringing them before this board constantly. He stated that his statement to her is people in glass houses shouldn't throw stones. He stated that he is tired of being accused of things they don't do, and reading posts on Facebook, he sat down and went through the regulations and found some things that they can make an issue of, they can, but he prefers not to. He stated that the complaints are; paddocks and fences are to be 100' away from property lines, if you assume that she is grandfathered in then the maximum number of horses that she can have is 1 per acre and she has 2 acres, so that would be 2 horses. He stated that he would like to mend fences and just stop all this.

Commission Secretary Pat Cocchiarella stated that he has a different interpretation of this, he considers it boarding if it is for a fee or service, not for personal horses. He stated that the Right to Farm Ordinance allows the personal horses.

Chairman Arnie Jensen stated that according to that you can have as many horses as you want.

Commission Secretary Pat Cocchiarella stated yes as long as the Department of Agriculture feels there is proper manure management.

Mitch Flynn stated and as long as you have 5 acres.

Commission Secretary Pat Cocchiarella disagreed.

Attorney Fran Teodosio asked to be heard.

Alternate Commissioner John Kerwin stated that the Commission needs to narrow down the nature of the complaint. He stated that they may want to hear from the complainant again because what he is claiming is that it is not a permitted use and an open and shut case. He commented that he disagrees because if it is a pre-existing non-conforming use in an industrial zone it requires compliance with the regulations under the industrial zone, not the residential zone. He stated that even if they gave her the opportunity she would be required to apply for a special permit because she's involved in the commercial boarding of horses. He stated that there is also the issue of whether this property is industrial, which the maps seems to indicate, it is an industrial zone. It is industrial property with a pre-existing, non-conforming use and she is not allowed to expand the non-conforming use. He stated that he thinks the allegation is boarding of horses for commercial purposes, which the complainant refers to in Article 5, Section 5.3.2.

Attorney Teodosio stated that was the topic that was argued before your hearing officer. He stated that the complaint was made that this was a commercially boarding activity

Alternate Commissioner John Kerwin stated that complaint was not made by Mr. Burns, it was revealed by Ms. Kasmin to the Commission. He stated that this is a new and unique complaint brought by the property owner. He stated that it was Marcus Dairy at the time.

Attorney Teodosio stated that it is the same complaint. He stated that for the record, the 5 animals that were on the property in February, when the hearing was held are the same 5 animals that are still there today.

Vice Chairman Jeff Luff questioned if when Ms. Kasmin bought the property, did she buy it under residential or industrial.

Commission Secretary Pat Cocchiarella stated that it was industrial.

Vice Chairman Jeff Luff stated that they have to investigate that.

Steven S. Macary, ZEO stated that page 96 of the Zoning Regulations states that she can use it as a residence but she cannot expand it. He stated that the non-conformity comes in when they start expanding the use.

Alternate Commissioner John Kerwin stated that boarding of horses is not permitted in an industrial zone.

Steven S. Macary, ZEO stated that is correct.

Mr. Flynn stated that he has spoken to Mr. Gittings and they may have reached an agreement, and they may be able to withdraw this complaint.

Steven S. Macary, ZEO questioned if that meant that they are not going to take any more complaints.

Vice Chairman Jeff Luff asked that Ms. Kasmin come up and state that she is okay with this agreement.

Mr. Flynn stated that he is going to stop complaining about her and she is going to stop complaining about him. He stated that he is agreeing before this board that he is going to stop wasting the Commission's time, and she is agreeing that she is going to stop wasting their time.

Attorney Teodosio stated that he does not know that for a fact because he was not privy to the conversation.

Vice Chairman Jeff Luff stated that Mr. Gittings is not the owner of the property, so Sue would have to be the one to agree.

Attorney Teodosio stated that Mr. Flynn is not the owner. He stated that if these gentleman work out an agreement that is fine, but they cannot work out an agreement that affects what the Commission does.

Alternate Commissioner John Kerwin stated that if Mr. Flynn wants to withdraw his complaint with the agreement that they are proposing.

Sue Kasmin got up and stated for the record that she owns the property, Susan W. Kasmin and her father Chester P. Kasmin.

Vice Chairman Jeff Luff is that an LLC?

Sue Kasmin answered that it is not an LLC. She stated that she has already dealt with the horse issue.

Mr. Flynn stated that he is not trying to bring this up because he actually cares. He commented that what he is trying to say is please stop with the facebook posts, and dragging him before this board and saying that he is breaking laws.

Sue Kasmin stated that it is not about Mr. Flynn, it is about the Russos, the buffers, they have never been put up. She commented that she has no protection from his operation. She stated that between Mr. Flynn and herself, they are good.

Mr. Flynn stated that he is suggesting that they stay good and that he and her figure this out without involving everyone else.

Ms. Kasmin stated that she is willing to do that, but it's been since April and those buffer trees that were put up, they are all covered with weeds. The property is not being taken care of, is that Mr. Flynn or Mr. Russo?

Mr. Flynn stated that if what is upsetting her is the weeds, he stated that he will have someone weed the line.

Ms. Kasmin stated that is her only protection and she was supposed to deal with that with Planning & Zoning.

Mr. Flynn stated that he would always rather solve things amicably, he doesn't like to involve public agencies and boards if they can figure it out on their own.

Ms. Kasmin asked if Mr. Flynn would take care of that.

Mr. Flynn said he would.

Mr. Flynn and Ms. Kasmin shook hands.

Steven S. Macary, ZEO asked if they could add 328 Oxford Road to the agenda.

Commission Secretary Pat Cocchiarella reiterated that there is a process that needs to be followed.

Commission members discussed whether or not to amend the agenda.

Commission Secretary Pat Cocchiarella moved to amend the agenda to add Z-16-193, second by **Alternate Commissioner John Kerwin**. All Ayes.

APPLICATION: Z-16-19 [COMM] – 328 Oxford Road

Owners: Wally Archer III, 328 Oxford Road, LLC

Applicant: Robert Lisi - Philly Steak Company, LLC

Application for Use Permit: Hot dog stand

Steven S. Macary, ZEO explained that the applicant wants to have a hot dog stand at 328 Oxford Road.

Robert Lisi of 25-1 Macintosh Drive, Oxford stated that he is going to do a hot dog cart with cheesesteaks as well. He stated that it is near Buddy's Fuel.

Commission Secretary Pat Cocchiarella asked how far it would be from the road.

Steven S. Macary, ZEO stated that it is about 45-50'.

Commission Secretary Pat Cocchiarella asked that the distance be shown on the map.

First Selectman George Temple stated that this application has to go before the Board of Selectmen.

Alternate Commissioner John Kerwin added that he had to make sure that he goes to the health department for approval.

Chairman Arnie Jensen questioned if there would be any seating.

Robert Lisi stated that he would like to get some kind of seating there, but right now he is going to say no.

MOTION BY Commission Secretary Pat Cocchiarella to approve application Z-16-193 based on the following:

- a. Compliance with the Zoning Regulations in effect as of this date.
- b. Application is complete and all fees have been paid.

With the following conditions:

- 1) Applicant and their assigns must comply with all representations made at P&Z Commission meetings regarding this application.
- 2) Compliance with the Statement of Use dated 8/12/2016.
- 3) Compliance with P.D.D.H's approval dated 8/12/2016.
- 4) Any changes and/or modifications to the use permit must come back before the Planning & Zoning Commission for approval including any lease changes or change of ownership.
- 5) Per Article 3, Section 19.1 of the Zoning Regulations, the applicant shall be responsible for rendering payment for any outside experts the Commission assigns to review this application.
- 6) Planning & Zoning approval is not effective until the applicant receives a vending permit from the Board of Selectmen.
- 7) A copy of the Sani Serve certification obtained by the State of Connecticut must be submitted to the Planning & Zoning Department.

Alternate Commissioner Tanya Carver. All Ayes.

Approval Effective: August 16, 2016

APPROVAL OF MINUTES

MOTION BY Commission Secretary Pat Cocchiarella, seconded by Alternate Commissioner Pete Zbras to approve the following minutes as presented:

1. 8/2/2016 Regular Meeting Minutes

Commissioner Harold Cosgrove abstained.
All Ayes.

INVOICES

1. Turner Miller Group Invoices:

- a. #5295 – Oxford Greens

MOTION by Commission Secretary Pat Cocchiarella to approve payment of Invoice #5295, second by Alternate Commissioner Tanya Carver. Ayes (4), Absentions (1), Opposed (1). Motion passed.

- b. #5296 – Oxford Greens

MOTION by Commission Secretary Pat Cocchiarella to approve payment of Invoice #5296, second by Alternate Commissioner Tanya Carver. Ayes (4), Absentions (1), Opposed (1). Motion passed.

- c. #5297 – Quarry Walk Modification

MOTION by Commission Secretary Pat Cocchiarella to approve payment of Invoice #5296, second by Alternate Commissioner Tanya Carver. Ayes (4), Absentions (1), Opposed (1). Motion passed.

- d. #5298 – General/PZ Meeting

MOTION by Commission Secretary Pat Cocchiarella to approve payment of Invoice #5296, second by Alternate Commissioner Tanya Carver. Ayes (4), Absentions (1), Opposed (1). Motion passed.

2. Statement/Invoice dated August 1, 2016 from Micci & Koroelyshun, P.C. for Garden Homes

MOTION BY Alternate Commissioner Tanya Carver to forward this invoice to the Board of Selectmen for payment, second by Commission Secretary Pat Cocchiarella. All Ayes.

3. Invoice # 1023.10 and Invoice #1023.11 from Attorney Peter Olson.

MOTION BY Alternate Commissioner Tanya Carver to pay invoices submitted by Attorney Peter Olson, second by Alternate Commissioner Pete Zbras. All Ayes.

OTHER BUSINESS

1. Committee Updates
2. Any other items the Commission deems necessary for discussion.

ADJOURNMENT

MOTION BY Alternate Commissioner John Kerwin, second by Vice Chairman Jeff Luff to adjourn the meeting at 9:30 PM. All Ayes.

Respectfully submitted,

Jessica Pennell

Jessica Pennell

Administrative Secretary

Planning & Zoning Commission

16 SEP - 1 PM 3:16
TOWN OF OXFORD, CT
Margaret A. West
TOWN CLERK