

TOWN OF OXFORD
PLANNING & ZONING COMMISSION
S.B. Church Memorial Town Hall
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www.Oxford-CT.gov



Planning & Zoning Commission
Regular Meeting Minutes
Tuesday, March 21, 2023
7:30 PM – Main Meeting Room
S.B. Church Memorial Town Hall

I. Call to Order

Chairman Cocchiarella called the meeting to order at 7:35 PM.

II. Pledge of Allegiance

III. Roll Call

Present: Sara Locke, Carl Bouchard, Joshua Dykstra, Pete Zbras, Pat Cocchiarella, Brett Olbrys, Robert Carr, Dan Wall, and Ed Rowland.

Also Present: Steve Macary, ZEO, Kevin McSherry, Land Use Counsel and Jessica Pennell, Coordinator.

IV. Seating of Alternates

Chairman Cocchiarella seated Alternate Commissioner Bouchard.

V. Public Hearings:

A. Recessed Public Hearing:

Chairman Cocchiarella opened the recessed hearing on the following application:

1. **Z-22-204 [IND] – 110 Hawley Road** – **Owner & Applicant:** Robert Werden, 110 Hawley Road, Oxford, CT (*Site Plan*) (*Special Exception Modification of Existing Contractor's Yard to add rock crusher as permitted per 2019 Amended Regulations*)

*Commission is awaiting correspondence from Inland/Wetlands

Commission Secretary Olbrys read a memo dated 3/20/23 from the IWEO, Mike Herde.

Steven Kulas, Attorney for the applicant, 246 Bank Street, Seymour, CT, responded to the memo from the IWEO, and stated that there are no wetlands on the property and the therefore, the IWEO has no jurisdiction to impose any conditions. He noted that this letter was not at the direction of the OCCIWA at a regularly scheduled meeting with their entire Commission.

Chairman Cocchiarella asked if anyone in the audience who would like to comment on this application.

Tom Palomba, 97 Hawley Road noted his opposition to the application because of noise and truck traffic, or possible wastewater runoff. He questioned how the decibel level would be enforced.

Darlene Salokas, 99 Hawley Road, stated that she is concerned about the current contractor's yard operation and if they are following regulations. She had concerns about the smell of septic and stated that they have an underground septic tank. She also made statements regarding activities on the property that may cause environmental concerns, and adding a rock crusher would have even more of an environmental impact. She also expressed concerns about truck traffic. She questioned how the noise would be enforced. She submitted a letter and a flash drive with documentation of her concerns regarding the septic business.

Commission Secretary Olbrys asked exactly what Ms. Salokas is submitting.

Darlene Salokas stated that she is submitted a flash drive with photos of the applicant washing his trucks.

Commissioners discussed with Ms. Salokas if she has made complaints to the proper departments.

Darlene Salokas stated that she has contacted various departments regarding her concerns.

Robert Werden, applicant, 110 Hawley Road, stated that there have been no complaints since they began the business in 2000. He also noted that they do not wash their trucks on the property, and that they are not in violation of any regulations. He stated that the health department came out to his property and that they found nothing wrong. He also noted that the State of CT has been to his property, did an inspection, and found no violations. He noted that in the past, he has washed trucks on the property, but after being contacted by DEEP, he hasn't washed a truck on the property in three (3) years. He also addressed her concerns regarding her well.

Darlene Saloukas, 99 Hawley Road, reiterated her concerns about the smell of raw sewage.

Robert Werden, applicant, 110 Hawley Road stated that they have a letter from DEEP regarding the transfer of sewage from truck to truck.

Attorney Kulas stated that the septic business has nothing to do with the proposed rock crusher and building, which are the subject of the application.

Commissioner Zbras made comments regarding the noise level and how it would be measured.

Attorney Kulas stated that the applicant will comply with the noise ordinance, and if there is a complaint, the noise level can be measured. He stated that if the noise level is measured and it is above the allowed decibel level, the applicant would immediately cease and desist.

Thomas Palomba, 97 Hawley Road reiterated his concerns, including noise and dust. He also noted that he thinks the Commissioners that utilize Mr. Werden's septic business have a conflict of interest.

Chairman Cocchiarella asked if Commissioners had any other questions.

There were no other questions or comments from the Commission.

MOTION BY Commission Secretary Olbrys to close the Public Hearing.

Second by Commissioner Zbras.

All (7) Ayes.

Motion passed unanimously.

VI. Regular Meeting Business

A. Amendments to the Agenda

1. **MOTION BY Commission Secretary Olbrys** to amend the agenda to add **Z-23-116 – 106 Willenbrock Road** to the agenda as New Business #1.

Second by Commissioner Carr.

All (7) Ayes.

Motion passed unanimously.

2. **MOTION BY Commission Secretary Olbrys** to amend the agenda to add the Connecticut Federation of Planning and Zoning Agencies invoice under Item H as letter (b).

Second by Commissioner Wall.

All (7) Ayes.

Motion passed unanimously.

B. Audience of Citizens – (Items not listed on the Agenda)

Darlene Saloukas, 99 Hawley Road asked if she could discuss the septic business located at 110 Hawley Road.

Chairman Cocchiarella stated that 110 Hawley Road is on the agenda, and therefore comments regarding the property would not fall under the Audience of Citizens.

C. Correspondence

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

- a. Notice of Application for Text Amendment – Town of Newtown
- b. Letter from Oxford Land Trust dated March 15, 2023

D. Old Business:

1. **Z-22-182 (a) - Z-22-182 (b) – [IND] – 13 E. Commerce Drive (Lot 14 Woodruff Hill Industrial Park) – Owner:** Town of Oxford, 486 Oxford Road, Oxford – **Applicant:** Airamid, LLC c/o William Kennedy and/or Tiana DiMaria, 511 Brook Street, Rocky Hill, CT *(Site Plan Construct 5,332 sq.ft. building) (Special Exception – Article 9, Section 9.3.10)(Extension granted on 12/6/2022, 1/3/2023, and 1/10/2023)*
(Commission action by 4/4/2023)

Commission Secretary Olbrys read the following resolution:

Airamid, LLC submitted an application for a Special Exception, Application No. Z-22-182 (a) and a Site Plan, Application No. Z-22-182 (b). The applications are proposed for property located at 13 E. Commerce Drive a/k/a Lot 24 in the Woodruff Hill Industrial Park, Oxford, CT.

The following information was submitted for consideration of the Planning and Zoning Commission regarding these applications.

- 1.) Planning & Zoning Application
- 2.) Proposed plans dated 8/30/2022 and revised 10/25/2022
- 3.) Crematoria emissions Air Quality Impact
- 4.) Inland Wetlands Approval dated 11/8/2022
- 5.) Letter dated 10/18/2022 from Planning & Zoning Engineer, Jim Galligan
- 6.) Letter dated 11/14/2022 from Planning & Zoning Engineer, Jim Galligan
- 7.) Statement of Use
- 8.) Additional supplemental exhibits and testimony received at Public Hearings held on 11/1/2022, 11/15/2022, 12/6/2022, 1/3/2023, and 2/7/2023.

Findings of the Commission:

The applicant submitted a map into the record entitled, “Vicinity Map, 1 of 1”, prepared by Civil 1, and dated February 1, 2023. The vicinity map shows properties within 500-foot distance from the proposed crematorium.

The map indicates there are several properties that are non-conforming residential properties; 74 Prokop Road, 84 Prokop Road, and 94 Prokop Road are within 500-foot setback of the proposed Crematory;

The Zoning Regulations adopted by the Town of Oxford, effective April, 1948 provide in Section 2, Article 6, state “All nonconforming uses or buildings existing at the time of passage of these regulations may be continued, and due repairs, and minor alterations may be exercised, but such uses shall not be extended or enlarged at the expense of a conforming property, or change to another nonconforming use.”

The current Zoning Regulations provide in Article 3, General Regulations, Section 3.2 that any building, structure, or use legally existing at the time of the promulgation of these regulations may be continued even though such building, structure, or use does not conform with the requirements of these regulations.

The residential properties located 74 Prokop Road, 84 Prokop Road and 94 Prokop Road within 500 feet of the proposed Crematory are all valid non-conforming residential uses in accordance with Article Section 3-2;

Connecticut General Statutes §8-2 n states in the relevant part, “the zoning regulations adopted under section 8-2 or any special act shall not authorize the location of a Crematory within 500 feet of any residential structure or land zone for residential purposes not owned by the owner of the Crematory.”

The Commission has determined by its regulations that these properties are valid nonconforming residential uses.

Any crematory built in accordance with Connecticut General Statutes §8-2n cannot be built within 500 feet of property used for residential purposes, the Statute reads in the relevant part “the zoning regulations adopted under §8-2 or any special act shall not authorize the location of a Crematory within 500 feet of any residential structure or land zone for residential purposes not owned by the owner of the Crematory.”

Connecticut General Statutes §19a-320 in the relevant portion provides...” On and after July 1, 2017, no new crematory shall be located within 500 feet of any residential structure or land for residential purposes not owned by the owner of the crematory” This language is part of health code and provides additional protection for residential requiring the same setback.

The proposed Crematory is not 500 feet away from the existing residential properties. The proposed use does not meet the statutory distance requirements found in Connecticut General Statutes §8-2n.

The proposed use does not meet the statutory distance requirements found in Connecticut General Statutes §19a-320.

The proposed use does not comply with Section 10.3.1 in regards health and welfare as the required 500-foot setback cannot be complied with as found in Connecticut General Statutes 8-2n and Connecticut General Statutes Sec. 19a-320.

I move to deny the Application for the Special Exception and accompanying Site Plan.

Second by Commissioner Zbras.

Roll Call vote:

Alternate Commissioner Dykstra (Aye)
Commissioner Wall (Aye)
Commissioner Zbras (Aye)
Chairman Cocchiarella (Nay)
Commission Secretary Olbrys (Aye)
Commissioner Carr (Aye)
Commissioner Rowland (Aye)

Motion to deny passed 6-1.

2. **Z-22-204 [IND] – 110 Hawley Road** – **Owner & Applicant:** Robert Werden, 110 Hawley Road, Oxford, CT *(Site Plan) (Special Exception-Modification to an existing Contractor's Yard to add a rock crusher permitted per 2019 Amended Regulations)*

MOTION BY Commission Secretary Olbrys to approve Application Z-22-204:

It is hereby moved that the following application is approved subject to the conditions stated herein, and this is regarding application number Z-22-204, regarding 110 Hawley Road, Robert Werden owner/applicant, modification of a Special Exception.

Finding on the subject property:

- 1.) It is located in the industrial zoning district.
- 2.) The applicant submitted Application No. Z-22-204 to modify the previously approved Special Exception pursuant to Article 2, Section 2.14, Article 9, Section 9.3.31, and Article 10, Section 10.7.2 subparagraph 6.
- 3.) The record before the commission did not demonstrate that a denial of the application is necessary to protect substantial public interests in health safety or other matters which Commission may legally consider.
- 4.) The Commission has conducted a public hearings on the Application on March 7, 2023, and March 21, 2023, and based on the Statement of Use and attachments accompanying the Statement of Use. The Commission hereby determines that the proposed modification to together with the accompanying documents with the Statement of Use which includes two (2) site plans which comply with the Zoning Regulations of the Town of Oxford, and hereby determines that the proposed modification, together with the accompanying Site Plan comply with the Zoning Regulations of the Town of Oxford.
- 5.) The Commission finds it is appropriate to permit the proposed rock crushing activities pursuant to a Modification requested in the Special Exception Application.
- 6.) The Commission hereby determines that the existing building on the site predates the adoption of the aforementioned amendments to the zoning regulations concerning earth material processing and as such, a new building or addition to the existing building is not required for the contractor yard decision, the commission does hereby approve this application. Z-22-204 and grants the requested modification subject to the specific conditions stated herein. The commission further grants the amendment to the site plan, together with the accompanying submitted as part of the Statement of Use, specific

conditions of approval the rock crushing activity shall be conducted in strict compliance with the Statement of Use.

1. The Addendum submitted together with the application and the conditions of this decision for hours of operation shall be as stated in the Statement of Use
2. The term holiday is used in the Statement of Use addendum. Shall be the holidays observed by the State of Connecticut as defined in Connecticut General Statute Section 1-4, and as determined by the State of Connecticut for any given year.
3. As a specific condition of this approval, and considering the findings above, to ensure future compliance with this approval the applicant agrees and consents that in January of each calendar year the owner of the subject property shall submit to the Zoning Enforcement Officer a letter granting consent to the Zoning Enforcement Officer to enter upon the subject property and inspect the operation.
4. The purpose of conducting an inspection of the subject property to ensure compliance with the Statement of Use addendum. Nothing in this approval shall restrict the authority of the Zoning Enforcement Officer from conducting his lawful duties pursuant to Connecticut General Statute section 8-12 with regard to any and all other activities on the subject property under this condition of approval only the Commission has the authority to waive this requirement contained herein.
5. The applicant must comply with the Town of Oxford Noise Ordinance, any regulations regarding noise pertaining to rock crushing activities per the Town of Oxford Zoning Regulations, and CT DEEP Noise Regulations.
6. All rock-crushing activities on the subject property shall be conducted solely within the structure enclosing the rock-crushing machine and the structure shown on the site plan. Any rock crushing machine being operated on the subject property will be operated solely within the aforementioned structure, material storage and stockpile shall be within the area shown on the site plan and shall not obstruct drainage, facilities or traffic circulation patterns as certified on the site plan and subject to the following standard conditions of approval:

STANDARD CONDITIONS:

- 1.) Compliance with all Town of Oxford regulations and ordinances in effect as of this date.
- 2.) Any modifications or additions to the concrete structure on the property, no substitute material shall be used with regard to the concrete structure without approval of the Planning and Zoning Commission and Planning & Zoning Engineer.
- 3.) The applicant and their assigns must comply with all representations made at Planning and Zoning Commission meetings or at public hearings regarding this application.
- 4.) The applicant shall submit one copy of the set of plans, which reflect these conditions of approval with a copy of the conditions of approval attached.
- 5.) The specific uses on this property shall be limited to those designated within the Statement of Use submitted by the applicant.

- 6.) The applicant shall have a pre-construction meeting with the appropriate town staff prior to any construction activities with regard to additions or modifications to the structure on the subject property
- 7.) Sedimentation and erosion control measures on site shall be maintained in compliance with the proposed site plan and current guidelines subject to field review by the Commission's engineer.
- 8.) Site plan approval expires if the work is not completed within five years of the date of approval.

Expiration Date: March 21, 2028.

Roll Call Vote:

Alternate Commissioner Dykstra (Aye)

Commissioner Wall (Abstention)

Commissioner Zbras (Aye)

Chairman Cocchiarella (Aye)

Commission Secretary Olbrys (Aye)

Commissioner Carr (Aye)

Commissioner Rowland (Nay)

Second by Alternate Commissioner Bouchard.

Motion passed 5-1, with Commissioner Wall abstaining.

E. New Business

Set Public Hearing date on the following application:

1. **Z-23-116 – 106 Willenbrock Road** – **Applicant:** A.G. Sales & Service, LLC c/o Dominick Thomas, 315 Main Street, Derby, CT 06418 - **Owner:** Tower Business Park, LLC, 15 Bates Place, Danbury, CT 06810 (Special Exception to add an motor vehicle repair and used vehicle sales use to an existing 6,000 sq. ft. building per Article 10, Section 9.3.15 of the Oxford Zoning Regulations)

MOTION BY Commission Secretary Olbrys to set the public hearing date for Tuesday, April 18, 2023 at 7:30 PM.

Second by Commissioner Wall.

All (7) Ayes.

Motion passed unanimously.

F. Zoning Enforcement

Steve Macary, ZEO stated that he gave out four (4) Cease & Desists last week. He briefly discussed some issues in the industrial zone and a property on Route 67.

G. Minutes

- a. **MOTION BY Commission Secretary Olbrys** to approve 2/7/23 Regular Meeting Minutes as presented.
Second by Commissioner Rowland.
All (7) Ayes.
Motion passed unanimously.

H. Invoices

- a. **MOTION BY Commission Secretary Olbrys** to approve the Invoice from Arrow Printers – Planning & Zoning Applications.
Second by Commissioner Zbras.
All (7) Ayes.
Motion passed unanimously.
- b. **MOTION BY Commission Secretary Olbrys** to approve the Invoice from CT Federation of Planning & Zoning Agencies – Yearly dues.
Second by Commissioner Zbras.
All (7) Ayes.
Motion passed unanimously.

I. Other Business

- a. Distribution of Draft Farming Regulations to Commission – Discussion

Commissioner Zbras discussed this item briefly and distributed the draft regulations to the Commission.
- b. Any other business the Commission deems necessary for discussion. – None

J. Executive Session

The Commission will hold an Executive Session to discuss ongoing litigation regarding AAN-CV22-6049298-S, Defeo Materials, LLC v. Planning and Zoning Commission of the Town of Oxford.

MOTION BY Commission Secretary Olbrys to enter into Executive Session at 8:42 PM to discuss ongoing litigation regarding AAN-CV22-6049298-S, Defeo Materials, LLC v. Planning and Zoning Commission of the Town of Oxford.
Second by Commissioner Wall.
All (7) Ayes.

The following were invited into executive session, all Commissioners present, Attorney McSherry, Steve Macary, ZEO, and Jessica Pennell, Coordinator.

MOTION BY Commission Secretary Olbrys to exit Executive Session at 8:58 PM.
Second by Commissioner Rowland.
All (7) Ayes.

Chairman Cocchiarella stated for the record that no votes were taken in Executive Session.

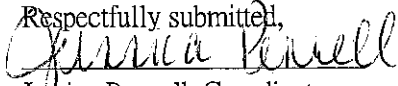
K. Adjournment


MOTION BY Commissioner Rowland to adjourn the meeting at 8:59 PM.

Second by Commissioner Wall.

All (7) Ayes.

Motion passed unanimously.

Respectfully submitted,

Jessica Pennell, Coordinator
Planning & Zoning Commission

2023 APR 20 AM 11:37
TOWN OF OXFORD, CT

TOWN CLERK