

**ROXBURY ZONING COMMISSION  
ROXBURY, CONNECTICUT 06783**

**Public Hearing  
Monday, February 9, 2009**

**MINUTES**

**Members Present:** Robert Falconer, James Conway, Elaine Urban, Toby Goldfarb and Gary Coburn

**Alternates Present:** Stewart Kellerman and Mary Elizabeth Peck

**Others Present:** Barbara Henry, Patrick Cosgriff, Linda Parwchowski, David Sherman, Deborah Sherman, John Birkins, Bill Swartz, Jim Garofalo, Mike Rice, David Weiss, Jeremy Johnson, Len Maceli, Edward Schwerdtte, Christian Demers, Fran Hodges, Chris Steers, Brian Fitch, Marie Swanson, Mike Cicarelli, Sharon Benedict, Randy Ketchum, Rebecca Rigdon, Tom Murtha, Frank Lasky and Tammy McVey-Camilleri of Voices

**Call to Order:** Chairman, Robert Falconer, called the Public Hearing to order at 7:50 p.m.

**Seating of Members:** Chairman Falconer seated members Robert Falconer, James Conway, Gary Coburn, Toby Goldfarb and Elaine Urban.

**Legal Notice**

Mr. Falconer reported that the Legal Notice of this meeting was published in Voices on 1/28 and 2/4. He read the notice aloud.

**Application by Frank Lasky of 88 Mallory Road for a Home Enterprise Special Permit under Section 8.5 of the Roxbury Zoning Regulations.**

Attorney Murtha, representative for Mr. Lasky, submitted certified mail receipts with regard to notice of this Public Hearing. Attorney Murtha reviewed a Google View Map of the property with the Commission and passed it on for the members of the public to view.

Toby Goldfarb questioned the total number of vehicles listed in the Statement of Use. He noted that there are 11 vehicles listed that can be on the property for the business at any given time. Mr. Goldfarb, Mr. Kellerman, and Mr. Coburn agreed that they would prefer to see a limit of amount of vehicles that would be on the property at any given time. Ms. Urban confirmed with the applicant that the number of vehicles is meant to include machines. The applicant agreed to make a change to the Statement of Use to note that the total number of vehicles kept at the property cannot exceed 6 at one time.

Toby Goldfarb explained that Section 8.6.9 of the Regulations note that home enterprise businesses can only accept delivery between the hours of 8:00 a.m. and 5:00 p.m. Monday thru Friday and 9:00 a.m. to 12:00 p.m. on Saturday. He noted that although it is

not in regard to delivery, it is the applicant's intent to begin business at 7:00 a.m. which may be disruptive to neighbors. Attorney Murtha explained that it would be a hardship for his client to begin his work day later.

Mr. Falconer solicited public comment.

Rebecca Rigdon, legal representative for the Birkins, submitted a letter to the Commission to be read prior to a decision in this matter.

David Weiss of 77 Flag Swamp Road noted that if the proposed activity is consistent with the current activities with no increase, he has no objections to the home enterprise.

Edward Schwerdtte of 64 Mallory Road read a letter he prepared noting that the existing business has become larger and more frequent in the number of trips on the road. It is his opinion that this business did not belong in a residential neighborhood where it increases noise, dust, exhaust, danger and deterioration of the road.

Rebecca Rigdon noted that Zoning Regulations Section 8.6.2 limit area of use to 2000 square feet. She explained that this business area of use is estimated at 5000 square feet. She also noted that plowing would continue beyond the hours of operation per the Regulations. Mr. Lasky explained for Attorney Ridgon that when snow is expected his employees take home the trucks and only his personal truck would leave the premises.

Patrick Cosgrift of 113 Flag Swamp Road noted that in these economic times the Town should not limit small businesses. He received confirmation that vehicles permitted did not include personal vehicles.

Linda Parwchowski of 58 Mallory Road received confirmation that the triaxle that was removed from the property will not return for service. Additionally it was confirmed that the three large dump trucks are included on the list.

David Sherman of 90 Mallory Road explained that his concern is that the noise and traffic is not suitable in the neighborhood in which they live. He noted that it is especially disruptive in the summer months. He reminded the Commission that additional disruption comes from the employees arriving and leaving the site in their personal vehicles. It has been his experience that the vehicles return throughout the day. It is his opinion that the trucks should be parked in a commercial area.

Mr. Coburn questioned Barbara Henry regarding the weight limits on culverts noting that the heaviest vehicle might weigh as much as 44,000 pounds. Barbara Henry did not have information regarding weight limits on culverts.

Deborah Sherman of 90 Mallory Road submitted pictures of the vehicles for the record. She asked that the Commission consider the topography of the road. She felt the business was out of character for the road.

John Birkins of 86 Mallory Road noted that the applicant never has to drive by his own house with the equipment. He submitted areal photos of his property and the Lasky property as well as photos of the dumping on the property.

Barbara Henry of 74 Mallory Road received confirmation that the present permit is for landscaping storage and that the new application is for an excavation business. The parking of vehicles is not addressed in the existing permit. She explained that the Selectmen have received complaints regarding speeding which were addressed with Mr. Lasky. The Selectmen have not received complaints regarding the business.

Bill Swartz of 104 Mallory Road advised that his question has already been addressed.

Jim Garofalo of 179 Baker Road questioned how Zoning enforces and addresses growth of businesses and what they can do to prevent these kinds of situations. Mr. Falconer explained that they rely on residents to bring issues to their attention; however, the ZEO does not require a formal complaint to address issues.

Mike Rice of 94 Mallory Road explained that this was a quiet road at one time and is now a main thoroughfare. He is woken at early hours by trucks, which run in and out all day. He is opposed to this business enterprise and feels it decreases their property value.

Jeremy Johnson of 253 Painter Hill Road explained that he has worked with and for Mr. Lasky. He questioned whether he would be permitted to go to the site to borrow tools. Mr. Falconer explained that they have no jurisdiction over what they do as friends.

Ms. Urban questioned the number of 1099 employees for this business. Mr. Lasky advised that he does not have any 1099 employees.

Christian Demers of 57 Mallory Road reported that Mr. Lasky has been a helpful neighbor.

Fran Hodges of 184 Baker Road pointed out that the road is suitable for town plow truck and fire trucks. He noted that he knows that Mr. Lasky is making an effort to clean things up on the property.

Chris Steers of 14 Blueberry Lane noted that there will be someone doing local work and whether it is Mr. Lasky or someone else they will still have trucks and machines in the area.

Brian Fitch of 11 Lower River Road noted that Mr. Lasky has a good safety record.

Marie Swanson of 39 Davenport Road explained that there are many excavation companies in Roxbury. She explained that she has one of them. She asked where Mr. Lasky will go if he cannot continue his business at the current location. How will his business afford to relocate? She noted that everyone wants to change the Town and she feels they should be supporting local business.

Mike Cicarelli of 87 Mallory Road explained that his wife is home during the day and she has not experienced any problems with the business. He felt the Commission should not keep Mr. Lasky from earning money. This is America.

Sharon Benedict of 160 East Flag Swamp Road explained that Mr. Lasky helps many people on the road. She noted that many large vehicles use the road going through into Southbury.

Randy Ketchum of 97 Mallory Road explained that the smaller trucks have not bothered them and they have no problem with the business at the capacity it is at now.

Barbara Henry explained that she sees both sides of the situation. She noted that there are many people in home based businesses on that road and there are a lot of these types of businesses in Roxbury. She reported that Mr. Lasky has resolved problems with speeding and the dirt road in the past. She acknowledged that Mr. Lasky has already made concessions. She could not testify to the amount of traffic since she is not there during the day. She noted that she wants to see home based business thrive in this community.

David Sherman explained that the size of this business has outgrown the rural character of the road. He feels the trucks belong in another zone.

Chris Demers questioned where a commercial zone is available in Roxbury.

Perry Conner commented that these towns were started with small businesses. He feels that the complaints are about nothing.

Deborah Sherman questioned what the point is in having Zoning Regulations if they are not going to be enforced.

Rebecca Rigdon explained that the Birkins want to confirm this business is complying with the Regulations.

Marie Swanson noted that Roxbury will lose many taxes if there are no commercial areas available for businesses to move to.

Sharon Benedict noted that there are never any complaints regarding horse trailers, which could be the same level of nuisance. She explained that the Laskys' barn or house cannot be seen from the road.

Barbara Henry summarized that residents have a right to question whether Zoning Regulations are being followed. It looks like the business has grown, but Mr. Lasky is now making concessions. She explained that they must follow Regulations across the board.

Attorney Murtha submitted two letters for the record and noted that his client is trying to make concessions to be a good neighbor.

**MOTION:** To close the Public Hearing at 9:21 p.m.

**MOTION BY:** By James Conway, seconded by Toby Goldfarb. Approved 5-0.

Respectfully submitted,

Tai Kern, Clerk

CC: First Selectman, Town Clerk. Planning Commission, Wetlands Commission, Conservation Commission, ZEO, Town Attorney

**Minutes are subject to approval by the Roxbury Zoning Commission**