



TOWN OF ROXBURY CONNECTICUT

Zoning Commission

29 North Street • P.O. Box 203 • Roxbury, CT 06783-0203

ROXBURY ZONING COMMISSION PUBLIC HEARING APRIL 11, 2016

MINUTES

CALL TO ORDER

Chairman Conway called the Public Hearing to order at 7:30 PM.

Regular Members Present: James Conway, Kim Tester, Elaine Urban, Alan Johnson, Drew Loya

Alternates Present: David Miller, William Horrigan, Curtiss Smith

Staff Present: John Cody, Zoning Enforcement Officer and Karen Eddy, Land Use Administrator, Attorney McTaggart

CONFLICT OF INTEREST

Chairman Conway asked whether any members of the Commission present might have a conflict of interest regarding this application. None were noted.

PUBLIC PRESENT

Marie & Paul Swanson, Rob Sladen, Holly Floor, Greg Meredith, John German, Tom Fee and Terry Connor.

SEATING OF MEMBERS

Chairman Conway seated regular members Urban, Tester, Loya, Horrigan for Johnson and himself.

PURPOSE OF HEARING: Application and Site Plan by Swanson/39 Davenport Road for a Special Permit / Home Enterprise Category III – Excavation/Landscaping Business

LEGAL NOTICE: Chairman Conway read the legal notice as it appeared in Voices on March 30, 2016 and April 6, 2016.

NOTICE TO ADJACENT LANDOWNERS

Proof of delivery of notice was confirmed.

PUBLIC COMMENTS

Chairman Conway noted that the following letters had been received regarding this application and he and Kim Tester would read them for the record:

- Kocsis/5 Davenport Road – Opposition letter read.

Alan Johnson arrived at 7:37 and was seated. William Horrigan stepped down.

- Knutson/45 Davenport Road – Supporting letter read.
- Ognan/2 Moosehorn Road - Supporting letter read.
- German/67 Davenport Road – Opposition letter not read as Mr. German was present and asked to address the Commission.
- Robert Sladen/ 74 Davenport Road - Opposition letter not read as Mr. Sladen was present and asked to address the Commission.

PUBLIC COMMENT

John German – 67 Davenport Road spoke in opposition to this application. He noted that his property is separated from the Swanson's by the Knutson's small, wooded lot. Mr. German gave a lengthy address detailing

his history and involvement with Roxbury since March 1971 and his friendship with the applicants. Mr. German stated that he has absolutely nothing personal against the Swanson's as "they are good, hardworking people", but he feels their business has gotten out of hand. He classified it as "industrial" rather than commercial. He does not want them to lose their business but it should not be allowed to continue in a residential area. He spoke about how the Swanson's business has negatively affected his quality of life. He and his wife have had to curtail their outdoor activities such as meals on the patio and gardening on occasion because of the noise. He said he has "looked into moving, but there is not another Roxbury."

Greg Meredith – 62 Davenport Road referred to his letter which details why he feels that this application fails to meet the requirements of the Home Enterprise regulations. Mr. Meredith said he is looking for intent by the applicant to limit the activities to non-disruptive activities subject to specific limitations, reasonable oversight and enforcement. He argued that if he or his neighbors were making application for a similar type of business today, it would not be approved. Mr. Meredith further noted that he expects protection from having to "live in an industrial zone". He suggested that it is the duty of the commission to prevent this.

Rob Sladen – 74 Davenport Road noted he has lived in Roxbury part time for 18 years and has recently retired after 45 years as a physician. He and his wife plan to give up their apartment in New York and live here full time. He strongly stated that he does not feel that Oak Ridge Services is suitable for a residential zone and would create a precedent to allow this sort of business in other neighborhoods. Mr. Sladen said that we all deserve to be able to conduct our business but we should do it with respect and a sense of responsibility for the wider community.

Terry Connor (former resident of Roxbury) said he feels it is a "big mistake to kick the Swanson's business out of Roxbury and argued that a compromise should be reached. He noted that Roxbury is a town founded on small businesses and farms and they are the backbone of the town. Running a small business is difficult and the Swanson's have been here for over 30 years. If you pull the plug the town loses their services and tax dollars. Things should be worked out. If not, you might as well kick out all businesses in Roxbury.

Tom Fee - 356 South Street – Mr. Fee noted his confusion about "selective enforcement" against Oak Ridge Services. In his own lawsuit against a junkyard in town many years ago, it was decided that the grandfather clause protected that business. He questioned why that same principal does not apply to Oak Ridge Services.

Holly Flor – 160 North Street suggested two possible remedies. One is to move this "industrial" activity out of a residential zone and keep the home office or attempt to change the zoning regulations to allow for industrial activity in a residential zone. She urged the Zoning Commission not to make an exception for this business.

Chairman Conway urged commissioners to ask questions now because once the public hearing is closed, no more information would be allowed.

Kim Tester noted and Paul Swanson confirmed that he would no longer haul materials to be processed to the site. He also noted that the existing pile of rocks will eventually be used up and disappear. Kim Tester asked about the status of the saw mill and Paul stated that it was mostly for his personal use and occasionally used for the business.

Alan Johnson asked how many machines are owned and on the site at one time. Mr. Swanson noted that there are usually between 1 and 3 in the yard in the summer. There are several earth moving machines that aren't being used. The worst case is 5 machines at one time. Paul said they are all registered and they can't be seen from the road.

Elaine Urban asked if Paul Swanson has had the opportunity to hear the noise from the neighbor's perspective via a recording. He said he had not and noted that he does wear hearing protection on occasion.

Mr. Cody noted that he had inspected the site on March 29th for wetlands issues and submitted photographs. He noted that the Swanson's have implemented proper erosion control measures.

Chairman Conway asked the applicant what he felt created the noise that has raised all the concerns. Mr. Swanson noted that last year was busy and they did haul a lot of materials in and screened it for three days

straight. The screener is not as noisy as the wood chipper. He noted that financially it will affect him quite a bit as he has given away a lot of material.

Mr. Conway suggested that the applicant has recognized what was creating the noise and has tried to eliminate it. Mr. Swanson indicated his willingness to compromise. He noted that there is nothing happening on the weekends. Mr. Conway reiterated that the applicant has indicated his willingness to live within the statement of use.

Chairman Conway noted that the fuel storage tank must be outside of the 100' wetlands buffer and Mr. Swanson indicated that it would be move out of the regulated area.

Holly Flor asked how the activity on the site would be monitored. John Cody responded that either the Commission would require regular site inspections or it could be complaint driven. Chairman Conway noted he would expect complaints from the neighbors if there were violations.

Rob Sladen complained that the approach is to set up and do what you want until somebody complains as opposed to asking permission ahead of time. His concern is that things would go back to the way they were especially if the business thrives. Mr. Cody reiterated that our system is complaint driven.

Chairman Conway noted that violations would not be tolerated. We anticipate that the applicant would adhere to their statement of use. If they do not, then the Commission would deal with it.

Marie Swanson/39 Davenport Road (Applicant) read a letter which she submitted for the record. It started with a statement by the First Selectman that appeared in the Roxbury Business Directory in which Mrs. Henry urged residents to support home based businesses in Roxbury.

Mrs. Swanson noted that there is no noise ordinance in Roxbury. Having lived on Davenport Road for 52 years she recalled that there were very few houses in the beginning. Since the school and all the houses have been built the traffic has increased a great deal over the years. She noted they have never received complaints but rather they were hired by many of the residents of Davenport to do work for them. Mrs. Swanson noted that their business cannot be seen from the road. There have been numerous building permits issued for large projects along Davenport Road related to the building and expansion of homes. These projects all bring equipment, workers, excavators, bulldozers, skid steer trucks, pickups and others types of large equipment that make noise such as the equipment used to grind up driveway blacktop. This all adds to the traffic and noise on Davenport Road.

Rather than damage Davenport Road as has been charged, Mrs. Swanson feels they have always taken care of the road. She explained the numerous times they have assisted the town road crew with repairs related to storm damage and misuse by other residents.

Mrs. Swanson noted there are lots of businesses like hers in Roxbury run by honest, hardworking people who are just trying to make living. Everyone has to listen to some noise as she does when their neighbors' lawns are being moved. She said, "This is the country so people should get used to it." Mrs. Swanson explained that her property was the former site of a gravel bank and Roxbury was formerly a mining and farming town and is still a busy working town.

MOTION: To close the Public Hearing by Drew Loya, seconded by Johnson and unanimously approved.

ADJOURNMENT

The Public Hearing was adjourned at 8:24 PM.

Respectfully submitted,
Karen S. Eddy
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Land Use Administrator

These minutes are not considered official until approved at the next meeting of the Roxbury Zoning Commission