

Scotland Planning & Zoning Commission
Wednesday, May 18, 2022 – 7:00 p.m.
Scotland Fire Department, 47 Brook Road, Scotland

Minutes

I. Call to Order

T. Delaney called the meeting to order at 7:00 p.m.

II. Roll Call/Seating of Alternates

Members/Alternates Present: T. Delaney, P. Martin, J. Jakubowski, M. Garrison, R.

Brautigam, B. Syme, R. Manning, H. Bowers

Others present: Attorney Curto, G. Greenberg, L. Trainor, A. Palmisciano, S. Gadbois, A. Maguire, and others

III. Approval of Minutes- April 26, 2022

P. Martin made a motion to approve the minutes with the correction of the spelling of his name. J. Jakubowski seconded the motion and it passed by a vote of 7-0-1. R. Manning abstained.

IV. Audience of Citizens

None

VI. Public Hearings

A. PZ#22-2-SP, Larkin Trainor, Special Use Permit, Complementary Agricultural Use, 88 Cemetery Road

R. Manning made a motion to open the hearing. P. Martin seconded the motion and it passed unanimously.

L. Trainor was present at the hearing. She stated that she has retained an attorney who was not able to attend the meeting tonight due to Covid. She discussed a farm in the town of Brooklyn that was currently going through a similar process with a permaculture farm. She stated that farmers must think outside the traditional agricultural box for the sustainability of the farm and upkeep of the land. L. Trainor she felt the material she submitted with the application was adequate.

A. Palmisciano of 423 Kemp Road read a statement of support for the application into the record. She spoke positively about L. Trainor and the programs she offered. She expressed concern that L. Trainor was subjected to mistreatment from the abutting property owner and others in town. She stated that a complaint had been made to the State of Connecticut Office of Early childhood regarding the homeschool co-op. A. Palmisciano stated that while L. Trainor may have made unintentional missteps, she also felt she was given conflicting information from town officials and was not given the same resources as previous applicants. She voiced concern that L. Trainor was interrogated by

Commission members and the attorney at the last hearing. A. Palmisciano felt the town should be more supportive of the business. She also spoke on various concerns that were brought up at the hearing including traffic, parking, and wetlands impacts.

A. Maguire of Cemetery Road relayed the events with the State of Connecticut and the Office of Early Childhood. She clarified that she did not complain to the State, but sent the Selectman, the Chairman, and the Zoning Enforcement Officer an email regarding the homeschool events and questioned if this was in violation of the cease and desist. G. Greenberg stated that he reached out to the Office of Early Childhood.

R. Manning stated that he felt L. Trainor went above and beyond many of the Commission's requests. He stated that he has not heard of any complaints that may have been received in the last several months. T. Delaney discussed the events that lead to the First Selectman contacting the Office of Early Childhood by recommendation from Attorney Branse to protect the town.

S. Gadbois of Devotion Road asked if the members had any knowledge of the State Statutes for homeschooling. T. Delaney stated that he did homeschool, and while the State does not oversee homeschooling, a permit is required to run this as a business per the zoning regulations according to Attorney Branse. S. Gadbois asked if Attorney Branse practices education law. Attorney Curto was present at the meeting as Attorney Branse could not be. He explained that the application was for a land use special permit. He stated that Attorney Branse has many years of experience with land use law. He did not see anything that pertained to homeschooling in the application and did not feel his was relevant to the hearing.

B. Syme asked L. Trainor when she first approached the town officials about her intended agricultural uses. L. Trainor stated she met with T. Delaney and M. Gil around March of 2021. L. Trainor stated that since the first meeting several of the aspects of her plan had changed. She stated it was recommended that she apply for a text amendment for agritourism. She stated at that time the Commission and the attorney wanted additional details added to the proposed amendment. She was told she could not work directly with the town attorney. She stated that she did meet with an attorney but because of funding did not retain them. L. Trainor explained that after reading the regulations she felt her proposal would fall under Complimentary Agricultural Uses and applied for the special permit. B. Syme stated that L. Trainor has submitted an A2 survey that was on file at the town hall.

After no further comments, P. Martin made a motion to close the public hearing. M. Garrison seconded the motion and it passed unanimously.

V. New Business- None

VI. Old Business

A. **PZ #22-2-SP, Larkin Trainor, Special Use Permit, Complementary Agricultural Use, 88 Cemetery Road**

B. Syme discussed the rights of property owners and the importance of agricultural in Scotland. She noted that this was included in the Plan of Conservation and Development. She stated she also respects the abutters rights to privacy. Attorney Curto explained that zoning exists to protect property owners equally, and if a use is not included in the regulations, it is not allowed. R. Manning asked where that was stated in the regulations. Attorney Curto stated that it was listed on page 4 and read the section aloud. R. Manning stated that he had seen L. Trainor's multiple applications, and the amendments she has made. He stated that after reviewing the Plan of Conservation and Development, he felt the town was looking for alternate ideas for agriculture and to adapt to the times. Attorney Curto stated that while the Plan of Conservation and Development was a guide for the Commission, the Planning & Zoning Commission was to focus on the zoning regulations in respect to this application. G. Greenberg, First Selectman, stated the intent of the zoning regulations were to create flexibility. L. Trainor stated that the Commission can place stipulations on zoning permits approvals. T. Delaney agreed and noted the Commission had done this with past applications. He stated that the uses of those application were clearly defined. He stated that the homeschool is not listed as a use of this application. L. Trainor stated that it was included in the educational agricultural workshops that would be held on the property and listed on the application.

T. Delaney stated he understood that cost of legal counsel, but that Attorney Branse told L. Trainor after the last hearing he was willing to speak to her attorney. R. Manning asked for clarification on the special permit review. Attorney Curto discussed the application process of special permits. He expressed his concerns with the application. He stated that complementary uses are limited to commercial farms that are registered as such by the tax assessor. He stated that he was unsure L. Trainor's farm qualified as a commercial farm. He stated that he felt the permaculture retreat fell under commercial campgrounds which requires 50 acres. L. Trainor stated that she has the paperwork for the assessor, but it will not be accepted until September through December of this year. Attorney Curto stated that the plan submitted was an A2 survey, but it was lacking many of the required details. B. Syme stated that the commercial campground regulations were written some time ago and discussed the different levels of campgrounds the State listed. She asked if the town could amend this section to include the State guidelines into the zoning regulations. Attorney Curto stated they could. B. Syme stated that she felt the Commission could approve the application with stipulations and review other proposed uses in the future when and if the regulations were amended. P. Martin stated he understood the special use went with the property but asked if this was still accurate if the property was later subdivided. Attorney Curto stated that it would not for the land would then be subdivided.

G. Greenberg stated that he would like to see this type of use happen in town. He suggested a text amendment be made to the zoning regulations. Attorney Curto stated that once L. Trainor is registered with the tax assessor as a commercial farm, then she could apply for Complementary Agricultural Uses under the current regulations. R. Manning suggested the Commission amend the regulations to fix the issues facing applicants. He stated he felt the Commission could approve the special events L. Trainor wants to hold on the property. T. Delaney stated he was uncomfortable writing the regulations that L. Trainor would fall under and would rather she address these with a text amendment. M. Garrison stated that if the camping were removed from the application, he would feel more comfortable acting on the other proposed uses of the application. P. Martin and J. Jakubowski both stated they felt the applicant should come back before the Commission with a text amendment. H. Bowers stated that as a former applicant in front of the Commission he sympathized with L. Trainor. He stated that while he was opposed to the idea originally, he hired an attorney, and it was helpful in getting his approval. T. Delaney recommended the Commission deny the application without prejudice.

L. Trainor stated she was withdrawing the application and would continue working with her attorney for a text amendment. Attorney Curto asked that L. Trainor's attorney write a letter that she is withdrawing her application.

B. Land Use Fee Schedule

T. Delaney sent out information he received from Attorney Branse regarding fee schedules. T. Delaney stated this would have to be placed on the town meeting agenda. R. Manning expressed concern with the fee schedule stating the town can charge applicants for town attorney reviews. He felt this was a potential conflict of interest. T. Delaney stated there was no difference between reimbursing a town engineer for services in reviewing applications. J. Jakubowski stated that 75% of towns in Connecticut have this type of fee structure. T. Delaney suggested adding in the language "except where noted". He suggested changing the fee for a proposed zoning regulation change to \$250 and \$200 for attorney fees, and Special Permits to \$200 and \$200 for attorney fees.

B. Syme made a motion to approve the proposed fee schedule document with revisions and forward to the Board of Selectman to place on the town meeting agenda for June 2nd. P. Martin seconded the motion and it passed unanimously.

VII. Sub-Committee Reports

A. Affordable Housing- There have been no meetings of the sub-committee.

VIII. Audience of Citizens- S. Gadbois stated she found it upsetting that the Commission did not understand homeschool co-ops. She stated she did not feel this required a special use permit for a business. T. Delaney stated he was a former homeschooler, and he was only relaying the information Attorney Branse gave to the town. S. Gadbois stated that Attorney Branse was

incorrect and noted that by stating this, T. Delaney was opening the town up to lawsuits from the homeschool community. T. Delaney stated again that he was sharing the information he was told by Attorney Branse.

IX. Administrative Reports- None

X. Communication and Bills-

T. Delaney stated that the Commission received correspondence from the Talbot Preserve Wildlife for comment. T. Delaney stated he spoke with G. Greenberg about creating hiking trails, but DEEP did not want to have hiking trails on this property.

XI. Commission Open Discussion- None

XII. Executive Session – None

XIII. Adjournment

P. Martin made a motion to adjourn at 9:35. R. Manning seconded the motion and it passed unanimously.

Submitted,

Melissa Gil