



*Town of Pepperell*  
**BOARD OF APPEALS**  
One Main Street  
Pepperell, Massachusetts 01463  
(978) 433-0333  
Fax: (978) 433-0335

**Zoning Board of Appeals Meeting Minutes of December 12, 2007**

**PRESENT:** Thomas McGrath, Sherrill Rosoff, Annette McLean, Mark Walsh; and Cheryl Lutzca (ZBA Assistant).

**7:00 P.M.** Chairman convenes the hearing. First agenda item is a continuation hearing regarding an application submitted by Louise Taylor, requesting a Zoning Board of Appeals SPECIAL PERMIT and/or ADMINISTRATIVE APPEAL, under Sections 3500, 3520, and 9223 of the Town of Pepperell Zoning By-Law, which if granted, would allow the appeal of the Decision of the Building Inspector, dated June 19, 2007, and permit the continuation of the present non-conforming use of the premises for commercial transportation and storage of fuel, sand, cement or other goods; or, in the alternative, to grant a Special Permit to allow the conversion of the existing non-conforming use to commercial transportation, storage and accessory uses pursuant to Section 3520 of the Town of Pepperell Zoning By-Law, for the property located at 49 South Road, sometimes known and numbered as 47-53 South Road, Pepperell, MA, as shown on Assessor's Map 40 as Parcel 1.

Chairman states that the first hearing on this matter was held on August 21, 2007, with a subsequent Site Visit to the subject property by Board Members, Thomas McGrath, Sherrill Rosoff and Annette McLean on September 15, 2007; subsequent continuation hearings on this matter were held on September 25, 2007 and November 14, 2007.

Applicant Louise Taylor is present. Attorneys Mark Joubert and Christine Morrissey, of Morrissey and Parlow, are also present on the Applicant's behalf.

The following documents/exhibits were submitted to the Board:

- Attorney Joubert submitted a letter from the Mass Farm Bureau.
- Abutter, Richard Baldwin, submitted a stack of form letters of opposition on behalf of various persons, which have been marked as one exhibit.
- Faun MacDonald submitted a letter of opposition
- Joseph Guth submitted a letter of opposition.

Clerk, Sherrill Rosoff, read legal notice into the record.

Attorney Joubert addressed the Board on the Applicant's behalf and submits and read a letter from the Mass Farm Bureau Federation, dated December 12, 2007, into the record. He further explained that the parcel exceeds 5 acres and that the majority of the parcel is used for agriculture.

Attorney Joubert informed the Board that he and Attorney Scott Fenton, of Bowditch & Dewey, have been communicating to try to work things out regarding conditions/compromises to try to accommodate everyone's wishes. Attorney Joubert reads and references the letter from his office of December 10, 2007. Board notes that pages describing Items 9 through 12 are missing. Board Member, Annette McLean, requests that Attorney Joubert submit a complete copy, which he does.

Attorney Scott Fenton, of Bowditch & Dewey, addressed the Board and rejects items that Attorney Joubert presented, and submitted a copy of "Handbook of Mass Land Use and Planning" and specifically referred to size of property for agriculture case is low. Attorney Fenton made the following comments:

- Not an incidental use to property
- Since site visit, materials have been increased and piled at property edge
- Trucking operation is not incidental to the residence
- Assessor's record 2.7 acres for garden center and 2.7 acres for residence. Applicant is paying taxes as half for the garden center and half for the residence and not a majority for the garden center.
- Resubmits color photos, that were previously submitted to the Board, depicting increased materials on the site
- Big portion of the property being used for storage of materials and trucks

Clerk reads two letters from the Building Inspector, dated December 12, 2007, into the record; and, a letter from Susan Smith indicating that this is not related to the to the 50-yard setback buffer zone.

Chairman opened floor to members of the audience. The following members of the audience address the Board:

- Richard Baldwin: Reads his letter of opposition that he submitted to the Board this evening. Offered the following comments: Applicants have disrespect for Town By-laws and Cease and Desist Order; Mass Highway letter; debris on property lines; Police came to his door on 12/3/07 to serve a notice of "No Trespass" by Applicants. He feels a buffer and screening should be installed.
- Katherine Wright, 55 South Road: Reads her letter of opposition, which was submitted to the board this evening. Offered the following comments: concerned

with screening; concerned that Applicants won't follow the conditions placed on them.

Sherrill Rosoff reads the names of the 25 people who signed a form letter of opposition that was submitted this evening by Richard Baldwin. Ms. Rosoff reads the opposition letter submitted this evening by Joseph Guth.

Chairman asked if there was anyone in attendance who wished to speak regarding new information. The following members of the audience addressed the Board:

- Nancy Derby, Hollis Street: Commented that she lives near Kimball's Farm and can't understand why anyone would purchase a house near a farm if they didn't want to hear the noise of tractors, etc.
- Rick Couglin: Commented that he is employed by the Applicants as a driver, and if the sale of the product is taken away from the Applicants it would hinder their ability to do business; he depends on the Applicants to "make a living". Commented that concrete blocks are not building materials, but are used as "bench" leg blocks, which they place under boards and then place plants on top. The wood debris on the property is used as the wood planks on top of which the plants are placed; these are part of the garden center and not construction debris.
- Janos Langory: Owns landscaping company and does business with the Applicants; no noise from Applicants trucks starting in the morning; cinder (cement) blocks are for stands.

Attorney Joubert shows Board a large plan (submitted to Board on a previous date) and Mr. Taylor (Applicant) shows Board a proposed parking area for large trucks.

Mr. Taylor made the following comments:

- Described what he will do with respect to moving a temporary greenhouse, leaving trees and hill to make screening.
- Will install catch basin with oil/water separator and have it cleaned yearly.

Attorney Fenton addressed the Board and commented that he disagrees with Mr. Taylor and that the Taylor's (Applicants) actions over months do not show that they are willing to accommodate the abutters; debris piles have increased and are now pushed all the way to the edge.

Mr. Taylor commented that the reasons he must push the materials to edge, i.e., snow removal, and because police need access to back of Taylor property.

Attorney Christine Morrissey addressed the Board and commented that the reason that the police need access to the property is because the Applicants have had vandalism to a truck. The Police want to patrol the business.

Attorney Joubert submits a photo of a truck windshield broken by vandalism.

Members of the audience become loud and unruly. Chairman reminds audience that all comments need to be addressed to the Board, and there is to be no yelling, etc.

Sherrill Rosoff asks about elevation. Mr. Taylor responded that the elevation at the property is essentially the same as it always was.

- Mrs. Baldwin addressed the Board and commented that Mr. Taylor is incorrect about reason for police. Comments that the following debris that is piled on property line: tires, tractor trailer tires, poles, cement blockades.

Attorney Morrissey rebuts Mrs. Baldwin's comments.

- Mrs. MacDonald, 8 Brick Pond Way: Commented that the Applicants have made a negative impact on 25 homes over the past two years because of lack of screening and that they wouldn't be able to sell if they wanted to. She doesn't want trucking business.

Attorney Morrissey rebuts that the garden center was there before the homes were.

- Jim MacDonald, 8 Brick Pond Way: Addressed Board and commented that the Board should look at the By-laws and look at what has happened with the Applicants deliberately putting materials on the property line in front of abutters. He said he wants everyone to know that he did not trespass or vandalize the Taylor's (Applicants) property.
- Kevin Linch: Applicants provide him a living.

Sherrill Rosoff questions Applicants about purpose of each of the structures on the property: warehouse, temporary garden center greenhouse, etc.; is there was any way to put materials in a "shed" like structure? Applicant, Louise Taylor, responded she would think about that.

- Mr. Cipula: Inquired as to where the lower driveway, which is illegal, is located (the one referenced in letter from Mass Highway). Attorney Joubert and Mr. Taylor point out driveway (old cart path) on large plan and explain it has been there for years.

Discussion ensued regarding letter from Mass Highway and how driveway (old cart road) is not a legal driveway.

After much discussion, the Board decides that no new information would most likely be forthcoming. Board Member, Annette McLean motioned to close the hearing and the record, but in doing so the Board gives consideration to the following: Any potential

responses from Town Counsel relative to the letter from Mass Highway of 11/02/07, the elevation map (which the Board will obtain), and any letters or materials presented or submitted at tonight's hearing. Sherrill Rosoff seconds the motion to close the hearing and record as stated. All concur.

Chairman explained to those in attendance that due to the amount of information, including new material submitted at tonight's hearing, the Board will exercise its right, under statute, giving the Board 90 days to render a Decision on this case. A meeting notice will be posted, and if anyone wants to check in with the Board's Assistant during her regularly scheduled office hours, they may do so.

**Old and New Business:**

- Review and Approval of ZBA Meeting Minutes of October 25, 2007: Sherrill Rosoff motioned to approve minutes with minor changes. Annette McLean seconds. All concur.
- Review and Approval of ZBA Meeting Minutes of November 14, 2007: Sherrill Rosoff motioned to approve minutes. Annette McLean seconds. All concur.

Annette McLean motioned to adjourn the meeting. Sherrill Rosoff seconds. All concur.

Meeting Adjourned at 9:05 P.M.

ZBA Minutes of December 12, 2007 filed with Town Clerk: February 11, 2008

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**Cheryl Lutcza**  
**Assistant, Zoning Board of Appeals**

cc: Town Clerk  
Building Inspector  
ZBA Minutes file  
ZBA Members  
ZBA Application File – 07-391-Taylor-49 South Road