

TOWN OF SALEM
PLANNING AND ZONING COMMISSION
December 1, 2009
SPECIAL MEETING

MINUTES

PRESENT: Hugh E. McKenney, Chairman
Karen Buckley, Vice-Chairman
Ruth Savalle
Gary Walter
Richard Amato
Gloria Fogarty, Alternate
Vernon Smith, Alternate

ALSO PRESENT: Mary Ann Chinatti, Town Planner/ZEO/WEO

ABSENT: David Bingham
Gerald Nikirk, Sr.

The meeting was called to order by Chairman McKenney at 7:21PM.

With the consent of the Commission, Chairman McKenney seated Ms. Fogarty and Mr. Smith for Dr. Bingham and Mr. Nikirk.

- Kobyluck – Activity pending permit renewal

Ms. Chinatti reviewed the November 30, 2009 letter from Robert Russo, CLA Engineers, regarding slope stabilization at the 209 Rattlesnake Ledge Rd. quarry.

Chairman McKenney reminded the Commission that the purpose of the letter relates to Mr. (Matt) Kobyluck's request to be allowed to blast while going through the special exception permit renewal process.

Ms. Savalle stated it appeared Mr. Kobyluck has done the required stabilization, so her thought would be to allow him to continue to work while going through the process for renewal.

Vice Chairman Buckley stated that she welcomed seeing the letter, and that it was very helpful. She stated she didn't take the letter as a ringing endorsement, that Mr. Russo was careful to stick to observations rather than conclusions, and that, regarding item 6 in the letter, re-examination of the slope in the spring covers everyone.

Mr. Smith asked if there was any issue with the blasting, to which Chairman McKenney stated it is not regulated by P&Z, but it is part of the permitting process.

Mr. Smith continued, indicating that the letter sounded adequate to him.

Mr. Walter concurred with many of Vice Chairman Buckley's thoughts, noting that Mr. Russo stuck to observations. He continued, stating that one thing he mentioned at the November 24 meeting, to "seal" it, were if he had commented on the previous letter. He continued, noting that the letter didn't state that rehabilitation/restoration has been accomplished, but observations that it "looks OK today." He further stated that the final statement (letter point #6) leaves the door open for potentially allowing operation and re-evaluate in the spring.

Ms. Fogarty agreed with Mr. Walter, and indicated she was a little bit tentative because she did not know how the public hearing would enter into the current issue. She continued, indicating her belief that the letter is adequate for the purpose of this meeting, and it would need to be looked at again in the spring.

Mr. Amato asked Mr. Kobyluck if, regarding the work he (Kobyluck) was asking to again commence, blasting would be continuous or only occur once.

Mr. Kobyluck responded that only one blast should be necessary before the December 15, 2009 public hearing and, depending on the direction of that hearing and whether the matter is decided that night or continued to a future meeting, one additional blast may be needed after that date.

In response to a question by Mr. Amato regarding plan(s) in place if, should permission be given, the area again become destabilized, Mr. Kobyluck responded that erosion and sedimentation is part of the ongoing operation, maintenance of erosion and sedimentation control methods is required at the site, and any erosion would be fixed.

He continued, stating that the subject area is part of the approved special exception and will be opened up again in the spring, following the required Phase I reclamation. Mr. Kobyluck clarified this statement by indicating that it is planned to begin work in Phase II in the spring of next year, but that it may not happen until later in the year.

M/S (Buckley/Fogarty) that the injunction against Kobyluck Brothers, LLC, be lifted effective December 2, 2009 with the following conditions:

1. Kobyluck Brothers, LLC shall have its engineering firm inspect the slopes on the south end of the quarry no later than April 15, 2010 for erosion and the need for re-seeding;
2. Kobyluck Brothers, LLC shall have its engineer provide a letter to the Town's Zoning Enforcement Officer no later than April 20, 2010

- detailing results of that inspection, including recommendations for any necessary corrective measures;
3. Kobyluck Brothers, LLC shall implement said recommendations no later than May 1, 2010;
 4. Should any of these conditions not be met, the Commission shall initiate reinstatement of the injunction.

After discussion regarding whether the May 1, 2010 date allowed adequate time to accomplish any required corrective measures, the following amended motion was acted on:

AMENDED MOTION:

M/S/C (Buckley/Fogarty) – carried unanimously: that the injunction against Kobyluck Brothers, LLC, be lifted effective December 2, 2009 with the following conditions:

1. Kobyluck Brothers, LLC shall have its engineering firm inspect the slopes on the south end of the quarry no later than April 15, 2010 for erosion and the need for re-seeding;
2. Kobyluck Brothers, LLC shall have its engineer provide a letter to the Town's Zoning Enforcement Officer no later than April 20, 2010 detailing results of that inspection, including recommendations for any necessary corrective measures;
3. Kobyluck Brothers, LLC shall implement said recommendations no later than **May 10**, 2010;
4. Should any of these conditions not be met, the Commission shall initiate reinstatement of the injunction.

M/S/C (Fogarty/Smith) to adjourn at 7:46PM. Motion carried unanimously.

Respectfully submitted,

Mary Ann Chinatti, Town Planner/ZEO/WEO