

**SALEM PLANNING AND ZONING COMMISSION**  
**SPECIAL MEETING**  
**June 7, 2010**

Present: Amato, R.  
Buckley, K.  
Chinatti, M. - Town Planner/ZEO  
Fogarty, G.  
McKenney, H. - arrived at 8:00 pm  
Savalle, R., Alt.  
Smith, V., Alt.

Absent: Bingham, D.  
Walter, G.  
Vacancy  
Vacancy, Alt.

Guests: None.

K. Buckley, vice chair:

- Called the meeting to order at 7:10 pm,
- Introduced all members and staff present, and
- Stated that this Special Meeting was for continued deliberations for the Kobyluck Excavation Permit Renewal.

It was the Commission's consensus to seat V. Smith for  
G. Walter and G. Fogarty in the Commission's Vacancy.

**AGENDA:**

- **Kobyluck - continuing deliberations**

R. Savalle, as per the discussion at the 5/25/10 PZC meeting, had prepared a three (3) page spreadsheet (*Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road* [see attached to the filed copy of these minutes] showing the topics still remaining to be discussed by the PZC and a summary of the Commission discussions of the topics that have been talked about already.

Each PZC member was presented a copy of the spreadsheet and each Commission member took time to briefly review.

The Commission compared the topics on the spreadsheet to see if any PZC concerns had been left out.

The following were found. Some new topics were also found during the discussions throughout the meeting as the spreadsheet topics were discussed:

- A thorough review of SECTION 11.4 - FINDINGS of the Salem Zoning Regulations;
- The administrative cost to the town to put restoration work out to bid should be added to the bond amounts;
- Clarification needed from Atty. Byrne in regard to when the Kobyluck Excavation Permit would next need renewal;
- Placing limits on the hours of operation of the crusher or stating specific days when crushing could be done;
- Could the signed petitions be addressed; and
- Can blasting be limited to "x" number of times per month?

Review of the three (3) page spreadsheet: *Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road*

Payment of Inspection Fee                      **COMPLETED**

Restoration Bond for Phase I, Phase II, and Phase III

Phase I - Exhibit FFF - ~\$230,000

What would be the administrative cost to the town to put the restoration of the site out to bid? This cost should be added to the bond amount.

Phase II and Phase III - Exhibit CC

Phase II - ~\$80,800

Phase III - ~\$41,500

Both of these phases can be addressed at their renewal time.

If this renewal is approved, Attorney Byrne should make clear when the Kobyluck Excavation Permit would next need renewal:

In April/ May 2011 or April/May 2012?

Hours of Operation

Monday through Friday only

8:00 am to 5:00 pm:

8:00 am - open, but no operation until 9:00 am  
9:00 am - excavation operations may begin  
5:00 pm - operations stop and gates close  
No Saturdays, Sundays or state or federally recognized holidays

The possibility of placing limits on the hours or specific days of operation of the crusher must be further discussed.

At this time the Commission took a five (5) minute break.

H. McKenney arrived at 8:00 pm.

K. Buckley stepped down as chair of the meeting.  
H. McKenney assumed the chair of the meeting.

K. Buckley reviewed what the Commission had been discussing during the first hour of the meeting for Mr. McKenney.

The Commission returned to their review of the topics on the three (3) page spreadsheet: *Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road.*

#### Section 11.4 of the Salem Zoning Regulations

A thorough review of this section must be accomplished by the PZC.

#### Request a new Restoration Plan as part of Renewal

It was the consensus of the Commission that a new Restoration Plan must be submitted.

The Town Engineer will be asked to provide what will be needed on the new plan.

#### Topsoil for Phase I restoration used for Phase II Remediation

It was the Commission's consensus that the removal of any topsoil from Phase II will not be allowed. **COMPLETE**

#### Attorney Response to Clarification or New Evidence?

Clarification is allowed:

- On the restoration bond estimate from the Town Engineer, and

- The 4/17/10 and the 4/23/10 Board of Assessment Appeals minutes can be used; they are a matter of public record.

These minutes are not yet on file with the Town Clerk.

- The chair of the Board of Assessment Appeals can clarify how reductions in assessments are calculated on a time perspective:

Yearly or until the next revaluation?

The chair has been asked, but he has not yet responded.

### Devaluation of Neighboring Properties

H. McKenney asked each member and the Town Planner/ZEO to respond to this question:

Does the PZC have the ability to craft a permit to allow the Kobyluck quarry to operate in harmony with its rural neighborhood?

The vote was six (6) yes and one (1) no.

Can conditions be placed on this renewal permit to negate any leftover devaluation of the neighboring properties?

It was the Commission's consensus that conditions could be placed on renewal approval to accomplish this.

The Commission also needs to decide if the signed Petitions presented are to be considered.

### Amount of Truck Traffic

Conversations:

- Traffic study:
  - The PZC already has the truck slips to review.
- The excess number of tri-axle trucks on Salem's town-owned roads.
- **Exhibit P** - states an average of 27.8 truck trips per day; some days over 50.
- **Exhibit T** - states an average of 55 truck trips per day.
- The many property owners in the vicinity of the quarry who testified to the noise, dust, and the deterioration of Rattlesnake Ledge Road due to the excessive truck traffic to and from the quarry.

After review of the truck slips presented, the following was discussed:

- 20 truckloads per day = 40 trucks per day = 5 trucks per hour
- 16 truckloads per day = 32 trucks per day = 4 trucks per hour

It was the Commission's consensus that sixteen (16) truckloads per day would be sufficient.

It is the PZC's intent to have reasonable people decide upon a viable solution that neither limits the use of the land for the operator nor impacts the neighbors.

### Stormwater Quality Basin

Discussion of conditions that could be placed on a renewal approval:

- **Exhibit V** - the Town Engineer recommended that a Stormwater Quality Basin should be constructed to the DEP General Permit for Discharge of StormWater associated with Industrial Activity standards, or those contained in the 2002 Guidelines for Soil Erosion and Sediment Control.

Inspections would be in the State Department of Environmental Protection's bailiwick.

- Sedimentation basins be inspected after every significant storm event of "x" number of inches per hour.

This would be the responsibility of the operator and the PZC could have the operator inform the Commission whenever this is done.

The site plan needs to be modified if sediment basins are planned for Phases II and III.

The Phase I basin will not be a concern; it will be gone when Phase I is restored.

### Blasting Noise/Dust

Blasting - regulated by state laws.

Can blasting be limited to "x" number of times per month?

Noise - can be addressed by:

- Limiting the crusher's use:  
Discussed was allowing the use of the crusher for only one (1) business day following a blast.
- Placing conditions on the hours of operation.

Dust - most dust comes from the processing of the rock into smaller sizes.

Limiting the use of the crusher will cut down on the dust as well as some noise.

Complete Inspection Fee Discussion for Phase II and Phase III **COMPLETE**

The Inspection Fee, which has been paid, was for all three (3) phases.

Enforcement of Renewal Requirements agreed upon

This matter needs still to be discussed.

The chairman requested that all members review Section 11.4 - FINDINGS in relationship to the Kobyluck renewal for discussion for possible action by the Commission at the 6/15/10 Regular Meeting.

At this time, R. Amato stated that he would be unable to attend the 6/15/10 meeting when this matter will again be discussed and possible action may be taken, as he will be out of the state on business.

Requested, if possible, there was a way, such as by speakerphone or video streaming, he could participate in the meeting.

The Town Planner/ZEO will check with Atty. Byrne on the legality of such and the Admin. Asst. will ask P. Sielman if video streaming could be accomplished.

M/S/C Fogarty/Buckley) to table further deliberations on the Kobyluck Special Exception Permit for their Excavation Permit Renewal to the June 15, 2010 Regular Meeting of the Salem Planning and Zoning Commission. Vote: approved unanimously.

M/S/C (Fogarty/Buckley) to adjourn the meeting at 10:10 pm. Vote: approved unanimously.

D. McTigue, Administrative Assistant/Recording Secretary