

***Unapproved***

Salem Planning and Zoning Commission  
March 16, 2010

Present: Amato, R.  
Bingham, D. – left at 7:50 pm  
Buckley, K.  
Chinatti, M. – Town Planner/ZEO  
Fogarty, G., Alt.  
McKenney, H.  
Savalle, R.  
Smith, V., Alt.  
Walter, G.

Absent: Nikirk, G.  
Vacancy, Alt.

Guests: see attached.

**CALL TO ORDER:**

Chairman H. McKenney:

- Called the meeting to order at 7:05 pm,
- Introduced all members and staff present,
- With the Commission's consent, seated G. Fogarty for G. Nikirk, and
- Stated that he would be stepping down on the Renz applications as he had not reviewed the tape of the 2/16/10 public hearing and, with the Commission's consent, V. Smith could be seated for him.

**ADDITIONS TO THE AGENDA:**

There were no *ADDITIONS TO THE AGENDA* this evening.

**PUBLIC HEARINGS:**

The chairman reviewed the Salem Planning and Zoning Commission  
Public Hearing Procedures.

All Certificates of Mail have been received  
as per the Regulations.

Legal Notices for all four (4) public hearings read.

H. McKenney stepped down, but held the chair of the meeting.  
With the Commission's consent, V. Smith was seated for H. McKenney.

- 1) **Renz - Resubdivision application (RS#09-11-01) for a five (5) lot resubdivision at 615 Hartford Road and possible action** (con't from 2/16/10)
- 2) **Renz - Special Exception application (SE#09-11-01) for a common driveway for the five (5) lot resubdivision proposed for 615 Hartford Road and possible action** (con't. from 2/16/10)

M. Chinatti, Town Planner/ZEO:

Revised plans have been received as per the 2/16/10 meeting discussion and they show the Conservation Easement on Lot #5.

Both the Conservation Easement and the Driveway Agreement were reviewed by the Town Attorney J. Butts and have been approved by him.

The letter in regard to the request for a waiver of Open Space was withdrawn by the applicants.

The Sanitarian's, Town Planner's and Town Engineer's concerns have all been addressed.

M. Bennett, PE, Bennett & Smilas Engineering, appeared for the applicants:

Explanation as to the Conservation Easement provided for on Lot #5:

It is one (1) acre in size and fronts on Route 85 (Hartford Road).

This portion of the lot is a wooded steep slope with rock outcroppings, which are called out as sites for open space in the Salem Subdivision Regulations.

Alternatives explored:

- A wildlife corridor on the south side of the property:  
Steep slopes and no room for parking made this alternative inappropriate.
- A 40' area for a path around the perimeter of the resubdivision:  
Even with a 20' area, this would be 2.2 acres of land and there is still no room for parking.

Reviewed the Land Records and found that most subdivisions in Salem were approved with Conservation Easements.

Public Comments:

There were no Public Comments.

Commissioner concerns:

- Ownership and upkeep of the Conservation Easement  
The easement will be owned by the purchaser of Lot #5 and the owner will be responsible for the upkeep.
- Yearly easement inspections/enforcement  
Inspection and enforcement is impossible without full time employees.

- The PZC could perhaps have a workshop in regard to easements.
  - R. Amato will work with the Town Planner/ZEO in regard to this matter.
- D. Bingham discussed a 4' trail around the circumference of the Lexington Trails Resubdivision. Feels that parking space could be found.

M. Chinatti, Town Planner/ZEO:

Recommended that the public hearing be closed.

M/S/C (Fogarty/Walter) to close the public hearings for the following applications:

- Renz - Resubdivision application (RS#09-11-01) for a five (5) lot resubdivision at 615 Hartford Road, and
- Renz - Special Exception application (SE#09-11-01) for a common driveway for the five (5) lot resubdivision proposed for 615 Hartford Road.

Vote: approved unanimously.

M/S/C (Buckley/Fogarty) to approve the requested waiver of Section 9.3.5 of the Salem Subdivision Regulations. The driveway location is the safest location for access. The Connecticut DOT has approved the location. Vote: approved unanimously.

M/S/C (Amato/Buckley) to approve the Lexington Trails resubdivision applications:

- Renz - Resubdivision application (RS#09-11-01) for a five (5) lot resubdivision at 615 Hartford Road, and
- Renz - Special Exception application (SE#09-11-01) for a common driveway for the five (5) lot resubdivision proposed for 615 Hartford Road,

and associated plans revised to 2/24/10 with the following conditions:

- 1) Conservation Easement markers, available from the Town of Salem, be placed at 50' intervals around the perimeter of the open space, and
- 2) Executed easement documents and a digital copy of the final plan shall be submitted prior to the Chairman signing the mylars.

Vote: approved unanimously.

- 3) **J. R. Pfanner & Assoc. (Frausini) - Resubdivision application (RS#10-02-01) for a two (2) lot resubdivision at 200 Music Vale Road and possible action**

M. Chinatti, Town Planner/ZEO:

This resubdivision was previously approved in September 2009. The final easement was not ready before the mylar filing date. Subsequently, the mylars could not be signed by the PZC chairman for filing.

This application is a reapplication of the same subdivision as the one previously approved; the easement and the mylars are in her office ready for signing and filing after this application is approved.

A Commission member had concerns about any new regulations being approved after the former application was approved that would affect this resubdivision now.

No new Zoning or Subdivision Regulations have been approved during that time.

M/S/C (Bingham/Walter) to close the public hearing on the following application:

J. R. Pfanner & Assoc. (Frausini) - Resubdivision application (RS#10-02-01) for a two (2) lot resubdivision at 200 Music Vale Road

Vote: approved unanimously.

M/S/C (McKenney/Savalle) to approve the previous payment of the fee in lieu of digital data submission of the approved plan. Vote: approved unanimously.

M/S/C (Buckley/Amato) to approve the following application:

J. R. Pfanner & Assoc. (Frausini) - Resubdivision application (RS#10-02-01) for a two (2) lot resubdivision at 200 Music Vale Road. Plans titled Re-Subdivision Plan, Property of Mark S. & Lynda M. Frausini, 200 Music Vale Road - Salem, Connecticut, prepared by J. Robert Pfanner & Associates, PC, and dated May 15, 2009, revised to October 6, 2009.

Vote: approved unanimously.

D. Bingham recused himself and left the meeting.

**4) Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road and possible action (con't from 2/23/10)**

M. Chinatti, Town Planner/ZEO:

Nine (9) additional exhibits need to be received for or read into the record:

**[Exhibit LL]** Letter of 3/01/10 from Norman B. Wood, Salem Assessor, concerning the Board of Assessment Appeals (BAA) reduced assessments for 279, 301, 309, and 317 Rattlesnake Ledge Road. (One [1] page read into the record by G. Fogarty.)

**[Exhibit MM]** Copy of the BAA minutes of 4/16/07 to 4/21/07 which includes the hearings, on pages 6, 10, and 12, at which the BAA reduced the assessments for 279, 301, 309, and 317 Rattlesnake Ledge Road. (Thirteen [13] pages.)

**[Exhibit NN]** Memo (undated, with two [2] attachments) to the PZC from John & Patricia Dempsey requesting denial of this Special Exception application with an email attached. (Two (2) pages. Memo only read into the record by G. Fogarty.)

Two (2) attachments included with the memo:

- Copy of online article regarding the doubling of production at the Kobyluck Quarry in Salem from *Aggregates and Mining Today - Online Equipment*

*& Industry News*, January 2009, Volume 1, Issue 1. (Three [3] double-sided pages.)

- Copy of an online article, The Quarry Story, from vulcanmaterials.com. (Five [5] pages.)

**[Exhibit OO]** Letter of 3/10/10 from J. Dillon, PE, of Nathan Jacobson & Associates, Town Engineers, in reference to his review of the restoration plan notes for the Kobyluck Quarry permit renewal. (One [1] double-sided page.)

J. Dillon reviewed his letter:

His recommendation is that the applicant produce a new restoration plan.

Commission consensus was that they will need to establish a new bond amount.

**[Exhibit PP]** Email of 3/10/10 from M. Chinatti, Town Planner/ZEO, to S. Byrne, PZC Attorney, in regard to phone comments. (One [1] two-sided page.)

**[Exhibit QQ]** Email of 3/10/10 from S. Byrne, PZC Attorney, to M. Chinatti, Town Planner/ZEO, regarding Commission decision questions. (One [1] two-sided page.)

**[Exhibit RR]** Email request of 3/16/10 from M. Kobyluck to M. Chinatti, Town Planner/ZEO, to continue the public hearing to 4/20/10 and granting a thirty (30) day extension of time in which to close the public hearing. (One [1] page.)

M/S/C (McKenney/Buckley) to accept the request for continuation of the Kobyluck Special Exception Renewal public hearing for a period up to but not beyond 4/29/10. Vote: approved unanimously.

**[Exhibit SS]** Faxed letter of 3/16/10 from S. Byrne, PZC Attorney, to H. McKenney, PZC chairman, in regard to *Renewal of Special Permit and Site Plan for Kobyluck Sand & Gravel Rattlesnake Ledge Quarry*. One [1] two-sided page.)

**[Exhibit TT]** Email of 3/16/10 from J. Dillon, PE, of Nathan Jacobson & Associates, Town Engineers, in reference to Kobyluck's Stormwater Plan.

D. Bourdeau, Jr., Fire Marshal, appeared:

Environmental Impact Study:

Perhaps the PZC could address the peoples' concerns: blasting, noise, truck traffic, dust, etc.

Discussed the blasting process.

Public Comments:

- D. Henrici, 149 Round Hill Road - Quarrying for stone is different from the industrial use being derived from the Kobyluck Quarry.

- E. Lane, 39 Cockle Hill Road - Cannot the town limit the amount of explosives used at the site?

(D. Bourdeau, Fire Marshal, explained that the blasting regulations are state regulations.)

Can the town impose more stringent blasting regulations than the state does? (D. Bourdeau stated that he would investigate this matter.)

- M. Resnik, Killingworth, CT, developer of two (2) subdivisions, Maxwell Heights and Salem Meadows, on Rattlesnake Ledge Rd. - Two (2) of the new homes he has built there have radon in their water. The state allows 5,000 parts/million; the houses have 22,000 parts/million. This can happen from blasting. Kobyluck should have to restore Phase I before he can continue.

K. Buckley:

The PZC must now organize what needs to be done for this application.

M. Chinatti, Town Planner/ZEO:

Will look into the following:

- An Environmental Impact Study, and
- Speak with Attorney Byrne in regard to what the PZC can require.

M/S/C (Buckley/Fogarty) to continue the public hearing for the following application:

Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road and possible action (con't from 2/23/10)

to the April 20, 2010 Salem Planning and Zoning Commission Regular Meeting. Vote: approved unanimously.

**PETITIONERS:**

There were no *PETITIONERS* this evening.

**PUBLIC COMMENTS:**

There were no *PUBLIC COMMENTS*.

**OLD BUSINESS:**

There was no *OLD BUSINESS* this evening.

**NEW BUSINESS:**

There was no *NEW BUSINESS*.

**ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT:** (See attached to the filed copy of these minutes.)

M. Chinatti, Town Planner/ZEO/WEO, reviewed her report as each item on the agenda was heard.

**APPROVAL OF MINUTES OF PREVIOUS MEETING(S):**

- 1) February 16, 2010 - Regular Meeting

## 2) February 23, 2010 - Regular Meeting

M/S/C (McKenney/Fogarty) to approve the February 16, 2010 and the February 23, 2010 Regular Meeting minutes of the Salem Planning and Zoning Commission amended as follows:

### February 16, 2010:

Page 1 - under *Present*, after *Amato, R.*, delete *arrived at 7:08 pm.*

Page 2 - under 1) *Salem Recreation Commission (Spang)* - ....., under *M. Chinatti, Town Planner/ZEO*, add the following sentence: "This public hearing is being continued this evening from January 19, 2010."

Page 3 - top of the page, change the second paragraph to read: *K. Buckley* "said she " would not want the PZC to set limits ~~over the~~ "that would prevent the" *Recreation Commission* "from applying its judgment in the operation of the site."

Page 5 - in the fifth paragraph, in the second sentence, change ..... *because there is only location where* ..... to ..... "because there is only one (1) location where.....".

Page 5, in the seventh paragraph, change the first sentence to read: "After some questions, Mr. Bennett suggested a conservation easement to the Commission."

Page 7 - in the first paragraph, change the first two (2) sentences to read: "Mr. Bennett made a formal proposal to the Commission regarding the requested waiver of the requirement of open space. In lieu of a waiver, another option is one (1) acre would be granted to the Town of Salem ....."

### February 23, 2010:

Page 2 -in the first bullet at the top of the page, change *2009* to "2008".

Page 2 - after the fifteenth line from the top of the page, add the following: "Mr. Kobyluck stated the stockpile is now on Phase II and was used to remediate the slope as required by the injunction."

Page 3 - at the top of the page, in the paragraph beginning *M. Kobyluck stated that they received* ....., in each of the two (2) sentences in the paragraph, change the words ..... *diversion permit* ..... to "Stormwater Pollution Prevention Plan (SPPP)".

Page 4 - in the middle of the page, in the fifth paragraph, change *The Commission stated* ..... to "H. McKenney stated ....."

Page 4 - in the middle of the page, in the seventh paragraph, change ..... *for a thirty-five (35) extension* ..... to " .....for a thirty-five (35) day extension ....."

Page 5 - in the bullet at the top of the page, change the sentence to read: "Requested *M. Chinatti, Town Planner/ZEO*, to ask Attorney Butts if limiting truck trips is contingent on having a Traffic Study done."

### Votes:

#### February 16, 2010:

For approval - Amato, Buckley, and Fogarty. For denial - no one. Abstaining - McKenney, Savalle, and Walter.

MOTION CARRIED.

#### February 23, 2010:

For approval - Buckley, Fogarty, McKenney, Savalle, and Walter. For denial - no one. Abstaining - Amato.

MOTION CARRIED.

**EXECUTIVE SESSION: (if needed)**

M/S/C (Fogarty/Savalle) to go into Executive Session at 9:53 pm to discuss pending litigation for 1) 160 Old Colchester Road and 2) Kobyluck and include M. Chinatti, Town Planner/ZEO/WEO and D. McTigue, PZC Administrative Assistant/Recording Secretary. Vote: approved unanimously.

Present at Executive Sessions:

R. Amato, K. Buckley, G. Fogarty, H. McKenney, R. Savalle, V. Smith, and G. Walter.

Present at the Commission's pleasure:

M. Chinatti, Town Planner/ZEO/WEO and D. McTigue, PZC Administrative Assistant/Recording Secretary.

- 1) Pending litigation - 160 Old Colchester Rd.
- 2) Pending litigation - Kobyluck

NO ACTION TAKEN.

M/S/C (McKenney/Buckley) to come out of Executive Session at 10:13 pm. Vote: approved unanimously.

**PLUS DELTAS:**

Commission review of the positive aspects and areas for improvement in regard to the conduct of tonight's meeting.

**CORRESPONDENCE:**

- Information concerning digital map data.
  - M. Chinatti, Town Planner/ZEO:
    - Will speak to W. Martin and E. Belt, volunteers for the town's Geographical Information Systems (GIS), in regard to this matter.
    - Review the Salem Zoning and Subdivision Regulations to ascertain whether amendments will be needed.

**ADJOURNMENT:**

M/S/C (Amato/Smith) to adjourn the meeting at 10:35 pm. Vote: approved unanimously.

Doris McTigue, Administrative Assistant/ Recording Secretary