

Unapproved

Salem Planning and Zoning Commission
April 21, 2009

Present: Abetti, F.
Bingham, D.
Chinatti, M - Town Planner/ZEO
Fogarty, G.
McKenney, H.
Savalle, R.
Winakor, A., Alt.

Absent: Buckley, K.
Dalkowski, R.
Vacancy, Alt.
Vacancy, Alt.

Guests: see attached.

CALL TO ORDER:

H. McKenney, chairman:

- Called the meeting to order at 7:07 pm,
- Introduced all members and staff present, and
- With the Commission's consent, seated A. Winakor for K. Buckley.

M/S/C (McKenney/Fogarty) to revise this evening's agenda as follows:

- Under *PETITIONERS*:
Move item 4) *Congregational Church of Salem* to before *PUBLIC HEARINGS*,
- Under *EXECUTIVE SESSION*:
Move item 2) *Pending litigation - Kobyluck* to item "1)" under *OLD BUSINESS*, and
- Under *PETITIONERS*:
Add as item "5) Salem Center LLC - Special Exception application (SP#09-04-01) for a drive-thru window for a restaurant in the proposed commercial building at 24 Hartford Road."

Vote: approved unanimously.

PETITIONERS:

- 4) **Congregational Church of Salem (Pastor T. Dubeau) - application (SPM#09-04-01) for site plan modification for a design change for foyer construction and a waiver request for a building at 249 Hartford Road**

M. Chinatti, Town Planner/ZEO:

The modification for the foyer design proposes a more straightforward entry into the building (see copies of the current and the previous proposals attached to the filed copy of these minutes).

The waiver request is for the requirement of an A-2 survey (Section 11A.4.2) and Erosion and Sedimentation Control Plan (Section

11A.4.14), as the E&S is on the previous plan and no changes are proposed.

Recommendation is to approve the waiver request and the site plan modification with the condition as stated in her 4/21/09 *Report on Agenda Items - Addendum* (see attached to the filed copy of these minutes) in regard to this item.

M/S/C (McKenney/Fogarty) to approve the waiver request of the Congregational Church of Salem of Section 11A.4.2 (A-2 survey) and Section 11A.4.14 (Erosion and Sedimentation Control Plan) of the Salem Zoning Regulations. Vote: approved unanimously.

M/S/C (Bingham/Savalle) to approve the Site Plan Modification application (SPM#09-04-01) of the Congregational Church of Salem for a design change for foyer construction and waiver request with the following condition:

- The plan shall be revised to include the five (5) year expiration note per Section 11A.3.5 of the Salem Zoning Regulations.

Vote: approved unanimously.

PUBLIC HEARINGS:

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

Legal Notices for both public hearings were read.

All Certificates of Mail for the Carvalho public hearing have been received as per the Regulations.

- 1) **Carvalho Brothers Realty, LLC - application (RS#09-02-01) for a resubdivision of land in both Salem and Colchester (two [2] lots in Salem; six [6] lots in Colchester) and a proposed road in both towns at 50 Buckley Road**

M. Chinatti, Town Planner/ZEO:

This application is for an eight (8) lot resubdivision spanning the Salem/Colchester town line (two [2] lots in Salem and six [6] lots in Colchester), with a proposed cul-de-sac road (of which 43% would be in Salem and 57% would be in Colchester).

Discussed her lengthy comments in her 4/18/09 *Report on Agenda Items* (see attached to the filed copy of these minutes) in regard to this resubdivision.

H. McKenney, chairman:

It should be made clear, within the signature block on the plan, that Salem would only be approving the two (2) lots in Salem and the portion of the road that lies in Salem.

C. Dutch, LS, applicant's agent, appeared:

Lots #1 and #8 are the lots that are in Salem; lot #8 is a proposed new lot and lot #1 has an existing house on the site.

The Salem Inland Wetlands and Conservation Commission approved the plan on June 9, 2008 for the two (2) lots and the portion of the road construction that will be in Salem.

Test pits were done, but he has not seen a report from the Sanitarian as yet.

The Town Planner/ZEO stated that she will remind the Sanitarian concerning this matter.

Public comments:

- B. Surprenaut, 43 Buckley Road: will the existing house remain? (The existing house at 50 Buckley Road will remain.)
- C. Magoon, 20 Buckley Road: What types of house will be built? Feels that the road placement is on a blind hill. (The type of houses that will be built is not a part of the public hearing; the plans meet the sightline requirements of the Regulations, but the Director of Public Works will verify.)
- T. Magoon, 20 Buckley Road: no one drives 25 mph on Buckley Road; the road is always icy in the winter; concerned that eight (8) or more new houses may have an effect on the present water supply or cause concerns for the Norwich Public Utilities in regard to the Deep River Reservoir.
- J. Ducharme, 217 Brainard Road, Colchester: which town will handle emergency services? Concerns in regard to run-off and the icing conditions on Buckley Road in the winter. (All the towns have mutual aid for emergency services; C. Dutch stated that the plan will improve the conditions on Buckley Road and the winter icing problems.)
- C. Provost, 98 Buckley Road: concerns in regards to wells with more run-off contaminants going back into the soil.
- B. Surprenaut, 43 Buckley Road: concerns regarding grade changes and foliage removal, which will allow the car headlights from the proposed road to hit his house across the street. (C. Dutch stated that the grading of the proposed road should not allow this to happen.)

Commission discussion in regard to the drafting of an agreement between Colchester and Salem in regard to each towns' responsibilities.

The Town Planner will research this matter.

M/S/C (McKenney/Fogarty) to continue the public hearing in regard to Carvalho Brothers Realty, LLC application (RS#09-02-01) for a resubdivision of land in both Salem and Colchester (two [2] lots in Salem; six [6] lots in Colchester) and a proposed road in both

towns at 50 Buckley Road to Tuesday, May 19, 2009, 7:00 pm at the Salem Town Office Building, 270 Hartford Road. Vote: approved unanimously.

- 2) **Proposed amendments to Section 2 DEFINITIONS of the Salem Zoning Regulations to add "Pervious" and "Impervious" and revision of Section 26A.5 DEVELOPMENT STANDARDS in regard to Section 26A.5I.3 Impervious Surface Coverage Requirements (CON'T. FROM 3/24/09).**

(See attached to the filed copy of these minutes.)

M. Chinatti, Town Planner/ZEO:

This public hearing was continued to allow more time for the Regional Planning Agencies to give comments on the proposed amendments.

The following correspondence from the Regional Planning Agencies was read into the record:

CRERPA (4/07/09) - no significant intermunicipal impacts.

MRPA (4/08/09) - will not have a negative impact.

WINCOG (3/04/09) - not anticipated to create negative intermunicipal impacts.

Public comments:

There were no public comments.

M. Chinatti, Town Planner/ZEO:

Recommendation was to approve the amendments as presented with a June 1, 2009 effective date.

The Commission consensus was to take action on the proposed amendments.

M/S/C (Fogarty/Winakor) to close the public hearing on the proposed amendments to Section 2 DEFINITIONS of the Salem Zoning Regulations to add "Pervious" and "Impervious" and revision of Section 26A.5 DEVELOPMENT STANDARDS in regard to Section 26A.5I.3 Impervious Surface Coverage Requirements. Vote: approved unanimously.

M/S/C (McKenney/Abetti) to add "Action on public hearing item" to tonight's agenda. Vote: approved unanimously.

Action on public hearing item

M/S/C (Bingham/Fogarty) to approve the proposed amendments to Section 2 DEFINITIONS of the Salem Zoning Regulations to add "Pervious" and "Impervious" and revision of Section 26A.5 DEVELOPMENT STANDARDS in regard to Section 26A.5I.3 Impervious Surface Coverage Requirements. Effective Date: June 1, 2009. Vote: approved unanimously.

PETITIONERS:

- 1) **Salem Recreation Commission (S. Spang) - application (SPM#09-04-02) for site plan modification to the tennis courts for the addition of lighting for both the tennis courts and basketball court and to grade for an underdrain and outlet that will provide a low maintenance outfall at the Round Hill Road Recreation Fields.**

This application was withdrawn prior to tonight's meeting.

- 2) **Salem Center, LLC (T. Zito) - application (SP#09-04-01) for site plan approval proposing a two (2) story building, retail on the first floor and five (5) one (1) bedroom apartments and office space. Together with associated parking, dumpster enclosures, septic system and well system at 24 Hartford Road.**
- 3) **Framill Properties (F. Zito) - application (SP#09-04-02) for site plan approval proposing a two (2) story medical office building and associated parking, septic system and well system at 15 & 17 Centre Street.**

These two (2) site plan applications are on abutting properties and will be heard together.

M. Chinatti, Town Planner/ZEO:

- Both sites are north of the Salem Marketplace.
- There will be no development in the Riparian Corridor Overlay Zone.
- The Inland Wetlands and Conservation Commission approved the plans on April 13, 2009.
- Both projects exceed the parking requirements and bituminous pavement has been replaced with pervious pavers for the employee parking areas and the driveway on the north border.
- All comments have been addressed for the Hartford Road site plan.
- Three (3) items still need to be addressed on the Centre Street plan.

E. Bartlett, PE, CLA Engineering, appeared before the Commission:

Review of plans:

- Invasive species on the sites will be replaced by native species;
- Pervious pavers;
- Additional parking due to the nature of a medical office building;
- Rain gardens;
- Water treatment; and
- Drainage system.

Presented letters (4/17/09) (one for each project) from the State of CT Department of Transportation in approval of the plans.

M. Chinatti, Town Planner/ZEO:

All RCOZ requirements are addressed.

The septic and water supply are under the auspices of the State of CT.

The Commission can approve these site plan applications.

W. Thomas, Nathan Jacobson & Associates, Town Engineers:

All comments have been addressed.

M. Chinatti, Town Planner/ZEO, recommended that a site walk be taken of the properties and to table the applications to the May 19, 2009 PZC Regular Meeting.

After discussion, the Commission took the following action:

M/S/C (McKenney/Fogarty) to set a site walk for the properties at 24 Hartford Road and 15-17 Centre Street for Monday, May 4, 2009 at 5:30 pm and table the site plan applications for said properties to the May 19, 2009 PZC Regular Meeting. Vote: approved unanimously.

- 4) **Congregational Church of Salem (Pastor T. Dubeau) - application (SPM#09-04-01) for site plan modification for a design change for foyer construction and a waiver request for a building at 249 Hartford Road**

This application was moved and heard before *PUBLIC HEARINGS* this evening.

- 5) **Salem Center, LLC - Special Exception application (SP#09-04-01) for a drive-thru window for a restaurant in the proposed commercial building at 24 Hartford Road**

M. Chinatti, Town Planner/ZEO:

A public hearing needs to be set for this application.

The Commission took the following action:

M/S/C (Fogarty/Winakor) to set a public hearing for the Salem Center, LLC - Special Exception application (SP#09-04-01) for a drive-thru window for a restaurant in the proposed commercial building at 24 Hartford Road for Tuesday, May 19, 2009 at the Salem Town Office Building, 270 Hartford Road immediately following the continued public hearing for the Carvalho Brothers Realty, LLC resubdivision. Vote: approved unanimously.

Commission discussion concerning the possibility of also holding public hearings on the Salem Center, LLC and Framill Properties site plan applications.

M/S/F (Bingham/Abetti) to set a public hearing for the following applications:

- Salem Center, LLC (T. Zito) - application (SP#09-04-01) for site plan approval proposing a two (2) story building, retail on the first floor and five

(5) one (1) bedroom apartments and office space. Together with associated parking, dumpster enclosures, septic system and well system at 24 Hartford Road, and

- Framill Properties (F. Zito) - application (SP#09-04-02) for site plan approval proposing a two (2) story medical office building and associated parking, septic system and well system at 15 & 17 Centre Street

in conjunction with the public hearing set for the Salem Center, LLC - Special Exception application (SP#09-04-01) for a drive-thru window for a restaurant in the proposed commercial building at 24 Hartford Road for Tuesday, May 19, 2009 at the Salem Town Office Building, 270 Hartford Road.

Vote: For approval - Abetti and Bingham. For denial - Fogarty, McKenney, Savalle, and Winakor.

MOTION FAILS.

PUBLIC COMMENTS:

There were no *PUBLIC COMMENTS* this evening.

OLD BUSINESS:

1) Pending litigation - Kobyluck

This item was moved to *OLD BUSINESS* due to the fact that it is no longer under pending litigation.

Judge Parker issued his final Memorandum of Decision on April 12th and upheld the Town of Salem.

NEW BUSINESS:

There was no *NEW BUSINESS* this evening.

ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT:

M. Chinatti, Town Planner/ZEO/WEO:

In regard to the item in her report concerning the Special Events Ordinance, presented an email from the First Selectman (see attached to the filed copy of these minutes) in regard to clarification.

The Commission requested that she inform the Board of Selectmen that the PZC respectfully requests the ability to comment on the Special Events Procedure before the BOS makes a decision.

Also informed the Commission that of the towns that regulate special events, 50% use an ordinance and 50% use regulations.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS:

- 1) **March 17, 2009 - Regular Meeting**
- 2) **March 24, 2009 - Regular Meeting**

M/S/C (Abetti/Fogarty) to approve the minutes of the March 17, 2009 and the March 24, 2009 Regular Meeting minutes of the Salem Planning and Zoning Commission as presented. Vote: approved unanimously.

EXECUTIVE SESSION: (if needed)

Item 2) *Pending litigation - Kobyluck* was moved to item "1)" under *OLD BUSINESS* due to the fact that the judge has rendered his decision and litigation is no longer pending on this matter.

M/S/C (Bingham/Fogarty) to go into Executive Session at 10:20 pm to discuss *Pending litigation - 160 Old Colchester Road* and include M. Chinatti, Town Planner/ZEO/WEO and D. McTigue, PZC Administrative Assistant. Vote: approved unanimously.

1) **Pending litigation - 160 Old Colchester Road**

Present at Executive Session:

F. Abetti, D. Bingham, G. Fogarty, H. McKenney, R. Savalle, and A. Winakor.

Present at the Commission's pleasure:

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

2) **Pending litigation - Kobyluck**

Moved to item "1)" under *OLD BUSINESS* (see above).

M/S/C (McKenney/Abetti) to come out of Executive Session at 10:29 pm. Vote: approved unanimously

NO ACTION TAKEN.

PLUS DELTAS:

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

CORRESPONDENCE:

1. Pervious concrete seminar notice; M. Chinatti, Town Planner/ZEO, will observe it.
2. Workshop notices.

ADJOURNMENT:

M/S/C (Fogarty/Winakor) to adjourn the meeting at 10:44 pm. Vote: approved unanimously.

Doris McTigue, Administrative Assistant/ Recording Secretary