

Unapproved

Salem Planning and Zoning Commission
June 15, 2010

Present: D. Bingham - left at 7:48 pm
Buckley, K.
Chinatti, M. - Town Planner/ZEO
Fogarty, G., Alt.
McKenney, H.
Savalle, R.
Smith, V., Alt.
Walter, G.

Absent: Amato, R.
Vacancy
Vacancy, Alt.

Guests: see attached.

CALL TO ORDER:

Chairman H. McKenney:

- Called the meeting to order at 7:10 pm,
- Introduced all members and staff present, and
- With the Commission's consent, seated V. Smith in the Regular Member Vacancy.

ADDITIONS TO THE AGENDA:

There were no *ADDITIONS TO THE AGENDA*.

PUBLIC HEARINGS:

None Scheduled

PETITIONERS:

- 1) **Gardner Lake Vol. Fire Co. (Savalle) - Site Plan Modification (SPM#10-06-01) for construction of an addition (43' x 12') to the rear of the engine bay at 429 Old Colchester Road**

M. Chinatti, Town Planner/ZEO:

This addition will be used for vehicle and equipment storage.

The Salem Zoning Board of Appeals granted a variance for a twenty (20) ft. rear yard setback for the addition and the Inland Wetlands and Conservation Commission granted a Declaratory Ruling after their review of the site plan.

Since her last review of the site plan, there was a problem with the comments received from the Sanitarian in regard to his review of the plan.

R. Gustafson, Salem Sanitarian, appeared:

Stated that after his inspection of test pits at the firehouse this evening, the plan now meets the Public Health Code requirements.

A letter, stating same, will be submitted to the PZC on Monday, June 21st for the PZC records.

J. Savalle, GLVFC chief, appeared.

M. Chinatti, Town Planner/ZEO:

Her recommendation is that the Commission approve the requested waivers of Sections 11A.4.2 through 11A.4.5, 11A.4.7, 11A.4.12, 11A.4.9 through 11A.4.11, 11A.4.13, 11A.4.14, and 11A.4.16 submitted by the applicant. The requirement for Digital Data submission should also be waived as requested. (See applicant's waiver request letter attached to the filed copy of these minutes.)

After discussion, the following action was taken:

M/S/C (Buckley/Bingham) to approve the Gardner Lake Volunteer Fire Company's requested waivers of Sections 11A.4.2 through 11A.4.5, 11A.4.7, 11A.4.12, 11A.4.9 through 11A.4.11, 11A.4.13, 11A.4.14, and 11A.4.16 for Site Plan Modification (SP#10-06-01). Vote: approved unanimously.

The chairman stated that the Commission cannot waive the submission of Digital Data for any application, as there is no waiver provision for it in the Regulations.

A fee of \$250 per lot in lieu of the Digital Data submission is provided for in the Regulations.

J. Savalle stated that he would submit the \$250 fee in lieu of the Digital Data for this application.

M/S/C (McKenney/Bingham) to approve the Gardner Lake Fire Company Site Plan Modification (SPM#10-06-01) for construction of an addition (43' x 12') to the rear of the engine bay at the firehouse at 429 Old Colchester Road with the following condition:

- The digital data must be submitted or a fee of \$250 in lieu of the digital data submission must be received prior to the mylar being signed.

Vote: approved unanimously.

PUBLIC COMMENTS:

There were no *PUBLIC COMMENTS*.

OLD BUSINESS:

- 1) **Woronick - Site Plan application (SP#10-05-01) for construction of two (2) storage buildings for a tree farm at 14 Cherry Tree Road**

M. Chinatti, Town Planner/ZEO:

Informed the Commission that she had reviewed the plan submitted and had sent her fourteen (14) comments to both the applicant and the applicant's land surveyor.

The Sanitarian's comments also have yet to be received.

Recommends that the Commission table this application to the July 20, 2010 PZC Regular Meeting.

Letter received from R. Page, the applicant's Land Surveyor, requesting a continuance to the Commission's earliest convenience.

M. Chinatti, Town Planner/ZEO, stated that there are a number of comments that need to be addressed by the surveyor.

M/S/C (McKenney/Savalle) to table the Woronick Site Plan application (SP#10-05-01) to the June 22, 2010 Salem Planning and Zoning Commission Regular Meeting. Vote: approved unanimously.

2) Avery (Savalle) - waiver request for Excavation Permit renewal - 190 Round Hill Road

M. Chinatti, Town Planner/ZEO:

The site was inspected and the truck slips were received today.

The truck slips calculation was that 304.57 cubic yards had been removed.

Her recommendation is to approve the requested waiver of Section 14.6d) and approve the renewal of the Excavation Permit.

M/S/C (Buckley/Savalle) to approve the renewal of the Avery Excavation Permit and waive the requirement of Section 14.6d) of the Zoning Regulations. Vote: approved unanimously.

3) Nutmeg Excavation Permit renewal - 40 Old Colchester Road

M. Chinatti, Town Planner/ZEO:

This excavation is on the property of S. Gadbois at 40 Old Colchester Road.

No information has been received and there has been no response from Nutmeg Gravel and Excavation in regard to this renewal (renewals were sent out in May).

She has witnessed excavation activity presently taking place at the site.

Recommends that the Commission expire Nutmeg's Excavation Permit effective June 22, 2010.

After discussion, it was the Commission's consensus that the Administrative Assistant try to contact Nutmeg Gravel again and send a letter (Certified/Return Receipt) stating that their permit will expire on June 22,

2010 and that the matter is being placed on the PZC 6/22/10 meeting agenda for discussion.

D. Bingham recused himself and left the meeting at 7:48 pm.

At this time, the Commission took a two (2) minute recess to try to set up a conference call with PZC member R. Amato in Seattle, Washington so as to enable him to participate in tonight's meeting.

Subsequently, the conference call could not be connected.

- 4) **Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road (further deliberations and possible action)**

With the Commission's consent, the chair seated G. Fogarty for D. Bingham.

The record reflects that G. Walter, though not present for some deliberations, had attended all meetings at which the public hearing for this application was still open.

He has reviewed all information submitted to the Commission, reviewed the spreadsheet and the comments now placed on it from the 6/07/10 Special Meeting and has no concerns.

The Commission reviewed the comments placed on the spreadsheet from the 6/07/10 Special Meeting deliberations (see attached to the filed copy of these minutes):

It was the consensus that placing a limit on the number of blasts that may take place needs yet to be discussed.

Commission review of those items on the Spreadsheet that were not discussed at the 6/07/10 Special Meeting:

Enforcement of Renewal Requirements Agreed Upon

K. Buckley: It is important that access to the site not be denied or delayed for the purposes of inspection.

The ZEO stated that she is not allowed to trespass on property, but she can issue an immediate Cease & Desist Order.

R. Savalle: How will the following be enforced? Working after 5:00 pm sporadically or a chronic abuse of the 5:00 pm close down; controlling the

limit placed upon the number of trucks allowed per day; the number of blasts allowed; making sure the Commission receives reliable truck slips; the size of the crusher (the size has been addressed). What about wet vs. dry crushing to cut down on the dust? It seems the Commission is now asking the neighbors to count trucks and monitor the hours of operation.

M. Chinatti, Town Planner/ZEO: The truck slips will help monitor the truck numbers or a monitoring devise could be placed on the site's gate.

Commission discussion brought about the following consensus:
Truck slips or spreadsheets shall be submitted on a monthly basis.

Discussion:

- Strength of blasts (the State regulates this matter), and
- Possibility of setting a limit on the number of and when blasts may take place.

Exhibit LLL PZC Approved Plan for the Operation 8 Pages

The Commission reviewed the comments under this section.

Commission must thoroughly review Section 11.4 FINDINGS OF THE Zoning Regulations

(See Pages 2 and 3 of *KOBYLUCK - APPROVAL DRAFT* under *Regarding Section 11.4 FINDINGS* attached to the filed copy of these minutes.)

After discussion, it was the Commission's consensus that all eight (8) Findings (Sections 11.4.1 through 11.4.8) will be met based on this renewal.

Commission review of MOTION - KOBYLUCK APPROVAL DRAFT: (See attached to the filed copy of these minutes.)

Discussion of the DRAFT MOTION brought about the Commission's following amendments to the following conditions:

1. In the sixth line, change *.....within 30 days* to "*..... within 60 days*"
2. Change to read as follows:
"Revised performance bond amounts shall be as follows:
a) Phase I: \$ 253,000.00
b) Phase II: \$ 80,000.00
c) Phase III: \$ 41,500.00
3. In the fourth and fifth lines, delete *..... ,including equipment maintenance,*
Change the last sentence to read: "Failure to meet this condition may render the renewal void and the permit

declared expired if so voted by the Planning and Zoning Commission."

4. NO CHANGES.
5. Change the beginning of the second sentence to read: "The Commission's staff shall approve"
6. Delete the first sentence.
Change the end of the second sentence to read: "..... notified prior to any blasting."
Delete the last sentence.
7. NO CHANGES.
8. Change to read: "Truck trips shall be limited to 16 trucks per day of a gross vehicle weight not to exceed 75,000 lbs. Tandem trucks and tractor trailers are not permitted. Failure to meet this condition may render the renewal void and the permit declared expired."
9. Add as 9: "Truck slips or spreadsheets shall be submitted to the Zoning Enforcement Officer on the first business day of each month for the previous month."
10. Renumber 9. to "10." NO CHANGES.
11. Renumber 10. to "11." NO CHANGES.
12. Renumber 11. to "12." and delete the words ~~denied or~~ in the first sentence.
13. Renumber 12. to "13." and delete this condition.

M/S/C (McKenney/Smith) to approve the Kobyluck Brothers, LLC Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road with the following conditions:

1. A revised site plan, acceptable to the Town Engineer, shall be submitted, to include the temporary sedimentation basins, with associated plan notes, on Phase II and Phase III as shown on the 2007 plan submitted to CTDEP, which is included as Exhibit B for this renewal. Said revised site plan shall also include a revised restoration plan, showing existing and proposed contours and cross-sections. Should the revised plan not be submitted within 60 days of permit renewal, the renewal shall be void and the permit declared expired. Failure to meet this condition shall render the renewal void and the permit declared expired.
2. Revised performance bond amounts shall be as follows:
 - a. Phase I: \$ 253,000
 - b. Phase II: \$ 80,800.00
 - c. Phase III: \$ 41,500.00
3. Revised hours of operation shall be Monday - Friday 8:00AM - 5:00PM and shall not include Saturdays, Sundays, federally or state recognized holidays. Only equipment start up is permitted between the hours of 8:00AM - 9:00AM, with full operation permitted from 9:00AM - 5:00PM. No activity shall take place outside of approved hours of operation. The premises shall be vacated and gates locked no later than 5:00PM. Failure to meet this condition may render the renewal void and the permit declared expired, if so voted by the Planning and Zoning Commission.

4. Stockpiled material used to remediate Phase II shall remain in place and not be used for restoration of Phase I. Failure to meet this condition shall render the renewal void and the permit declared expired.
5. Approved equipment: one (1) jaw (primary) crusher, one (1) screener, one (1) stone cutter. The Commission's staff shall approve all equipment models prior to location on the site. Failure to meet this condition shall render the renewal void and the permit declared expired.
6. The First Selectman shall be notified prior to any blasting. The applicant shall notify property owners within the area who are on its call list prior to a blast.
7. Use of the jaw (primary) crusher shall be permitted the day of, and one business day following, a blast, and solely for the purpose of removal of spoils. Failure to meet this condition shall render the renewal void and the permit declared expired.
8. Truck trips shall be limited to 16 trips per day of a gross vehicle weight not to exceed 75,000 pounds. Tandem trucks and tractor trailers are not permitted. Failure to meet this condition shall render the renewal void and the permit declared expired.
9. Truck slips or spreadsheets shall be provided to the Zoning Enforcement Officer on the first business day of each month for the previous month.
10. Processing of material is prohibited. Failure to meet this condition shall render the renewal void and the permit declared expired.
11. The operation shall proceed in accordance with the approved plan and the conditions of this permit approval. Failure to meet this condition shall render the renewal void and the permit declared expired.
12. Access to the site by Town officials for the purpose of compliance inspection shall not be unreasonably delayed. Failure to meet this condition shall render the renewal void and the permit declared expired.

Vote: approved unanimously.

NEW BUSINESS:

1) PZC Regular Member Vacancy

The chairman explained that since the PZC did not appoint anyone within thirty (30) days to the Regular Member Vacancy due to the resignation of G. Nikirk, the appointment must now be made by the Board of Selectmen.

At the Board of Selectmen's last Regular Meeting, the Republican Town Committee submitted the name of Elbert Burr to fill the vacancy. Mr. Burr has had a good deal of experience on a Planning and Zoning Commission prior to his move to Salem.

The BOS, as a courtesy to the PZC, deferred an appointment to the Commission until Mr. Burr could introduce himself to the PZC and discuss his qualifications and answer any questions they may have.

Mr. Burr is present this evening to discuss these matters.

E. Burr appeared before the Commission:

Reviewed his background and qualifications:

- Fifteen (15) years experience on a Planning and Zoning Commission; eight (8) as chairman in Easton, CT, a small town that was much like Salem, in Fairfield County;
- Has participated in the research and drafting of two (2) Plans of Conservation and Development;
- Served two (2) years on a Zoning Board of Appeals;
- Is retired from the publishing business so he is free during the day;
- He has run twice for a seat on the Salem PZC;
- Presently he is on the School Building Committee, and belongs to the Lion's Club, the Salem Land Trust, and the Republican Town Committee; and
- He feels that he can be of help to the Commission.

It was the Commission's consensus that Mr. Burr would be a fine candidate for the vacancy and to recommend his appointment to the Board of Selectmen.

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 and added the following:

When reviewing the site plan application for 14 Cherry Tree Road, she noticed many omissions in the Zoning Regulations for the Industrial Zone.

She will be preparing revisions and should have a draft ready for review for the first PZC meeting in July.

APPROVAL OF MINUTES OF PREVIOUS MEETING(S):

- 1) **May 18, 2010 - Regular Meeting**
- 2) **May 25, 2010 - Regular Meeting**

M/S/C (McKenney/Buckley) to approve the May 18, 2010 and the May 25, 2010 Regular Meeting minutes of the Salem Planning and Zoning Commission amended as follows:

May 18, 2010:

Page 1 - Under *B. ADDITIONS TO THE AGENDA*, in the motion where *Woronick* was added to the agenda, add to the end of the sentence: *construction* "of two (2) storage buildings."

Page 2 - under *C. Public Hearing(s)*, in the paragraph under *2) Thomas -*, change the third sentence to read: *would not act on ownership of "the proposed" open space*

Page 3 - in the motion at the bottom of the page: *M/S/W (McKenney/Buckley)*, in 2., delete the word ~~shall~~.

Page 3 - in the motion at the bottom of the page: *M/S/W (McKenney/Buckley)*, in 3., change the word *coy* to "copy"

Page 5 - in the *Vote: Approved,*, change those who voted in favor of the motion to: *Fogarty, Buckley, Amato, "Savalle, and" Smith.*

Page 5 - under *D. PETITIONERS, in 2) Getty, G.....*, in the second sentence, change *5000 cubic feet* to *"5000 cubic yards"*

Page 7 - under *PETITIONERS (CONTINUED), in SP#10-05-01 - Woronick,*, in the third sentence, change to read: *She stated that she was going to "recommend to" the Commission "to schedule" for the May 25 meeting*

Page 7 - under *PETITIONERS (CONTINUED), in SP#10-05-01 - Woronick,*, in the fourth sentence, change the word *putt* to *"put"* and place a period at the end of the sentence.

Page 8 - in the motion at the top of the page: *M/S/C (McKenney/Fogarty)*, change to read: *SP#10-05-01 "to" the May 25 Meeting "agenda".*

Page 9 - in the last paragraph on the page, in the last sentence, change to read: *condition of approval, "a statement which indicates" access to the site*

Page 12 - in the paragraph before *12) Need for storm water*, in the second sentence of the paragraph, change: *special findings, "Section 11.4," the purpose of which*

Page 12 - in the next to the last paragraph on the page, change to read: *met with town staff before "going" on to another phase.*

May 25, 2010:

Page 3 - in the fifth paragraph on the page, change to read: *She informed the Commission "that" she received a ~~non~~ Declaratory Ruling "of no jurisdiction" from the Inland Wetlands "and" Conservation Commission.*

Page 9 - in the fourth paragraph on the page, change the second sentence to read: *A "revised" restoration plan is needed.*

Page 10 - in the second paragraph on the page, change to read *that is where it "must" stay.*

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:

- Letter from Atty. S. Byrne stating his fees will be increasing from \$125/hr. to \$150/hr. on July 1, 2010.

ADJOURNMENT:

M/S/C (Fogarty/Buckley) to adjourn the meeting at 10:27 pm. Vote: approved unanimously.

Doris McTigue, Administrative Assistant/ Recording Secretary