

PLANNING & ZONING COMMISSION
TOLLAND, CONNECTICUT
REGULAR MEETING MINUTES OF JUNE 14, 2010

MEMBERS PRESENT: Michael Cardin, Chair
Marilee Beebe-Kostrun, Vice Chair
Sue Errickson, Secretary
Jack Scavone, Regular
Dave Barrow, Regular (arrived 8:30p.m.)
Benjamin Stanford, Alternate

MEMBERS ABSENT: John Hughes, Alternate

OTHERS PRESENT: Linda Farmer, AICP, Director of Planning & Community Development
Applicants and Public

1. **Call to Order.** Michael Cardin, Chair, called the meeting to order at 7:37p.m. in Council Chambers. He seated Ben Stanford for Dave Barrow who had informed the PZC he would be arriving later in the evening.

2. **Public Comment:** None

3. **Public Hearing(s)**

3.1 **Open Space** – Request for designation as Public Act 490 Open Space. Ms. Errickson read the public notice into the record. Commissioners had one application in their packets from Walter and Erin Moody, and Ms. Farmer noted that she received an application from Kevin Trapp shortly before the beginning of the meeting this evening. The Trapp application has yet to be evaluated by staff. The Commission discussed the Moody application. It was noted that the property abuts Open Space. Ms. Farmer said the assessor subtracts out a minimum building lot, but in this particular application, there is no house on the property, just a barn. She said the requirements of Public Act 490 are that the land owner must have ten acres in excess of a minimum building lot, which at this point in time is 2 acres. She said that when Steve Lowrey reviewed the application, he subtracted out the 2 acre minimum building lot from the amount that can be designated for P.A. 490 Open Space, but said they may want to discuss at a later date whether an entire property, if it does not have a house on it, can be put into P.A. 490. She said this property is in the process of being cultivated for hay, hops, and honey.

The Trapp application is a 21.93 acre parcel with no structure on it and 80 feet of frontage. At some time it could be developed as a rear lot, which would require a five acre minimum, so in order to meet the 10 acre minimum for P.A. 490, the parcel would need to be at least 15 acres. Therefore, it qualifies. Again, Ms. Farmer said Mr. Lowrey subtracted the 5-acre minimum rear lot acreage off the application so that Mr. Trapp could put 16.93 acres into P.A. 490 Open Space. However, Ms. Farmer said there are no structures on the property so questioned whether he might be able to put the entire amount into P.A. 490 Open Space. She said they cannot at this time say whether the land qualifies as a building lot without doing soil testing. Kevin Trapp was present at the meeting and he said he has no plans in the next ten years to develop the property. He said it would require at least a 500' driveway and there

are wetlands in back which would need to be evaluated by an engineer. Ms. Farmer said that if they did take out land for a minimum rear lot, it would need to be more than 5 acres to work geometrically. Mr. Trapp was asked if he would prefer to put the entire parcel into P.A. 490 Open Space. He said he would like to think on it and discuss it with staff further.

Ms. Farmer said Walter and Erin Moody have expressed that they have no plans for a house on their property for at least ten years either. After some discussion, there was consensus to keep the Public Hearing open so staff can work with the applicants further to determine their wishes.

Sue Errickson/Jack Scavone motion to continue the Public Hearing to June 28, 2010. Motion was unanimously approved.

3.2 **P&Z App. #441B – Tolland Planning & Zoning Commission** – (Burgundy Hills Associates) – Review conditions attached to February 25, 1991 Special Permit for possible modifications. Location: Midwood Quarry – Mt. Spring and Old Post Roads. Continued Public Hearing which commenced on May 10, 2010 and continued on May 24, 2010.

Mr. Cardin reviewed the items in Commissioners packets on this application. Ms. Errickson read Linda Farmer's June 10, 2010 memo to Michael Cardin into the record as well as William "Bud" Smallwood's June 7, 2010 letter to Linda Farmer.

Mr. Cardin clarified Item 6 from Ms. Farmer's memo that all truck traffic exiting the quarry driveway has a left turn prohibition. Ms. Beebe-Kostrun asked if Steve Lowrey submitted any written report on the noise readings from the quarry that he took. Ms. Farmer said it was a verbal report on the crushing being done by Herb Holden's trucks at the quarry about a week earlier. Ms. Beebe-Kostrun asked that Mr. Lowrey submit a report in writing.

Ms. Errickson told Mr. Smallwood that from her home on Hilltop Drive, she can hear the ATV riders on Sunday. She asked him if he sees this as an attractive nuisance. Mr. Smallwood said he is aware that he has trespassers on weekends and after hours, but doesn't know who all of them are. He said he is aware of some extensive paths and trails, which also includes horse tracks. He said he has been there on weekends and has met many people who don't know who he is. Ms. Errickson asked if he is finding any extensive damage to his operation by these trespassers. Mr. Smallwood said he is not. He said one of his abutters, Mr. Kosciu has a hunting permit and, while they have no formal arrangement, he tends to keep an eye out for inappropriate activities on quarry property.

Ms. Beebe-Kostrun asked Ms. Farmer about the noise levels that Mr. Lowrey recorded at the quarry. Ms. Farmer said it was recorded when there was noise from crushing and when the trucks were backing up and beeping. The noise levels were close to the maximum allowed at between 50 and 55 decibels. Ms. Beebe-Kostrun also asked about damage bonding and how that is covered by the blasters. Ms. Farmer said the blasters post a bond and carry insurance which they need when they get their blasting permit. Ms. Beebe-Kostrun asked if there have been any issues with erosion and/or sedimentation control. Ms. Farmer said there have not been. She said they do have some dust issues. She said they have found over the years that the sedimentation basin is not getting filled up at all. She said in 2007 when they held a Public Hearing to get input from neighbors, the Wetlands Commission reviewed the basin. Ms. Farmer suggested the basin should continue to be inspected regularly with an annual review on any issues related to it. Ms. Farmer noted that the Town Engineer has not yet been

on the quarry site. There was discussion of whether to have the Town Engineer, the Wetlands Agent, as well as the Wetlands Commission re-evaluate the Erosion and Sedimentation Control Plan if conditions change.

Ms. Beebe-Kostrun asked how the quarry deals with dust issues. Mr. Smallwood said they use calcium and a water truck. He said the crushers also have water sprays that serve to keep down dust at the belt. Ms. Farmer said regular sweeping helps also.

The Public Hearing was opened to public comments. Mr. Cardin asked that speakers limit their comments to three minutes and to new items not already mentioned in the previous dates of the Hearing. Louis Bach of 255 Tolland Stage Road said he was prompted to attend this hearing from a newspaper article. He said his family sold land that is now the quarry to Bruce Cramer, but the quarrying operation that is there now is significantly different than the Cramer operation. He said he does not hear much noise coming from the quarry. He talked about the Skyline Quarry operation run by Wayne Williams and said Mr. Williams has a good relationship with his neighbors because he does a lot of positive public relations. For example, he said that he will not load up trucks that use a compression-style “jake brake”. Mr. Bach also said he has no objection to the types of trucks Herb Holden’s company uses at the quarry.

Constance Chambers of 129 Mountain Spring Road distributed a memo with attachments, and she reviewed the highlights of the documents. She said she prefers that the quarry start no sooner than 8AM in fairness to the area residents. She said this is not discriminating against the quarry, citing Section 170-30 of the Zoning Regulations. Ms. Chambers said that Condition #10 has never been appreciated and deals with the matter of how regulating water can be handled. She said that when she had an issue with her well, she went through the blasters insurance and encountered difficulties. She said she feels that many well problems which may be caused by blasting but which are smaller issues where the water problems might cause less than \$5,000 to fix tend to fall on the homeowner’s shoulders to fix. She feels that a resident with a well issue would need either a good attorney or a State agency behind them to get satisfaction. She said the problem in protecting lower level damages requires investigation work and they need to find a better way to collect data. Ms. Farmer said issues with wells should be reported to the Eastern Highland Health District. Ms. Chambers said she did write a letter to the EHHD when she had her well problem, but she got no help from them.

Walter Dohvan of 113 Mountain Spring Road brought with him an original 1979 article from the Hartford Courant regarding blasting. He said he lost his well water about ten years ago after a blast, as did his neighbor and someone else in the area. He said since the blast a few years ago he has had to change water filters far more frequently and his wife has developed a rash problem that they believe is connected to the well water issue. He also noted the trucks make a lot of noise going into the quarry because of large potholes at the entryway that should be fixed.

Sue Macname of 192 Mile Hill Road referred to Item 6 in Ms. Farmer’s June 10, 2010 memo. She said it should be noted that wear and tear on roads was not really the issue when the left turn prohibition was discussed; rather it was about safety, especially when school buses are on the roads in the early hours, according to John Littell, Public Safety Officer. She said she does not want this to be lost in the shuffle.

Dale Zahner of 134 Mountain Spring Road said the issue of noise dampening refers to putting wood of some kind in the bottom of the dumpster so when stone is thrown in, it is less noisy than if it was hitting metal. Mr. Cardin asked Mr. Zahner if this was part of the 1991 discussion. Mr. Zahner said he was not sure, but that was the intention. He said a Commissioner on the PZC back in 1988 told him this. Mr. Zahner agreed with Mr. Bach's earlier comments that the trucks used by Herb Holden's operation are good and that trucks that use jake brakes are very loud. He distributed a letter that he and his wife had written outlining their concerns and he reviewed the main portions of the letter which addressed the left turn prohibition and the hours of operation. He said they are not trying to shut down the quarry operation, but rather allow them to have a peaceful coexistence.

Mr. Smallwood said he feels some of the reasons Ms. Chambers did not get the responses she expected was because the EHHD felt her issues were her own problems, especially because she now has two operating wells on her property. Mr. Cardin said the Commission cannot speculate on what happened with the EHHD. Mr. Smallwood said that if people think his operation has caused any of their well problems, they need to inform him. He said he does not feel, however, that the quarry is responsible for all problems.

Mr. Smallwood reiterated that the 105 neighbors that he is required to notify when he does an activity should have it noted on their property deeds that there is a quarrying operation in the area. He said every year he encounters people who were not aware of the quarry, and that in conversations with his attorney, feels that the public should be made aware of the quarry. He said he investigated what other towns do and found that in Scotland, where he lives, sixteen lots have a note on their land records that they are in the vicinity of a sawmill. He said it is also an issue with a pig farm on Hillstown Road in Manchester. He said he gets the sense that residents are opposed to this because they feel having this note on their deeds would devalue their property, and asked if the PZC feels this is their motive. Mr. Smallwood added that he is aware of some of the positive public relations Mr. Williams from Skyline Quarry does, and that he, too, tries to be a good neighbor. Ms. Beebe-Kostrun asked Ms. Farmer if there is a mechanism for putting a note on deeds for this type of thing. Ms. Farmer said she is not aware of an instance where the town has imposed something like that on existing properties. Mr. Cardin said he feels this is a separate issue to what they are discussing tonight.

Mr. Smallwood said the reason he is requesting a change for the hours of operation for the quarry is because there would be a buffer time between 7:00a.m. and 7:30a.m. if someone showed up at around 7:15a.m. He said having a quitting time of 4:30 would likely be more considerate toward neighbors, particularly Constance Chambers and the Zahners who are most impacted, instead of allowing quarrying up to 6:00p.m. when many people are sitting down to dinner. He also said he felt this would take some pressure off Linda Farmer and the Planning Office as they would likely get fewer complaint calls.

Mr. Cardin asked Mr. Smallwood if the repairs to the pavement have been done yet. Mr. Smallwood said they have not been done yet, but the 50' anti-tracking pad has been installed and it has been swept. Mr. Barrow asked how many blasts the quarry does on average a year. Mr. Smallwood said it varies. He said the material from the last blast has been mostly processed but not moved yet, and that he surmises there may be one more blast this year. Ms. Farmer noted there has been quite a bit of stockpiling of product at the quarry. Mr. Smallwood said it really depends on the operator and the demand for product. He said right now the demand is low. He said he feels that every time they have a blast, they should pick

four more wells for pre- and post-blast testing to get a good baseline. Ms. Beebe-Kostrun asked what is a big year for blasting. Mr. Smallwood said they have done five or six blasts maximum in one year in the past ten or twelve years.

Ms. Beebe-Kostrun said she noted it as a point of contention in the neighborhood that sweeping is not done enough. She asked Mr. Smallwood if he or the operator would be willing to put forth a schedule for this to be done on a regular basis. Ms. Smallwood said he would and that they are fortunate to have a machine with a sweeper on site. He said he could tell the operator to sweep daily or every other day. Ms. Beebe-Kostrun added that this is an item that could be bonded and verified and kept on file. She said it should be part of an erosion/sedimentation plan. Mr. Smallwood said he agrees that this is something that should be done at the end of the day and with Dave Holden there on a daily basis, it could be done. However, he feels this is more a housekeeping issue than a sedimentation/erosion control issue.

Mr. Smallwood asked what the significance is of Jennifer Usher asking that the average ground water level be “reviewed” rather than “verified.” Ms. Farmer said she believes because it is difficult to determine groundwater level. Mr. Smallwood said he thought the Town should be assuming some responsibility also, and so she should be verifying, rather than just reviewing, this information. Ms. Farmer said the concern was that you are not going to know where groundwater in rock is until you encounter it. Ms. Beebe-Kostrun asked if the Town would need to hire an expert to verify this information. Ms. Farmer said she was not contemplating the Town doing this.

Bob Macname of 192 Mile Hill Road asked if once you hit water, is that what you should consider is groundwater level? Ms. Beebe-Kostrun said no, because there are historic highs and lows and it is a condition that needs to be evaluated. She said the intent was to not drain the groundwater table. Mr. Macname said he views this neighborhood as both a quarry neighborhood and a residential one. He said the 1990 Commission came to a compromise and came up with 16 conditions that if followed for the last nineteen years would not require their having a meeting this evening. He said he is getting the sense that three to five of these conditions will be altered or eliminated and he expects none of those will be in favor of the neighborhood. He added that when the conditions are not followed, it has a negative impact on the health and safety of the neighbors. For example, he said he feels that a map should be submitted annually regardless of how much is quarried each year. He said he also feels that the 8:00a.m. start was made specifically because of the impact on the neighborhood and that a later start would be less likely to coincide with school buses on the roads.

Mr. Dohvan asked if the posted speed limits on Mountain Spring Road are the same as on Route 31. Mr. Smallwood said he thinks the speed limit is 30mph on Mountain Spring Road but that trucks decelerate further down the hill. Mr. Smallwood agreed that there was substantial discussion that brought them to the 1991 agreement, but that after 19 years what they thought would work best did not always. He said he feels some changes might make things better for the neighborhood and that it is practical to change some things that have outlived their usefulness. He added that because this was a court agreement, if any of the sixteen things change, both parties need to be in agreement. This, he said, is the opinion of his attorney, Peter Alter. However, Mr. Smallwood added that he does not see them going in any direction where he might be diametrically opposed to the changes.

Ms. Farmer made some clarifications to Mr. Macname's comments. She said one issue is that the conditions have not been complied with over the years. For example, they have never held a performance bond and water testing ceased in 1993. Mr. Cardin said it was the prerogative of the Commission to initiate this review of the conditions because he felt early on that some of the conditions needed to be addressed. He said he feels it was worthwhile to do so.

Ms. Errickson read both Constance Chambers' June 14, 2010 letter and Dale and Harriet Zahner's June 14, 2010 letters into the record.

Ms. Beebe-Kostrun asked for a clarification on who residents should notify if they experience a problem with their well. Ms. Farmer said they should contact the Development Office. She said if the feeling is that the problem was caused by a blast, they will be referred also to the Fire Marshall. Any other well problems should also be reported to the EHHD, and they will keep a record of it. In some cases, she said, the EHHD might put the property owner in touch with the Department of Environmental Protection.

Jack Scavone/Ben Stanford motion to close the Public Hearing. Motion was unanimously approved.

4. Action on Public Hearing(s)

4.1 **Open Space** – Request for designation as Public Act 490 Open Space. Commission to take action on June 14, 2010 Public Hearing item. This item was continued to June 28, 2010.

4.2 **P&Z App. #441B – Tolland Planning & Zoning Commission** – (Burgundy Hills Associates) – Review conditions attached to February 25, 1991 Special Permit for possible modifications. Location: Midwood Quarry – Mt. Spring and Old Post Roads. Commission to take action on May 10, 2010, May 24, 2010 and June 14, 2010 Public Hearing items.

Mr. Cardin submitted a suggested list of changes to the 16 conditions based on the Public Hearing discussions and the Commission reviewed the first four conditions, with the intent to continue the discussion at the next meeting. This list is dated June 14, 2010. The new proposed language was underlined. In Item 1, the Commission discussed rewording the language to read: *The submission of this annual map requirement can be waived if less than 25,000 yards of stone or stone related products has been blasted and/or excavated in the calendar year. The submission of documentation on material must be provided to the planning office upon request of waiver. An updated Erosion and Sedimentation Control Plan should be submitted as determined by the Wetlands Agent, Town Engineer and Wetlands Commission. The date of renewal is June 23rd.*

The Commission discussed whether the second condition should be worded per the Town Engineer's suggestion to read: *The maximum depth of excavation and blasting shall be average ground water level, to be determined by the applicant's engineers and reviewed (rather than verified) by the town engineer.* Ms. Beebe-Kostrun said she feels they will need to agree on an average ground water level. Mr. Cardin asked Mr. Smallwood if he has had an engineer yet determine a groundwater level. Mr. Smallwood said he has not, that he does not expect to go that deep for some time. After some discussion, the majority of the Commission felt that the word "verified" should be used instead of "reviewed."

The Commission discussed Condition 3 and the requirements for a final grading plan. They have a grading plan from 2007. Ms. Beebe-Kostrun asked if they are anticipating an annual final grading plan be submitted and, if so, when will it be created? Ms. Farmer said the plan established around 1990 shows a typical cross section of what a final grading plan would look like. Ms. Errickson suggested keeping this final grading plan until a future commission decides to change it. Ms. Farmer said what they don't have is a thorough engineering review of this plan, and they could have the town engineer review the plans and visit the site and make some recommendations on what the town would want to see. There was consensus to use the recommended changes that Mr. Cardin proposed.

The Commission reviewed Condition #4. Mr. Cardin said he based his suggested wording on Mr. Lowrey's recommendations. There was consensus to use this new proposed language.

Further discussion was tabled to the June 28, 2010 meeting.

5. Other Agenda Items

- 5.1 **P&Z App. #441A – Burgundy Hill Quarry** – Request to approve a one year extension of the excavation permit that was originally issued on February 25, 1991. Location: Midwood Quarry, Mt. Spring & Old Post Roads. Ms. Farmer suggested the Commission grant a six week extension of the excavation permit until they can review and vote on any potential changes to the 16 conditions.

Ben Stanford/Marilee Beebe-Kostrun motion to grant a three-month extension of the 2009 excavation permit at the Burgundy Hill Quarry to August 9, 2010, allowing the quarry to continue with operations under the same conditions attached to the previous year's permit including required pre- and post-blast testing of selected wells and compliance with the 16 conditions of approval.

Mr. Smallwood said he was under the impression that the review of the 16 conditions was a separate issue from the permit extension and that a discussion on the conditions could potentially go on for some time. He said he provided the map the Commission required and was expecting to get a renewal this evening rather than an extension. Mr. Cardin said that in an ideal world they would tackle the conditions before granting a renewal of the permit.

Ms. Beebe-Kostrun asked if the conditions can be modified at any time or would they need to become a part of the permit renewal process. Ms. Farmer said they are two separate items that are related. She said this is uncharted territory and said it would be up to the Commission on how they would want to proceed.

Mr. Barrow said he feels Mr. Smallwood has a point with his objection. Ms. Farmer said if any changes were made to the 16 conditions, a detailed letter would go out to Mr. Smallwood. Mr. Stanford questioned if they might be put on shaky legal ground if they extended the permit then altered the conditions afterward. Ms. Farmer said that when they accept new conditions, they would be put into effect on the date the Commission specified.

The Commission voted on the motion. Ben Stanford and Jack Scavone voted in favor of the motion. Sue Errickson, Marilee Beebe-Kostrun and Michael Cardin were opposed. The motion failed in a 3-2 vote.

Sue Errickson/Jack Scavone motion to renew the excavation permit for P&Z App. #441A for one year to June 23, 2011, allowing the quarry to continue with operations under the same conditions attached to the previous year's permit including required pre- and post-blast testing of four selected wells outside the quarry and water quality measurements to be done. As part of this renewal, the applicant is also required to make the necessary road repairs at the entranceway to the quarry. A vote was taken on the motion. Mr. Scavone, Ms. Errickson, Ms. Beebe-Kostrun and Mr. Cardin voted to approve. Mr. Stanford was opposed. Motion passed.

- 5.2 **P&Z App. #796 – Dean Soucy** – Three (3) lot resubdivision request to create two (2) new building lots. Location: westerly side of Old Cathole Road across from Vaalcom Road. Request for two 90 day extensions for filing mylars. Ms. Beebe-Kostrun recused herself from this discussion. Mr. Cardin seated Mr. Barrow for Ms. Beebe-Kostrun.

Sue Errickson/Dave Barrow motion to grant two 90 day extension for filing mylars. Mr. Scavone asked if the applicant gave any reason for their extension request. Ms. Farmer said they did not, but the statutes allow two 90 day extensions and that kind of request is fairly routine. A vote was taken on the motion. It was unanimously approved.

6. **Approval of Minutes** – Approve minutes of May 24, 2010 Regular Meeting and June 7, 2010 Special Meeting/Workshop. Jack Scavone/Sue Errickson motion to approve the minutes of the May 24, 2010 Regular meeting. Ms. Errickson noted that on Page 4 in Sue Macname's comments in the last paragraph on the page, second line, that she referred to a difficult curve *near*, rather than *on*, Timber Trail. The Commission voted on the minutes as amended and the vote was unanimously approved.

Jack Scavone/Sue Errickson motion to approve the minutes of the June 7, 2010 Special Meeting/Workshop. Motion was unanimously approved.

7. **Activities and Updates**

7.1 Tolland Village Area – update on Planimetrics activities. Ms. Farmer said she and Mr. Cardin will be meeting with the Town Council, the Department of Transportation and with Glenn Chalder and Heidi Samokar from Planimetrics to talk about D.O.T. issues. She said on June 22, Michael Cardin, Heidi Samokar and Ms. Farmer will give the Town Council an update to keep them in the loop and let them know what role town-owned property might play in implementing the Plan.

8. **Town Staff Comments** – Ms. Farmer said there is a growing concern about business owners wanting to put ice machines on sidewalks and concerns that they not impede ADA requirements. This is an issue that she would like to discuss further at another point in time.

9. **Announcements – Upcoming Meetings**

9.1 June 15, 2010 at 7:00p.m. in the Council Chambers. Workshop with WPCA, Town Council and EHHD regarding revisions to the Phase II Sewer Facilities Plan.

10. Reading of Correspondence – Ms. Errickson read the letter from Barbara and Stuart Danforth that was copied to the Journal Inquirer.

11. Communications and Petitions from Commission Members – None.

12. Public Participation: None.

13. Adjournment – Dave Barrow/Ben Stanford motion to adjourn the meeting and pay the clerk at 11:00p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile
Clerk