

1 **Planning and Zoning Meeting Minutes – November 3, 2010**

2 Commissioners Present: Chairwoman, Cristin Rich, Allen Cockerline , Dan Dwyer, Jon Higgins, Michael
3 Klemens, Fred Schmidt and Martin Whalen. Absent: Judy Swanson.

4 Also present: Tom McGowan, Town Planner; Nancy Brusie, ZEO; citizens

5 The meeting was called to order at 5:30 by Chairwoman, Cristin Rich.

6 The Agenda was amended to rearrange the order of the Public Hearings as follows: 1.) SP2010-0022,
7 Hotchkiss School central heating facility; 2.) Outdoor Wood Burning Furnaces; 3.) Lake Association
8 petition for zoning text amendment. Public Hearing on 151 Interlaken Road was withdrawn without
9 prejudice. **The amended Agenda was moved by M. Klemens, seconded by M. Whalen and**
10 **unanimously approved.**

11 No Voting Alternate was needed for this meeting.

12 The Minutes of the October 19th meeting were reviewed and amended. **The amended Minutes were**
13 **then moved by D. Dwyer, seconded by M. Whalen and unanimously approved.**

14 N. Brusie presented the ZEO Report for October.

15 There will be a Special Town Meeting on Tuesday, November 9th at 7:30 in the Salisbury Town Hall. The
16 proposed Town Ordinance on Zoning Penalties is scheduled for a vote at this time.

17 Attorney, C. Andres' bills were reviewed. M. Klemens commented that half of C. Andres' time this past
18 month went for review of the application for 151 Interlaken Rd, which he feels is an incorrect use of
19 taxpayer funds. Excessive time spent on individual applications should be charged back to the applicant.

20 **It was then moved by J. Higgins, seconded by M. Whalen and unanimously voted to approve payment**
21 **of the C. Andres' bill.** M. Klemens noted that he was voting "yes" with reluctance, as he is unhappy
22 about spending money in this way.

23 There was no news of progress on the Aquifer Protection Agency.

24 Communication from Mr. Ceppi concerning Bird Peak Lot 16 was postponed until later in the meeting.

25 **It was moved by M. Klemens, seconded by J. Higgins and unanimously approved to set the Public**
26 **Hearing for Affordable Housing Regulations upgrades for December 7th at 6:00 in the Salisbury Town**
27 **Hall.**

28 **It was moved by J. Higgins, seconded by M. Klemens and unanimously approved to set the Public**
29 **Hearing on proposed language changes to the Driveway Regulations for December 7th at 6:00 in the**
30 **Salisbury Town Hall.**

1 There was a continuation of the discussion concerning the meeting dates and times for 2011. Some
2 difference of opinion was expressed as to the best time to hold P&Z meetings, for both Commissioners
3 and the general public. **It was then moved by J. Higgins, seconded by D. Dwyer and unanimously**
4 **approved to set the date and time for P&Z meetings for the first and third Tuesday of each month,**
5 **starting at 6:30, with Public Hearings to be held at 7:00, and with an ending time of 9:30. Exceptions**
6 **will be when the date conflicts with Election Day or holidays, in which case the meeting will be moved**
7 **to the same time on Wednesday.**

8 Correspondence concerning the proposed changes in language to Section 804.4 concerning the Lake
9 Protection Overlay Zone was received from Attorney, C. Andres. His recommendation was to not
10 publish the proposed language changes. This item could not be discussed further at this time, but must
11 wait until the continuation of the Public Hearing on November 16th at 6:00 in the Town Hall.

12 **Public Hearing SP2010-0022 for a central heating facility for Hotchkiss School, continued from October**
13 **5, 2010.**

14 Commissioner, C. Rich recused herself from this Public Hearing. A. Cockerline is the Voting Alternate, as
15 determined previously. Vice-Chairman, M. Klemens, continued the Public Hearing at 6:00, and
16 requested that only new information be presented by both the applicant and the general public.

17 Architect, Alan Paridis and Resource Systems, Senior Consultant, John Hinkley, provided a written
18 report regarding the projected emissions of the facility. The emissions will be less than are currently
19 being generated by the older facility. The new facility will be monitored and regulated by the
20 Department of Environmental Protection throughout the building process, and then as part of an on-
21 going maintenance program.

22 It was noted that the high lift had been put in place as requested to demonstrate the exact location of
23 the new chimney. There were no further concerns expressed or reported about this issue.

24 There was some concern expressed about the increased level of activity to and from the facility. At the
25 peak heating season it is projected that there will be 1-2 truckloads of material delivered daily.

26 The lighting of the facility was discussed. Street lights on the back of the facility will be low illumination,
27 intended for way-finding. The building will be blacked out at night and interior lights will be kept below
28 the sill level of the clearstory.

29 Commissioner, J. Higgins noted that approval from the Department of Transportation must be received
30 for the new curb cut, but that the local approvals were required before the DOT would consider the
31 request. He asked if there would be any objection to receiving approval from the P&Z contingent on
32 subsequent approval from the DOT. That is the applicant's intention; there was no objection.

33 Commissioner, F. Schmidt asked about the regulation of the forestry aspect of the proposal. Josh Hahn,
34 Director of Environmental Initiatives at Hotchkiss, explained that their intention was to work with
35 sustainably managed forests as close to the school as possible. Sustainably Managed Forests follow a

1 procedure used for harvesting and regenerating the forests that is certified by the U.S. Forest Service.
2 Green Mountain Forest in Norfolk, Connecticut , which is used as a research station for the Yale School
3 of Forestry, is the first choice. A second suitable choice is Hull Forest Products located in Palmer,
4 Connecticut.

5 **There being no further comments or questions, it was moved by D. Dwyer, seconded by J. Higgins and**
6 **approved unanimously to close the Public Hearing at 6:20.**

7 The Commissioners deliberated on the proposal. **It was then moved by J. Higgins and seconded by A.**
8 **Cockerline to approve Special Permit application, SP2010-0022 by Hotchkiss School for a central**
9 **heating facility, and the site plan for this facility dated 8/27/2010, contingent upon obtaining the**
10 **required curb-cut approval from the Department of Transportation and contingent upon meeting all**
11 **other regulations and conditions that apply. This facility will be a wood-burning facility with a back-up**
12 **fuel source of oil; it will not be a natural gas burning facility.**

13 **The vote was unanimous. Voting members were: M. Whalen, D. Dwyer, J. Higgins, M. Klemens and A.**
14 **Cockerline.**

15 Commissioner, J. Higgins again expressed his commendation to Hotchkiss for pursuing such a forward-
16 looking, energy efficient and environmentally sensitive initiative.

17 **Public Hearing for amending Article IX: Special Regulations, revise Section 412-Table of Uses by Right**
18 **and Special Permit and adding a new section 929, titled Outdoor Wood Burning Furnaces (OWF).**

19 The Hearing was opened at 6:25. Secretary, D. Dwyer read the legal notice. Town Planner, T. McGowan
20 provided a summary of the proposed regulation and changes. OWFs in Salisbury would not be allowed
21 in the village or town centers and must meet EPA White Tag specifications. OWFs would only operate
22 from October 1st – May 15th, unless they are part of a commercial operation. OWFs must only be
23 operated using fuels recommended by the manufacturer.

24 Correspondence from the Northwestern Ct. Council of Governments dated 9/28/2010 was read. There
25 were some comments concerning the clarity of the chimney height requirement and the difficulty in
26 enforcing the section on type of fuel used. However, the COG stated that the proposed amendments do
27 not conflict with any plan or policy of the Northwestern Ct. Council of Governments.

28 One Public Comment was expressed concerning the cumulative effect of emissions from more than
29 one OWF in an unspecified area. The prohibition of OWFs in the village centers, and the setback
30 requirements for the placement of an OWF are stipulations intended to ensure that there are not
31 multiple OWFs in close proximity.

32 There was some concern among the Commissioners that OWFs should be regulated by means of a
33 Special Permit. This would ensure that issues specific to each case, such as the topographic differential
34 of the chimney to nearby buildings could be considered case by case.

1 **There being no further comments, it was moved by M. Klemens, seconded by J. Higgins and**
2 **unanimously approved to close the Public Hearing at 6:50.**

3 There was some deliberation among the Commissioners. **It was then moved by M. Klemens and**
4 **seconded by M. Whalen to deny the proposed amendments with the understanding that the**
5 **regulation will be re-written as a Special Permit. Votes were as follows: For – M. Whalen, M.**
6 **Klemens, J. Higgins, C. Rich. Against: D. Dwyer.**

7 **Public Hearing on the Lake Association petition for a Zoning Text Amendment, continued from**
8 **October 5th, 2010.**

9 Chairwoman, C. Rich, continued the Public Hearing, requesting that only new information be provided.

10 Bill Littauer gave a presentation representing the Lake Wononscopomuc Association's position and
11 presented a petition of 300 signatures of property owners, people who use the lake, and town visitors
12 stating support for the proposed amendment to prohibit vertical expansion of non-conforming houses in
13 the Lake Overlay Zone. He stated claims of adverse environmental impact of building a second story and
14 a deterioration of the scenic quality of the lake lakefront if there are too many tall houses.

15 Edward Erbacher stated that he has lived on the lake for thirty years, and that the lake is the jewel in the
16 crown of Salisbury. He noted that there is one acre zoning around the lake; everywhere else is two
17 acres or more.

18 **There being no further public comments it was moved by M. Klemens, seconded by M. Whalen and**
19 **unanimously approved to close the Public Hearing at 7:00.**

20 The Commission deliberated. Comments included the following:

21 M. Klemens – It is interesting to me that no one who lives around the lake has come to object to this
22 regulation. As an ecologist I have ample evidence that just because a house is built larger, or includes a
23 second story, it does not necessarily mean that it creates a greater ecological problem. I certainly agree
24 with the proposed amendment from an aesthetic perspective, but would like to decouple this notion
25 that a second story is a less environmentally friendly option.

26 J. Higgins – Generally, the Commission doesn't take aesthetics into consideration, but in this case I
27 would support the proposition that the aesthetic does impact property values. We have also heard
28 claims that a second story adversely impacts the neighbors, but we don't have any documentation that
29 that is the case. To me, the principle issue is property rights. My struggle is summarily taking those
30 rights away. I haven't seen a convincing presentation that what we have in place is not adequate to
31 protect the lake. However, if 300 people signed this petition saying they DO want this regulation, and
32 no one has come forward concerned about their rights then I guess I'm ok with it.

33 D. Dwyer – In my five years of serving on the Planning and Zoning Commission I think this is the most
34 interesting issue we have addressed, and I think it is a very positive thing that so many people have

1 gotten involved. I am not an ecologist, but I do support the idea of environment as the community
2 around us. I don't want this Commission to make a decision based on aesthetics; I don't want to set that
3 sort of precedent. This is about our community environment. It is about how we want our community
4 to be regulated.

5 M. Whalen – I want to make sure that a property owner of a conforming house, or a part of a house that
6 is conforming, can add onto the conforming portion. T. McGowan – In my view, yes, why not? I have no
7 reason to think otherwise.

8 C. Rich – Does this mean that if a portion of the house is non-conforming, additions may still be allowed
9 on the conforming areas? T. McGowan – That is the intent of the language as submitted, yes.

10 The Commission determined that they would seek clarity on this issue from the P&Z Attorney, C. Andres,
11 with the intention of voting on the proposal on November 16th.

12 D. Ceppi and Attorney, Robert Fuller, addressed the Commission. They asked the Commission to specify
13 what they require in terms of a response from Mr. Ceppi. The Commission said that they would consult
14 with their Attorney, C. Andres but would not answer any questions outside of council.

15 There being no further business it was moved by M. Klemens, seconded by D. Dwyer and unanimously
16 approved to adjourn at 7:30.

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18 Submitted by Garrett Richardson, 11/5/2010 Approved: 11/16/2010

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