

Selectmen's minutes of meeting September 15, 2014

Members present: Patrick Barrett, Rosario Messina, Jeffrey Gray, Lisa Blackmer, Attorney Joel Bard, Dolores Harasyko, secretary

Called to order at 7:05 p.m.

Patrick announced that the meeting is being tape recorded.

Patrick opened the public hearing for Happy Banga Akaal Properties for the convenience store and gas station and storage of underground fuel storage tanks. Patrick thanked everyone evolved for allowing the time for the town to due their due diligence and research.

Attorney Bard explained that there are 2 processes for this meeting. One is to reconvene the public hearing from August 11, 2014 and the second is to open the hearing for a license to store gasoline and diesel fuel.

Ron Fortune representing Happy Banga reviewed the requirements and concerns from the Selectmen.

They would like to increase the tank storage for gasoline to 24,000 gallons and for diesel to 12,000. The original request was for 20,000 and 10,000. They will follow all rules and regulations regarding installation and storage of fuels. Fire Chief Ralph Morrison signed off on the proposal and does not see any problems with the increases. Ralph has submitted the original application to the State Fire Marshall for review. Approval is needed by the Towns Fire Chief and he has no problem. The Fire Marshall has reviewed and approved. The Selectmen are all in agreement approving the increase in the fuel amounts.

Motion by Patrick, second by Jeff, passed unanimously to approve the license to store 24,000 gallons of gasoline and 12,000 gallons of diesel pending inspections and approvals from the Fire Chief.

Reconvened the original hearing from Aug. 11, 2014. Ron Fortune addressed the lighting concerns, they are all LED lights which have been reviewed and approved by the Planning Board. Gary Bottum, Chair present confirmed that there is no problem with the lighting. Ron reviewed the canopy over the gas tanks. They are standard industry height. He responded to concerns and requests to lower the canopy, this will create a hazard for trucks passing under the canopy. The anse fire prevention system is in the canopy and if snagged by a truck would cause a very dangerous situation. This was also reviewed and approved by the Planning Board. Lisa addressed the questions regarding the landscaping. She would like a condition noted that it is maintained in perpetuity. Ron responded that there is a deep forested abutment surrounding the property. He cannot cut trees or brush on the state owned land. They will maintain and landscape around the free standing sign. Attorney Bard asked about how much space is there between the Banga property and abutter Muller's property. Ron responded there is approx 700 feet. Reviewed the clearing and elevation of the property. Patrick asked about the front of the property. Ron explained part of the front is state owned land. Ron reviewed that most is natural landscaping but they will plant grass where they can. The business site will be enclosed

by natural landscaping. Nina Carr asked if Mr. Banga is just using the natural landscaping to satisfy the concerns of the Selectmen. Jeff responded as long as there is a good buffer between abutters he is ok with it. Nina asked if there is any additional cost to the contractor. She discussed concerns of the appearance of the store, she has spent time observing other village gas stations. They run the gamut as to appearances. She would like it to fit into the environment. Jeff responded that they have cut the property site well into a buffered area with a deep natural tree line. Ron responded that there are no plans to clearcut around the site. He explained that the tree line is not up to the wall for safety prevention it is back away taking into concerns with the tree canopy.

Lisa explained that the permit remains with the land so if someone buys from Mr. Banga the new owner has to abide by the special permit. Ron responded that it needs to be understood that in the future the surrounding land also owned by Mr. Banga could be subdivided and developed. Attorney Bard explained that they would still have to abide by the conditions of maintaining the tree wall.

Kim Paspuletti asked if there was a tree line on the south end, Lisa explained that it is in the plans.

Ron addressed signage concerns. There is a retail gas sign and possible fast food sign which would be an addition 9 square feet. The Planning Board has reviewed the request for the additional 9 square feet and found other signs in town larger than the bylaw allows. They are good with giving the addition 9 square feet.

Discussed hours of operation. They would like to be open from 5 a.m. to midnight but also have the flexibility to be opened during emergencies. Lisa feels that if they plan appropriately this should not have to happen often unless there is an unforeseen emergency. They will have provisions for a generator to be retrofit and rent one as needed. Attorney Bard discussed after hour deliveries of fuel. There are concerns about trucks idling after hours. Fire Chief Ralph Morrison stated that when a fuel delivery is being made the truck has to be shut down, lights off, no cell phone use. Since the fuel is transferred by gravity there should be no noise. All lights with the exception of security lights will go off at midnight. They are still waiting for MassDOT approval for the curb cut but that should be soon.

Shandru Paspuletti asked if there was going to be a surety bond to make sure the job is completed and not dragged out for years. Jeff responded that it is Mr. Banga's property and if he doesn't go through with the job that's his problem not the town's. Attorney Bard said he is not aware of any town requiring a bond for a private development, it is not up to the town to request bonds for a completely private job.

Bogart Muller read a statement that he prepared regarding his fact findings. He explained that he went onto Mass Dot sites, Sunoco's and Duncan Donuts. The facts regarding the amount of traffic that passes through town do not support the success of this business at this location. Lisa responded that these stats are irrelevant, it is a business decision by the owner. Attorney Bard agreed with Lisa. Mr. Muller asked why can't the Board of Selectmen reject the project based on his findings. Attorney Bard stated it is not the towns right. Ron responded that he does not represent Sunoco or Duncan Donuts.

Lisa asked Attorney Bard to clarify the history of the special permit. He explained that it stays with the land. The Selectmen do have the option of making the permit personal so that if the property sells then the permit has to be reviewed before the new owners open the business.

John Kuzmech of Roosterville Road stated that in his opinion this is a bad business for long term. He referenced the improvements the town has made in the same area in taking down two dilapidated houses.

Bob Greenfield of Otis Woodlands asked if the business fails what control does the town have regarding the land and fuel storage tanks. Ralph Morrison explained that there are laws in place regarding the timeline to remove tanks and pumps.

Patrick expressed his wish that Mr. Banga be present at these meetings to show some personal feelings toward the town and to be present to re assure the towns people that his intentions are good for the town.

Discussed conditions;

Hours of operation will be from 5 a.m. to midnight

Maintain landscaping and buffer regarding abutters

Patrick expressed his desire to have the permit issued to the land and owner. If the property sells the new owners will have to come before the board knowing that there would have to be a very good reason to deny the transfer.

Continue maintaining the buffer on the south side.

John Kuzmech asked if the town could require Mr. Banga to put up signs regarding the use of jake brakes and no idling of trucks. Ralph responded that there are already laws in place regarding this.

Bob Greenfield asked about having two of the same businesses in the same area. Patrick responded that the Selectmen cannot chose between them, they both have the same rights to apply for the permits.

Addressed questions regarding setbacks, all requirements have been met.

Lisa asked about toning down colors on the canopy. Ron said they colors are chosen by the sponsors.

Kim Papuletti asked about the length and lighting of the canopy. Ron responded that there is no internal illumination, only downward lighting.

Re addressed conditions;

Maintain buffer on northside of property

Southside, no clearing than what is required for the well

Hours of operation 5 a.m. to midnight with limited exception for emergency deliveries

Special permit will be issued to the person and property

Motion by Patrick, second by Jeff, passed unanimously to grant the special permit for the proposed gas station and convenience store with all the conditions and approval by Mass Dot.

Attorney Bard will prepare the fact finding decision for the Selectmen.

Hearing adjourned at 8:40 p.m.

Regular Selectmen's meeting called to order at 8:45

Under topics not anticipated by the Chair. Frank DeMarinis representing Athena Nursing Homes presented a plan to build a nursing/rehabilitation center on Sandisfield Road across from Fire Station #2. They are a for profit organization. They will bring approx. 30 new jobs to our town. Dolores prepared a packet for them which included the town bylaws, special permit packet, building permit and contact information for all boards and inspectors.

Reviewed and signed Chapter 90 paperwork.

Reviewed and signed the 2nd half of the New Hartford Road Loan Bond.

There will not be a Selectmen's meeting next week. Some of the Selectmen will be attending selectmen meetings in another town to observe their format.

Reviewed and discussed a letter prepared by Patrick to be sent to gubernatorial candidates regarding the FERC meeting for the pipeline.

Warrants reviewed and signed.

Meeting adjourned at 9:30 p.m.

Patrick Barrett

Rosario Messina

Jeffrey Gray