

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, OCTOBER 20, 2020 – 7:00 P.M.
SALEM TOWN HALL – VIRTUAL MEETING VIA ZOOM**

Per State of Connecticut, Governor Lamont Executive Order Number 7B, the Town of Salem Planning and Zoning Meeting on August 25th, 2020 will be following the suspension of in-person open meeting requirements. Please click the link below to join the webinar:

<https://zoom.us/j/93778910339?pwd=M05DRVY2WXMwbm9kYkI4bGdXdWpCZz09>

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PRESENT

Vernon Smith, Chair
John Gadbois, Vice Chairman
Margaret Caron, Secretary
Thomas Reith (7:06 p.m.)
Walter Volberg
Carl S. Fontneau, Alternate (*seated*)
Diba Khan-Bureau, Alternate (*seated*)

ABSENT

Ruth Savalle
Eric Wenzel
Jon Walsh, Alternate

ALSO PRESENT

Town Planner Justin LaFountain
Zoning/Wetlands Enforcement Officer Matt Allen
Selectwoman Liaison Terri Salas (7:15 p.m.)

1. CALL TO ORDER

Chairman Smith called the meeting to order at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

SEATING OF ALTERNATE(S):

Alternate Commissioners Fontneau and Khan-Bureau were seated for Commissioners Savalle and Wenzel.

3. PUBLIC COMMENT:

An e-mail from Susan Spang, 129 Hartford Road, regarding the Arborio Brothers, LLC, application for a motor truck terminal was read into the record by Secretary Caron. She questioned the following items:

- the capacity of the hazardous waste spill kit

- whether a report to the Zoning/Wetlands Enforcement Officer (ZWEO) would be required following the maintenance of the bio-retention basins, especially when a clean-out of the sedimentation or aeration takes place
- establishment of a ZWEO inspection schedule
- fuel spill requirements, including notification(s) to CT DEEP (Connecticut Department of Energy and Environmental Protection) or the town regarding any spills that occur and size of the spill

Ms. Spang also stated her opposition to and urged the Commission to reject the waiver request to protect the town and environment from any potential damage and long-term consequences. The use of a pervious surface on an area in which fuel is transferred into the fuel tank and vehicles as well as the risk of oil leaks and other hazardous materials is not suitable for a property located in the vicinity of a wetlands area that feeds into the Eightmile River, a federally-designated Wild & Scenic Watershed. The risk of spillage could also result in the eventual possibility of the property transforming into a brownfield that the town must, then, mitigate. She felt that the surface should be paved and the run-off be treated with the most recent best practices for the proposed activity(ies). She also questioned why a paved surface at the location would be less durable than that of a road or parking lot.

4. PUBLIC HEARING:

- a) **SE 1-20-01:** Application by Arborio Brothers, LLC, for a motor truck terminal at 142 East Haddam Road. *Continued from September 22, 2020.*

Note: This application, plans, and supplemental materials can be found on the Town of Salem website at: <https://www.salemct.gov/home/news/planning-zoning-commission-public-hearing>

Attorney Megan Hope, Alter & Pearson, LLC, representing the Arborio Brothers, LLC, and Project Manager Cory Garro and Landscape Architect Kevin Johnson, Close, Jensen & Miller, P.C., provided a PowerPoint presentation regarding their revised plans for the Special Exception application for the proposed motor truck terminal to be located at 142 East Haddam Road. A brief overview of the original plan was presented and compared to the revised plans which take into consideration the concerns raised by the Commission and the public.

Revised Location of the Truck Parking/Storage Area, Shipping Containers, and Storage Bins – The truck parking/storage area has been moved further away from the Upland Review Area at the rear of the property and the two (2) shipping container storage units for tools and materials have been moved to the left side of the vehicle storage area. The latter movement also allowed the three bins that will be utilized for the stockpiling of sand and stone to be moved away from the Upland Review Area. By moving the truck parking/storage area and the bins, they were also able to expand the size of the bio-retention basins.

Bio-Retention Basins – Both of the basins were redesigned with enhancements to aid in the filtration process. They have been expanded and deepened as much as possible based on the existing restrictions. The placement and further expansion of the basins were primarily restricted by the distances from the property lines and the existing septic and septic reserve areas. The drainage pattern remains the same and runs from the south to the north of the property. The basin located behind the truck parking/storage area was moved further away from the Upland Review Area and measures approximately 60 cubic feet larger than required. The basin located in the southwest corner of the property, by the employee parking area, is approximately three times larger than required. All of the drainage generated from the parking/storage areas will be treated in these two areas prior to being released into the Upland Review Area and wetlands.

A one-foot deep trench with round river rock was introduced to the east (front) side of both basins to mitigate any potential erosion from any sheet flow from the upper area. Wide overflow weirs were also introduced in the lower part of the area, directing the overflow away from the wetlands. Plantings were also added to the rim of the basin to further mitigate the flows.

The interior of the basin will be filled with a minimum depth of 2' of material, consisting of sand, topsoil, and compost, designed to clean up any potential pollution from the runoff. The bottom of the basin will also be vegetated.

A Bio-Retention Basin Maintenance Schedule was also submitted.

Reserve Septic System – One of the requirements from the Uncas Health District was to locate a code-compliant area for a potential future septic system should the existing system fail. Based on the test pits that were conducted, it was determined that the northwest corner, i.e., between the vehicle parking/storage area and the storage bins, of the property presented the ideal area. The 38' x 35'2" designated reserve area would accommodate the maximum building occupancy of ten (10) individuals. The septic and/or reserve septic system is located a minimum of 50' from the infiltration area to the side of the system and limited the location(s) of the bio-retention basins. A letter of approval was received from the Uncas Health District stating that the property meets the requirements of the CT Public Health Code and the proposed conversion of the property from a farm stand to a motor truck terminal with ten employees, based upon the revised plan, dated October 7, 2020, is permissible. The letter has been submitted to the town for the record.

It was noted that, due to the lack of records, an extensive investigation was conducted of the existing system, including its location, size, depth, and age. The current system was found to be in very good condition.

Revised Frontage Landscaping – The original plan included two plant species, Japanese Black Pine (coniferous) and Honey Locust (deciduous) trees, to be located in clumps at key areas between the two fences along the front of the property. The plantings have been

increased and will be located on each side of the chain-link fence. The species have been also been changed to include native or native cultivar plant species. The selection of the plantings was based upon the bony, dry, rocky, infertile condition of the soils, which also have a low organic content. Four (4) deciduous American hornbeam trees, a.k.a. Ironwood, which has a 20' spread and grows to approximately 25' in height, will be located in the same location as the previously proposed Honey Locust trees. These oval-shaped trees are often used in remediation and naturalization projects and offer small nutlets for foraging game birds, an interesting bark pattern, and nice fall coloration. The Japanese Black Pine trees were replaced with Taylor Eastern Red Cedar trees, a cultivar of the Red Cedar tree. Often used for screening, these trees grow to approximately 12' tall and offer silver blue-green needles which transform into a bronze coloring in the winter. Birds are often found nesting in the trees.

Along the ground plain, both deciduous and broad-leafed evergreen shrubs were introduced. The deciduous Sweet Fern (*Comptonia Peregrina*) bush, a fast grower with a spread of approximately 8' and height of 2' - 4' feet, was selected. The bush is often used to naturalize coastal areas and, like the American Hornbeam tree, grows catkin-like flowers and provides nut-like fruits for birds and small mammals. Its aromatic foliage resembles that of a fern and attracts bees and other pollinators. Due to its spread, the Sweet Fern will eventually incorporate itself into the existing sign, in particular, and the site, as a whole. For the broad-leafed evergreen shrubs, Inkberry and a cultivar of *Ilex Glabra* were selected. A cultivar of the *Ilex Glabra* was selected as the true native species tends to lose its lower vegetation. The bush, which will spread approximately 3' - 4' and grow to 3' - 4' tall, maintains its green color year-round and provides birds with nesting opportunities and food (blackberries) during the fall season.

Bio-Retention Area Plantings – To enhance the features, plantings were incorporated to the top of the bio-retention basins. Plantings include the deciduous shrub *Viburnum Trilobum*, a cultivar compactum, and the herbaceous perennial Russian Sage. The *Viburnum Trilobum* will grow up to 5' - 6' feet in height and produce white flowers in the spring and berries in the fall, offering food and nesting opportunities for birds. The Russian Sage, which is neither a native or native cultivar, a prolific and long-blooming plant that attracts bees, hummingbirds, and butterflies.

Grass Mixtures – The grass along Route 82 will be mowed regularly and made up of a fescue mixture, which typically requires less water. The grass around the periphery and bio-retention areas will contain seed mixture #2, which is comprised of a variety of grasses that will grow up to 2' tall. These areas will be mowed once or twice a year.

Lighting – Due to the relocation of the vehicle parking/storage area, shipping containers, and storage bins, the lighting was also relocated and will be placed closer towards the street.

Hazardous Materials – Hazardous materials include the double-walled diesel fuel tank with a larger secondary containment system to capture any and all leaks. Similar to the types of levers at a gas station, an electric pump with an automatic shut-off system will be installed to transfer the fuel from the tank into the vehicles. In addition to the hydraulic and motor oil fluid that would be housed in the vehicles themselves, five-gallon containers of hydraulic and brake fluid will be stored in the building.

Leaks/Spills – It is in the best interest of the Applicant to conduct routine maintenance on all of their vehicles to ensure their efficiency and prevent any leaks. All maintenance work will be conducted at their Cromwell and West Hartford locations during their off-season (between December and March). Hydraulic fluid leaks typically occur while the machinery is being operated and is immediately evident as it is not operable without the fluid. A “diaper” would be placed to control the leak and the spill kit will be utilized. While there is no certification program in place, all of the employees are trained on how to use the spill kit. All spills must be immediately reported to CT DEEP. A large leak would contain approximately one gallon of fluid, making the five-gallon spill kit more than adequate to contain the leak. They would also work with CT DEEP to clean up the site. It was noted that a change to the CT DEEP regulations is being proposed such that any spills containing less than five-gallons need not be reported. In the State of Connecticut, the liability for spills falls on the property owner or the party that caused the spill and not the municipality. The Arborio Brothers, a multi-generational company, are understanding of and sensitive to the Commission’s concerns and will strive to continue to make efforts to avoid any spills from occurring and solidify their current infrastructure to handle any leakages that might occur.

ZEO Inspection Schedule – While the ZEO does not typically have an inspection schedule to review bio-retention basins, the Applicant is required to comply with the submitted maintenance schedule. Should an issue occur with the basins, the town would have recourse to enforce the plan. It was added that it is in the best interest of the Applicant to ensure that the basins are in working order.

Brownfields – It was felt that the spills of the types of materials that are utilized on-site do not typically travel far distances, would remain on the surface, and be contained within a small area. In a worst-case scenario, the impacted area would be excavated, disposed of, and re-filled. Commissioner Khan-Bureau, who works with brownfields in the City of Norwich, disagreed, stating that there are many brownfields caused by sites similar to that of which is being proposed and many of which are abandoned. In response, Atty. Hope stated that the Applicant understands and is sensitive to such concerns and has established numerous safety mechanisms, including the double-containment fuel system, regular maintenance of vehicles and equipment, and other infrastructures to minimize and/or handle any potential leaks or spills. As previously stated, the Arborio Brothers is a stable 100-year old business that, to the best of her knowledge, has not had any issues with leaks or contaminations and has

never abandoned any of their sites. The business operations and the site-design is a testament to their commitment to ensuring that the proper measures are taken.

Durability of the Bituminous Pavement – It was clarified that the vehicles that cause damage to the asphalt pavement have steel tracks and are not driven to any of the sites. Rather, they are transported via flatbeds or trailers. Referring to the CT D.O.T. (Connecticut Department of Transportation) suggestions for storm system designs, compacted bituminous millings has a similar run-off co-efficiency rating to asphalt paving and is considered similar to an impervious surface as a runoff material. Commissioner Khan-Bureau stated that while the co-efficient might be similar, the possibility of any contaminants entering into the groundwater exists. In response, Project Manager Garro agreed that while the compacted bituminous millings are not as impervious as a paved surface, no groundwater was found during the deep hole tests in the septic field. As such, he suspects that the groundwater is located well below the surface and any spills would be absorbed within the first 2' of soil and could be readily eliminated and cleaned up. Atty. Hope added that the Town Engineer was in agreeance with the compacted bituminous millings as an acceptable surface.

QUESTIONS/COMMENTS RAISED BY THE COMMISSIONERS:

History of Violations, Citations, etc. (Chairman Smith) – Atty. Hope was not aware of the existence of any previous violations, citations, or the like against the Arborio Brothers by either CT DEEP or the cities of West Hartford and Cromwell, where the company is based. The possibility of investigating the Arborio Brothers' past history was raised.

Reason for the Use of Compacted Bituminous Millings (Commissioner Khan-Bureau) – The pavement selection is because of its use, rather than its cost-effectiveness. Based on their past experience, paved surfaces must be regularly re-paved due to the damage caused by the vehicles. They have found that gravel and/or millings better suit their needs as it provides a compacted surface and is much easier to maintain and supplement as necessary.

Maintenance Schedule of Water Infiltration System (Commissioner Khan-Bureau) – Per the Bio-Retention Basin Maintenance Schedule, the infiltration will be checked on an annual basis. The Schedule was recited and reviewed. ZEO Allen commented that the issue with stormwater or infiltration basins is that, though a maintenance schedule is established, they are not always followed, deeming them non-functional over time. Nevertheless, given the size, scope, and use of the site and the proposed basins, he did not foresee any issues in this case and voiced no concerns. The system, he felt, will most likely effectively handle the runoff and stormwater for a long period of time.

Diesel Fuel Tank Inspections (Commissioner Volberg) – While the fuel tank would be inspected upon installation by the Fire Marshal, Building Official, and Zoning Officer, it was unknown as to whether regular inspections would be conducted. Commissioner Khan-Bureau stated that the fuel tank would, most likely, be considered a Conditional Exempt Small Quantity Generator (CESQG) or Small Quantity Generator and regular inspections by

CT DEEP are not typical or required. Due to its engineered design, it was surmised that no regular inspections were required.

Commissioner Fontneau commented that the revised plan is a big improvement and answers many, if not all, of the questions and comments that were raised.

Chairman Smith expressed his appreciation to Landscape Architect Johnson for all of his hard work and efforts with the plantings and taking the pollinators into respect. He added that the movement of the storage shed also improves the site's appearance from the road.

PUBLIC COMMENTS:

Sue Spang, 129 Hartford Road, who joined the meeting late, wished to confirm that her e-mail was read into the record.

STAFF COMMENTS:

Wetlands Concerns – ZWEO Allen commented that the plan clearly delineates the Upland Review Area and reflects that no proposed activities are taking place within the regulated area. In addition, the stormwater detention basins should be adequate to properly treat the runoff. He sees no likely potential significant impact on the adjacent wetlands and any wetland concerns that might have existed have been abated by the revised design of the site. He reported that, though the application does not fall under the jurisdiction of the Inland Wetlands and Conservation Commission (IWCC), the revised plans were reviewed with the IWCC Chairman. A brief discussion was held regarding its inclusion on the IWCC agenda, unbeknownst to the Applicant. It was explained that the item was included on the agenda as it was referred to the IWCC for comment. The item was tabled due to the expected plan revisions. Upon review of the revised plans with the IWCC Chair, it was decided that the application does fall under the jurisdiction of the IWCC for review or comments.

Nevertheless, the Commission may decide to extend the Public Hearing for their comments. Town Planner LaFountain explained the process and confirmed that the application was referred to the ZWEO; it was determined that the application is not under their jurisdiction for review as there is no activity taking place within any regulated areas.

Town Planner LaFountain reported that neither the Building Official nor the Fire Marshal had any additional comments regarding the revised plans. The Town Engineer submitted the following comments:

- 1) Approval from the Uncas Health District of the septic system and well re-use –
received and provided to the Commission
- 2) Approval from CT D.O.T. for an Encroachment Permit for the change of use

CLOSING REMARKS:

In closing, Atty. Hope stated that the proposed plans are in compliance with the provisions included in the Special Exception Regulations and fulfill the conditions as stated in Section 11.4 of the Salem Zoning Regulations. As indicated in their plans and discussions, they will

utilize best management practices for the treatment of stormwater and meet the Connecticut stormwater requirements for water quality. Their plan is consistent with the town's POCD (Plan of Conservation and Development) and will bring additional economic development to the town. The proposed applications should not adversely affect the health and safety of the residents and will not result in a substantial impact on the town's current traffic patterns and will be maintaining the existing vehicle entry/exit point. The proposed renovations to the existing building and landscaping, both of which will be regularly maintained, will preserve the area's property values and be in harmony with that of the neighboring businesses. The existing buffer areas and vegetation will be maintained and all of the requirements related to off-street loading and the highway commercial zone will be met.

With regard to the proposed waiver, she reiterated that a surface made up of millings or gravel provides the best surface. While they are understanding of and sensitive to the groundwater protection zone and have done their best to accommodate those concerns, should the Commission opt to deny the waiver, the Applicant will proceed with pavement.

Town Planner LaFountain stated that the Commissioners may opt to either close or continue the Public Hearing, per the Governor's Executive Order due to the COVID-19 pandemic. While the Applicant is open to providing information regarding the existence of any previous violations, citations, or the like against the Arborio Brothers by either CT DEEP or the cities of West Hartford and Cromwell, the majority of the Commissioners agreed that that would not be necessary.

M/S/C: Gadbois/Reith, to close the Public Hearing for SE 1-20-01: Application by Arborio Brothers, LLC, for a motor truck terminal at 142 East Haddam Road. Discussion: None. Roll Call vote, 7-0, all in favor. Voting in Favor: Commissioners Caron, Fontneau, Khan-Bureau, Gadbois, Reith, Volberg, and Smith. Voting in Opposition: None.

5. APPROVAL OF MINUTES OF PREVIOUS MEETING(S):

- a) Regular Meeting Minutes: September 22, 2020

M/S/C: Fontneau/Caron, to approve the Regular Meeting Minutes of September 22, 2020, with the following amendment:

ALSO PRESENT

Selectwoman Liaison Terri Salas (7:06 p.m.)

Discussion: Commissioner Khan-Bureau questioned the legality of Commissioner Reith's motion to continue the Public Hearing, though he was not seated. Commissioner Reith stated that he was not aware that he was not seated due to the logistical issues he has been experiencing with the virtual platform. Town Planner LaFountain felt that an error was made and more care should be taken in the future. Roll Call vote, 7-0, all in favor. Voting in

**Favor: Commissioners Caron, Fontneau, Khan-Bureau, Gadbois, Reith,
Volberg, and Smith. Voting in Opposition: None.**

6. OLD BUSINESS

a) Riparian Corridor Overlay Zone – Review of Draft

The Commissioners reviewed the revised draft of the Riparian Corridor Overlay Zone (RCOZ) Regulation. The revised draft addresses the changes that were discussed during their last meeting. Commissioner Fontneau suggested the following amendment:

Section 25A.1 – Purpose and Intent, final sentence:

The Planning & Zoning Commission, for example, may have broader authority than other town agencies to regulate agricultural and development activities and to protect the tree canopy *and understory* in the critical buffer area around the Eightmile River and its tributaries.

ZWEO Allen agreed with the amendment and explained the importance of maintaining the canopy, which helps regulate the temperature of the stream and supports the habitat of the various species, and the understory, which helps to combat stream bank erosion.

With regards to the Eightmile River Watershed Overlay District Map, Town Planner LaFountain clarified that the zone will be added to the town's current Zoning Map and a separate, more detailed map, entitled the Eightmile River Watershed Overlay District Map, specifying the watercourses will be created. Both the Zoning and Eightmile River Watershed Overlay District Maps will be on file with the Town Clerk's office and included in Appendix 3 of the Zoning Regulations.

The Commissioners consented to send the Riparian Corridor Overlay Zone Regulation, as amended, to the Town Attorney for review and comment.

Commissioner Fontneau also proposed drafting a letter directed to the Eightmile River Wild & Scenic Coordinating Committee (ERWSCC) Chairman Anthony Irving that includes the references he has located during his research and requesting that the Committee consider updating the available information regarding the buffer widths in the future. Dated between 2000 and 2020, the materials include information regarding agricultural and tree canopy functions and could lead to a recommendation to the three towns to consider a narrower buffer width. A more thorough analysis by the Committee would be necessary to make such a determination. Chairman Smith agreed and Commissioner Fontneau will draft a letter for the Commissioners to review.

Commissioner Fontneau also reiterated the previous suggestion to create an informational packet for the public in an effort to inform and prevent any future violations from occurring.

Chairman Smith and Commissioners Khan-Bureau and Reith commended Town Planner LaFountain and ERWSCC Program Director Patricia Young on the amended regulation, which is much more concise and effective and easy to understand.

a) Plan of Conservation and Development (POCD) Discussion

Based upon the POCD questionnaires from the Towns of East Haddam, Bozrah, and Salem, Commissioner Caron created a draft of the survey questions. Both Town Planner LaFountain and Commissioner Khan-Bureau reviewed and provided their suggestions and it is hoped that the survey will be publicized and sent to the townspeople by mid- to late-November. Town Planner LaFountain commended Commissioner Caron and agreed with the timeline. The draft will be sent to the Commission prior to their next meeting for review and discussion.

Commissioner Fontneau reported that he is now a member of the Economic Development Commission (EDC), which was supportive of having him serve as the liaison between the two commissions. The POCD will be included in their future agendas for discussion. He suggested the possibility of other Commissioners volunteering to serve as liaisons for other boards and commissions so that they could gather their input for the POCD. Commissioner Khan-Bureau agreed to serve as the liaison with the Inland Wetlands and Conservation Commission and Selectwoman Liaison Terri Salas may serve as the liaison with the Board of Selectmen. A liaison will be needed for the Recreation Commission.

7. NEW BUSINESS

a) SE 1-20-01: Application by Arborio Brothers, LLC, for a motor truck terminal at 142 East Haddam Road

Town Planner LaFountain stated that there are three parts to the application that the Commission must deliberate upon: Special Exception, Site Plan, and Waiver. The Special Exception and Site Plan is generally approved together, while the Waiver stands alone and does not need to meet the requirements itemized in Section 11.4 of the Zoning Regulations. Should the Waiver be denied, the requirement to pave the site could be added as a condition of approval of the Site Plan. Should the Commission vote to approve the Special Exception and Site Plan, he proposed the Commission consider adding the following conditions:

1. All buildings/structures/uses be accessible for emergency services via the installation of a KnoxBox
2. An Encroachment Permit be applied for and approved by the CT D.O.T.

The Commission proceeded to review and discuss the application in relation to Section 11.4 of the town's Zoning Regulations:

- 11.4.1 The proposed use is consistent with the objectives of the Plan of Conservation and Development for the Town of Salem, and the intent and requirements of the Zoning Regulations; as such documents may be amended by the Commission.

No comments/concerns were voiced by the Commissioners. Town Planner LaFountain stated that the location of the proposed motor truck terminal is located in the Highway Commercial Zone as laid out in both the POCD and Regulations and is a permitted use by Special Exception within the zone. As such, the condition is satisfied.

11.4.2 The proposed use will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the neighborhood in general.

Commissioner Fontneau felt that the proposed plan satisfies the condition based upon the proposed stormwater treatments and the rockfill composition of the surface approximately 25' to 35' above the groundwater level, thereby protecting the health and safety of the residents, workers, and adjacent lots.

11.4.3 The proposed use will not impair the movement of through-traffic along the adjoining streets by creating congestion or reducing street capacities.

Chairman Smith did not see any issues with this condition. Commissioner Fontneau agreed, finding that there would not be any impairments to the existing traffic as the existing right-of-way would be maintained and no traffic would be drawn to the property with the exception of the limited number of vehicles that would be housed on the lot.

11.4.4 The proposed use will not result in a fragmentation of the area's development pattern, and will not create unnecessary additional points of vehicular conflict with the adjoining streets and will not adversely affect the orderly development of surrounding properties.

Chairman Smith did not see any issues with this condition, considering the surrounding developments. Commissioner Fontneau agreed, adding that the proposed application is for the re-development of an existing lot and will have a, relatively, low impact. The proposed plan also includes many improvements to the existing conditions, making the adjacent properties more attractive for development.

11.4.5 The proposed use will not depreciate adjacent property values, and the character and extent of the proposed development will be in harmony with the existing use of adjoining properties.

Chairman Smith felt that this condition was met, taking into consideration the proposed landscaping plan. Commissioner Fontneau agreed that the proposed plan is a visual improvement.

11.4.6 The proposed use will provide off-street parking and loading facilities in accordance with Section 10 of these Regulations.

Town Planner LaFountain stated that the Application meets Section 10 of the Regulations, with the exception of the Waiver (Section 10.7.1). Loading facilities is irrelevant to the function of the proposed business.

11.4.7 The proposed use will not result in the loss of any existing buffering between the subject site and adjacent properties and when different uses exist on adjacent land, adequate buffering is provided.

No comments/concerns were voiced by the Commissioners.

11.4.8 The proposed use will meet any other special conditions for specific Special Exceptions as may be prescribed elsewhere in these Regulations. (6/01/91)

No comments/concerns were voiced by the Commissioners.

M/S/C: Reith/Fontneau, to approve the Waiver allowing the parking lot to be comprised of bituminous millings in place of paved parking, in accordance with Section 10.7.1 of the Salem Zoning Regulations. Discussion: Commissioner Reith expressed his support of the Waiver, stating his experience with large, heavy trucks as a former owner of a lumber company. Roll Call vote, 5-2. Voting in Favor: Commissioners Fontneau, Gadbois, Reith, Volberg, and Smith. Voting in Opposition: Commissioners Caron and Khan-Bureau.

M/S/C: Gadbois/Fontneau, to approve the Special Exception and Site Plan for Application SE 1-20-01: Arborio Brothers, LLC, for a Motor Truck Terminal at 142 East Haddam Road, dated October 7, 2020, with the following conditions:

- 1. All buildings/structures/uses be accessible for emergency services via the installation of a KnoxBox**
- 2. An Encroachment Permit be applied for and approved by the CT D.O.T. for the changes proposed in the Right-of-Way on East Haddam Road.**
- 3. A list of the registered vehicles and taxable heavy equipment that is present on the site be provided to the Zoning Enforcement Officer and the Tax Assessor on an annual basis prior to October 1.**

Discussion: None. Roll Call vote, 5-2. Voting in Favor: Commissioners Fontneau, Gadbois, Reith, Volberg, and Smith. Voting in Opposition: Commissioners Caron and Khan-Bureau.

8. ZONING ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT

ZWEO Allen provided the following updates:

1 New London Road (Salem Plaza), which had multiple zoning and site plan violations, has achieved zoning compliance and a positive communication stream has been established with the proprietors. A Cease and Desist Order was placed on the property over a year ago and was not heeded until the state license for the *Statewide Pawn* shop was up for renewal and the town was unable to issue a Certificate of Zoning Compliance due to the existing violations.

45 Forest Drive was cited with a Notice of Violation and a Cease and Desist Order last year for operating an illegal and unpermitted resort business on Gardner Lake. Such a use of the property, located in the Residential Rural A Zone, is not permitted. While the activity subsided due to the pandemic, the property has since hosted numerous weddings and events, resulting in the receipt of several complaints. The issue has been referred to the Town Attorney. It was noted that the Commission has scheduled a Public Hearing for a proposed text amendment to establish a floating zone, which would allow for their proposed use of the property.

Signage – In the case regarding *Reed v. Town of Gilbert*, the U.S. Supreme Court has found the zoning regulation of signage by content to be unconstitutional. As a result of the finding, he recommended that that Section 13 of the Salem Zoning Regulations be amended to comply with the ruling to avoid any confusion and improve the efficiency/enforcement of the regulation. Signs may be regulated by their size, height, location, number, and the allowability/prohibition of signs, but not over its content.

Illegal political signage posted prior to the election season this year has been problematic and violations were cited. One of the most egregious and conspicuous signage violation is on a property located on New London Road. A Notice of Violation and Cease & Desist Order that was issued to the property owner has resulted in an increased number and size of signage on his property in violation of both Section 13.3 of the Salem Zoning Regulations and the findings of Case of *Reed v. Gilbert*. The posting of political signage during the election season is waived and the signage is removed immediately following election day.

In response to Commissioner Caron, ZWEO Allen stated that national or official flags do not meet the definition of a sign. However, flags with verbiage are considered signs. A brief discussion was held regarding what types of flags are or are not considered signage. ZWEO Allen reminded the Commission that signage is not prohibited, but do require a permit which imposes certain dimensional requirements, depending upon the zoning district. There is no cost to obtain the permit.

In response to Chairman Smith, ZWEO Allen stated that the regulations may be amended limiting the number of signs on a property and the size of the signs and the allow for higher flying heights of a flag. He reiterated that signage may be regulated in any manner, but not upon its content. The intention of the regulations, he felt, was to limit the amount of signage in the town that could be detrimental to its bucolic nature.

In response to Commissioner Fontneau's questions regarding the number of violations that have been issued and whether any changes have been made to the CT General Statutes regarding signage, ZWEO Allen reported that less than ten (10) violations were issued and he is not aware of any changes that have been made to the CT General Statutes; the onus of the findings of *Reed v. Gilbert* is placed in the municipalities. In response to Chairman Smith regarding the content of the signs that were cited, ZWEO Allen reported that most of

the signs were in support of President Trump, some had obscenities, and others were issued to businesses.

Town Planner LaFountain suggested the Commission discuss amending the regulation in-depth following their upcoming Public Hearings.

Wetlands Violation – A violation of unpermitted wetlands activity within the Riparian Corridor Overlay Zone was issued to a property located on Witch Meadow Road. Having inspected the property with the permission of the property owner, the ZWEO plans to recommend the property be evaluated and a restoration plan be devised by a professional. The activity included the digging of a trench, installation of a drainage pipe, removal of trees, and markings of heavy machinery in the area adjacent to the stream. The violation will be presented to the Commission following its review by the IWCC.

9. TOWN PLANNER REPORT

The Commissioners consented to Commissioner Fontneau's suggestion to request 11" x 17" copies of site plans that can be mailed to the Commissioners for review prior to their meetings.

Town Planner LaFountain requested the Commission's official approval in response to the Memorandum, dated September 28, 2020, received by Nathan L. Jacobson & Associates, Inc. for the proposed Age-Restricted Development. The Memorandum indicates the fees for the engineering site work that would be charged to the Applicant.

M/S/C: Caron/Khan-Bureau, to approve the invoicing of \$4,600.00 for the estimated fees for the engineering site work by Nathan L. Jacobson & Associates, Inc. to the Applicant, RMD Development, Inc. for the age-restricted development to be located at 470 Norwich Road. Discussion: None. Roll Call vote, 6-0-1. Voting in Favor: Commissioners Caron, Fontneau, Khan-Bureau, Reith, Volberg, and Smith. Voting in Opposition: None. Voting in Abstention: Commissioner Gadbois.

10. CORRESPONDENCE: *none*

11. PUBLIC COMMENT: *none*

12. PLUS DELTAS:

Commissioner Caron expressed her appreciation to the Chairman for including her in the recent bi-partisan voter registration drive.

13. ADJOURNMENT

M/S/C: Caron/Khan-Bureau, to adjourn the meeting at 10:20 p.m. Discussion: None. Voice vote, 7-0, all in favor. Meeting adjourned.

Respectfully Submitted by: Agnes T. Miyuki, Recording Secretary for the Town of Salem