

**TOWN OF SALEM  
PLANNING & ZONING COMMISSION  
REGULAR MEETING MINUTES  
TUESDAY, NOVEMBER 17, 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 November 17, 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/91724150493?pwd=V3M2aHBrdVkwcEh5MXlvVUhqSIBCUT09>

**Password:** 248218

**Or Via Telephone:**

(312) 626 6799, (646) 558 8656, (346) 248 7799, (669) 900 9128, (253) 215 8782, or (301) 715 8592

**Webinar ID:** 917 2415 0493 | **Password:** 248218

**PRESENT**

Vernon Smith, Chair  
John Gadbois, Vice Chairman  
Margaret Caron, Secretary  
Walter Volberg  
Carl S. Fontneau, Alternate (*seated*)  
Diba Khan-Bureau, Alternate (*seated*)  
Jon Walsh, Alternate

**ABSENT**

Thomas Reith  
Ruth Savalle  
Eric Wenzel

**ALSO PRESENT**

Town Planner Justin LaFountain  
Zoning/Wetlands Enforcement Officer Matt Allen  
First Selectman Kevin Lyden (7:10 p.m.)  
Selectwoman Liaison Terri Salas (7:06 p.m.)

**1. CALL TO ORDER**

Chairman Smith called the meeting to order at 7:04 p.m.

**2. PLEDGE OF ALLEGIANCE**

**SEATING OF ALTERNATE(S):**

Alternate Commissioners Walsh, Khan-Bureau, and Fontneau were seated for Commissioners Reith, Savalle, and Wenzel, respectively.

**3. PUBLIC COMMENT:** *none*

**4. PUBLIC HEARING:**

- a) **ZRA 20-02:** Application by 45 Forest Drive, LLC for a text amendment to the Salem Zoning Regulations to add a new definition for “Private Event Facility,” and a new Section 31 entitled “Special Events and Limited Accommodation Zone.”

**Note:** This application and proposal can be found on the Salem website at:

<https://www.salemct.gov/planning-and-zoning-commission/pages/45-forest-drive-regulation-amendment>

Secretary Caron recited the Public Notice as published on the town website into the record.

**M/S/C: Gadbois/Volberg, to open the Public Hearing for ZRA 20-02: Application by 45 Forest Drive, LLC for a text amendment to the Salem Zoning Regulations to add a new definition for “Private Event Facility,” and a new Section 31 entitled “Special Events and Limited Accommodation Zone”. Discussion: None. Voice vote, 7-0, all in favor.**

Chairman Smith recited the Town Planner’s Memo (*see file copy*), which provided a brief background and review of the proposed amendments to the Zoning Regulations.

Attorney Harry Heller, Heller, Heller & McCoy, 736 Route 32, Uncasville, representing the Applicant, 45 Forest Drive, LLC, presented the proposed revisions to the Salem Zoning Regulations. He provided a brief background of the adoption and administration of municipal zoning regulations and the Commission’s role in determining the permitted and prohibited uses within each of the zoning districts. In order to approve a text amendment, the Commission, as the legislative authority for zoning matters, must determine whether the proposal conforms with the town’s comprehensive plan and is consistent with the town’s Plan of Conservation and Development (POCD). Should the text amendment application be approved and a property owner avail itself, an application would be submitted for an actual development to be established within the zone and a public hearing would be held. The text amendment is not a property-specific application. Rather, it would create a legal framework that can be applied to any parcel of land that meets the following draft regulation’s parameters:

- The property must be located within the RUA (Rural A) or RUB (Rural B) zoning districts
- The property must be located within the “Gardner Lake Watershed”, i.e., the “area bounded on the south by Connecticut Route 82, on the west by Connecticut Route 354 and on the north by Witter Road.”
- The property must be a minimum of 25 acres

One of the areas of focus included in the town’s 2012 POCD is the protection of ground water and surface water quality. The Vision Statement states that, “Salem will work to reduce dependence on residential property taxes by encouraging economic development that maintains or enhances the Town’s character, provides conveniences for the community, and balances the economic development with preserving our natural resources. Salem will protect its natural resources by ensuring that regulations adequately protect water supply and quality.” The Plan also includes specific provisions concerning the Gardner Lake area, including the application of protective measures to the town’s surface water resources

protection of “Salem’s groundwater (including aquifers), surface waters (including lakes and rivers), and wetlands.” (Chapter 2: Vision Statement and Chapter 3: Natural Resources, pages 7-11) The proposed regulation would fulfill the Vision Statement by allowing reasonable economic development within the Gardner Lake Watershed and support the goals and objectives to protect the town’s ground and surface waters. By focusing on larger parcels of land, the text amendment would limit the amount and sprawl of development such properties could endure, including the construction of multiple single-family residences and/or multi-family residences that are currently permitted by Special Use, i.e., seasonal campgrounds. Such developments would require the installation of multiple subsurface septic disposal systems, which could have a negative impact on the ground and surface water quality of the Watershed.

He reviewed the proposed revisions to the Zoning Regulations, which include the parameters ensuring the protection of the groundwater and surface water quality and establish the standards which are compatible with the allowable uses within the district and with the neighboring residential uses within the Watershed.

The proposed revisions include the addition of two new definitions and addition of a new section, Section 31 – Special Events and Limited Accommodations Zone, to the Zoning Regulations. The proposed new definitions are:

Gardner Lake Watershed, which defines the area within which the new regulation would pertain

Private Event Facility, which is similar to that of a Special Event Facility (Section 30.4(n)) that is incorporated in Section 30, Special Agriculture Zone (also a floating zone).

The new section, entitled “Special Events and Limited Accommodations Zone”, would include the following sub-sections:

- 31.1 Intent – The intent of the regulation is to maintain and protect the open space in the areas surrounding Gardner Lake thereby enhancing the town’s rural character and preserving the Lake’s water quality by “maintaining low density development on larger parcels of land within the Gardner Lake Watershed” and “minimizing the installation of on-site septic systems”. The establishment of the regulation would allow a reasonable use of the land by a property owner(s) of a large parcel(s) of land located in the proximity of Gardner Lake and within the Gardner Lake Watershed in the RUA and RUB zones. “The use is intended as a mechanism to obtain an economic return from the property as a tool to encourage the preservation of both open space and the water quality in Gardner Lake.”
- 31.2 Purpose and Structure – The zone would be a floating zone governed by a master plan that would be submitted to the Commission for review and approval as a zone change and would require a public hearing. The zone would also “supersede all

pre-existing zoning” and its approval would be based upon its fulfillment of the criteria as defined in the regulation (Section 31.9). The Commission would be acting under their legislative, rather than administrative, authority.

- a) Unified and Comprehensive Design – The zone would “encourage open space and protection of the lake ecology while providing a reasonable economic return”. The design of utilitarian elements, including lighting, signage, sewage, and stormwater management shall meet the objectives of the zone.
  - b) Protection of Neighborhood; Plan of Conservation and Development (POCD) – The zone would allow for event type gatherings without adversely impacting the neighborhood, would be consistent with the town’s POCD, and promote the health, safety, and general welfare of the town and its residents.
- 31.3 Applicants – The Applicant is not required to own all of the land within the proposed zone. The proposed property must contain a minimum of 25 acres and be located within the zone.
- 31.4 Uses Allowed – Includes the use of the property as a private event facility with accommodations for up to five (5) families at any one time for a period not to exceed two (2) weeks
- 31.5 Accessory Activities and Uses – Includes the offering and consumption of food and alcoholic beverages and the provision of entertainment in conjunction with and for the duration of an event
- 31.6 Standards – The application must meet 18 (eighteen) standards, including the existence of one to five single-family residences; location of the property; size of the property (minimum of 25 acres); adequate property setbacks of no less than 100’ (more stringent than the town’s current RUA and RUB setbacks); hours of operation (from 12:00 p.m. to 11:00 p.m.) with “set up” and “break down” periods before and after the event; number of employees (no more than 10 part-time employees, excluding the owner of the facility and entertainment personnel); access to the property (limited to access from a state maintained highway); provision of food and drinks; submission of a written request to the Fire Marshal ensuring proper emergency access and fire protection provisions; size of structure (no more than 10,000 square feet); maximum capacity of 150 patrons; parking requirements; refuse areas; signage; sound emissions (maximum of 51 decibels, per the night-time standards of the CT DEEP (Connecticut Department of Energy and Environmental Protection) and no music shall be played after 10:30 p.m.) and sound mitigation measures; use, screening, and placement of portable toilet facilities, which is consistent with the regulations of several neighboring towns within the region, and; the location and installation of a tent.
- 31.7 Application Procedure – Includes the Application Form and Fee and a General Statement describing the specific types of proposed uses; the methods by which the

site utilities would be provided; listing of all additional licenses, permits and approvals; schedule of bedrooms per dwelling unit, and; a statement outlining how the proposed development conforms to the comprehensive plan of the regulation and the POCD. The Application should also include a Zone Change Map for Recording, and; a professionally drawn Master Plan that includes a Key Map, delineation of the adjacent land uses; the existing site features; proposed land uses and buildings (including parking, walkways, and amenities); location of roads, driveways, parking, pedestrian circulation as well as existing public roads and highways; proposed water supply, including its estimated use; stormwater quality and management plan; erosion control; watercourses; signage; proposed covenants, easements, and restrictions; traffic impact study, and; any additional documentation as required by the Commission.

31.8 Additional Information

31.9 Criteria for Decisions on Change of Zone and Master Plan – The application would require a Site Plan Approval and the fulfillment of the following General Findings: the location, size, and character should be in harmony with the Watershed and not be detrimental to the adjacent properties; the location and size of the proposed uses, the site layout and their relationship to the access roads shall not be detrimental to the character of the surrounding neighborhood; the establishment of the Zone will not hinder, discourage, or impair the value of the adjacent land and buildings, and; the design of the structures and land uses should be compatible with the topography and natural character of the zone.

In conclusion, Atty. Heller stated that the draft regulation conforms with the town's comprehensive plan, as embodied in the Zoning Regulations and Zoning Map. The regulation's evaluation criteria and parameters were designed to determine the compatibility, consistency, and harmony of the proposed use with the surrounding neighborhoods and the floating zone. The proposed text amendment is also consistent with the town's POCD, allowing owners of larger parcels of land to make reasonable use of their property and obtain an economic return without encouraging more intense developments that would include multiple housing units and introduce greater amounts of septic waste, thereby protecting the town's groundwater and surface waters. The Application, he felt, is consistent with the permitting parameters as established by CT General Statutes, Sections 8.2 and 8.3. He also noted that not all of the proposed uses in the draft regulation are incorporated in the town's Special Agriculture Zone (Section 30), which was amended in October 2016 to allow special event facilities. As such the Commission might also like to consider including these items within the master plan of the existing floating zone.

**COMMISSIONER COMMENTS/QUESTIONS:**

Types of baffles that would be utilized to regulate the sound on a lake or body of water (Commissioner Walsh and Khan-Bureau) – The sound emissions, i.e., decibel level, would be

measured at the property lines. Any necessary baffling device(s) would be installed close to the noise source and absorb and deflect the sound upwards attenuating the sound as you move away from the source.

Parking and Access for Emergency Vehicles (Commissioner Khan-Bureau) – It was reiterated that the application at hand is a text amendment to the current Regulations that would accommodate the use(s) and is *not* a site-specific application. Such items would need to be addressed by the Applicant(s) at the appropriate time.

Clarification (First Selectman Lyden) – It was clarified that Applicants Bill Deacon, John Plaut, and Mike Shean, the owners of 45 Forest Drive, LLC., were present at the meeting as panelists.

First Selectman's Comments – First Selectman Lyden stated that he has received numerous complaints from the residents of Forest Drive regarding the town's lack of action, profanity, loud music (past midnight), racing cars, urination of guests on private property, and concern for children playing on the road — all of which pertain to the activities at the property located at 45 Forest Drive. The police have been called to the property several times to no avail due to the transitory nature of its guests. He recommended that the Commissioners heed the public comments from the residents who they represent.

Noise (Commissioner Volberg) – Concerns regarding the impact of noise as a nuisance, which cannot be overestimated as it could make it difficult for individuals to sleep and/or converse, was expressed.

Traffic Control (Commissioner Volberg) – The impact of traffic on either Route 354 or Route 82 should the patrons exit the property *en masse* and the necessity of requiring an individual(s) to direct traffic during these periods to ensure the safety of the patrons and the members of the public was raised.

Floating Zone (Commissioner Fontneau) – A floating zone allows for an additional use or property to be applied to an underlying zoning district and the proposed regulation nullifies all of the pre-existing zoning uses. Upon approval, the master plan would constitute the zoning use(s) for the property. Should the master plan, indicating the uses, be terminated, a new zone change application would be required, reverting the property back to its underlying zoning.

Local Enforcement of Noise (Commissioner Fontneau) – The need to consider the difficulty in and complexity of determining, gauging, and enforcing noise and the possibility of such natural elements, e.g., wind, could easily result in the exceeding of the 51 decibel level was raised. Atty. Heller stated that the 51 decibel level was selected per the standard established by CT DEEP for night-time sound emissions and the Applicant's cognizance of the neighboring properties. The noise level would be determined at the boundary lines and sound mitigating practices would be instituted as necessary.

Past and Current Violations of the property located at 45 Forest Drive (Commissioner Khan-Bureau) – Atty. Heller warned the Commission, citing the existence of specific case law regarding the consideration of an application that does not deal specifically with those violations. Town Atty. Byrne disagreed, stating that, given the limited number of parcels the proposed regulation would pertain to, it would be acceptable for ZEO Allen to provide a brief history of the violations that have been issued. ZEO Allen reported that the property, owned and operated by the Applicants, 45 Forest Drive, LLC, was cited for running an illegal operation as a resort approximately one year ago. The use is not permitted under any conditions in the RUA zone. The lack of response and/or compliance by the property owner(s) has resulted in further enforcement action per the Zoning Regulations, including the issuance of a Cease and Desist Order and a recording of the Notice of Violation on the Land Records. The case was also forwarded to the First Selectman and the Town Attorney. The violation continues to date and there has been no response or compliance. Furthermore, the illegal use has recently intensified, as evidenced by the public comments.

Potential Conflict of Interest (Commissioner Caron) – Commissioner Caron stated her potential conflict of interest as her spouse is currently employed by P&H Construction, the “H” in the title referring to Heller.

Structure Size Requirement (Commissioner Fontneau) – Atty. Heller stated that the 10,000 square feet maximum for the structure for the private events is a suggestion and may be reduced (Section 31.6(x)).

**PUBLIC COMMENTS:**

Ellen and Scott Cohn, 14 Tamarack Place, who reside approximately 100’ from 45 Forest Drive, stated their opposition to the proposed text amendment. Ms. Cohn stated that the greatest predictor of future behavior/activity is past behavior/activity. She stated their concerns regarding the current use of the property and described the activities they have witnessed over the last two years as outlined in their written comment. The activities include the hosting of large seasonal weekend events comprised of excessive noise, loud music, and fireworks past midnight; drunken renters overloading pontoons, kayaks, canoes, and paddle boats; children operating boating equipment; yelling of profanity; loose leisure equipment floating on the Lake; large bonfires; drones and radio-controlled miniature speed boats; excessive litter and organic debris in the water, which is contrary to the conservation of wetlands and property within the proposed regulation, and; daytime gunshots, arguments, screaming, and yelling. The negligent behavior of the absent, profit-driven out-of-state owner(s) who are not following the current rules have resulted in numerous calls to the State Police, who have been unable to enforce the rules due to the transitory nature of the renters and the absence of its caretakers. Living in a community of families, the residents are seeking to protect their way of life.

Mr. Cohn added that the sound emitted from an office is 50 decibels and 80 decibels is the sound emitted by a vacuum cleaner. Living on a lake, he stated the impossibility of enforcing the sound from traveling beyond the parameters of the property. He questioned the enforcement of the rules, the increased capacity to over 160 individuals on the property with the inclusion of any staff and entertainment, the possibility of revoking the regulation, the possibility of subdividing the existing property, the possible tax increase on the property, and the impact on the neighboring properties.

Atty. Heller cautioned the Commission that the application is for a text amendment and *not* for a property-specific application. Any comments should be directed to the text amendment.

In response, Town Atty. Steven Byrne, stated that, in reviewing the GIS (Geographic Information System) map of the area, there are only three to four lots that would fit the parameters contained in the proposed establishment of the Zone. As such, it would be reasonable to presume that the text amendment would apply to the referred property. In addition, the experiences of those who are residing within the vicinity of the Lake could be used as an indicator as to whether such a use would be compatible with the town's POCD.

Cindy Thomas, 18 Tamarack Place, who also resides approximately 100' from the property to which the text amendment would apply, spoke in opposition to the proposed zoning regulation. She disagreed with Atty. Heller's implication that an event facility would be better than the alternative options, stating that the possibility of transforming such properties into a nature preserve, for example. She proceeded to recite their story as submitted for public comment, which states that they have been subjected to loud music, noise, and offensive language from guests attending the events on the property, precluding them from enjoying a quiet evening and/or sleeping and has led them to seek alternative overnight accommodations. Calls to the police, owner(s), and event and property managers have not brought any positive results. She also expressed her dismay with the town officials for their lack of respect and inability to enforce the rules. She felt that the approval of the text amendment would not be consistent with the harmony of the town and the rural character that they would like to continue to enjoy.

Paula Hansen, 82 Forest Drive, a 30 year resident in the area, stated her opposition to the proposed text amendment. She expressed her concerns regarding the noise, safety, and decreased property values as well as the breaking into of vehicles and a hit and run accident. She cited Chapter 124, Section 8-2m of the CT General Statutes, which states that "Flexible zoning districts established under such regulations shall be designed for the betterment of the municipality and the floating and overlay zones and neighborhood in which they are located and shall not establish in a residential zone a zone that is less restrictive with respect to uses than the underlying zone of the flexible zoning district. Such regulations shall not authorize the expansion of a pre-existing, nonconforming use." She questioned whether the establishment of the floating overlay zone would result in the *betterment* of their

neighborhood. She also expressed her dismay regarding the lack of notification regarding the public hearing.

In response, Atty. Heller reiterated that the Commission is on a “slippery slope” as the Public Hearing pertains to a text amendment. The ultimate goal of the regulation is to limit the development of larger parcels within the Gardner Lake Watershed, thereby preserving the ground and surface water of the Lake. The regulation, as submitted, contains the safeguards to protect the neighborhood values.

In response to Town Atty. Byrne who questioned the other properties in which the floating zone would apply to, Atty. Heller stated that there are approximately three to six parcels to which the regulation would apply, including the property located at 45 Forest Drive.

Ms. Hansen also cited Section 31.2(b) of the proposed regulation, which states that “This zone is intended to provide a mechanism which will allow event type gatherings and limited accommodations...without adversely impacting residential development within the Rural Zone A, Rural Zone B or the Seasonal Residential Zone in a manner which is consistent with the Plan of Conservation and Development of the Town of Salem and which promotes the health, safety and general welfare of the Town and its residents.” She questioned how the regulation would promote “the health, safety and general welfare” of the residents and how the establishment of the floating zone would preserve the rural character of the town.

Hugh McKenney, 33 Woodland Drive, who also submitted a written comment, thanked the Chairman and Commission for their time. He stated that the placement of porta-potties to accommodate 150 people would harm, rather than protect the environment and felt that the parameters included in the proposed regulation could not be controlled or monitored. He urged the Commission to listen to the residents’ comments as they act upon the regulation. Not doing so could result in a series of legal challenges. He added that the regulation *absolutely* does not comply with the town’s POCD; another aspect that could potentially lead to litigation.

Brian Thomas, 18 Tamarack Place, stated his opposition to the text amendment and recited his written comment. He and his wife built their dream home, located less than 100’ from 45 Forest Drive, in 1991 and, until recently, they have dealt with inconsiderable people on only very rare occasions. He relayed their experiences with the transient guests of the facility, adding that, because of the transitory nature of the guests, there are no consequences and the guests do not have an understanding of neighborhood.

Debra Gernhardt, 106 Old Colchester Road and 99 Forest Drive, expressed mixed feelings as she is in favor of adding commercial property(ies) to the town, but opposed to the application due to the issues with the Applicant and property in question. She attested to the occurrences of loud parties well into the night that she can hear at her residence on Old Colchester Road and, referring to comments posted on Facebook, the sound can be heard as far as Route 163. She urged the Commission to contact the neighboring Towns of Montville and Bozrah, which

also surround the Lake, for their input. She questioned the hours of operation and the potential activity that would occur during those hours. In reviewing the GIS map, she noted that there are three properties off of Route 354, two on Witter Road and one on Forest Drive. Based on her experience, she felt that the number of sites the regulation would apply to is limited by the existing wetlands and the need to construct an access road from the state-maintained highway to the property. The use of fireworks, which is not addressed in the regulation, has also been an issue on the property. In response to one of the questions posed by the residents, she stated that, should the regulation be adopted and the property be approved for the floating overlay zone, the previously assessed residential property would be assessed as commercial property, significantly increasing the taxes on the property.

Diane Sullivan, 57 Forest Drive, spoke in opposition to the text amendment. In reviewing the GIS map, she, like others, determined that there are very few, if any, other properties to which the amendment would apply. She believed that the amendment would be detrimental rather than beneficial to the Gardner Lake Watershed area. She felt that the utilization of such a property to construct one or two single-family residences with open space that the residents would have access to for passive recreation use would be more in line with the town's POCD.

Jillian Rix, 37 Forest Drive, who has lived on Forest Drive for approximately one year with her two small children, spoke in opposition to the text amendment. She expressed her dismay with Atty. Heller's response that the text amendment would improve the town by improving its property value, stating that there are more important things to consider than money or property values, e.g., a sense of community. She discussed her experiences over the past year that have led her to contact the police over ten times at 11:00 p.m. for loud music. With respect to the sound being limited to 51 decibels (Section 31.6(xv)), she stated that, according to [ehs.yale.edu](https://ehs.yale.edu), 55 decibels is the sound emitted by a household refrigerator and, based on past practices of the property, limiting the time in which music will be played is unrealistic. It is her understanding that the CT D.O.T. (Connecticut Department of Transportation) has forbidden the property owners to utilize Route 354 due to the damage they have caused to the road. It is also her understanding that a medical emergency occurred at the facility during which the ambulance was unable to exit the property, resulting in the Fire Marshal ordering that the event be shut down and forcing the ambulance to travel down a very long dirt driveway that crosses a wetlands area. She finds it disturbing that the Applicant has submitted an application while continuing to offer the property to the public as a wedding venue on seven different websites. Approximately two months ago at approximately 10:00 p.m., she heard six (6) gunshots. After ensuring the safety of her children, she proceeded to contact the police and witnessed a total of 77 vehicles fleeing the party and yelling obscenities at her. She feels terrified that the power lies in the Commission and petrified that one of the Commissioners has some relationship with the attorney representing the Applicant.

Commissioner Caron clarified that she and Atty. Heller are not acquainted with each other; she merely wished to ensure that there were no perceptions of a conflict.

Cindy Thomas, 18 Tamarack Place, cited Section 31.9(i) of the proposed regulation, which states that, for a zone change and master plan to be approved, they must be “in harmony with the appropriate and orderly development of the Gardner Lake Watershed and will not be detrimental to the orderly development of adjacent properties...shall be such that vehicular and pedestrian traffic generated by the use or uses, shall not be detrimental to the character of the surrounding neighborhood...” and it “will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.” and is “compatible with the shape, size, topography and natural character of the zone.” While the regulation is not property-specific, the public is providing information and relaying their experiences regarding a particular property that does not currently meet the proposed parameters. She provided a brief audio exemplifying the noise deriving from their events, which far exceeds the 51 decibel level outlined in the proposed text amendment.

Atty. Heller stated that the standards recited by Ms. Thomas are the standards related to a zone change application for a specific property. The standards for considering the adoption of the text amendment are in compliance with the town’s comprehensive plan and POCD under the Commission’s legislative authority.

Scott Cohn, 14 Tamarack Place, stated that there is no location on the Lake that would be appropriate for such a venue.

Paula Hansen, 42 Forest Drive, questioned whether the State of Connecticut and the Connecticut Council of Governments have been contacted regarding the application.

In response, Town Planner LaFountain stated that the State of Connecticut has not been notified because it is not a site-specific application. The text amendments have been referred to the Southeastern Connecticut Council of Governments (SECCOG) and the Lower Connecticut River Council of Governments (RiverCOG). He recited the response received by SECCOG, which states that,

“the proposed amendments may result in an adverse inter-municipal impact due to the required proximity of any Special Events and Limited Accommodations Zone to Gardner Lake. At such a time that the floating zone is established, the allowed uses within the zone will appear to be incompatible, due primarily to the threat of noise, with the low-density, single-family zoning that exists on opposite shores of the lake, in the Towns of Bozrah and Montville.”

**WRITTEN PUBLIC CORRESPONDENCE** (*see file copies*)

The following written comments were recited by Chairman Smith and Commissioners Caron and Gadbois:

Victoria Valenti, 53 Forest Drive, a seasonal resident, wrote in opposition to the text amendment application, stating that it would be detrimental to the surrounding neighborhood. The tenants/guests of the property located at 45 Forest Drive are constantly speeding on the road and are often unable to locate the property. They have witnessed the unsafe use of

quads; multiple, loud commercial vehicles entering and exiting the property; the playing of extremely loud music well into the early morning hours, and; have been awakened by loud guests who have parked in front of their homes. She cited one specific incident which led her to contact the police. The property, she stated, is not being utilized in a manner that is in harmony with the town's rural culture and character. The ongoing activities at the property are detrimental to the surrounding neighborhoods and puts the public at risk for injury.

Pat Valenti, 53 Forest Drive, a 35-year seasonal resident, wrote in opposition to the proposed regulation, citing the loud weekend parties, irrational drivers, obnoxious party goers, and the overall lack of respect for the adjacent properties and the laws and orders issued by the town officials resulting in the several calls that have been made to the police for various problems that remain unresolved. They fear that, should the text amendment be approved, the property will no longer be the peaceful, serene location they were hoping to pass on to their child and grandchildren and continue the legacy of enjoying and spending their summers at the Lake.

Eleanor Sullivan, 95 Forest Drive, wrote in opposition to the proposed zoning regulation. She cited the events and large parties that have been held at the property resulting in several calls to the police, the residents' fear for their safety due to the drinking and drugs that take place during the events, and her concern for the resulting traffic and noise issues. Such activities should not be allowed to take place at a residentially-zoned property.

Cathy Smith-Carolan & Paul Carolan, 26 Forest Drive, expressed their strong opposition to the proposed text amendment. They stated their concern for the safety and enjoyment of the Lake by the seasonal and year-round Salem, Montville, and Bozrah residents and the destruction of the character of the rural lakeside community. They expressed their dismay at the submission of the application and the owners' continuing practice to illegally utilize the property as an event venue and disturbing the peace of the Lake community. They "feel personally and civically disrespected and violated by their actions, especially since they state that they expect a 'reasonable economic return' on this property *as well as* other potential Salem properties." The residents, they stated, purchased their properties for their enjoyment and not for the economic returns they would receive. Their experiences over the past two summer seasons include loud partying into the night preventing them from sleeping; being awakened by the sound of gun shots; cars entering and exiting the property and damaging the residents' parked vehicles, mailboxes, stone walls, and plantings; loud music and/or loud vulgar language, and; unsafe boating practices and blatant disregard for other watercrafts.

Diane & Gary Sullivan, 57 Forest Drive, wrote in opposition to the proposed text amendment. The peace and serenity they have been able to enjoy at their home for the past 49 years has been interrupted over the past two summers by the activities occurring at 45 Forest Drive. They cited the noise, loud music, and consumption of alcohol disturbing the peace of the neighborhood. The statement cites a personal experience during which an event with a very loud live band was being held. The band continued to play well past 11:00 p.m. instigating a call to the police, who never arrived. As a result, Mr. Sullivan proceeded to drive to the

property to make a friendly request. One week later, he was informed by the Resident State Trooper that the owner of the property had filed a formal complaint of trespassing against him and stated that he would be arrested should he enter the property again. The applicant, he states, “has been willfully disregarding the existing regulations for well over a year” and presented an amendment to the town’s existing regulations only as a result of the town’s issuance of a Cease and Desist Order and threat of legal action.

Jennifer Lindo, 348-B New London Road and former resident of 37 Forest Drive, wrote in opposition to the proposed Zoning Regulation amendment, which would result in the negative experiences as enumerated by several residents. She provided a brief history of the property, leading to the purchase of the property by the current owners, who have been utilizing the property “for partying, events, and all kinds of various activities, none of which are appropriate to a residential neighborhood.” These activities led her to contact the police in the middle of the night on more than five (5) separate occasions due to the noise, speeding vehicles, and vehicles parking on her lawn or blocking driveways. She also witnessed people being dropped off and walking through her yard to enter the property; day- and night-time riding of recreational vehicles on both town and state roads, through driveways and on the property, including through the wetlands, and; an ambulance backing into the long driveway because there was no room to turn around to exit the property. She also cited an incident during which a drunken individual crashed into and totaled a parked vehicle and leaving the scene. The numerous calls that have been made to the police have resulted in no action or resolution. She enumerated 19 (nineteen) issues with the proposed regulation amendment that she requested the Commissioners consider as part of their deliberations. The proposed text amendment would, she stated, would not protect the town’s natural resources or rural character and is incompatible and inappropriate with the existing residential zone. She added that neither the Commission nor the Zoning Regulations are responsible for the “economic return” of a privately-owned residential property. The application is an attempt by the property owner, who has ignored the town’s Cease and Desist Order, shown a lack of respect to its neighboring residents, and destroyed the property of others, to legitimize their current use of the property and gain an “economic return”. Its establishment would be a detriment to the community.

William & Evelyn Schultz, 19 Forest Drive, wrote in opposition to the proposed regulation amendment, stating their concern of its current use and the expanded zoning request. They cited the need to pick up trash that has been thrown from cars as they travel down the driveway that runs behind their property, excessive noise past midnight, loud music, yelling, fireworks, and gunshots. They felt that the current zoning complaints should be addressed by the property owners before any additional request(s) are considered by the Commission.

Robert & Shirley Neddo, 71 Forest Drive, wrote in opposition to the large events facility and expansion of plans. Concerns regarding the use of the land for septic disposal and its resulting detriment to the land, wetlands, and water quality of the Lake; the shooting of firearms in the

vicinity of approximately 36 homes located within 500' of the property; the speeding vehicles and increased traffic causing a danger to the children and residents who walk along the road to access the beach area, and; boating activities and safety were expressed.

Carmen Sands, 20 Forest Drive, wrote in opposition to the proposed text amendment. She stated that their mailbox and her son's parked vehicle was struck and totaled by an individual departing from an event that was held at 45 Forest Drive. The individual left the scene and the State Police have been unable to locate the driver of the vehicle. The accident exemplifies how the proposed application would threaten the safety of the families residing in the area.

Kenneth Egan, 97 Forest Drive, wrote in opposition to the proposed text amendment. As the Treasurer of the Kendall Knolls Association, which includes the residents of Forest Drive and Tamarack Place, he has heard numerous complaints regarding the activities, extreme noise, and traffic being generated at the facility.

Kathleen Lyden, 50 Forest Drive, stated her concerns regarding the incidents and issues at 45 Forest Drive that have negatively affected those who reside in the immediate area, including amplified music well into the night affecting families with young children and elderly residents; public urination in neighbors' backyards; loud profane arguing and profanity directed towards the neighbors; numerous vehicles and speeding vehicles entering and exiting the property; use of extremely loud commercial grade fireworks, and; the resulting hostile environment and stress the activities have caused on the residents.

Jennifer Wisniewski and Matthew Stefanelli, 43 Forest Drive, wrote in opposition to the proposed amendment, stating the disruption and safety concerns caused by the guests of 45 Forest Drive. They cited the constant traveling in and out of the property, including Uber, delivery drivers, and caterers who confuse their driveway for that of their neighbor's; speeding vehicles; loud music, which has kept their family awake at night; urination of strangers in their backyard; screaming, fighting, and peeling out of vehicles, and; littering on their property.

Carol Johnson, David Anderson, and Geraldine Deyermond, 59 and 63 Forest Drive, wrote in opposition to the application, citing the playing of very loud live music until midnight precluding them from sleeping; the increased traffic, endangering the adults and children of the neighborhood; the resulting decrease in property value due to the noise pollution, and; the increased traffic and lighting. The approval of the application hinders the serenity of the Lake and the reasons why individuals and families have chosen to reside around the Lake.

Linda Rich, 121 Forest Drive Ext., wrote in opposition to the application, citing the noise; the amount of traffic and concern for the children who play outside and ride their bicycles in the area as well as the safety of the neighbors as intoxicated guest depart from the home, and; her concern for the Lake and the environment.

Patrick Milio, 15 Tamarack Place, who resides less than 100' from 45 Forest Drive, wrote in opposition to the text amendment. The property has "held large parties with very loud music

and boisterous, foul-mouthed guests” on many occasions well past 1:00 a.m. The activity derives from both the main and smaller residences on the property. As a result of the activity, he has been forced to leave his home due to an inability to sleep and has been hesitant to have family gatherings with young children who should not be subject to the screaming of profanities. He pleaded with the Commission to not allow their quiet town to be transformed into a weekend/summer “frat-style party houses and event centers”. He felt that such businesses are not appropriate for the residents of the town, Gardner Lake, or the town, itself.

A petition in opposition to the application, signed by 44 residents, was recited into the record. The petition states that the signers agree that the application is inconsistent with the natural and rural character of the town, will be detrimental to the use of their land and surrounding neighborhoods, will negatively affect their ability to enjoy their property, decrease their property values, cause unwanted increase in traffic and noise, will set an undesirable precedence for future town development and land use, will threaten the safety of the families, is not in harmony with the town’s rural culture and character, will decrease their ability to enjoy a quiet night’s sleep, and have a negative effect on the natural environment.

**OTHER WRITTEN PUBLIC CORRESPONDENCE** (*see file copies*)

The following written comments were not recited as the residents either spoke and presented their comments or were recited by the individuals, themselves:

Ellen & Scott Cohn, 14 Tamarack Place, wrote in opposition to the text amendment, stating their concerns for the use and the lack of supervision at the property. The letter cites the activities they have witnessed and their grave concern with the future activities on the property should the proposed text amendment be approved by the Commission.

Cindy Thomas, 18 Tamarack Place, wrote in opposition to the text amendment. Her comment was recited by her earlier in the evening.

Hugh McKenney, 33 Woodland Drive, urged the Commission to carefully consider the residents’ comments regarding the proposed amendment to the Zoning Regulations. His comments included the following concerns: the specific requirement to maintain water quality or the current setting; the controlling of 150 people; the enforcement and monitoring of the 51 decibel noise level; the possibility of the regulation being a “Spot Zoning” change, which is often illegal and can be subject to legal challenge; the possibility of having up to three such private event facilities in the town; insufficient minimum distance of 101’ from the property lines; inflammation of the current overcrowding issues at the Lake, which does not coincide with the intent of the town’s POCD and would lead to significant legal battles; parking area that would accommodate parking for 150 guests, and; the legality of the proposed amendment.

**COMMENTS RECEIVED FROM NEIGHBORING TOWNS**

Town Planner LaFountain summarized/recited the comments received from the following towns:

Lyme – Expressed their initial concerns regarding the possible impact to the roads bordering the town; the issue was addressed in the revision(s) made to the proposed text amendment.

East Haddam – Land Use Administrator James F. Ventress stated that the request appears to be crafted for an individual property. In discussing the proposed text amendment with Torrance Downes of the Lower Connecticut River Valley Council of Governments (RiverCOG), he stated that the biggest concern is that an individual would be able to submit a floating zone application as a Public Hearing for a Map Change, but the actual application is by a site plan review. East Haddam allows farms to host limited events such as weddings as a Special Exception review application. As an accessory to the primary use, the Special Exception Review allows the Commission to hold a Public Hearing to discuss the specifics of the application and modify or condition the approval. He expressed his concern with the approval of an events facility without taking the public's comments into consideration. While there may be locations within which events might be held, he did not feel that the specific language crafted for one site that is embodied within the proposed regulation to be adequate.

RiverCOG – Deputy Director JH Torrance Downes stated that the Regional Planning Commission would not be able to review the proposed text amendments until Monday, November 23 and requested that the Public Hearing be continued, allowing their comments to be considered and entered into the record.

**M/S/C: Walsh/Volberg, to close the Public Hearing for ZRA 20-02: Application by 45 Forest Drive, LLC for a text amendment to the Salem Zoning Regulations to add a new definition for “Private Event Facility,” and a new Section 31 entitled “Special Events and Limited Accommodation Zone”. Discussion: Brief discussion was held regarding the possibility of continuing the Public Hearing to receive the comments from the RiverCOG. Roll Call vote, 6-0-1. Voting in Favor: Commissioners Fontneau, Gadbois, Khan-Bureau, Volberg, Walsh, and Smith. Voting in Opposition: None. Voting in Abstention: Commissioner Caron.**

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

**a) Regular Meeting Minutes: October 20, 2020**

**M/S/C: Fontneau/Caron, to approve the Regular Meeting Minutes of October 20, 2020, with the following amendment:**

Page 12, Item 7(a):

**M/S/C: Fontneau/Caron, to approve the Special Exception and Site Plan for Application SE 1-20-01...with the following conditions:**

- 1. 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~~ in the first week of October 1.**

**Discussion: None. Voice vote, 7-0, all in favor.**

**6. OLD BUSINESS**

- a) **Plan of Conservation and Development (POCD) Discussion** – *tabled*

**7. NEW BUSINESS**

- a) **ZRA 20-02:** Application by 45 Forest Drive, LLC for a text amendment to the Salem Zoning Regulations to add a new definition for “Private Event Facility,” and a new Section 31 entitled “Special Events and Limited Accommodation Zone.”

**M/S/C: Walsh/Gadbois, to approve the ZRA 20-02: Application by 45 Forest Drive, LLC for a text amendment to the Salem Zoning Regulations to add a new definition for “Private Event Facility,” and a new Section 31 entitled “Special Events and Limited Accommodation Zone”. Discussion:** Given the hour and the complexity of the application, Commissioner Fontneau recommended the Commission deliberate on the application at their next meeting when they have had time to review the information they have received and discuss the reasons for approving or denying the application. Commissioner Khan-Bureau agreed. Atty. Byrne added that, because a protest petition was submitted, he would appreciate the time to determine as to whether CT General Statutes 8-3, which states that for a “protest of change to be effective” it “must be signed by at least 20% of property owners within 500 feet...and that a two-thirds rather than three-quarters vote of commission is needed to overcome protest...” applies in this case. The Commission agreed to table the motion until Tuesday, November 24, 2020 at 7:00 p.m.

- b) **Commissioner Vacancy To Be Filled**

Chairman Smith reported that a letter of resignation was received by Full Member Commissioner Wenzel. As such, he proposed appointing Alternate Member Commissioner Fontneau as a Full Member.

**M/S/C: Khan-Bureau/Caron, to appoint Alternate Member Commissioner Carl Fontneau to fill the vacancy left by Full Member Commissioner Eric Wenzel. Discussion: None. Roll Call vote, 6-0-1. Voting in Favor: Commissioners Caron, Gadbois, Khan-Bureau, Volberg, Walsh, and Smith. Voting in Opposition: None. Voting in Abstention: Commissioner Fontneau.**

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

ZWEO Allen provided an update on the following violation:

Witch Meadow Road – After reviewing and inspecting the property, with the permission of the property owner, the ZWEO recommended and the Commission ordered the property owner to retain the services of a professional to assess the property and submit a restoration plan.

**9. TOWN PLANNER REPORT – *none***

**10. CORRESPONDENCE:**

- a. Letter of resignation from Full Member Commissioner Wenzel

**11. PUBLIC COMMENT: *none***

**12. PLUS DELTAS:**

Commissioners Caron, Khan-Bureau, and Smith stated that a good meeting was held.

Chairman Smith thanked everyone for attending the meeting and providing their input.

**13. ADJOURNMENT**

**M/S/C: Caron/Khan-Bureau, to adjourn the meeting at 11:09 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