

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, FEBRUARY 23, 2021 – 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 Commission will be following the suspension of in-person open meeting requirements. Please click the link below to join the webinar:

<https://zoom.us/j/95380587730?pwd=Ok90Q0pXU3lGWFFuSTJSY3FQcDNPQT09>

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PRESENT

Vernon Smith, Chair
John Gadbois, Vice Chairman
Carl S. Fontneau
Walter Volberg
Diba Khan-Bureau, Alternate (*seated*)
Susan Sullivan, Alternate (*seated*)

ABSENT

Margaret Caron, Secretary
Thomas Reith
Ruth Savalle

ALSO PRESENT

Town Planner Justin LaFountain

1. CALL TO ORDER

Chairman Smith called the meeting to order at 7:06 p.m.

2. PLEDGE OF ALLEGIANCE

SEATING OF ALTERNATE(S):

Alternate Commissioners Khan-Bureau and Sullivan were seated for Full Member Commissioners Savalle and Reith, respectively.

ADJUSTMENT(S) TO THE AGENDA:

M/S/C: Fontneau/Sullivan, to move Item 7, New Business, to precede Item 6, Old Business.

Discussion: None. Voice vote, 6-0, all in favor.

3. PUBLIC COMMENT: *none*

4. PUBLIC HEARING:

- a. ZRA 21-01: Salem Valley Farms Ice Cream, 20 Darling Road, Salem, CT. Request to amend Section 7B.2 of the Special Business Zone B section of the Salem Zoning Regulations to add Section 7B.17, which would add a new use allowing for non-commercial retail kitchens within the Special Business Zone B.**

M/S/C: Fontneau/Khan-Bureau, to open the Public Hearing for Application ZRA 21-01: Salem Valley Farms Ice Cream, 20 Darling Road, Salem, CT.

Discussion: None. Voice vote, 6-0, all in favor.

Matthew Viens, Owner, *Salem Valley Farms Ice Cream*, stated that he purchased the business, which has been a staple in the community for over 30 years, in 2018. He is seeking to expand their wholesale business and establish an additional location to prepare, package, store, and distribute their ice cream year-round. It is estimated that deliveries of ingredients would be made to the location once a week and the final product would be picked up and delivered to either their Darling Road location or other stores where the ice cream will be sold. The ice cream will not be sold at the proposed location. Their carbon footprint and waste will be nominal. The business currently employs approximately 25 individuals every season and the new location will have one to three employees at any given time; he is not expecting to hire any new employees at this time. Because the location is currently not zoned for the preparation and packaging of food, he is requesting an amendment to the applicable regulation. The proposed text amendment includes a provision limiting the manufacturing area to 1,200 square feet or less to ensure that the town maintains its quaint rural character. The premises will house a freezer, cooler, ice cream machine, sink, and bathroom. The Department of Consumer Protection and Uncas Health District have been contacted regarding his plans; he does not foresee any issues.

In response to Commissioner Khan-Bureau, Owner Viens confirmed that ice cream will continue to be prepared at their Darling Road location as well. The goal is to eventually migrate away from the main site due to the lack of space.

Town Planner LaFountain reminded the Commission that the proposed text amendment is zone-specific, rather than site-specific, and would add the permitted use to the entire zone. The criteria the application must meet for approval is outlined in his memo.

Chairman Smith asked if anyone from the public would like to speak with respect to the Application. There being none, a motion was made to close the Public Hearing.

M/S/C: Fontneau/Khan-Bureau, to close the Public Hearing for Application ZRA 21-01: Salem Valley Farms Ice Cream, 20 Darling Road, Salem, CT.

Discussion: None. Voice vote, 6-0, all in favor.

- b. ZMA 21-01: Aaron and Liz Syman, 279 Buckley Road, Salem, CT. Request to apply the Special Agriculture Zone to 279 Buckley Road for the purpose of permitting a retail store for products at their farm and to host related farm events and classes.**

**M/S/C: Fontneau/Gadbois, to open the Public Hearing for Application ZMA 21-01:
Aaron and Liz Syman, 279 Buckley Road, Salem, CT. Discussion: None.
Voice vote, 6-0, all in favor.**

Owners Aaron and Liz Syman, *Syman Says Farms*, provided a brief presentation regarding their request to apply the Special Agriculture Zone to their property. The Symans have been raising goats, chickens, rabbits, and the like since 2012. Approval for their request would enable them to rebuild/modify the existing 12' x 24' chicken coop into a small farm store to sell their products and host small events and classes, including Goat Yoga, Baby Goat Snuggles, Milk a Goat, and Goat Husbandry classes. The floor plan of the proposed store includes a central table for their products, closet, and checkout counter. A porta-potty would be rented and placed beside the building. The rear of the building will include a Goat Viewing Area for the public. Items that would be for sale include *Swanky Sauce*, which is manufactured in New Haven, CT, artisan goat soap, and apparel. The business has been featured in *The Day* newspaper, *Fox61*, and mentioned in Wikipedia. They are also interested in expanding their involvement with the community. The applicants are also requesting a waiver for the required traffic study and lighting plan as a traffic study was conducted when the property housed a daycare business, the business will be seasonal and will not be operating at night.

Town Planner LaFountain stated that the application is for a Special Agricultural Overlay Zone, e.g., Salem Herb Farm and Fox Farm Brewery. Because the current regulations will not allow for the establishment of a farm store measuring larger than 200 square feet and the selling of items that are produced on the property, which is allowed by right. The property meets all of the specific requirements. The criteria that must be met are included in his memo. Because the property includes wetlands, the Wetlands Officer has also reviewed and approved the application.

In response to Commissioner Khan-Bureau, Town Planner LaFountain stated that no site changes are being proposed, only the use will be changing. With respect to her question regarding plans for additional livestock, Owner Aaron Syman stated that additional livestock, possibly cows or pigs might be added to their farm and Town Planner LaFountain added that the owners are allowed to own livestock under their current RUA zone, regardless of the zone change. In response to Chairman Smith, Owner Aaron Syman stated that the property includes two paved parking areas, one of which accommodates 13 vehicles and another, accommodating 5 vehicles.

Chairman Smith asked if anyone from the public would like to speak regarding the Application.

Aube, 90 Way Road, questioned the type of automobile traffic that the business would generate and whether any music or events that would include microphones or speakers that would generate sound are planned. Owner Aaron Syman stated that their events will be

limited to 25 people. He expects that no more than five patrons would be visiting the store at any given time. No music or loud events and parties are planned. Owner Liz Syman added that they are interested in providing their visitors with the experience of being on a farm and enjoying the quiet and peaceful environment with their animals. She added that any large crowds or loud noises would affect the well-being of the animals. The Symans were agreeable with Commissioner Fontneau's suggestion to include a provision limiting the capacity of the business to 25 individuals and no more than 18 vehicles, per the submitted plan. Should the business expand, the applicants may submit an application for review by the Commission.

M/S/C: Fontneau/Khan-Bureau, to close the Public Hearing for Application ZMA 21-01: Aaron and Liz Syman, 279 Buckley Road, Salem, CT. Discussion: None. Voice vote, 6-0, all in favor.

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

a) Regular Meeting Minutes: February 16, 2021

M/S/C: Volberg/Khan-Bureau, to approve the February 16, 2021 Planning & Zoning Commission Regular Meeting Minutes. Discussion: None. Voice vote, 5-0-1. Voting in Favor: Commissioners Fontneau, Khan-Bureau, Sullivan, Volberg, and Smith. Voting in Opposition: None. Voting in Abstention: Commissioner Gadbois.

6. NEW BUSINESS

a. ZRA 21-01: Salem Valley Farms Ice Cream, 20 Darling Road, Salem, CT. Request to amend Section 7B.2 of the Special Business Zone B section of the Salem Zoning Regulations to add Section 7B.17, which would add a new use allowing for non-commercial retail kitchens within the Special Business Zone B.

M/S/C: Fontneau/Volberg, to approve Application ZRA 21-01: Salem Valley Farms Ice Cream, 20 Darling Road, Salem, CT. Request to amend Section 7B.2 of the Special Business Zone B section of the Salem Zoning Regulations to add Section 7B.17, which would add a new use allowing for non-commercial retail kitchens within the Special Business Zone B, as presented, effective March 23, 2021. Discussion: The effective date will allow for the 15-day appeal period following the Notice of Decision. Commissioner Fontneau stated that the Application appears to be consistent with the town's 2012 POCD and satisfies the purpose of the Special Business Zone B as stated in the Zoning Regulations. In addition, the proposed limitation of 1,200 square feet of manufacturing area is satisfactory for the zone.

Commissioner Gadbois exited from the meeting due to technical difficulties at 7:51 p.m.

In response to Commissioner Sullivan, Town Planner LaFountain stated that, if approved, the Zoning Amendment would be applied to the Special Business Zone B, which includes approximately five areas. As such, the impact would be minimal. He also stated that the Zoning Amendment was referred to the Southeastern Connecticut Council of Governments (SCCOG) and Lower Connecticut River Valley Council of Governments (RiverCOG), both of which did not feel that the amendment would result in any negative impact(s).

Commissioner Gadbois re-entered the meeting at 7:52 p.m.

Voice vote, 6-0, all in favor.

- b. ZMA 21-01: Aaron and Liz Syman, 279 Buckley Road, Salem, CT. Request to apply the Special Agriculture Zone to 279 Buckley Road for the purpose of permitting a retail store for products at their farm and to host related farm events and classes.**

M/S: Gadbois/Fontneau, to approve Application ZMA 21-01: Aaron and Liz Syman, 279 Buckley Road, Salem, CT. Request to apply the Special Agriculture Zone to 279 Buckley Road for the purpose of permitting a retail store for products at their farm and to host related farm events and classes.

Discussion: Commissioner Fontneau suggested adding a provision to approve the Application and accept the site plan, under Section 30, on the condition that the number of parking spaces be limited to 18 and the event capacity to 25 individuals as well as to approve the Applicant's Waiver Request.

M/S/W: Gadbois/Fontneau, to withdraw the original motion.

M/S: Fontneau/Sullivan, to approve Application ZMA 21-01: Aaron and Liz Syman, 279 Buckley Road, Salem, CT, to apply the Special Agriculture Zone to 279 Buckley Road for the purpose of permitting a retail store for products at their farm and host farm-related events and classes. The approval includes the limitation of 18 parking spaces and event capacity to 25 individuals, per the proposed site plan. The Commission also grants a waiver for the Traffic Study and Lighting Plan. Discussion: Since no new developments or evening activities are being proposed on the site, the Commissioners agreed to waive the need for a traffic study and lighting plan. While the hours of operation were not specifically discussed, it was stated that the business would not be operating in the evening. The Commissioners reviewed and discussed the Application in relation with the necessary requirements for approval:

- a. Meets the intent of the Town of Salem Zoning Regulations by allowing development that encourages maintaining/preserving the rural character of the town;**
- b. Is in keeping with the Town of Salem Plan of Conservation and Development;**

- c. Is consistent with the comprehensive plan of zoning for the town; and
- d. Will not adversely affect public health, welfare, safety, and property values.

Town Planner LaFountain confirmed that, should the Applicant like to grow and expand their business outside of the approved limitations, they will need to present their amended proposal to the Commission. In response to Commissioner Sullivan regarding the parking conditions, Town Planner LaFountain suggested the possibility of modifying and further clarifying the motion. The motion was amended as follows:

M/S/C: Fontneau/Sullivan, to approve Application ZMA 21-01: Aaron and Liz Syman, 279 Buckley Road, Salem, CT, to apply the Special Agriculture Zone to 279 Buckley Road for the purpose of permitting a retail store for products at their farm and host farm-related events and classes. The Commission also grants a waiver for the required Traffic Study and Lighting Plan. The approval includes the limitation of 18 parking spaces in the designated areas, as indicated on the site plan, and the event capacity to 25 individuals. Discussion: The Commissioners agreed that the proposed Application meets the intent of the Zoning Regulations and is in line with the town's POCD. Voice vote, 6-0, all in favor.

7. OLD BUSINESS

a. Plan of Conservation and Development (POCD) Survey Finalization

The Commissioners reviewed and approved the Survey by section. It was noted that the headings, which were included in the draft for organizational/discussion purposes, will not be included in the final survey.

M/S/C: Smith/Fontneau, to approve questions 1 to 9 of the proposed POCD Survey, with the following amendment:

- 2. How long do you plan to ~~live~~ stay in Salem?**

Discussion: Option (a) in Question 4 will not be included in the final electronic survey. There will be no limitation to the number of words and/or characters for the response. Voice vote, 6-0, all in favor.

Chairman Smith recited the letter sent by Sue Spang, Hartford Road, expressing her concerns with the trajectory and conversation surrounding the survey questions. She questioned the inclusion of 17 demographic-related questions and 11 questions directly related to the objective. She felt that the Commission's discussions related to homeschooling and religious/church issues may be unrelated to the POCD. With respect to her statement that, "out of all the demographic questions asked, nowhere does it ask if the person filling it out is a resident.", the Commission agreed to add the following option to question 1:

1. How long have you lived in Salem?

- a. 0 – 5 years
- b. 6 – 10 years
- c. 11 – 19 years
- d. 20 + years
- e. *I do not live in Salem*

Ms. Spang also refers to CT General Statutes Section 8-23(d), regarding the inclusion of education, which, she felt relates to public education. In response, Chairman Smith cited §8-23(d)(8), which states that “committee shall consider the following: “... (8) the needs of the municipality including, but not limited to, human resources, education, health, housing,...” The item, he stated, does not specify the type of education. In response to her comment regarding the distribution of the survey, Chairman Smith stated that the questionnaire will be distributed town-wide and will seek to engage the aid of the various boards, commissions, and organizations with whom the Commissioners are working to help inform and encourage the public to respond to the survey.

M/S: Smith/Volberg, to approve question 10 of the proposed POCD Survey.

Discussion: Extensive discussion was held regarding the question.

Commissioner Volberg proposed either adding all of the alternative school options or deleting the latter part of the question so as to eliminate any perceptions. The motion was amended.

M/S/C: Smith/Fontneau, to amend and approve question 10 of the proposed POCD Survey as follows:

10. Should Salem do more to encourage *awareness of* school choice options ~~such as homeschooling~~?

Discussion: Commissioner Khan-Bureau stated that, while she prefers the amended question, she finds the question unnecessary and unrelated. Voice vote, 5-1. Voting in Favor: Commissioners Fontneau, Gadbois, Sullivan, Volberg, and Smith. Voting in Opposition: Commissioner Khan-Bureau.

M/S/C: Smith/Volberg, to approve questions 11-19 of the proposed POCD Survey.

Discussion: None. Voice vote, 6-0, all in favor.

M/S/C: Smith/Sullivan, to approve questions 20-23 of the proposed POCD Survey, with the following amendment:

21. How many *different* Salem businesses do you patronize in an average month?

Discussion: None. Voice vote, 6-0, all in favor.

M/S/C: Smith/Sullivan, to approve questions 24-26 of the proposed POCD Survey, with the following amendment:

24. Where in Salem would you like to see more ~~commercial~~ *business* development occur?

Discussion: Discussion ensued regarding commercial vs. industrial developments. Because question 24 appears to be a follow-up to question 23, Commissioner Volberg proposed changing the term commercial to business. Voice vote, 6-0, all in favor.

M/S/C: Smith/Volberg, to approve questions 27-28 of the proposed POCD Survey.

Discussion: In response to Chairman Smith who questioned the exclusion of the number of bedrooms in the responses, Town Planner LaFountain stated that, because the Commission's consensus was unclear on the item, the proposed addition was excluded. The Commissioner agreed with Commissioner Fontneau's comment regarding the need to acknowledge accessory apartments that are allowed as single-family units on a lot with a single-family home and amended the question as follows:

28. What types of housing would you prefer more of in Salem? Select all that apply.

- a. Single family with large lots (2 Acres)
- b. Single family with smaller lots (-2 Acres)
- c. Accessory apartment in ~~single-family homes~~ *residential zones*
- d. Duplex/Two-family houses
- e. Rental apartments up to 50 units
- f. Condominiums of up to 50 units
- g. Senior/Age-restricted housing
- h. Affordable housing for all ages
- i. Other: _____

Voice vote, 6-0, all in favor.

M/S/C: Smith/Volberg, to approve question 29 of the proposed POCD Survey.

Discussion: None. Voice vote, 6-0, all in favor.

Commissioner Volberg exited from the meeting due to technical difficulties at 9:10 p.m.

M/S/C: Smith/Khan-Bureau, to approve question 30 of the proposed POCD Survey.

Discussion: None. Voice vote, 5-0, all in favor.

M/S/C: Khan-Bureau/Gadbois, to approve question 31 of the proposed POCD Survey. **Discussion:** None. Voice vote, 5-0, all in favor.

Commissioner Volberg re-entered the meeting at 9:12 p.m.

M/S/C: Smith/Gadbois, to approve question 32 of the proposed POCD Survey, with the following amendment:

- 32. Considering the ongoing reductions in State education funding, should Salem explore regional opportunities for sharing some school central office functions like superintendent, finance office positions, ~~et~~ *et* etc., to maintain education quality and control increasing budgets?**

Discussion: None. Voice vote, 6-0, all in favor.

M/S/C: Smith/Volberg, to approve question 33 of the proposed POCD Survey.

Discussion: None. Voice vote, 6-0, all in favor.

M/S/C: Smith/Fontneau, to approve question 34 of the proposed POCD Survey, with the following amendment:

- 34. Is there anything else you would like to add *about the direction you see Salem moving in, or a direction that you would like to see Salem move in, on any issue?***

Discussion: None. Voice vote, 6-0, all in favor.

With respect to Ms. Spang's comment regarding the possibility of adding more questions, the Commissioners felt that the revisions are adequate and any additional comments the respondent might have can be covered in the final question. The survey may be completed multiple times from the same computer, allowing all of the household members to complete the survey. Chairman Smith will confer with the First Selectman regarding the possible inclusion of an optional question allowing the respondent to enter their e-mail address to receive updates which would jeopardize the anonymity of the respondent. Commissioner Fontneau reminded the Commission that the purpose of the survey is to obtain input from the residents, the results of which will be utilized by the Commission as a guide as they update the POCD.

- c. Executive Session for Pending Litigation: Town of Salem Planning & Zoning Commission, et al. v. 45 Forest Drive, et al, KNL-CV-21-6049745

M/S/C: Smith/Fontneau, to enter into Executive Session for the purpose of discussing the pending litigation between the Town of Salem Planning & Zoning Commission, et al v. 45 Forest Drive, et al (Docket No. KNL-CV-21-6049745) at 9:34 p.m. Discussions to include the Planning & Zoning Commission and Town Planner La Fountain. Discussion: None. Voice vote, 6-0, all in favor.

M/S/C: Smith/Khan-Bureau, to exit from Executive Session at 9:35 p.m. Discussion: None. Voice vote, 6-0, all in favor.

8. ZONING ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT – no report

A copy of the letter from the U.S. Army Corps of Engineers, dated March 26, 2020, regarding the violation at 76 Shingle Mill Road was received by the Commission.

9. TOWN PLANNER REPORT

Town Planner LaFountain reminded the Commissioners that the Public Hearing regarding the Riparian Corridor Overlay Zone regulation amendments will be held on March 16. The Eightmile River Wild & Scenic Watershed Committee, with whom he recently met and discussed the regulation amendments, seemed agreeable with the revised regulation. He commended the Commission on their hard work and efforts.

10. CORRESPONDENCE:

- a. David Bingham, White Birch Road, regarding the Affordable Housing Plan. He stated that while his suggestion to expand the accessory apartment regulation to allow for two single-family residents, by right, would provide the opportunity for more affordable housing units, it may not meet the State's definition unless deed restrictions are placed on the property, which is unlikely. In addition, the possibility of new developments is limited due to the town's lack of public water and sewer. As such, he concludes that the only way the town could ever meet the State's affordable housing goals is to either (1) "change the State definition to include other de facto affordable units to prove Salem actually meets the standard" or (2) "create a Town or regional Affordable Housing Land Trust, possibly through SCCOG.
- b. A copy of a letter of resignation from Commissioner Walsh, effective January 16, 2021.

11. PUBLIC COMMENT: *none*

12. PLUS DELTAS:

Commissioner Fontneau commented on the constructive criticisms and input that the Affordable Housing Plan and POCD Survey has generated.

13. ADJOURNMENT

**M/S/C: Khan-Bureau/Volberg, to adjourn the meeting at 9:41 p.m. Discussion: None.
Voice vote, 6-0, all in favor. Meeting adjourned.**

Respectfully Submitted by:

Agnes T. Miyuki, Recording Secretary for the Town of Salem