

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, FEBRUARY 18, 2020 – 7:00 P.M.
SALEM TOWN HALL – CONFERENCE ROOM 1**

PRESENT

Vernon Smith, Chair
John Gadbois, Vice Chairman
Thomas Reith
Ruth Savalle
Walter Volberg
Carl S. Fontneau, Alternate (*seated*)
Diba Khan-Bureau, Alternate (*seated*)
Jon Walsh, Alternate

ABSENT

Margaret Caron, Secretary
Eric Wenzel

ALSO PRESENT

Town Planner Justin LaFountain
Zoning & Wetlands Enforcement Officer
(ZWEO) Matthew Allen
Selectwoman Liaison Terri Salas

1. CALL TO ORDER

Chairman Smith called the meeting to order at 7:02 p.m.

2. PLEDGE OF ALLEGIANCE

SEATING OF ALTERNATE(S):

Alternate Commissioners Fontneau and Khan-Bureau were seated for Commissioners Wenzel and Caron, respectively.

Chairman Smith welcomed Commissioner Volberg to the Commission.

3. PUBLIC COMMENT:

David Bingham, 50 White Birch Road, spoke with regards to the 2022 Planning of Conservation and Development (POCD) (item 9(b)) and the Riparian Corridor Overlay Zone (RCOZ) regulation (item 6(a)). Dr. Bingham, a former member of the Commission, spoke of the environmental changes – from the flooding of rivers, reduction in wildlife, growth of invasive plant species, and loss of trees – he has witnessed over the 75 years he has resided in the Town of Salem and spoke of the importance of caring for the Town's natural areas. He proposed the possibility of changing the name from the RCOZ to Stream Corridor Overlay Zone regulation to ensure that people are aware and understand that the regulation is in place to protect the Town's streams and forests. The Commission's strict enforcement of the regulations would make a big difference in preventing the sprawl, which is the primary reason the State of Connecticut consumes so much more energy per capita than in the past. He urged the Commission to keep the importance and effects of any changes they make to the regulations in mind and do their part to provide a carbon sink and protect our natural environment and the Town's rare and unique watershed.

Chairman Smith stated that he is also in receipt of his letter, which he keeps with his papers. He, along with Commissioner Khan-Bureau thanked Dr. Bingham for his comments.

4. PUBLIC HEARING: *none*

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

a) Regular Meeting Minutes: January 21, 2020

M/S/C: Fontneau/Reith, to approve the Regular Meeting Minutes of January 21, 2020. Discussion: None. Voice vote, 6-0-1. Voting in Favor: Commissioners Fontneau, Gadbois, Reith, Savalle, Smith, and Volberg. Voting in Opposition: None. Voting in Abstention: Commissioner Khan-Bureau.

6. OLD BUSINESS

a) Continued Riparian Corridor Overlay Zone (RCOZ) Discussion

At the request of Chairman Smith, Town Planner LaFountain created a draft of suggested revisions to the RCOZ regulation for review and discussion.

In an effort to propose changes that would make the regulation more cohesive and accomplish the same goal(s), Town Planner LaFountain stated that he reviewed and made adjustments to the regulations that would better align with those of the towns of East Haddam and Lyme. He also eliminated those items that would be difficult to enforce as well as any contradictory items. For example, he eliminated the prohibition of removing “healthy trees four (4) inches in diameter or greater” (Section 25A.4.2), which is difficult to enforce and is not included in either of the other regulations; and a section related to fences, which conflicts with an earlier permitted use (deleted from Section 25A.5.1.e as it is noted in Section 25A.4.2.e). Other changes include as-of-right activities, e.g., “fire prevention activities and emergency operations necessary for public safety and protection of property.” (Section 25A.4.2(d)); activities that are regulated in other sections of the regulations (redundant regulations), and; “encouraged” items, which are not enforceable and would be more appropriate in a separate, informative brochure.

Commissioner Fontneau reiterated his earlier concerns regarding the need to make the regulation(s) enforceable. The current regulation requires the ZWEO to determine the original state of the land, which is extremely difficult. As such, he felt that the regulation would be more effective and easier to enforce if standards are established of what the land should be, rather than how it once was. In addition, Commissioner Fontneau, upon reviewing the zoning map, found that the RCOZ also appears to be identified as the Aquifer Protection Zone. In response, ZWEO Allen stated that there appears to be some discrepancy with the maps. For example, he recently discovered that certain watercourses within the Town’s GIS (Geographic Information System) are mistakenly identified as part of the RCOZ. That being said, the RCOZ regulation does refer to a specific map, which can be found in the Town’s Land Records and online. The map that Commissioner

Fontneau may be referring to is also available online and is a map reflecting the Aquifer Protection Zones and is referred to in Section 25B, Aquifer Protection Overlay Zones.

ZWEO Allen explained that the wetlands regulations are, by State law, exempt from regulating agricultural uses, which carries a broad definition. As such, the wetlands regulations are unable to protect the Eightmile River Watershed. This is not the case with zoning regulations and is the primary reason behind its inclusion in the Town's Zoning Regulations. He explained that, in situations where the text conflicts with each other, it is jurisprudential to apply the more stringent of the two rules. One of the reasons to revise the regulation is to eliminate the contradictions and to clarify some of the terminology, making it more easily enforceable and understandable to the general public.

In response to Commissioner Fontneau, the Commissioners stated that no RCOZ violations have come before the Commission to date. Chairman Smith added the reason for the revision is not due to the fact that any violations or issues have been raised regarding the regulation; in order for one to respect the rules and regulations, one must first understand the rules/regulations, thereby, making it easier to enforce. Commissioner Khan-Bureau reminded the Commission that the Town voted for the Eightmile River to be federally designated as a Wild & Scenic River and the Commission, at that time, created the best regulation they could in an effort to protect the Watershed. She agreed with the name change, maintaining its original intent, and eliminating any contradictions and clarifying the regulation. Chairman Smith stated that the Commission supports the RCOZ regulation and the protection of the Watershed; the goal of the Commission is to merely clarify it and examine other considerations.

7. NEW BUSINESS

a) Commission Budget for 2020/2021 Fiscal Year.

Chairman Smith proposed presenting a flat budget, with the understanding that, should the Commission need any additional funds, they could return to the Board of Finance. Discussion ensued regarding the inclusion of any expenses related to the POCD, e.g., legal notices, printing costs. Depending upon the process upon which the Commission decides, the cost would vary. With regards to any GIS mapping needs, Town Planner LaFountain stated that, in the past, the Town has worked with the SCCOG's (Southeastern Connecticut Council of Governments) GIS Coordinator, who, to the best of his knowledge, has not billed the towns for her services to date. The Town's current online GIS Mapping is done by New England GeoSystems, LLC, and a separate online regional viewer is also available. Commissioner Savalle reiterated her discovery that the part of the GIS mapping system and legal notices were being signed off by others when it is the Chair's responsibility to sign off on any expenses incurred within their budget. The Commissioners agreed to request an additional line item for the POCD, with an allocation of \$400.00.

M/S/C: Khan-Bureau/Savalle, to approve the FY 2020/21 Planning & Zoning Commission Budget with the following addition, bringing the Department total of \$14,900.00:

2022 Planning of Conservation & Development (POCD) \$400.00

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

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

ZWEO Allen reported that he is in the process of drafting a comprehensive report for the Commission. The two (2) major and pressing zoning matters are:

45 Forest Drive (former Boy Scout Camp) – The property is located on Gardner Lake and is currently being utilized as, in their words, “a resort”, which is an unpermitted use in Rural Zone A. The owners have not applied for any permits with any of the relevant agencies. The matter has been discussed with the Public Works Director, Fire Marshal, and Uncas Health District and it was agreed that the fundamental underlying violation lies with the Zoning Department. As such, a Notice of Violation followed by a Cease & Desist Order were issued, neither of which have been responded to. A Notice of Violation has been recorded on the Land Records and the matter has been referred to the Town Attorney. The cost for the legal services will be paid for through the Commission's budget.

76 Shingle Mill Road – Due to the death of a non-inoculated horse from EEE (Eastern Equine Encephalitis) on their property, the owners, after conducting some research on ways to control the mosquito population, proceeded to clear part of their property. The property is bordered to the east by Shingle Mill Brook, which is part of the RCOZ, resulting in both a wetlands and zoning violation. Following the protocol, the wetlands violation is being handled first. Following the issuance of a notice of violation, the owners appeared before the Inland Wetlands and Conservation Commission (IWCC), a site walk took place, and the owners hired a surveyor and a certified professional, who presented a preliminary restoration plan to the Commission. Approximately one (1) acre of wetlands, including approximately 1,000 linear feet of the protected zone, was disturbed. No immediate remediation activity is taking place due to the winter season. It is estimated that the restoration process will take at least two years and its progress will be monitored, as necessary. The final restoration plan will require the approval by both the Inland Wetlands and Planning & Zoning Commissions.

9. TOWN PLANNER REPORT

a) Animal Keeping Regulations

ZWEO Allen commented on the issue(s) that he has been confronted with regarding the Town's animal keeping regulations. The confusion arises when the Regulations allow the keeping of livestock, without limitations, in the rural zones, but place strict limitations on

the number and types of animals that are allowable in the Special Agriculture Overlay Zone. He felt that certain areas, e.g., residential and commercial zones, might require the more stringent regulation whereas the rural and agricultural zones may not. He is requesting clarification within the regulations stating those areas in which the Special Agricultural Zone applies and where it does not so as to avoid needlessly adversely affecting any current or future residents. Because the Special Agricultural Zone is a floating zone, there are no such designated zones unless an applicant has submitted an application and has come before the Commission for that particular designation.

At the request of Chairman Smith, Town Planner LaFountain will draft the verbiage to be added to the regulation for the Commission to review. The Commission might also like to consider eliminating the specific limitations regarding the number of animals that are allowable that is included in the Special Agricultural Zone, which most of the surrounding towns do not have. Town Planner LaFountain will question the Uncas Health District regarding any concerns they might have regarding the elimination of such limitations and/or any unintended consequences that might arise. He will also contact the Connecticut Department of Agriculture (DOAG), who also regulates the keeping and raising of livestock.

In response to Commissioner Fontneau regarding the selling and/or advertising of meat products that are not produced on the property, ZWEO Allen referred to Section 4.1.4 which states that the sale of “such products are grown or made on the premises or on land under the same ownership and within the Town of Salem.”

b) 2022 Plan of Conservation and Development (POCD)

Town Planner LaFountain reiterated his recommendation that the Commission begin discussing the process that they would like to take in the updating of the 2022 POCD.

c) Commissioner Training Opportunity – UCONN CLEAR

A two-day Land Use Academy Basic Training, sponsored by The Southeastern Connecticut Council of Governments (SCCOG), will be held on Wednesday, April 29 and Wednesday, May 13 at 7:00 p.m. at the SCCOG in Norwich. The classes are provided by Bruce Hyde, AICP, Land Use Academy Director from the UConn Center for Land Use Education and Research (CLEAR). The topics will be “Land Requirements & Procedures; Roles & Responsibilities” and “Fundamentals of Reading Plans”.

In response to Commissioner Fontneau, Town Planner LaFountain stated that the Town of Salem is under the MS4 Stormwater Management Zone and all towns that meet the criteria are responsible for updating their regulations. He will investigate the specific criteria, which was recently revised.

10. CORRESPONDENCE: *none*

11. PUBLIC COMMENT:

David Bingham proposed the possibility of:

- creating new/revised maps to ensure that the property lines are accurate and clearly delineated, which would be helpful.
- just as the Town's RCOZ regulation protects the Eightmile Wild & Scenic River, equally protecting the all of the waterways located in the eastern side of the town that travel into Latimer Brook and into the Niantic Bay as well as those located in the northeast corner of town that leads into the Deep River Reservoir, which provides drinking water for the Town of Norwich.
- creating a regulation regarding logging, which is included in the RCOZ regulation
- considering the inclusion of funds for the production and mailing of a town-wide survey as well as the hiring of an outside specialist to provide a third party review in their POCD line item.

12. PLUS DELTAS:

Commissioner Khan-Bureau announced that Three Rivers Community College offers two classes that might be useful to the Commissioners, a Geomatics class and Geospatial Analysis classes, both of which covers surveying, mapping, GIS, and drones.

13. ADJOURNMENT

M/S/C: Gadbois/Reith, to adjourn the meeting at 8:37 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