

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, MARCH 8, 2022 – 7:00 P.M.
SALEM TOWN HALL – CONFERENCE ROOM 1**

PRESENT

Vernon Smith, Chair
Carl S. Fontneau
Diba Khan-Bureau
Jennifer Lindo
Walter Volberg
Gary Closius, Alternate (*seated*)
Dave Knopf, Alternate (*seated*)

ABSENT

John Gadbois, Vice Chairman
Thomas Reith
Steven Shelley, Alternate

ALSO PRESENT

Town Planner Justin LaFountain

1. CALL TO ORDER

Chairman Smith called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

Alternate Commissioners Closius and Knopf were seated for Commissioners Gadbois and Reith, respectively.

3. PUBLIC COMMENT: *none*

4. PUBLIC HEARING: *none*

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

a. Regular Meeting Minutes: February 22, 2022

M/S/C: Volberg/Knopf, to approve the Planning & Zoning Commission Regular Meeting Minutes of February 22, 2022. Discussion: None. Voice vote, 5-0-2. Voting in Favor: Commissioners Fontneau, Khan-Bureau, Knopf, Volberg, and Closius. Voting in Opposition: None. Voting in Abstention: Commissioners Lindo and Smith.

ALTERATIONS TO THE AGENDA:

M/S/C: Fontneau/Smith, to move Items 6, Old Business, and 8, Zoning Enforcement Officer's Report/Inland Wetlands and Conservation Commission Report to precede Item 5, Approval of Minutes. Discussion: The item numbers will be re-numbered accordingly. Voice vote, 7-0, all in favor.

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

Zoning and Wetlands Enforcement Officer (ZWEO) Matt Allen reported on the following violations:

45 Forest Drive

Violation: Non-permitted Use

Status: The violation is currently in litigation and should only be discussed with the Town Attorney during Executive Session

The Notice of Foreclosure sign that was placed in front of the property was misplaced and refers to a property located on Old Colchester Road.

79 Shingle Mill Road

Violation: Eightmile River Watershed Overlay District
(*Violation of both Zoning & Wetlands Regulations*)

Status: The owners cleared the area around and along a stream, which is part of the Eightmile River Watershed Overlay District. Per the Zoning Regulations, the area of the violation is limited to within 100 feet of the stream edge. The Inland Wetlands & Conservation Commission issued a Notice of Violation and, as part of the process, notified the Army Corps of Engineers. After reviewing the violation, the Army Corps issued a Notice of Violation in March 2020. The property owners retained the services of REMA Ecological Services, LLC, which conducted an assessment of the damage and developed a restoration plan which was approved by the Army Corps. The restoration of the property began in Summer 2020. To the best of his knowledge, the wetlands soils were replaced, anti-erosion methods were established, and plantings and seed mixes of native species were successfully planted. According to the report drafted by REMA Ecological Services, dated October 2020, the area has been successfully restored and no additional issues were reported. The area continues to be monitored.

Size of area in question (Chairman Smith) – Approximately 1.5 to 2 acres of the 15-acre property was disturbed.

Resolution of Violation (Commissioners Closius and Fontneau) – Three (3) violations have been issued – Army Corps of Engineers, Inland Wetlands Commission, and Zoning Commission – none of which have been resolved to date. The property owner(s) are cooperating and the proposed restoration plan was approved by the Army Corps and, subsequently, instituted. Such restorations can continue for many years as the new wetlands soils and plantings establish themselves. The restoration has been successful to date.

There are various ways in which the violations are closed out, including the issuance of a Certificate of Compliance. Violations need not be closed out. It is expected that the violation will be eventually eliminated. Ecological restorations are open-ended and discretionary.

Harris Brook Bridge (Commissioner Fontneau)

The footbridge, which is located within the Eightmile River Watershed Overlay District, does not rise to the threshold of the Commission and is a permitted activity, per the Regulations. Similarly, the bridge does not require a Section 8-24 Review as it is not deemed a “significant improvement of Town property”. It was noted that what is considered “significant” is discretionary.

ZWEO Allen stated that the Quarry & Campground Renewals will be forthcoming to the Commission for approval in the Spring.

Commissioner Fontneau requested that a monthly report regarding any activities that might be of interest to the Commission be submitted.

7. NEW BUSINESS

- a. **SE 22-01: Special Exception and Site Plan application to construct a 3-unit multi-family development at 116 Old Colchester Road. The property is zoned Rural A, with a portion zoned Commercial Recreation. This application is to be scheduled for a public hearing.**

Town Planner LaFountain reported that the application has been withdrawn due to an inconsistency in the Town’s Zoning Regulations for multi-family developments. Section 2 of the Regulations provides two conflicting definitions:

Dwelling, Multiple family - a building which contains three (3) or more family units.

Multiple Family Dwelling Project - two (2) or more buildings on one (1) lot, all of which contain, in the aggregate, three (3) or more family units.

Section 15 – Multi-Family Dwellings, of the Regulations aligns with the definition for a Multiple Family Dwelling Project.

Section 3.3, Building on a Lot, states that:

Not more than one (1) principal building shall be permitted on any single lot, except in the case of multi-family units,.... (10/01/01)

Following the latter definition, the applicant submitted a site plan containing three (3) buildings with one (1) unit each.

Discussion ensued regarding the two definitions and the use of the term, “aggregate”. Commissioner Lindo felt that the Commission should review the history behind the definitions for a better understanding of the Commissioners’ reasoning at the time of adoption. The terminology could result in the allowance of several units on one property.

In addition, the terms “project” and “dwelling” do not coincide. One possible solution to help clarify the regulations is to remove one of the definitions, i.e., Dwelling, Multiple-family. The Commission was also reminded of their past discussions regarding amending their regulations and eliminating the requirement for additional land for duplexes.

Discussion also ensued regarding the terms Special Exception and Special Permit, which are interchangeable. A Special Exception or Special Permit is an activity that is allowable under certain specific conditions. It was explained that single and double-family units are considered an as-of-right and reviewed and approved by the Zoning Officer. Applications for buildings containing more than two dwelling units must apply for a Special Exception Permit and is reviewed and approved by the Commission. The Commission may consider changing the terminology from Special Exception to Special Permit for clarity.

A copy of the conflicting sections will be provided to the Commission for review and discussion.

6. OLD BUSINESS:

a. Plan of Conservation and Development (POCD)

Chapter 3 – Natural Resources (Commissioner Khan-Bureau)

Commissioner Khan-Bureau stated that the Inland Wetlands and Conservation Commission (IWCC) reviewed, discussed, and updated Chapters 3 and 4 of the POCD during their recent meeting. Sustainability principles as outlined in one of the Sustainable CT Action Steps were integrated into the section(s).

Town Planner LaFountain explained that Sustainable CT is a State-sponsored certification program for towns. Points are earned through the accomplishment of various actions that lead to the receipt of a bronze or silver medal. This is the Town’s inaugural year in the program.

Commissioner Fontneau questioned the relevancy of the following recommendation to the Town of Salem:

- 1.5.5 **Recommendation:** Develop Low Impact Development policies and guidelines consistent with the EPA’s/CT DEEP’s Small Municipal Separate Storm Sewer Systems (MS4) requirements which satisfy the six minimum measures.

Commissioner Khan-Bureau stated that, while it might not be applicable at the present time, it could be relevant in the future. Chairman Smith stated that, in reviewing the document, he felt that many of the items are not relevant to a small town, present or future. The following change was proposed:

- 1.5.5 **Recommendation:** ~~Evaluate Develop~~ Low Impact Development policies and guidelines consistent with the EPA’s/CT DEEP’s Small Municipal Separate Storm Sewer Systems (MS4) requirements which satisfy the six minimum measures.

References to the town as “we” will be changed to “Salem”.

Chapter 4 – Agriculture & Forestry (Commissioner Khan-Bureau)

The following amendments were suggested:

2nd Paragraph, 2nd sentence:

Consideration needs to be placed on sustainable agriculture and forestry because of the *possible* implications of climate change. The impacts ~~will~~ *may* include ~~stronger rain events~~, wind, a hotter climate, and stronger storms, *including rain and snow events*, that will add to a higher infestation of...

Commissioner Fontneau expressed his disappointment with the exclusion of his comments and suggestions and volunteered to draft an alternative version of the chapters.

The goals and objectives will be re-formatted and the responsible parties and priority numbers will be added to the sections.

Chapter 3 – Town Infrastructure and Services (Commissioner Closius, Fontneau & Lindo)

Commissioner Lindo stated that she incorporated Commissioner Closius’ suggestions with Commissioner Fontneau’s original draft and expanded the document with information received by the First Selectman and Tax Assessor. The chapter is not complete as she is awaiting the receipt of additional information. She is also hoping to meet with the Public Works Foreman regarding the town’s upcoming projects and plans to contact the Uncas Health District and/or SCWA (Southeastern Connecticut Water Authority) to obtain additional information. She briefly reviewed the amendments.

Commissioner Fontneau expressed his appreciation to Commissioners Closius and Lindo for their contributions to the chapter. He also proposed including an aerial photograph of the Town Center and stated his plans to provide additional comments.

Town Planner LaFountain recommended adding the following sentence to fulfill one of the ten items the POCD must include, per State Statutes:

There are no sewage treatment plants or piping in the Town of Salem nor are there any plans for sewer lines.

Commissioner Fontneau felt that the Commission should identify the use(s) of the old Library to ensure that it aligns with the property’s deed restrictions and complies with the Zoning Regulations before including it in the POCD. He also questioned whether the project requires a Section 8-24 Review.

Commissioner Lindo expressed her dismay with the conversations that are being held between the Chairman, Town Planner, and select Commissioners that are not shared with the Commission. Chairman Smith explained that the conversations were not private and are being discussed/disclosed at this time. Town Planner LaFountain also reminded the Commission not to “reply all” when responding to an e-mail that is shared to the entire

Commission as it could easily evolve into a conversation constituting a meeting and violating the FOIA (Freedom of Information Act) laws.

9. TOWN PLANNER REPORT

Town Planner LaFountain recommended the Commissioners attend an upcoming Virtual Public Information Meeting regarding the Route 85 Improvement project. The project will address some of the items they have been discussing. Additional information, including a link to the meeting, is available on the town website. Commissioner Lindo will e-mail a more detailed set of plans to the Commissioners.

10. CORRESPONDENCE

- a. A copy of a letter drafted by Town Planner LaFountain for the First Selectman regarding the waiver for the POCD.

11. PUBLIC COMMENT – *none*

12. PLUS DELTAS

Town Planner LaFountain reminded the Commission that the Connecticut Federation of Planning & Zoning Agencies will be hosting their annual meeting on March 25 during which a guest speaker is scheduled to discuss the State's recent Legislative changes. Any Commissioners interested in attending the meeting may contact him.

Commissioner Fontneau suggested the Commission allocate their remaining funds to purchase Atty. Mike Zizka's newly revised book, which is expected to be published in the very near future.

13. ADJOURNMENT

M/S/C: Lindo/Knopf, to adjourn the meeting at 8:49 p.m. Discussion: None. Voice vote, 7-0, all in favor.

Respectfully Submitted by:

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