

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, JANUARY 24, 2023 – 7:00 P.M.
SALEM TOWN HALL – CONFERENCE ROOM 1**

**The minutes submitted below have been filed in accordance with
Section 1-225 of the CT General Statutes. They are subject to final approval
with or without amendments by a vote of the Planning & Zoning Commission.
Approval and any such amendments will be detailed in subsequent minutes.**

PRESENT

Vernon Smith, Chair
John Gadbois, Vice Chairman
Carl S. Fontneau
Diba Khan-Bureau
Jennifer Lindo
Walter Volberg
Gary Closius, Alternate (*seated*)

ABSENT

Thomas Reith
Dave Knopf, Alternate
Steven Shelley, Alternate

ALSO PRESENT

Town Planner Nicole Haggerty

1. CALL TO ORDER

Chairman Smith called the meeting to order at 7:03 p.m.

2. PLEDGE OF ALLEGIANCE

Alternate Commissioner Closius was seated for Full Commissioner Reith.

3. PUBLIC COMMENT: *none*

4. PUBLIC HEARING:

- a. SE 22-03 Getty Granite.** Application for a Special Exception and associated Site Plan to expand existing stone processing areas at 120 East Haddam Road. Site Plan modifications also include expanding outdoor retail and storage areas, and the construction of a 1,000 square foot sales showroom building.

**M/S/C: Fontneau/Khan-Bureau, to open the Public Hearing regarding SE 22-03
Getty Granite. Application for a Special Exception and associated Site
Plan to expand existing stone processing areas at 120 East Haddam Road.
Discussion: None. Voice vote, 7-0, all in favor.**

Wes Wentworth, P.E., Soil Scientist, Wentworth Civil Engineers, LLC, presented the application on behalf of the Owners/Applicants. The proposed application includes an interior showroom (front), an exterior showroom and storage/warehouse area (west side), and an indoor and outdoor stone processing area with a stone guillotine (rear) on

a 57.2-acre property. The east and west sides of the existing building are wooded. Currently, showings the customers, the equipment, the storage area, the showroom, and the warehouse are interacting with each other and creating a precarious situation. The goals of the project are to improve the safety of the public by relocating, expanding, and separating the public and storage/inventory areas. The project is expected to be completed in approximately 1-1/2 to 2-1/2 years, depending upon the weather, and will be divided into three phases:

- Phase I: Expansion of the outdoor processing area with additional equipment, including the construction of concrete pads upon which equipment will be placed and the installation of utilities. All, but one of the concrete pads, which will measure 20' x 80', will measure 25' x 25'. The area is located in the rear of the property and will not be visible from the street. The Applicants/Owners requested the possibility of adding year-round canopies comprised of four (4) poles and a flat corrugated metal or steel roof over the concrete pads to protect the employees and equipment from the natural elements. The coverings will be open on all four (4) sides. A Building Permit application will be submitted for approval. The item may be included as one of the Application's Conditions of Approval.
- Phase II: Expansion of the outdoor warehouse on the west side of the property for finished products (would not be open to the public). The area will be cut and filled and a temporary sedimentation basin, directing all flows to the area for treatment during construction, will be installed.
- Phase III: Construction of a 24' x 12' indoor showroom on the east side of the property; the remaining area will consist of an outdoor showroom area. Similar to Phase II, swales and a temporary sedimentation basin, which will act as a silt trap, will be installed.

The application meets all of the requirements of the Salem Zoning Regulations. Per Sections 8.2.15 and 8.3.11 of the Salem Zoning Regulations, the business is currently selling building materials/supplies and processing/assembling raw materials or assembling parts for products sold on the premises. All of the uses currently exist on the property and the Owners/Applicants are seeking to modify, change or expand the site.

Stormwater Control (Commissioner Fontneau) – The property will be graded in two areas and the existing drainage patterns will be maintained. Additional drainage in the rear of the property towards Harris Brook is being avoided by creating a system that is designed to maximize the infiltration of stormwater into the ground by slowing down its velocity through the creation of a stone swale along the edge of the parking lot, using the existing rip-rap. The system meets and exceeds all of the requirements, per

CTDEEP's (Connecticut Department of Energy and Environmental Protection) *2004 Stormwater Quality Manual* and is conservatively designed. A professional judgment was made, determining that the system will accommodate, at minimum, a 25-year storm event. A long-term Maintenance Plan for the stormwater system, a list of the equipment that will be used for the project, and an estimation of the cuts and fills are included as part of the application.

Parking – The existing parking lot is located in the front of the property and includes 11 (eleven) parking spaces. An additional parking lot comprised of nine (9) spaces will be constructed near the outdoor showroom, for a total of 20 parking spaces. Each of the parking areas is separated, measures approximately one (1) acre or smaller, located at the highpoint of the drainage area, and includes large wetlands systems.

Use of Asphalt (Commissioner Khan-Bureau) – The driveway will consist of a 12” gravel base covered with 8” processed stone, creating a crushed stone-type driveway. No asphalt will be placed.

Quarry Expansion (Commissioners Smith & Fontneau) – Getty Granite is currently permitted to produce 11,000 tons of material. No additional quarrying beyond the excavation of the swales is anticipated.

Drainage Location (Commissioner Khan-Bureau) – The water will drain from the sedimentation basin into the wetlands where a filter berm is located along the property line to dissipate and level the flows. The system is designed such that very little stormwater will flow into the wetlands.

Sedimentation Prevention (Commissioner Khan-Bureau) – Staked hay bales and/or silt fences and wood chips will be placed to prevent and control sedimentation loss during construction.

Public Comments: *none*

Town Planner Haggerty confirmed that all of the requested information in her memo, dated August 10, 2022, have been satisfied.

Commissioner Fontneau stated that, though the stormwater calculations was excluded from the application, he finds the design to be sound, utilizes the correct source, and meets the regulations.

M/S/C: Khan-Bureau/Volberg, to close the Public Hearing regarding SE 22-03 Getty Granite. Application for a Special Exception and associated Site Plan to expand existing stone processing areas at 120 East Haddam Road. Discussion: None. Voice vote, 7-0, all in favor.

- b. Salem Planning and Zoning Commission** – Application requesting to amend Salem Zoning Regulations to add new Section 4.2.22, to allow firewood materials processing

by Special Exception in Rural Zone A.

M/S/C: Gadbois/Volberg, to open the Public Hearing for Salem Planning and Zoning Commission – Application requesting to amend Salem Zoning Regulations to add new Section 4.2.22, to allow firewood materials processing by Special Exception in Rural Zone A. Discussion: None. Voice vote, 7-0, all in favor.

Town Planner Haggerty provided a summary of the Application. The Commissioners reviewed, discussed, and edited the revised proposed text amendment during the December Regular Meeting. The edited text was reviewed by the SCCOG (Southeastern Connecticut Council of Governments) and RiverCCOG (Lower Connecticut River Valley Council of Governments) who found that there would be no negative inter-municipal impacts on the neighboring properties within their respective regions. In addition, the RiverCCOG stated that the amendment was consistent with the Regional Plan of Conservation and Development and provided the proposed amendment to the RiverCCOG Regional Agriculture Council (RAC), which expressed the following concerns:

Section A, Purpose Statement: Farmers are permitted to cut timber from their property and sell the firewood by right, per the state's "Right to Farm" Law (Connecticut General Statutes, Section 19a-341). A distinction should be made between where the timber derives; timber that is delivered to a farmer's property for processing would not be considered an agricultural use.

Section B.3, 500' Setback Requirement: The proposed setback requirement would eliminate nearly one acre of property and recommended it be decreased.

Based on additional research regarding the setback requirement and the varying shapes of properties located in the Rural A Zone, Town Planner Haggerty found that the setback requirement would significantly reduce the number of property owners who might wish to cut timber from and on their property for sale. Various considerations were provided to the Commissioners, including the possibility of measuring the setback from a neighboring dwelling, rather than the property line.

Public Comments:

Laura Smith, 157 West Road, expressed her hopes that the proposed setback of 500' (Section B.3) in the proposed text amendment would be adjusted to accommodate those properties that are uniquely shaped and/or smaller and situations in which the neighboring property is vacant, especially for the storage of wood.

William Martin, 104 Music Vale Road, President, Lions Club, recited a letter regarding the proposed text amendment. He felt that it was fatally flawed and could be considered an example of spot zoning. The regulation would cause the Lions Club, a not-for-profit organization, to cease its firewood program which provides firewood for the town's

residents, including seniors in need. The firewood is processed on his property, which is a narrow lot that would not meet the setback requirements (Section B.3). In addition, because most of the members of the Lions Club members work during the week, their activities are conducted during the weekend (Section B.1). He also questioned how many cords would be considered “limited” as stated in the Purpose (Section A). With respect to the noise issues, he stated that the community is subjected to numerous loud noises, including lawnmowers, leaf blowers, chainsaws, and the like — all of which are part of the town’s rural character and not constrained by the regulation. Approval of the text amendment, as presented, would significantly negatively impact the town’s residents, many of whom utilize firewood to heat their homes.

Chairman Smith clarified that the regulation would only affect commercial enterprises and would not apply to not-for-profit organizations. Commissioners Khan-Bureau and Lindo concurred. Chairman Smith also stated that the noise that emanates from lawnmowers, leaf blowers, chainsaws, and the like differs from firewood materials processing businesses in that the noise would be temporary rather than ongoing. Commissioner Fontneau proposed inquiring with the Zoning Enforcement Officer regarding whether he would consider a not-for-profit organization as a commercial enterprise that would need to adhere to the regulation. Commissioner Gadbois agreed.

Commissioner Lindo reminded the public that the application would affect all of the property owners residing in the Rural A Zone and not one particular property.

Frank Zeleznicky, 630 West Road, stated that the proposed setback would require him to move the existing barn to accommodate the firewood operation.

Carol Carlson, 630 West Road, stated that the proposed regulation came about as a result of one noise complaint that was made to the Zoning Enforcement Officer (ZEO). She noted that, aside from the complainant, there has not been one individual who has voiced their opposition to the processing of firewood for sale. She also felt that the 500’ setback that was determined by that of a dog kennel was faulty. The business owners do not work past 4:00 p.m., do not utilize large trucks, or generate an excessive amount of noise. As oil prices continue to rise, the importance of and need for firewood to heat their homes grows. Instituting regulations that would hinder or create a difficult process to be approved for such a simple operation would create a hardship for the residents.

Laura Smith, West Road, requested the definition of a commercial operation.

Chairman Smith stated that a commercial operation would be the processing of firewood for the purpose of resale to the public.

Stephen Len, 319 Witch Meadow Road, suggested the Commissioners visit the property and witness the activity, adding that they are “good people” who are working hard to make a living.

Sean Smith questioned why the ZEO is never present at their meetings, adding that the proposed setback would prohibit him from conducting his business on the property.

Chairman Smith stated that the ZEO has submitted a statement regarding the matter.

Commissioner Lindo reiterated that the text amendment is not specific to the original Applicants/Owners. While she understands their predicament, she stated that the proposed regulation should be viewed with respect to other possible scenarios and perspectives, adding that such noises could negatively affect those with neurological disorders. Also, the 500' setback was proposed as a starting point for discussion and is not finalized.

Laura Smith, West Road, expressed her understanding and reiterated that the 500' setback would result in the closing of their business and livelihood, adding that they have already lost a considerable amount of money.

On behalf of the Commission, Chairman Smith stated their understanding of their predicament and concerns regarding the setback. Commissioner Fontneau informed her of the possibility and ability of the Commission to deliberate and amend the regulation, making it less restrictive.

Carol Carlson, 630 West Road, stated that the inclusion of a barrier would also help reduce the noise.

Chairman Smith noted that Section B(4) states that the Commission may attach conditions, including requiring a buffering.

M/S/C: Closius/Volberg, to close the Public Hearing for Salem Planning and Zoning Commission – Application requesting to amend Salem Zoning Regulations to add new Section 4.2.22, to allow firewood materials processing by Special Exception in Rural Zone A. Discussion: None. Voice vote, 7-0, all in favor.

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

a. Special Meeting Minutes January 10, 2023

M/S/C: Khan-Bureau/Lindo, to approve the January 10, 2023 Planning & Zoning Commission Regular Meeting Minutes, with the following amendments:

Page 3, Final Paragraph:

Chairman Smith reported that...the survey questions were *im*properly worded.... *Chairman Smith responded that in his study of multi-questionnaires, it is very rare that all of the participants answer all of the questions, including election ballots.*

Page 2, Middle of Second Paragraph:

In comparison, the 2022 survey received 277 or 6.6% responses. This

was a similar response rate. Chairman Smith added that....

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

6. NEW BUSINESS:

- a. SE 22-03 Getty Granite** Application for a special exception and associated site plan to expand existing stone processing areas at 120 East Haddam Road. Site plan modifications also include expanding outdoor retail and storage areas, and the construction of a 1,000 square foot sales showroom building.

It was noted that, since the submission of the application, the showroom was reduced in the revised plans from a 1,000 SF building to a 12' x 24' or 288 SF building.

The Commissioners reviewed and discussed the Findings as stated in Section 11.4 of the Regulations, which the Application must satisfy:

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

Commissioner Fontneau and Khan-Bureau agreed that the Application is consistent with the objectives of the POCD. It also promotes rural economic development, and emphasizes one of the town's largest industrial activities.

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

The Commissioners agreed that the Application would not adversely affect the health and safety of the residents or workers in the area and/or be detrimental to the use or development of the adjacent properties or the neighborhood.

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

The Commissioners agreed that the proposed use would not affect through-traffic.

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

There would be no change in the traffic flow and additional parking will be added.

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

The proposed use will also improve the usability and pliability of the site.

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

The Application would meet the Finding in Phase III of the project by the establishment of an additional parking area.

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

In response to Commissioner Khan-Bureau who questioned whether any plantings are being proposed as part of the project, P.E./Soil Scientist Wentworth stated that there are no plans for plantings on the east side of the property; the area will return to its natural state along the banks. In addition, the abutting parcel is home to an existing pond, which also provides natural buffering. Commissioner Fontneau noted that the neighboring business is of similar use, provides additional buffering, and should have no impact.

- 11.4.8 The proposed use will meet any other special conditions for specific Special Exceptions as may be prescribed elsewhere in these Regulations.

The proposed use has been existing for several years and will be expanded.

The Commissioners discussed the inclusion of a condition for the canopies. Commissioner Closius stated that the structure should be structurally sound to withstand wind and storm events. A Building Permit will be required.

M/S/C: Fontneau/Lindo, to approve Application SE 22-03 Getty Granite.

Application for a Special Exception and associated site plan, dated July 14, 2022 and revised through January 17, 2023, to expand existing stone processing areas, outdoor retail and storage areas, and the construction of a 288 square foot sales showroom building at 120 East Haddam Road, with the following condition:

- 1. The Applicant shall obtain a Building Permit for the structures covering the concrete pads**

Voice vote, 7-0, all in favor.

A short recess was taken at 8:17 p.m. Chairman Smith resumed the meeting at 8:23 p.m.

- b. Salem Planning and Zoning Commission.** Application requesting to amend Salem Zoning Regulations to add new Section 4.2.22, to allow firewood materials processing

by Special Exception in Rural Zone A.

Chairman Smith recited the Town Planner's memo acknowledging the comments included in the letter from the RiverCCOG Regional Agricultural Council (RAC) and noting the following items the Commission might consider:

Purpose. A distinction should be made between timber that derives from the homeowner's property and is sold as firewood, which is allowed by right, and timber deriving from an outside source, which would not be considered an agricultural use.

Definition. The term "commercial" is not included in the code. As such, the dictionary definition is employed. The term is defined as a product that is produced for the purpose of retail or resale.

Setback. The RAC's suggestion to reduce the 500' setback requirement.

The Commissioners reviewed and discussed the proposed text amendment, especially centering on the setback requirements (Section B.3). Discussion included whether to require a setback from an existing dwelling rather than the property line, setting separate front, rear, and side setbacks; requiring buffering; potential effects on the neighboring property values; possible enforcement issues, and; requiring a separate setback for the storage of firewood. The existing dimensional requirements for standard lots for an accessory structure in the Rural A Zone are 50' front and rear yards and 25' side yard setbacks. The Commissioners discussed the possibility of reducing the setback requirements from 150' to 250' from either a neighboring residence or property line. Because the primary issue is the noise emanating from such an operation, the Commissioners agreed to reduce the setback requirement for materials storage to 100' for the front, side, and rear yards and wood materials processing to 250' front and rear and 175' for the side yard setbacks.

The Commissioners agreed to clarify and amend the following sections of the proposed text amendment for Section 4.2.22 as follows:

A. Purpose – To allow limited firewood materials processing for commercial sale, *not including the Right to Farm Law (C.G.S. 19a-341), which is intended to allow the cutting of timber on one's own property for sale or personal use.*

B. General Requirements

3. A minimum ~~500'~~ *250' rear and front yard setback and 175' side yard* setback requirement must be provided from all neighboring properties for all Firewood Materials Processing operations and a minimum ~~300'~~ *100'* setback requirement must be provided for materials storage.

M/S/C: Lindo/Khan-Bureau, to approve the Salem Planning and Zoning Commission – Application requesting to amend Salem Zoning

Regulations to add new Section 4.2.22, to allow firewood materials processing by Special Exception in Rural Zone A, effective in 30-days, as amended. Discussion: There will be a 14-day appeal period from the publication date of the Notice of Decision. In the interest of time, the original applicants may begin the application process for the Special Exception in the interim. Commissioner Fontneau reminded them that the Special Exception belongs to the property owner and property and not the individual(s) operating the business. Voice vote, 7-0, all in favor.

- c. **SD 23-01 – American Property Group Salem, Inc.** Subdivision Application for 496 New London Road for the creation of three lots. *Acceptance of application.*

Town Planner Haggerty stated that the Applicant is seeking the Commission's approval to subdivide a 54-acre lot into three lots. The site plan related to the property is contingent upon the approval of the subdivision. The submitted application is complete and, because the application was prepared by CLA Engineers, Inc., it will be reviewed by Nathan L. Jacobson & Associates for the town. It was noted that subdivision applications do not require a Public Hearing.

M/S/C: Lindo/Volberg, to accept Application #SD 23-01 – American Property Group Salem, Inc. Subdivision Application for 496 New London Road for the creation of three lots. Discussion: None. Voice vote, 7-0, all in favor.

- d. **SE 23-01 – American Property Group Salem, Inc.** Application for a Special Exception and associated site plan at 496 New London Road for a multi-family residential development proposing 24 – two-bedroom residential units. Each unit has one garage. *Acceptance of application and scheduling of public hearing.*

Town Planner Haggerty stated that the application is contingent upon the approval of Subdivision Application (SD 23-01). The Special Exception application requires the Commission to hold a Public Hearing within 65 days of its receipt. She suggested setting the Public Hearing date for Tuesday, March 14 to provide adequate time for the Town Engineer to review the application and for the Applicant to address any comments and concerns they might have. Digital and physical copies of the application and site plan will be provided to the Commission.

M/S/C: Khan-Bureau/Volberg, to accept Application SE 23-01 – American Property Group Salem, Inc. for a Special Exception and associated site plan at 496 New London Road for a multi-family residential development proposing 24 – two-bedroom residential units and schedule the Public Hearing date of Tuesday, March 14, 2023, 7:00 p.m., at Salem Town Hall for the same. Discussion: None. Voice vote, 7-0, all in favor.

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

Town Planner Haggerty will request the Zoning/Wetlands Enforcement Officer to prepare and provide a report for their next Regular Meeting.

9. TOWN PLANNER REPORT

Town Planner Haggerty reported that information regarding the Commissioners' training requirements will be provided at their next Regular Meeting.

Commissioner Fontneau added that a Regional Open Space Plan is being drafted.

10. CORRESPONDENCE – *none*

11. PUBLIC COMMENT

William Martin, 104 Music Vale Road, questioned whether Special Exception applications require an A-2 Survey and the possibility of indicating the relevant distances on an existing A-2 Survey.

Town Planner Haggerty confirmed that an A-2 Survey is required for Special Exception applications and will investigate whether a waiver of the requirements might be possible. Commissioner Fontneau stated that he did not feel that an application for Firewood Materials Processing would apply to the Lions Club.

12. PLUS DELTAS

Chairman Smith thanked the Commissioners for their input and working together to draft the new regulation (Section 4.2.22), especially Commissioner Lindo who worked with Town Planner Haggerty to draft the regulation and ensure that all of the necessary elements are included.

Commissioner Fontneau requested that an item, titled Implementation of the POCD (Plan of Conservation and Development), be added under Old Business on the Agenda. He suggested the Commission draft letters addressed to the town's boards and commissions regarding their assigned goals and objectives.

13. ADJOURNMENT

**M/S/C: Khan-Bureau/Lindo, to adjourn the meeting 9:34 p.m. Discussion: None.
Voice vote, 7-0, all in favor.**

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

A VIDEO RECORD OF THE MEETING CAN BE FOUND ON THE TOWN'S WEBSITE UNDER BOARDS & COMMISSIONS – PLANNING & ZONING COMMISSION – MEETING VIDEOS