

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, JULY 25, 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
Diba Khan-Bureau
Jennifer Lindo
Martin Stoken
Walter Volberg
Gary Closius, Alternate (*seated*)
James Jorgensen, Alternate (*seated*)

ABSENT

John Gadbois, Vice Chairman
Steven Shelley, Alternate

ALSO PRESENT

Town Planner Nicole Haggerty

1. CALL TO ORDER

Chairman Smith called the meeting to order at 7:09 p.m.

2. PLEDGE OF ALLEGIANCE

Alternate Commissioners Closius and Jorgensen were seated for the vacant position and Commissioner Gadbois, respectively.

3. PUBLIC COMMENT:

Sue Coffee, owner of 365 Old Colchester Road, 10 Saunders Hollow Lane, requested that the Commission establish a long-term restoration plan and consider notifying the Army Corps of Engineers concerning the impact on the Harris Brook and Eightmile River Watershed as a result of the deforestation of the land to accommodate the unpermitted motocross track.

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

a. Regular Meeting Minutes of Tuesday, June 27, 2023

M/S/C: Khan-Bureau/Volberg, to approve the Tuesday, June 27, 2023 Planning & Zoning Commission Regular Meeting Minutes. Discussion: None. Voice vote, 7-0, all in favor.

5. PUBLIC HEARING: *none*

6. OLD BUSINESS:

- a. SD 23-03 Colchester Construction.** Re-Subdivision application for 343 Old Colchester Road for the creation of one new lot.

Town Planner Haggerty provided a brief synopsis of the status of the application and reported that she and the Zoning/Wetlands Officer (ZWEO) conducted a site walk of the property. She also recited her memo, which reviews her and Chairman Smith's discussion with the Town Attorney regarding the conditions that may be placed on the approval of the application. The Commissioners reviewed the following proposed conditions and the necessary details:

Bond Amount – Discussion ensued regarding the updated Bond amount for the Erosion & Sediment (E&S) Controls. The original bond amount is \$6,160.00 for 400' linear feet of E&S Controls. Applicant Bob Gagnon, Colchester Construction, stated that, to date, 1,200' (700' along the front portion of the property and 500' along the rear portion of the property) has been installed. The property line measures a total of 3,400'. Both the Town Planner and Zoning/Wetlands Officer have inspected the installation. The Commission agreed to set the bond amount to \$48,400.00, based on the required calculations.

Silt Fence Installation Deadline – The Commissioners agreed to place a deadline of August 15, allowing for sufficient time in case of inclement weather.

Inspection of E&S Control Measures – The inspection will be conducted by a third-party Engineer, at the Applicant's expense.

Inspection Report – CLA Engineers' Environmental/Soil Scientist Bob Russo stated that rainfall at a rate of 1" over a 24-hour period, as measured on locally available rain gauge data, e.g. Weather Underground, NOAA (National Oceanic and Atmospheric Administration), is fairly typical. The inspection should take place within 48 hours or sooner by either the ZWEO or Town Engineer.

Town Planner Haggerty stated that the conditions will be filed on the land records and would apply to the entire lot. Typically, E&S control measures are removed after the project is completed and the property is stabilized. It was clarified that, while the E&S control measures would be removed from the front portion of the property, they may remain in the rear of the property. She recommended that the Commissioners review the request submitted by CLA Engineers' Environmental/Soil Scientist Russo to modify the amended Cease & Desist Order (CDO), reducing the length of and allowing for flexibility in the placement of the E&S barrier, before finalizing the motion. Chairman Smith recited the letter and the Commissioners reviewed a map indicating the areas in question. The Commission agreed that placing an E&S barrier in those areas with forested vegetation, a shrubby understory, and no evidence of erosion was not necessary

and agreed to provide them with the latitude and discretion to place the barrier in such a manner that would preserve the existing trees and shrubbery and cause the least amount of disturbance.

Placement of Woodchips (Commissioner Khan-Bureau) – CLA Engineers’

Environmental/Soil Scientist Russo and Applicant Gagnon agreed to place woodchips in those areas that contain vegetation and where no E&S measures would be placed and along the downslope side of the path.

A brief discussion ensued regarding the placement of the barrier between the disturbed soil and the property line with minimal intrusion to the existing vegetation. It was clarified that the E&S measures do not stop or divert the flow of water. Rather, the measures are designed to minimize erosion and sedimentation and clean the water.

M/S/C: Lindo/Khan-Bureau, to amend the Cease & Desist Order, issued on April 27, 2023, and modified on July 11, 2023, for 343 Old Colchester Road to install Erosion & Sedimentation Control Measures as provided on the plan entitled “Sheet 4, Erosion & Sedimentation Control Plan, dated 6/8/2023, revised to 7/11/2023, of the re-subdivision plan prepared for John Diamantini” to the extent recommended by the Conservation Commission and discussed during the July 11, 2023, Planning & Zoning Commission Public Hearing to expressly allow for immediate and robust erosion controls in the form of canvas, stone, and chips as demonstrated in the letter dated, July 25, 2023, from Robert C. Russo, CSS, CLA Engineers, Inc., to the Zoning/Wetlands Enforcement Officer Matt Allen and Town Planner Nicole Haggerty including the installation of a woodchip berm along the ATV path as requested by Certified Soil Scientist Russo and discussed at the Planning & Zoning Commission’s July 25, 2023, Regular Meeting. Additional measures shall be placed should any issues arise. Discussion: None. Voice vote, 7-0, all in favor.

Discussion ensued regarding the adjustment of the Bond amount from the original measurement of 3,400 linear feet to 2,750 linear feet for the installation of the E&S control measures plus 550’ for the placement of the woodchips.

M/S/C: Jorgensen/Lindo, to approve Application SD 23-03 Colchester Construction –Re-Subdivision application for 343 Old Colchester Road for the creation of one new lot with the following conditions:

- 1. Approval of SD 23-03 does not constitute removal of any previous and/or existing Cease and Desist Orders on the subject property.**
- 2. Robust erosion controls in the form of canvas, stone, and chips along the property’s boundary with 365 Old Colchester Road (property of Coffee) as well as any and all downgradient areas where water may**

runoff from the property, in accordance with the Cease & Desist Order, as amended on July 25, 2023, shall be installed by August 15, 2023.

- 3. The Town Planner and Zoning Enforcement Officer and/or the Town's Engineering Consultant shall be allowed to inspect the Erosion & Sedimentation Measures at the Applicant's expense.**
- 4. The Town Planner and Zoning Enforcement Officer shall be notified when work begins.**
- 5. The Town Planner and Zoning Enforcement Officer and/or the Town's Engineering Consultant shall be notified when work is completed so that a final inspection can be completed.**
- 6. Reports shall be submitted to the Planning and Zoning Commission after a rain event of 1" per a 24-hour period or more, as measured by a local rain gauge, and inspected within 48-hours or sooner.**
- 7. Endorsed Mylar plans must be filed in the office of the Town Clerk following the appeal period. Per Section 7.2.2 of the Salem Subdivision Regulations, installation of monuments and markers must be completed prior to endorsement. A written statement from a surveyor stating the monuments and markers have been set shall serve as evidence of installation.**
- 8. A revised bond amount of \$41,300.00 for a total of 3,300 linear feet of Erosion & Sedimentation Control measures to be installed by the Applicant.**

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

7. NEW BUSINESS:

- a. SP 23-05 Poyant Signs** Site Plan modification application including new drive thru lane components, height detector and order point canopy with digital menu board and new sign package at 1 New London Road for Dunkin Donuts (*Acceptance of application*).

Applicant Bill Gavigan, Jr., Dunkin' National Account Executive, Poyant Signs, thanked the Commission for their consideration and cited the helpfulness of both the Zoning Officer and Town Planner in preparing their application. Contractually, Dunkin' locations are required to be remodeled approximately every ten years and Poyant Signs is one of the sign manufacturers, approved by Dunkin', to update the signage. He presented the proposed design and elevation of the drive-thru window, which is comprised of a canopy that provides lighting and protection from the weather, a digital menu board, and signage.

Canopy Height (Commissioner Khan-Bureau) – The canopy has a clearance of approximately 9-1/2' to 10', depending upon the conditions. Commissioner Lindo stated

that, per the Salem Zoning Regulations (Section 11A.5.13), drive-thru lanes for drive-up windows require an overhead clearance of 14'. She also expressed her concerns regarding the location of the canopy and the further obstruction of the travel lane and turning radius out of the plaza, which is currently extremely difficult for large vehicles, including emergency vehicles, to travel through.

Town Planner Haggerty explained that sign applications do not traditionally go through the Commission for approval and apologized for the oversight regarding the clearance during their discussions with the Applicant.

The Applicant agreed to eliminate the canopy and include only the digital menu board with a speaker system off to the side. The menu board remains static, with the exception of the small order confirmation screen.

M/S/C: Khan-Bureau/Volberg, to accept Application SP 23-05 Poyant Signs – Site Plan modification application including new drive thru lane components without the canopy and with a digital menu board and new sign package at 1 New London Road for Dunkin' Donuts. Discussion: None. Voice vote, 7-0, all in favor.

8. ZONING ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT – none

9. TOWN PLANNER REPORT

Town Planner Haggerty reported that the Regional Planning Committee, which includes a representative from each of the Planning & Zoning Commissions throughout the region, met last night. The next (hybrid) meeting will be held in October of 2023. She requested that any Commissioners interested in representing the Commission, formerly held by Commissioner Carl Fontneau, contact her.

10. CORRESPONDENCE – none

11. PUBLIC COMMENT

John Hummel, Orchard Drive, Uncasville, commended Applicant Gagnon, Colchester Construction, on improving the sightline and his efforts to work with the Commission to correct the issues. He was also pleased with the Commission's motions and efforts to place the E&S control measures and protect Harris Brook and Ms. Coffee's property. He commented on the Town Officials' lack of progress with the continuing damage caused by the unpermitted motocross track to Harris Brook and Ms. Coffee's property.

Town Planner Haggerty explained the area which she and the Zoning Officer reviewed during their site walk. Commissioner Khan-Bureau referred to the Commission's minutes of July 11, 2023, in which the Chairman agreed to speak with the First Selectman regarding

taking further action on the existing CDO for the motocross track. Town Planner Haggerty reported that Chairman Smith sent an e-mail to the First Selectman regarding the matter and was referred to the Town Attorney, who recommended that the Commission discuss further enforcement and approve a motion consenting to the ZEO's filing of a court action. The motion may be followed by a second motion authorizing the Chairman to send a letter to (or appear before) the Board of Selectmen for their consent to file the court action. The matter would, then, be referred to the Board of Selectmen who could provide their consent to file a court case.

M/S/C: Lindo/Khan-Bureau, to authorize the Zoning Enforcement Officer to file a court action relative to the Cease & Desist Order issued to 343 Old Colchester Road. Discussion: Commissioner Lindo explained that the Zoning Regulations are enforced by the ZEO and not directly by the Commission. As the individual who issued the original Notice/Order and would be called upon to testify, the ZEO is responsible for any court actions or further enforcement actions. It is the Commission's role to support the ZEO and consent to his filing of the court action on their behalf and interact with the Town Attorney. In response to Commissioner Stoken who questioned whether there was any evidence that the Property Owner continues to violate the CDO, Commissioner Lindo stated that such a decision would ultimately be made by the Judge. Commissioner Lindo recited the original CDO and extensive discussion ensued regarding the process. Voice vote, 7-0, all in favor.

M/S/C: Jorgensen/Khan-Bureau, to authorize the Planning & Zoning Commission Chairman Smith to either send a letter addressed to or appear before the Board of Selectmen regarding the Commission's consent to file a court action relative to the Cease & Desist Order issued to 343 Old Colchester Road. Discussion: None. Voice vote, 7-0, all in favor.

John Hummel, Orchard Drive, Uncasville, added that the operation of a motocross track includes the building and maintenance of the same, which includes the moving of the earth.

Sue Coffee, owner of 365 Old Colchester Road, 10 Saunders Hollow Lane, questioned why the ZEO did not issue a report regarding the devastation and deforestation of the wetlands which he must have viewed during their recent site inspection. She reiterated her request that the Commission to contact the Army Corps of Engineers to investigate the matter.

Chairman Smith stated that, per their motion, he will draft a letter to the Board of Selectmen, referring the matter to the Board of Selectmen.

12. PLUS DELTAS

Commissioner Lindo clarified that the matter regarding the motocross track could return to the Commission should a new violation occur.

Town Planner Haggerty commended and thanked the Commission for their hard work and efforts.

Chairman Smith also expressed his appreciation to the Commission for their input.

13. ADJOURNMENT

**M/S/C: Smith/Khan-Bureau, to adjourn the meeting at 9:19 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**