

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, AUGUST 25, 2020 – 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 Meeting on August 25th, 2020 will be following the suspension of in-person open meeting requirements. Please click the link below to join the webinar:

<https://zoom.us/j/99115599449?pwd=SURDUXhQYmJVY21xZ1hpWINvblByUT09>

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PRESENT

Vernon Smith, Chair
John Gadbois, Vice Chairman
Margaret Caron, Secretary
Thomas Reith
Walter Volberg (7:20 p.m.)
Carl S. Fontneau, Alternate (*seated*)
Diba Khan-Bureau, Alternate (7:05 p.m.)(*seated*)

ABSENT

Ruth Savalle
Eric Wenzel
Jon Walsh, Alternate

ALSO PRESENT

Town Planner Justin LaFountain
Selectwoman Liaison Terri Salas
Zoning/Wetlands Officer Matt Allen

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

SEATING OF ALTERNATE(S):

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

3. PUBLIC COMMENT: *none*

4. PUBLIC HEARING:

- a) **ZRA 1-20-01:** Town of Salem Planning and Zoning Commission proposes to amend Section 30: Special Agriculture Overlay Zone, of the Salem Zoning Regulations

Town Planner LaFountain provided a brief recap of their previous discussions regarding the proposed amendments to Section 30.2 – Special Agriculture Overlay Zone, General, of the

Zoning Regulations. The purpose of the amendments is to (1) clarify the regulation and (2) accommodate a recent request from a resident who is interested in applying for the Zone. As required, the proposed revisions were also sent to the Southeastern Connecticut Council of Government (SCCOG) and the Lower Connecticut River Valley Council of Governments (RiverCOG) for comments. While both SCCOG and RiverCOG did not feel that there would be any inter-municipal impact(s) to the regulation change, RiverCOG's comments alluded to the possibility that a 500' municipal boundary was once requested by the Regional Planning Commission of RiverCOG.

Zoning/Wetlands Enforcement Officer (ZWEO) Allen stated that the proposed addition to the regulation is to clarify when and where it would be applied. The original intent, he believed, was to allow such uses in areas where they are not allowed as an as-of-right under the prescribed limitations. As such the following addition is being proposed:

The animal keeping limitations within this section shall not apply where animal raising is permitted by right in underlying zones. The application of this zone shall not be required when a Permitted Use listed in Section 30.4 is already a permitted use in the underlying zone.

Concerning the proposed deletion in the regulation, Town Planner LaFountain stated that the reasoning behind the institution of the restriction is unknown. At their previous meeting, Former Planning & Zoning Chairman Hugh McKenney believed, as RiverCOG alluded in their comments, that the sentence might have been added at the suggestion of the Regional Planning Commission in response to concerns regarding pig farming and the potential issues that might arise with the residents of neighboring towns. He did not express any opposition to removing the line from the regulation. Chairman Smith agreed, stating that the amendments were not controversial and could not think of any reasonable reason(s) to oppose the amendments. In response to Commissioner Reith, Town Planner LaFountain stated, and ZWEO Allen concurred, that, to the best of their knowledge, no residents have been penalized due to the regulation.

Aaron Syman, 279 Buckley Road, stated that he and his wife are currently operating a family farm that is located with 500' of the Town of Colchester. The 500' limitation in the current regulation prohibits them from expanding upon their business. He is requesting that the following line be removed from the regulation, allowing him to submit an application for the Special Agricultural Overlay Zone.

The lot must not be located in whole or in part within five hundred (500) feet of the municipal boundary. (4/01/07)

In response to Commissioner Khan-Bureau, Mr. Syman stated that the farm is currently providing entertainment/education videos via YouTube, e.g., goat yoga, goat husbandry, hood trimming, goat petting. They would like to expand upon their business by adding a retail store

and provide in-person education/entertainment seminars. His farm includes ducks and rabbits; no large animals reside on the farm.

Town Planner LaFountain stated that, should the Commission approve the amendment, Mr. Syman will need to submit an official application to apply the overlay zone to his property. While a provision is included in the regulations by which residents can apply for a regulation change or modification, it was decided to include the amendment in conjunction with the proposed addition and be part of the public hearing.

Commissioner Volberg entered the meeting at 7:20 p.m.

M/S/C: Reith/Caron, to close the Public Hearing for ZRA 1-20-01: Town of Salem Planning and Zoning Commission proposes to amend Section 30: Special Agriculture Overlay Zone, of the Salem Zoning Regulations. Discussion: None. Roll Call vote, 6-0-1, all in favor. Voting in Favor: Commissioners Caron, Fontneau, Gadbois, Khan-Bureau, Reith, and Smith. Voting in Opposition: None. Voting in Abstention: Commissioner Volberg.

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

a) Regular Meeting Minutes: July 28, 2020

M/S/C: Reith/Gadbois, to approve the Regular Meeting Minutes of July 28, 2020. Discussion: None. Roll Call vote, 6-0-1, all in favor. Voting in Favor: Commissioners Fontneau, Gadbois, Khan-Bureau, Reith, Volberg, and Smith. Voting in Opposition: None. Voting in Abstention: Commissioner Caron.

AMENDMENTS TO THE AGENDA

M/S/C: Gadbois/Volberg, to add the following item to the Agenda and to renumber the succeeding items accordingly:

Item 6(a): Proposed amendments to Section 30, Special Agriculture Zone, of the Salem Zoning Regulations

Discussion: None. Roll Call vote, 7-0, all in favor. Voting in Favor: Commissioners Caron, Fontneau, Gadbois, Khan-Bureau, Reith, Volberg, and Smith. Voting in Opposition: None.

6. OLD BUSINESS

a. **Proposed amendments to Section 30, Special Agriculture Zone, of the Salem Zoning Regulations**

M/S/C: Reith/Volberg, to approve the following proposed amendments to Section 30.2: Special Agriculture Overlay Zone, General, of the Salem Zoning Regulations effective September 15, 2020, as presented in the Public Hearing held on Tuesday, August 25, 2020 (ZRA 1-20-01). The Commission finds the amendments to be consistent with the Town of Salem Plan of Conservation and

**Development, specifically Chapter 4, Agriculture and Forestry, Objective 2.1.1.
(Page 14).**

The animal keeping limitations within this section shall not apply where animal raising is permitted by right in underlying zones. The application of this zone shall not be required when a Permitted Use listed in Section 30.4 is already a permitted use in the underlying zone.

The minimum lot size in this zone shall be five (5) acres, in addition to the minimum acreage requirement of the underlying zone. ~~The lot must not be located in whole or in part within five hundred (500) feet of the municipal boundary.~~ (4/01/07)

The intensity of all uses proposed within the Special Agriculture Zone shall be as deemed appropriate by the Commission.

**Discussion: None. Roll Call vote, 7-0, all in favor. Voting in Favor:
Commissioners Caron, Fontneau, Khan-Bureau, Reith, Volberg, Walsh, and
Smith.**

a) Update regarding the Riparian Corridor Overlay Zone (RCOZ)

Town Planner LaFountain provided a summary of their previous meeting during which Eightmile River Wild & Scenic Coordinating Committee (ERWSCC) Program Director Patricia Young and Chairman Anthony Irving provided a presentation to the Commission regarding the RCOZ. He and ERWSCC Program Director Young are in the process of reviewing and drafting a proposed amended regulation, which he hopes to be able to present to the Commission by their next meeting for review and discussion.

b) Affordable Housing Plan Update

Town Planner LaFountain presented a draft of an online survey, the first step in developing the Plan, to be distributed to the residents. The survey includes 13 questions, three of which are demographic. The purpose of the survey is to ensure that the residents are afforded the opportunity to have a voice in the Plan's contents and the type of housing they most desire. The Plan is required by the State and a State Grant has been received to help fund the project. Following the approval of the questionnaire by the Planning & Zoning Commissions of the Towns of Bozrah, Franklin, and Salem, the survey would be made available and promoted through the town's website and e-blasted.

Commissioner Khan-Bureau questioned the possibility of including a question related to diversity. While recognizing the importance of diversity, Town Planner LaFountain stated that the topic of the survey revolves around affordable housing and, while economic diversity would be relevant to the topic, other types of diversity would not be pertinent; the subject of diversity would be more relevant and appropriate to include in their discussions regarding the Plan of Conservation and Development. The Affordable Housing Plan would provide a method for those who wish to reside in Salem, but do not have the economic means to do so.

Discussion ensued regarding the issue of diversity and the various types of diversity. Commissioner Reith spoke on the subject of diversity in relation to his family, which includes eight adopted children who are diverse in abilities and races, and his neighborhood. He felt that one cannot put diversity into law and that the issue is the town's zoning regulations, which are very restrictive and obstruct people from building. Though she would welcome a more diverse population in the Town of Salem, Commissioner Caron felt that there are different types of diversity and it would be difficult to include such a question in this type of survey. Town Planner LaFountain reiterated that this particular survey would be most relevant to economic diversity; other types of diversity may be discussed in other conversations, including their upcoming discussions regarding the POCD.

In response to Chairman Smith who questioned possible proposals regarding the banning the construction of new single-family residences and/or affordable housing, altogether, Town Planner LaFountain stated that, while other states are discussing the possibility of eliminating single-family residential *zones*, to the best of his knowledge, the issue has not yet been discussed in the State of Connecticut. With regards to affordable housing, he is not aware of any plans to ban affordable housing at this time. Connecticut General Statutes Section 8-30g mandates that at least 10% of each town's housing be deemed affordable. To date, the Town of Salem has not received any applications for affordable housing, possibly due to its lack of sewer or public water systems. The development of a Plan is the next step in encouraging towns to allow for affordable housing.

Commissioners Caron and Khan-Bureau thanked Town Planner LaFountain for creating a draft of the survey.

c) Plan of Conservation and Development (POCD)

Town Planner LaFountain encouraged the Commission to review the POCD and provide any initial outreach ideas they might have at their next meeting, including a survey and the formation of subcommittees.

Per Commissioner Caron's suggestion to customize the surveys that other towns have developed for their POCDs, Town Planner LaFountain will reach out to the Town Planners for a copy of their survey questions. Commissioner Khan-Bureau suggested obtaining those of the towns of Lyme, East Haddam, and Bozrah, which are comparable to that of Salem..

Commissioner Reith exited the meeting at 8:07 p.m.

7. NEW BUSINESS

a) **SE 1-20-01 – Arborio Brothers, LLC:** Acceptance of New Special Exception Application, to be scheduled for public hearing

Town Planner LaFountain introduced Attorney Peter Alter of Alter & Pearson, Glastonbury, who is present this evening to speak on behalf of Arborio Brothers, LLC, regarding their

application for a Special Exception for the property located at 142 East Haddam Road. Once accepted, a public hearing will be scheduled to hear their proposal(s).

Atty. Alter stated that the Arborio Brothers, LLC, which includes Charter Oak Utility Contractors, has a longstanding relationship with Connecticut Light & Power and Eversource. Part of the company's responsibility is to provide emergency utility service and repairs in southeastern Connecticut. Due to its proximity to the highway and Route 82, they are interested in utilizing the site to store their trucks and other necessary equipment. A full site plan, indicating the proposed upgrades, will be presented at the Public Hearing. They are also requesting a waiver to allow the area that will act as the parking area for trucks and equipment to be a gravel lot instead of pavement due to the size and weight of the trucks and equipment. It is expected that five to ten employees would be on-site at any given time during which their work would be staged. One of the main challenges of the site is the existing onsite sewage disposal system for which no records exist. Their engineers have been working closely with the Uncas Health District (UHD) to resolve the issues. It is hoped that they will have a final approval from the UHD prior to the Public Hearing. In anticipation of the upcoming Public Hearing, he requested that any specific questions and/or concerns be communicated.

The following questions/concerns were raised:

- Their proposed plan(s) to keep any hydrofluids, e.g. oils, hydraulic fluid, and hydrocarbons, from entering into the groundwater or any body of water if the surface is not impervious or is a gravel driveway. (Commissioner Khan-Bureau)
- Presentation of renderings for a visual idea of the proposed aesthetics of the property, including fencing. (Commissioners Caron and Smith)
- The number of trucks and equipment that will be stored on-site, the traffic impact, hours of operation, and how the lighting will be handled. (Commissioner Volberg)
- Commitment to have the trucks be taxable to the Town of Salem
- Agreements or stipulations with towns in which equipment is situated with respect to the restoration of power. (Chairman Smith)
- What would happen should Eversource be broken up, as was recently discussed by Senator Richard Blumenthal (Commissioner Khan-Bureau)

Town Planner LaFountain stated the plans will be forwarded to the town engineers and the relevant Town Hall staff.

M/S/C: Fontneau/Khan-Bureau, to accept Application SE 1-20-01 – Arborio Brothers, LLC for a Special Exception and to set the date for a public hearing for Tuesday, September 22, 2020 at 7:00 p.m. The Public Hearing will be held virtually via Zoom. Discussion: None. Roll Call vote, 6-0, all in favor. Voting in Favor: Commissioners Caron, Fontneau, Gadbois, Khan-Bureau, Volberg, and Smith. Voting in Opposition: None.

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

Zoning/Wetlands Enforcement Officer (ZWEO) Allen reported that no new zoning enforcement actions have taken place. Ongoing actions include 1 New London Road (Salem Plaza) and 45 Forest Drive. The Inland Wetlands and Conservation Commission (IWCC) is in the process of considering a regulation amendment to expand the Upland Review Area from 75 feet to 100 feet, in congruence with most towns in the State of Connecticut. A Public Hearing will be scheduled in the near future regarding the proposed amendment.

In response to Commissioner Fontneau regarding an additional possible RCOZ violation that was discussed during the August 3 IWCC Regular Meeting, ZWEO Allen stated that he is in the process of determining whether the activity that was conducted at a property located on Witch Meadow Road was a regulated activity requiring permitting or a violation has occurred. Commissioner Fontneau recommended the Commissioners review the IWCC meeting minutes for updates regarding the RCOZ violation at Shingle Mill Road. ZWEO Allen reported that the Army Corps of Engineers were notified of the violation at Shingle Mill Road and, after conducting an investigation, issued a violation. Taking precedence as a Federal Agency, the remediation of the area is under their jurisdiction at this time. Following the remediation, the IWCC will review the area and, possibly, place additional requirements. The case would, then, be reviewed by the Commission as part of the RCOZ violation. In response to Chairman Smith, ZWEO Allen stated that the Army Corps of Engineers was notified of the violation, which occurred along a navigable waterway and, as such, is under the jurisdiction of the Army Corps of Engineers for ecological and flood control reasons.

9. TOWN PLANNER REPORT

Town Planner LaFountain commended the Commission for taking the time to review its regulations for any possible amendments. He recommended the Commission review the sign regulations (Section 13) with respect to a Supreme Court ruling (Reed v. Town of Gilbert) which has changed the way zoning is allowed to regulate signage. The content of signage cannot be regulated, only the size, location, and the like. Because their current sign regulation does regulate the content of signage, he recommended amending their regulation and clarifying the regulation. ZWEO Allen added that virtually every area in the country is dealing with the regulation amendment. Many regulations dictate the size in relation to the content of signage, which is no longer allowed. The amendment also provides the opportunity for the Commission to simplify and clarify the regulation.

10. CORRESPONDENCE: *none*

11. PUBLIC COMMENT:

Selectwoman Liaison Salas recommended the Commission maintain their focus on economic diversity in the Affordable Housing survey as the inclusion of other forms of diversity would

complicate the discussion. She commended the Commission on their energy and encouraged them to direct that energy towards the POCD.

12. PLUS DELTAS:

Commissioner Caron recommended that all of the Commissioners be mindful of how they speak, adding that Commissioner Reith's comment during their discussions regarding the Affordable Housing Survey was inappropriate.

Commissioner Khan-Bureau agreed, adding that they should be more careful with the language they use when they speak of diversity.

Commissioner Volberg added that the Commissioners should be more mindful of the words that are selected for use and to keep their discussions civil for a public meeting.

13. ADJOURNMENT

M/S/C: Volberg/Caron, to adjourn the meeting at 8:46 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