

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, JUNE 28, 2022 – 7:00 P.M.
SALEM TOWN HALL – CONFERENCE ROOM 1**

PRESENT

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

ABSENT

Jennifer Lindo
Thomas Reith

ALSO PRESENT

Town Planner Justin LaFountain

1. CALL TO ORDER

Chairman Smith called the meeting to order at 7:08 p.m.

2. PLEDGE OF ALLEGIANCE

Alternate Commissioners Closius and Shelley were seated for Full Member Commissioners Lindo and Reith, respectively.

ADJUSTMENTS TO THE AGENDA

**M/S/C: Shelley/Volberg, to move Item 7, New Business, to precede Item 4, Public Hearing.
Discussion: The items will be renumbered, accordingly. Voice vote, 7-0, all in favor.**

3. PUBLIC COMMENT: *None*

4. NEW BUSINESS

- a. SP 22-01. Statewide Pawn, LLC:** Application to amend the existing site plan at 1 New London Road to allow outdoor display of merchandise. The Property is zoned General Business.

Applicant Regan Tibbet, Owner, Statewide Pawn, LLC, spoke with respect to his application to amend the existing site plan to allow the outdoor display of merchandise. Photographs and a proposed site plan were provided to the Commission for review depicting the location and type of items that would be displayed. He stated that the items would not inhibit either the sidewalk or parking areas and noted that he has been

placing merchandise outdoors for display for some time and was directed by the Town to submit the application.

Proposed Area Merchandise will be/is being Displayed (Commissioners Closius, Fontneau & Smith) – The merchandise would be displayed in front of the store between the sidewalk and the parking area. The Commission requested that a more clearly defined site plan, including measurements, be submitted. The revised site plan should also be reviewed by the Fire Marshal in response to his comments regarding the minimum width for Exit Discharge to the public way.

Time and Type of Displayed Merchandise (Commissioner Khan-Bureau) – The types of merchandise that would be displayed includes bicycles, lawn equipment, and other similar items that are too large to be displayed in the store. The items would be displayed during the store's business hours only. No firearms will be displayed outdoors.

M/S/C: Fontneau/Khan-Bureau, to table Application SP 22-01 – Statewide Pawn, LLC: Application to amend the existing site plan at 1 New London Road to allow outdoor display of merchandise, pending the receipt of a revised site plan clearly defining the proposed area, including distances, and Fire Marshal review and approval. Discussion: None. Voice vote, 7-0, all in favor.

4. PUBLIC HEARING

- b. ZMA 22-01 – 45 Forest Drive, LLC:** Application to apply the Special Agriculture Overlay Zone to 45 Forest Drive (currently zoned Rural A), for the purpose of operating a special event facility, with associated overnight lodging.

M/S/C: Fontneau/Closius, to open the Public Hearing for ZMA 22-01 – 45 Forest Drive, LLC: Application to apply the Special Agriculture Overlay Zone to 45 Forest Drive (currently zoned Rural A), for the purpose of operating a special event facility. Discussion: None. Voice vote, 7-0, all in favor.

Chairman Smith stated that the Commission's primary goal is to remain fair and objective to both the Applicant and the public. Numerous letters regarding the application were received and the public will have an opportunity to speak during the Public Hearing. All comments are limited to three-minutes, with the opportunity to continue or expand upon their comments after all have spoken.

Applicant's Presentation

Attorney Michael Carey, Suisman-Shapiro, Wool Brennan, Gray & Greenberg PC, representing 45 Forest Drive, LLC, presented the application. Project Engineer Philip Katz, Stantec, and Bill Deacon, one of the principals of 45 Forest Drive, LLC, were

also present. He prefaced his presentation with a request that the Public Hearing be continued for the following reasons:

- the absence of the Traffic Expert, who generated the traffic report, and was unable to attend due to a recent surgery
- possible additional witness(es)
- to prepare their response(s) to the public's written and/or verbal comments
- discussion or fuller understanding of the Town Planner's comments

The following documents were provided to the Commission:

1. Application Narrative, dated June 28, 2022, includes responses to the Town Planner's comments
2. Assessor's Card
3. Certified copies of two (2) deeds:
 - a. Sale of the property from the Estate of Stanley C. Adelstein
 - b. Transfer of property from William Deacon, et al, to 45 Forest Drive, LLC
4. Affidavit and photograph(s) stating the erection of the Public Notice sign
5. Five (5) letters of support from neighboring residents (Kenneth Johnson, Carol Kniss, Steve Maheu, Kendra Manthey, and Keith Tower and Mary Jane Tower)
6. Aerial view of the property from the Assessor's GIS map

Atty. Carey provided the highlights of the Application Narrative, which includes a brief history of the property from its initial ownership by the Pequot Council Boy Scouts of America. During this period, the property was home to a nature lodge, health lodge, trading post, and dining hall where a variety of scouting activities took place, including early morning bugling. The property was later purchased by Stanley Adelstein and fell into a state of some disrepair following his death due to disuse. The property currently contains a three-bedroom home and two cabins and can accommodate a total of 31 individuals and 50 vehicles. The Applicant is proposing to operate an elite-level wedding venue and corporate retreat. No new site work or buildings are being contemplated at this time. Some work might be necessary to redirect the driveway ingress/egress to Route 354, closing off the Forest Drive entrance/exit. The property is currently home to a variety of poultry, including chickens, ducks, guineafowl, turkeys, and a peacock; an herb and vegetable garden, and; birdhouses – the latter of which existed during Mr. Adelstein's tenure on the property. The Applicant intends to maintain the property as a rustic and rural property, which is its primary attraction as a special event facility.

The Applicant is aware of the numerous concerns that have been expressed with respect to the property's past activities, most of which were received in response to the Applicant's November 2020 application for a Regulation text amendment. The complaints included noisy activities, unruly individuals, unsafe driving, and the like.

The Applicant has since taken several concrete steps to address and alleviate those concerns and ensure the tranquility of the waterfront, including hosting only supervised events, no Airbnb rentals, installing fencing and inconspicuous sound meters, and using the Old Colchester Road entrance/exit for all events. In addition, the Applicant mailed a letter, dated March 29, 2022, inviting the neighbors to a meet and greet event. Approximately 30 neighboring residents attended the gathering on April 3. The Applicant believes that a reasonable consensus was reached by all of the attendees that everyone would benefit from the proposed use of the property, with reasonable permissions and restrictions. Furthermore, it is his understanding that no complaints have been voiced over the past three years.

Atty. Carey continued to address the Town Planner's recommendation of nine (9) considerations/conditions should the Commission be inclined to approve the application, per his memo dated June 21, 2022, as follows:

Limitations to the Days/Times/Seasons of Events – On average, no more than two (2) special events will be held on the premises. No outdoor music will be played after 9:00 p.m. on weekdays and after 10:00 p.m. on weekends.

Limitations to the Number of Guests – No more than 100 guests will be allowed on the property at any one event. No overnight guests will be allowed.

Screening – Fencing and sound meters will be properly maintained at all times; Sound meter reports will be available to the public. Additional discussion regarding plantings or other buffering mechanisms is requested.

Proposed Shuttle Service – Additional discussion requested.

Number of Employees/Outside Staffing for Events & Possible Limitations – Additional time and discussion requested.

Setup/Teardown Times – Additional time and discussion requested.

Fire Marshal Approval to ensure sufficient Emergency Access – Additional time and discussion requested.

Enforcement – The Applicant is open to working with the Commission and Staff though, it is believed, that the occurrence of such activities outside of the Zoning Officer's working hours, is not unusual.

Hiring of CT State Trooper for Traffic Control – The Applicant has hired a retired CT State Trooper in the past and is open to continuing to do so.

Other items of note included:

Access to Property – All access in and out of the property will be redirected to the in/egress located at Old Colchester/Route 354 and signage will be posted to ensure that all guests enter from this location. As demonstrated by the Traffic Study, the revised access provides adequate sightlines and has the capacity to handle the in-

and out-flux of the guests. The relocated entrance/exit would improve both road safety and the residents' quality of life.

Supervision of Events – All events will be supervised by security personnel and/or a professional wedding planner.

Philip Katz, P.E., Stantec, spoke with respect to the site plan. As previously stated, the Applicant is proposing permanently changing the primary entrance to the gravel driveway on Old Colchester Road. The change will require approval from the CT DOT (Connecticut Department of Transportation). Signage will also be posted and the property address changed. He addressed the Town Planner's considerations regarding the site plan as follows:

Tent Locations – The tents will be located on the old baseball field, near the beach to the right of the residence, and, sometimes, in front of the home.

Signage Location – Signage would be located on Old Colchester Road. A separate application will be presented to the Commission for review and approval.

Parking discrepancies – Depending upon the event, parking might also be allowed closer to the residence. No more than 50 vehicles will be allowed on the site.

Dumpster Screening – The Applicant is open to adding additional screening. Garbage is placed in front of the garage for easy pick-up by a local vendor after events and on a regular basis.

Portable Restrooms – Self-contained portable trailer restrooms, which are sometimes connected to the main home's plumbing and electricity, will be placed outside one of the cabins and garage.

Uncas Health District – The plan will be submitted to the Uncas Health District for review and approval. All food items will be prepared off-site by the caterers and served on the premises.

Applicant William Deacon added the following:

Security Cameras – Five (5) security cameras with audio have been strategically placed in various locations on the property. Any activity recorded by the cameras is alerted to his cell phone.

Fencing – Fencing, measuring up to 10' in height, has been installed and acts as both a sound and protective barrier. The fence is located from the water to the maintenance building. He also plans to install electric gates at entrances.

In summary, Atty. Carey stated that the application can be a net economic benefit to the Town. As the Traffic Report reflects, the proposed changes are feasible and would greatly improve and alleviate much of the neighbors' concerns regarding the traffic the events would generate on Forest Drive. He noted that Mr. Deacon resides on the

property during the summer months. The Application fulfills the required findings, per Section 30.15 of the Salem Zoning Regulations:

- a. Maintains/Preserves the Rural Character of the Town – As previously stated, the property would not be attractive for its proposed use was it not rural in character; it is in the best interest of the Applicant to maintain and preserve the property as such. The property is heavily wooded and vegetated, providing a natural buffer to most of the abutting properties. The Applicant will also continue to maintain the farm animals on the property. The proposed use and nature of the property will not only maintain and preserve, but also enhance the Town's rural character.
- b. Plan of Conservation and Development (POCD) – The proposed Application preserves the quality of life and rural, natural and historical character of the Town – one of the key results of the POCD's Town-wide Survey (page 54) – while, at the same time, preserving its economic strength. As such, the Application follows one of the document's guiding principles, as stated in the Executive Summary: "Reflect the desires and sentiments of the town residents, based on: a. Town-wide survey, ..." The Application also addresses the POCD Critical Issues and Opportunities, which includes the "Protection of the rural character and agricultural appearance of Salem" and "Diversifying and balancing the property base". Furthermore, the Vision Statement states that "Salem will work to reduce dependence on residential property taxes by encouraging economic development that... Balances the economic development with preserving our natural resources" (page 7) and continues to state that "The Town of Salem is set in remarkable surroundings. Lying between more developed communities, this little town still has its rural setting, picturesque landscapes, and intact ecosystems." (page 8).

He stated that, as an alternative, the property could be sold and result in the development of 18 single- and multi-family residences, changing the nature of the property. Though such a development is allowable in the zone, it would be antithetical to the Town's POCD. He continued to recite a footnote in the document regarding a Lebanon study, which states that "These studies have repeatedly shown that these undeveloped lands cost less than half of the property taxes paid on them, for the community services provided..." (page 14). In addition, "The Town of Salem receives approximately 6.6% of its Grand List from Commercial and Industrial Property taxes...The majority (79%) of the 403 town-wide survey respondents said there is too much dependence on residential property taxes..." (page 19) He continued to review the uses that are allowable as-of-right and by special exception in the Rural A (RUA) Zone – all of which are, in comparison, very intense activities. He reiterated that the

proposed use would result in little to no disturbance to the land, enhance the property, and would essentially continue the historic use of the property. Letters in support of the proposed use were submitted for the record, stating the same. The letters also address the daily noise that emanated from the old Boy Scout Camp and currently emanates from Gardner Lake and the measures the Applicant will be instituted to minimize the amount of noise. He compared the proposed Application to the Salem Herb Farm in terms of its lot size, number of guests, access, number of vehicles, number of abutting properties, and amount of buffering between the properties and their resulting impacts.

- c. Consistent with the Comprehensive Plan of Zoning – The Town’s regulations allow the proposed use in the Special Activity Zone and many uses in the RUA Zone that is similar to the proposed use. As such, the Town’s Regulations demonstrate that the proposed use is consistent with the Town’s Comprehensive Plan.
- d. Public Health, Welfare, Safety, and Property Values – The proposed use would enhance public health, welfare, and safety.

Concerning the Intent of the Special Agriculture Zone (Section 30.1), Atty. Carey stated that the property maintains characteristics of agricultural uses. In addition, special event facilities are allowable, per the Regulation, demonstrating the Commission’s belief that the proposed use coincides with the intent of the floating zone. Furthermore, the portion of the property that would be devoted to the proposed use is minimal. In conclusion, he believed that the application meets all of the requirements, as stated in the Salem Zoning Regulations.

He reiterated his request that the Public Hearing remain open and that they have the opportunity to respond to the public’s comments.

Public Comments *(with a three-minute limit)*

Jillian Rix, 37 Forest Drive, spoke in opposition to the proposed Application. She stated that she feels unsafe in her own home when the events are occurring and cited one specific, terrifying evening during the summer of 2020, when three (3) gunshots were heard while her children were asleep in their rooms and her husband was out working. The police were called and as they stood with her, the departing guests yelled “F*** You, B*****” as they drove past her home. Because no threats were made, the Officers were unable to take any action. She expressed her humiliation and fear for herself and her children. While she commended the owner(s) for their goals to preserve the land and appreciated the establishment of due process, she failed to see the fairness in residing in a home where she fears for the well-being of her children. She thanked the Commission for allowing her to speak and for their attention.

Ellen Cohn, 14 Tamarack Place, implored the Commission to deny the Application. She voiced her continuing concerns during the Public Hearing for the Applicant's previous application in November 2020 and reviewed the Application which she did not feel meets all of the findings, per Section 30.15 of the Regulations. She spoke about the chronic, unrelenting issues the residents have endured from the property's ongoing activities which continue to worsen with little Town intervention or relief. She stated the definition of "rural character" and her view of the term: a natural landscape with the sounds of nature and an overall sense of peace and community. The Applicant has interrupted the rural character of the neighborhood through its noise pollution and unruly guest behaviors, fueled by alcohol. The activities are reminiscent of the same complaints received regarding the activities at Gardner Lake beach and boat launch. While the proposed zone change would financially benefit the property owners and their vendors, it would ruin the rural character for the over 55 residents who reside in the immediate area. It would also represent the decimation of the peace, quiet, and rural character they sought when they moved to the neighborhood.

Victoria Valenti, 53 Forest Drive, spoke in opposition to the Application. A seasonal property owner who has been visiting the property since she was a child, she stated that, since the new owners purchased the property at 45 Forest Drive, her once peaceful summers have been disrupted by its activities. She felt that the proposed Zoning Change does not meet the intent of the Regulations as it neither maintains nor preserves the rural character of the town. Such activities as loud, disruptive noise, unsafe and speeding vehicles, and music late into the evening have upset the neighborhood's peace and quiet. An unattractive, large fence, akin to those utilized on a large-scale highway, now surrounds the property and does not mitigate the noise. The contractors who have been working on her home have commented on the fence's poor construction and reduction to the value of her property as a result of its unattractiveness. She also questioned the material of the fence and its possible effects on their well water and the Lake. In response to Chairman Smith regarding her experiences since the previous Public Hearing in November of 2020, Ms. Valenti stated that it is difficult to determine due to the pandemic.

Paula Hansen, 82 Forest Drive, also spoke in opposition to the Application. She referred to the November 2020 Public Hearing Meeting, which was denied, questioned the ongoing Cease & Desist Order, and expressed her concern with the ongoing lack of enforcement. She also questioned whether they have obtained permission from the CT DOT (Connecticut Department of Transportation) to utilize the Route 354 driveway and what kind of supervision they would be providing: a physical on-site supervision of the activities or virtual-type supervision through the use of security cameras alerting them of the activities through their cell phone. She added that the owners are in violation of numerous items and questioned their ability to keep their promises. The

proposed Application, she felt, would “adversely affect public health, welfare, safety, and property values” (Section 30.15(d)) and should not be approved by the Commission.

Town Atty. Steven Byrne stated that a Cease & Desist Order was issued in August 2019 by the Town’s Zoning Enforcement Officer. The case is currently in court to enforce the Order. The Judge in the case issued a stay in the proceedings, allowing the current proceedings to occur.

Cindy Thomas, 18 Tamarack Place, who resides adjacent to 45 Forest Drive, spoke in opposition to the Application. The approval of the Application would not be consistent with the findings, as stated in the Regulations, as it would “directly and negatively affect our family’s welfare and the economic and personal value of our property.” Concerning the “adaptive re-use of existing buildings”, as stated in the intent of the Zone, she stated that none of the buildings on the property are or were ever used for agricultural purposes. Rather, all of the buildings on the property are residential family homes. The fowl, which Atty. Carey mentioned, resides in a coop adjacent to their property. To the best of her knowledge, the large coop is not permitted by the Town and neither the fence nor the coop has been inspected for safety.

Paul Carolan, 26 Forest Drive, spoke in opposition to the Application. In November 2020, the Applicant presented an application proposing the addition of a new Floating Zone for special events and accommodations. The application was subsequently denied by the Commission. He stated that the reasons for the denial of their former application (November 2020) would also apply to the current application (*see submitted letter and/or November 24, 2020 Minutes on file*).

Diane Sullivan, 57 Forest Drive, recited her submitted letter urging the Commission to deny the Application. She stated that for the first time in 50 years her family has not been able to enjoy their property over the last few years due to “numerous incidents of very loud music...until as late as midnight....increased traffic (some of the drivers clearly inebriated), and at least one hit and run incident.” In addition, the owners have since installed a fence that does not comply with the current zoning regulations. The Applicants have “defiantly engaged in non-permitted activities, with no apparent consequences” and have shown “to have no regard for the character of the neighborhood, not once ounce of neighborly courtesy, and certainly no respect for the Planning and Zoning Regulations or it’s [*sic*] governing body and representatives.” She felt that the Application does not meet the intent of the zone, as stated in Section 30 of the Regulations, would adversely affect the property values, public health and safety of the area, and would “be inappropriate for the surrounding area and neighborhood”. She questioned the reasoning behind the issuance of the stay when there was no application

pending between the Commission's previous and current applications and the lack of enforcement during this period.

In response to Atty. Carey who questioned the evidence she might have regarding the diminishing of her property values, Ms. Sullivan stated that a real estate appraisal was recently conducted in preparation of selling her home should the Application be approved.

William Schultz, 19 Forest Drive, spoke in opposition to the Application. He stated his hopes that the Commission realizes the gravity of the situation as expressed by his mere presence, being legally blind, under dialysis, with limited balance, and a broken arm. The Commission's approval of the application would be antithetical to the Town's POCD, past Planning & Zoning Commissions, Gardner Lake Authority, Dr. David Bingham, Salem Land Trust, and former First Selectman Kevin Lyden's efforts to maintain the Town's rural character. He stated the Commission's task is to ensure that the Application meets the four (4) findings as listed in Section 30.15 of the Regulations. He spoke with respect to past safety issues, the ADA accessibility to the building, and whether the proposed driveway meets the standards of a residential driveway.

Carol Johnson, 63 Forest Drive, recited a joint letter by herself, Geraldine Deyermond, and David Anderson, stating their opposition to the Application. The letter cites a recent event on June 4, 2022 during which very loud music was being played by a band making it difficult for their young children to sleep. The ongoing events have resulted in increased traffic on a road in which residents walk with their children and children ride their bicycles. The noise pollution caused by the loud music and attendees', increased traffic, and light would result in a decrease in property values and affect the serenity of the Lake. While the owners erected a fence to dampen the noise and light, it has accomplished neither due to the elevation of the property in relation to their property. She questioned whether the limitation of 100 guests includes the staff, entertainment, and other workers. The site plan depicts a proposed driveway that runs behind residences and ends behind her home. Similarly, the proposed placement of the portable toilets is located directly behind her home. The scent from both the toilets and the nearby dumpster on hot days would render their backyard unusable.

In response to Chairman Smith regarding the loud music on the evening of June 4, Ms. Johnson stated that the band played until at least 9:00 p.m. on a Saturday. Patrick Milio later corrected that the band played until 10:30 p.m.

Patrick Milio, 15 Tamarack Place, a ten-year resident of the town, strongly encouraged the Commission to deny the application. He stated that placing the economic aspect of the application before the health and well-being of the residents would not be a good idea.

James Miller, 19 Morgan Road, a 28-year resident of the town, a retired State Trooper and the town's first Resident State Trooper, Retired Coast Guard Special Agent, and a member of the Inland Wetlands & Conservation Commission and Gardner Lake Authority, spoke in support of the application. He stated that the property was not very quiet when it was a Boy Scout Camp and recalled that search and rescue practices were often engaged for lost children. The regulations were changed to allow the existing special event venue to be approved and stated the need for fairness when deliberating upon the application.

Dan Stanavage urged the Commission to approve the application and regulate the property. He stated that, while serving as a member of the Board of Finance, the then-Camp Wakenah became available for purchase. At that time, he engaged Bob Kauffman to partner with the town to purchase the property. The item was sent to a referendum to approve the purchase of a share of the property for \$400,000.00. The referendum failed. He criticized the balance in the town and expressed his concerns about the resulting increase in taxes and possible development of the property should the application be denied.

Brian Thomas, 18 Tamarack Place, recited his letter while playing a recording of the background noise he is subjected to regularly. He stated the lack of consideration of the owners of 45 Forest Drive who have been running an illegal business of transient guests for the last two years at their neighbors' expense. He relayed their ongoing experiences with the owners regarding the loud music, loud conversations sprinkled with profanities, and ongoing traffic.

Atty. Carey reiterated his request to continue the Public Hearing, providing them with the opportunity to review and properly address the residents' comments and concerns.

Keith Tower, 46 Forest Drive, spoke in support of the application. He stated his preference for a neighbor who hosts a few events a year rather than an opioid rehabilitation center or condominium complex, which the previous owners were considering.

Cathy Smith-Carolan, 26 Forest Drive, spoke in opposition to the application. She questioned how the application would economically benefit the Town of Salem as the services of outside vendors, rather than local vendors, would be utilized. In addition, in speaking with the Assessor, she discovered that the tax rate for the property would remain the same, regardless of how the property is utilized. She felt that it would behoove them to discuss only the current proposed use of the property, other and/or future uses of the property are not relevant or under consideration at this time. She also noted that she did not receive an invitation to the April 3 event during which a consensus of the neighbors was achieved.

Carmen Sands, 20 Forest Drive, a 35-year resident, spoke in opposition to the application. She reiterated her November 2020 letter, stating that her mailbox and son's vehicle were totaled as a result of a hit and run accident in May 2019 from one of the Applicant's guests. Luckily, her son was not in the vehicle at the time of the incident. Their and the State Police's efforts to gain any information regarding the driver of the vehicle from the owners of the property came to no avail and no responsibility was taken. The caliber of guests who will be utilizing the property for their events is unknown and the residents could be subject to unsafe and irresponsible behavior.

Scott Cohn, 14 Tamarack Place, spoke in opposition to the application, stating the Applicant's lack of trust and follow-through. The owners have/are modeling ways in which actions can be taken without any scrutiny, sanctions, or consequences, which is disheartening. If approved, the Commission would be sanctioning both the best and worst possible scenarios and what is agreed upon could differ from what transpires. He also noted that the traffic study was conducted in October, rather than during the summer months when the bulk of the events would be taking place. In addition, the traffic study rated the area as a "D", with no fatalities and approximately 22 accidents at the proposed egress on Old Colchester Road.

In response to Chairman Smith who questioned whether the 22 accidents were related to activities taking place at 45 Forest Drive, Mr. Cohn stated that he was unsure what the data was based on.

Kate Johnson, 87-G Cottage Road, Oakdale, which is located directly across 45 Forest Drive, questioned whether the Commission approved the construction of the 16,000 square-foot Adelstein home and the maintenance of the property as such. She wished the best for the residents and felt that the change in egress might be helpful to alleviate some of their concerns.

Zoning Enforcement Officer Matt Allen stated that the construction of the home would have been approved administratively through the Zoning Office for a single-family residence and would not have come before the Commission for review and approval.

A brief recess was taken at 9:35 p.m. The meeting reconvened at 9:43 p.m.

Ken Johnson, 72 Forest Drive, who has been visiting the Lake since 1964, spoke in favor of the application. He stated that he has witnessed the property's activities throughout its years as a Boy Scout Camp and its many parties as well as the numerous parties that occur at the beach and around the Lake well into the night. The issues regarding the traffic would be remedied by changing the access to Route 354. He also reported that the sound level did not exceed 42 decibels from any location around the property during their last event. Contrary to the previous comments, the DJ (not a band) stopped playing the music at 9:00 p.m. sharp and all of the visiting guests departed by 10:00 p.m. There was no activity, aside from cleaning up after the event, after 10:00

p.m. He reiterated that all of the residents have parties and it is not an unusual occurrence. ATVs are ridden on the premises by the workers only.

Commissioner Questions/Comments

Agricultural Use/Building being Enhanced or Preserved (Commissioner Fontneau) – Per Section 30.1 of the Regulations, the intent of the regulation was to “continue and expand, and to promote adaptive re-use of existing agricultural buildings.”

Commissioner Fontneau questioned what agricultural use or building on the property is being enhanced or preserved. Atty. Carey concurred that, per Section 30.1, “agricultural uses are an asset to the town’s rural character.” He stated that Section 30.4 provides a wide variety of permitted uses, only a fraction of which are agriculturally-related. As such, he argued that a specifically agriculturally related use is not required.

Discussion ensued regarding the intent of the regulation. Commissioner Fontneau noted that the three previous successful applications for the zone change had an existing agricultural use and building that were enhanced or improved. In response, Atty. Carey stated that the Salem Herb Farm, though it was previously a farm, is no longer acting as a farm. Commissioner Closius noted that the intent clearly states the “adaptive re-use of *existing* agricultural buildings”. Atty. Carey reiterated that Section 30.1 states that “The Town of Salem recognizes that agricultural uses are an asset to the town’s rural character.” In addition, the POCD discusses the importance of maintaining the town’s rural character. He argued that the application would enhance, maintain, and preserve the rural character of the town. The Regulations do not require an actual agricultural facility on the site or that the buildings were once utilized for or associated with agricultural uses at the time the application is submitted and approved.

Quality of Life (Commissioner Khan-Bureau) – Atty. Carey stated that, while the neighbors’ concerns are important and relevant, the Commission’s task is to apply or amend the Regulations to benefit the town as a whole. He hopes to have the opportunity to respond to the past activities that were voiced during this evening’s Public Hearing. He stated the need to balance the town’s rural character and other deeply held values with its economic values. Contrary to a previous comment, he stated that the Application would necessarily increase the area’s property values and Town’s tax base. In addition, with the exception of any emergency services, the property would not be utilizing any municipal services. Furthermore, the local businesses would benefit from its existence. When viewing the application, its proposed, past, and current use versus what is best for the entire town, he felt that there is no question as to its benefits.

Property Values (Chairman Smith) – Atty. Carey felt that the neighboring property values would not decrease as a result of the establishment of a special event venue at 45 Forest Drive and questioned whether the property values of the neighboring properties of the other applications were reduced due to the establishment of their businesses.

Appraisal of Properties (Commissioner Shelley) – Atty. Byrne stated that a third-party individual would need to be hired to determine the value of the properties.

Public Comments *(with a three-minute limit)*

James Miller, 19 Morgan Road, reiterated the question of fairness. In looking toward the future, he questioned the quality of life should the special event facility fail and the property be sold. He also stated that the Commission has the authority to grant exceptions, in the interest of the town. In addition, he felt that this evening's testimony was hearsay and it is the Commission's responsibility to determine which comments are factual.

Cindy Thomas, 18 Tamarack Place, addressed the definition of property values. She reported that the value of their property has decreased and, should the application be approved, will continue to decrease. The monetary investment is secondary to the value they receive from their use and enjoyment of the property. She disagreed that their comments were hearsay, stating that extensive documentation has been gathered, including police calls. She also took the opportunity to play a brief video depicting the property's activities.

Atty. Carey interjected and implored the Commission to submit the video, for the record. Town Atty. Byrne agreed, adding that the video would add more weight as such, and requested that the file(s) be sent to the Zoning Officer, for the record. Ms. Thomas agreed to forward the file(s).

Ms. Thomas stated that the establishment of the overlay zone would allow for events to occur at any time subjecting the residents to loud music and noise. She added that all of the events that have been held over the past two years are illegal and are currently in litigation. She continued to play the video of the noise emanating from the property at 2:31 p.m. on June 4, 2022. The noise continues throughout the day until 10:00 p.m. Additional videos since 2020, recordings of police calls, and photos of the fencing are also available.

Dan Stanavage stated that he attended the Boy Scout Camp as a youth and confirmed that chickens resided on the premises at that time. He stated that the property is a historic property that should not be developed with single-family residences. He added that the venue would support and increase the revenue for the local businesses. Parties throughout the neighborhood occur regularly along lakeside properties. He felt that the townspeople should be aware that, should the land be developed and tax rates rise, the residents would not be able to afford to live in the Town. As a business, the town would be able to regulate and place restrictions on the property. He felt that the residents should understand the consequences should the property be developed into a condominium complex.

Brian Thomas, 18 Tamarack Place, cited one of their experiences with the Applicant regarding the handling of loud music emanating from the premises. He stated that three telephone calls were made requesting that the volume be turned down between approximately 10:00 to 11:00 p.m. before contacting the police. A subsequent conversation with the Applicant included a comment that he only needs to appear as if an effort is being made to help curb the noise and that he would place an offer to purchase their dream home after he has successfully depreciated the value of their property.

Ellen Cohn, 14 Tamarack Place, spoke with respect to the sudden influx of loud birds, their location, and the proposed placement of the dumpster and portable toilets. She questioned why the activities are adjacent to their homes and not centered along the far side of the property. She is offended by the dismissive nature of the Applicant, his Attorney, and those who spoke in support of the application. She stated that the residents are offended by an individual moving into the neighborhood with blatant disregard for the neighboring properties. She is dismayed by the Town's lack of support for their concerns, which she feels are important and legitimate and urged the Commission to heed their comments.

Diane Sullivan, 57 Forest Drive, stated that, while the occurrence of an average of two events per week does not sound threatening, the events would, most likely, be held during the warmer months of the year, from June to September, amounting to 6.11 events per week. She informed Mr. Stanavage, who had departed from the meeting, that seasonal property owners are prohibited from voting on town issues and would have supported the proposed purchase of the property by the Town. She added that the activities of the other properties the Commission approved may not be located so close to the abutting properties. She reiterated that all of the activities being proposed by the Applicant are concentrated beside the neighboring properties. In conclusion, she felt that the Applicant has not been a good neighbor.

Victoria Valenti, 53 Forest Drive, agreed that she, too, would have supported the Town's partial purchase of the property had she had the opportunity. She assumed that the property would be receiving a reduced tax rate under the Special Agricultural Overlay Zone. She reiterated that the contractors who have been working on her home have stated that the property value of her home has decreased. As such, she questioned how that would economically benefit the town. She also noted that businesses would only minimally benefit from the Application as the events would be catered in by outside vendors. She also encouraged the Commission to drive down the road and witness the changes in the neighborhood first-hand.

Cindy Thomas, 18 Tamarack Place, felt that it is on the onus of the Applicant to show that the property values would not be adversely affected, reiterating that the value is not only monetary.

M/S/C: Fontneau/Khan-Bureau, to continue the Public Hearing for ZMA 22-01 – 45 Forest Drive, LLC: Application to apply the Special Agriculture Overlay Zone to 45 Forest Drive (currently zoned Rural A), for the purpose of operating a special event facility to Tuesday, July 12, 2022, 7:00 p.m., Salem Town Hall, Conference Room 1. Discussion: None. Voice vote, 7-0, all in favor.

5. OLD BUSINESS:

- a. ZMA 22-01 – 45 Forest Drive, LLC:** Application to apply the Special Agriculture Overlay Zone to 45 Forest Drive (currently zoned Rural A), for the purpose of operating a special event facility, with associated overnight lodging.

The Public Hearing was continued.

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

- a. Regular Meeting Minutes of June 14, 2022**

M/S/C: Khan-Bureau/Closius, to approve the Planning & Zoning Commission Regular Meeting Minutes of June 14, 2022. Discussion: None. Voice vote, 6-0-1, all in favor. Voting in Favor: Commissioners Closius, Fontneau, Khan-Bureau, Shelley, Volberg, and Smith. Voting in Opposition: None. Voting in Abstention: Commissioner Gadbois.

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

8. TOWN PLANNER REPORT – none

9. CORRESPONDENCE – none

10. PUBLIC COMMENT – none

11. PLUS DELTAS

Commissioner Fontneau stated the importance of stating the application number and related address in their motions.

12. ADJOURNMENT

M/S/C: Commissioner Shelley, to adjourn the meeting 10:33 p.m. Discussion: None. Voice vote, 7-0, all in favor.

Respectfully Submitted by:

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