

**TOWN OF SALEM  
PLANNING & ZONING COMMISSION  
SPECIAL MEETING MINUTES  
WEDNESDAY, DECEMBER 7, 2022 – 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  
Diba Khan-Bureau  
Carl S. Fontneau  
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 7:00 p.m.

**2. PLEDGE OF ALLEGIANCE**

**3. PUBLIC COMMENT:** *none*

*Alternate Commissioner Closius was seated for Full Member Commissioner Reith.*

**4. PUBLIC HEARING:**

- a. ZRA 22-01 – Frank Zeleznicky, Sean Smith, and Laura Smith. Application to amend Section 4.1.4 of the Salem Zoning Regulations to include lumbering on lots of 10 acres or more as a permitted use in the Rural A Zone.**

**M/S/C: Lindo/Khan-Bureau, to open the Public Hearing for Application ZRA 22-01 – Frank Zeleznicky, Sean Smith, and Laura Smith. Application to amend Section 4.1.4 of the Salem Zoning Regulations to include lumbering on lots of 10 acres or more as a permitted use in the Rural A Zone. Discussion: None. Voice vote, 7-0, all in favor.**

Chairman Smith stated that the Public Hearing is a continuation of the Commission's November 22 Regular Meeting.

Applicant Laura Smith, in response to the Commission's previous comments, distributed a site plan of the property, indicating the area and distances of the activity

and storage of unprocessed and processed wood. The bulk of the work is conducted on the processor, which is a movable machine (trailer) with a circular saw, mechanical wood splitter, chainsaw, and conveyor belt that cuts and splits the wood. Smaller wood splitters and chain saws are also utilized. A skid steer, which is similar to a bobcat, is utilized to drag the logs to the trailer for processing. When closed, the processor, which is not visible from the road, measures approximately 30' and measures approximately 60' when in use.

Public Comment

James Moran, 623 West Road, distributed and recited a joint written statement from himself and his wife, Leah. While not opposed to the proposed text amendment, he felt that its approval would place a hardship on his family and property and their enjoyment of a quiet, idyllic neighborhood. The Applicants' large commercial operation is located directly across from their home and is significantly impacting the neighborhood and its neighboring properties. The activity, which involves logging trucks, large, heavy commercial equipment, and large dump trucks, is perpetual. It begins, at times, early in the morning and past dinner time and is not limited to the processing area. As a result, they are not able to enjoy the outdoors or open their windows without being exposed to the "sights and sounds of heavy equipment and constant saws and machines" throughout the day. He expressed his appreciation of "Farmer Frank and his cows for the 12 years of quintessential New England scenery he has given us" and stated that they do not wish to create hardship. The proposed amendment would affect numerous Salem properties. He requested that, should the Commission approve the proposed amendment, they also consider the following:

- (1) instituting a minimum setback of 300' from the property line,
- (2) implementing strict hours of operation, ceasing all work on weekends and holidays, and
- (3) if approved as presented, the Commission revisit the regulation at a later date to assess any resulting impact(s) on the neighborhood(s).

Should the Commission opt to not consider the above items, he requested that the Application be denied or they be provided with the opportunity to poll the neighborhood and gather impact data before a final decision is made.

Wayne Scott, 680 West Road, one of, if not, the closest neighbor to the property, stated the differences between his and Mr. Moran's experiences. He felt that the Applicants are very respectful and carefully observe their hours of operation and that the noise emanating from the activity is very minimal. He clarified that the Applicants are running firewood, not forestry, operation, and industrial-type dump trucks are not used to transport the wood. He also noted that the lack of neighbors attending the meeting and speaking in opposition to the proposed regulation amendment is a testament to the Applicants' sound practices.

Applicant Laura Smith thanked the Commission for scheduling the Special Meeting to help expedite the Application. She felt that they are acting as the voice for other similar farms in the Town of Salem. With respect to Mr. Moran's comments, she noted that the Lions Club, of which he is a member, engages in a similar practice of cutting and selling firewood. He is also a small business owner that relies on lumber mills to support his business. She added that they are close to his suggested setback of 300' and have limited hours (8:30 a.m. to 4:00 p.m.) to avoid conflicting with the school buses. Due to the topography of the property, the processor is not visible from the road and they utilize either a Dodge 2500 or 3500 truck to transport, at most, one cord of wood at a time. She also noted that West Road is home to three farms, including the Zeleznicky Farm, and a tree service business.

*In response to Chairman Smith who questioned the amount of wood that is generated and stored on the premises, Applicant Smith stated that approximately 200 to 250 cords are sold annually. It is difficult to estimate how much wood is located on the property at any given time. The bulk of the wood is sold during the Fall season and is primarily sold to Salem Farms campground during the summer. The business is year-round.*

Melissa, 39 Alexander Road, who runs Salem Farms Campground, stated that they purchase approximately 20 cords of wood in April and approximately 30 to 40 cords of wood throughout the Summer. This year, an additional four to five cords were purchased at the end of the season to accommodate their campers. She confirmed that the wood is delivered in Dodge trucks as larger trucks would not be able to maneuver on the campground. Due to the campground's quiet hours, deliveries are received from 9:00 a.m. to 4:00 p.m. and are not received on weekends or holidays.

*In response to Commissioner Closius, the Applicant stated that the raw logs could be directly delivered to the processing area on the site.*

*Commissioner Lindo reminded them that the Application is to approve a proposed text amendment that would apply to all of the properties located within the RUA Zone; it is not a site-specific application. The number of parcels that the amendment would affect is unknown.*

*A brief discussion ensued regarding the terminology. Commissioner Khan-Bureau noted that, while the Applicants termed their business as a Wood Manufacturing Processing operation, the Zoning Enforcement Officer (ZEO) utilized the term lumbering. Chairman Smith also suggested the term firewood production.*

Kate Tomasek, 690 West Road, noted that lumberyards, which are larger commercial operations, are permitted by Special Exception in the RUA Zone (Section 4.2.16). She suggested utilizing the regulation for commercial golf facilities, which allows the construction of a building 100' from the property line and associated trucking from 7:00 a.m. to 5:00 p.m., as a point of reference.

Carol Carlson, 630 West Road, questioned whether other similar businesses operating within the RUA Zone would also be required to cease operations.

*In response, Town Planner Haggerty stated that it is common practice for small rural towns like Salem to employ a part-time ZEO who does not engage in the policing of or search for possible violators due to time constraints. In such cases, violations are usually brought to the Town's attention as a result of a complaint or other such reporting practices. Commissioner Lindo added that her question would be better directed to the ZEO.*

*Chairman Smith wished to discuss the language and possible stipulations of the text amendment before closing the Public Hearing. Town Planner Haggerty warned against discussing or determining the specific language during the Public Hearing; the Commission may engage in general conversation, allowing the public to comment and provide their input.*

*Chairman Smith suggested making the processing of firewood an As-of-Right activity with stipulations, e.g., setbacks, hours of operation, and quantity of material produced, pending a site plan approval. Larger operations would require a Special Exception.*

*Commissioner Khan-Bureau favored the use of the terminology, firewood processing or firewood manufacturing, distinguishing it from lumbering, forestry management, etc.*

*Commissioner Fontneau questioned the Commission's ability to apply conditions for As-of-Right activities.*

*Town Planner Haggerty clarified that, because the requirement for a 10-acre minimum was proposed as part of the text amendment by the Applicant, it would be considered a requirement rather than a stipulation. A list of items that would be considered as part of the approval process would, on the other hand, be considered a stipulation(s).*

*Discussion ensued regarding the possibility of limiting the amount of wood that is processed and how it would be monitored. Similar to a quarry, such operations could be required to submit an annual application stating the amount of wood that is expected to be processed. In terms of the setback, Chairman Smith proposed the possibility of establishing a 500 feet setback, similar to the requirement for kennels.*

Wayne Scott, 680 West Road, proposed limiting the size, i.e., diameter and length, of the wood being processed to differentiate a firewood operation from larger lumbering operations.

*In response, Chairman Smith felt that utilizing such terminology as firewood production would automatically exclude larger lumbering operations.*

James Moran, 623 West Road, felt that those neighbors with whom he has spoken and wished to remain anonymous at this time would be agreeable to the Commission's proposal to establish setback requirements and hours of operation for such activities.

Applicant Smith questioned whether there were any examples within the regulation requiring a 410 feet setback and questioned the required setbacks for quarry operations.

*In response, Town Planner Haggerty was unaware of any regulations requiring a 410 feet setback. Quarries are no longer approved.*

Frank Zeleznicky, 630 West Road, the owner of the property in question, felt that the issue has gotten out of hand. The operation involves the cutting of firewood from 8:00 a.m. to 4:00 p.m. It also involves the use of large logging trucks, on an intermittent basis, and small mason dump trucks to transport the wood. Such issues should be resolved in a neighborly manner.

Melissa, 39 Alexander Road, questioned whether a limitation would be placed on the amount of wood that is sold, stating that the purchasing of firewood varies and is dependent upon the needs of the campers. She added that firewood purchased outside the local area runs the risk of such issues as invasive bugs.

Carol Carlson, 630 West Road, stated that, in contrast to the regulations of neighboring towns and the State Farm Bureau which places firewood under forestry, Salem defines the production of firewood under lumbering. Lumbering is defined by these entities as the production of wood for homes, furniture, cabinetry, and the like, not cordwood.

Applicant Smith stated that they worked with the former Town Planner to draft the proposed text amendment. The acreage was determined in consideration of other similar farms and continue to struggle with the terminology and definition of firewood and lumbering.

Chairman Smith recited the ZEO's definition of forestry as "the cultivation and harvesting of timber" and lumbering as "the processing of timber for commercial sale." It was clarified that the letter from Town Planner Haggerty stating that the proposed amendment would not likely have a negative inter-municipal impact was drafted as part of an Intermunicipal Referral before she was appointed as the Town Planner to the Town of Salem.

**M/S/C: Khan-Bureau/Volberg, to close the Public Hearing for ZRA 22-01 –Frank Zeleznicky, Sean Smith, and Laura Smith. Application to amend Section 4.1.4 of the Salem Zoning Regulations to include lumbering on lots of 10 acres or more as a permitted use in the Rural A Zone. Discussion: Commissioner Fontneau reminded the public that, once the Public Hearing has closed, they may no longer provide comments. Voice vote, 7-0, all in favor.**

**5. OLD BUSINESS**

- a. ZRA 22-01 – Frank Zeleznicky, Sean Smith, and Laura Smith. Application to amend Section 4.1.4 of the Salem Zoning Regulations to include lumbering on lots of 10 acres or more as a permitted use in the Rural A Zone.**

The number of lots the text amendment would affect is unknown. It is estimated that approximately 50% to 60% of the Town is within the RUA Zone.

Extensive discussion ensued regarding the definition of lumbering and the possibility of allowing firewood manufacturing operations as an As-of-Right activity or Special Exception. Commissioner Lindo expressed her discomfort with allowing the practice as an As-of-Right activity due to the possible abuse the regulation could incur.

Commissioner Closius agreed, pointing to the lack of control and the need to manage the growth of such operations. A differentiation was made between those who purchase, cut, and split wood on their property for personal use and those who purchase, cut, split, and sell firewood. Because stipulations cannot be placed for As-of-Right activities, the Commissioners agreed to deny the Application and introduce and discuss a text amendment, drafted by the Commission, to approve the production of firewood as a Special Exception at their December 13 Regular Meeting. Following the approval of the text amendment, the Commission will schedule a Public Hearing and vote to approve the proposed text amendment.

**M/S/C: Fontneau/Khan-Bureau, to deny Application #ZRA 22-01 –Frank Zeleznicky, Sean Smith, and Laura Smith. Application to amend Section 4.1.4 of the Salem Zoning Regulations to include lumbering on lots of 10 acres or more as a permitted use in the Rural A Zone. Discussion: None. Voice vote, 7-0, all in favor.**

**6. ADJOURNMENT**

**M/S/C: Lindo/Khan-Bureau, to adjourn the meeting 8:29 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**