

**TOWN OF SALEM
PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, SEPTEMBER 17, 2019 – 7:00 P.M.
SALEM TOWN HALL – CONFERENCE ROOM 1**

PRESENT

Ruth Savalle, Chair
Vernon Smith, Vice Chair
John Gadbois, Secretary
Terri Salas
Diba Khan-Bureau, Alternate (*seated*)
LaVan Norwood, Alternate (*seated*)

ABSENT

Margaret Caron
David Miller
Eric Wenzel
Ray Gionet, Alternate

ALSO PRESENT

Town Planner Justin LaFountain
Selectman Liaison David Kennedy

1. CALL TO ORDER

Chairperson Savalle called the meeting to order at 7:04 p.m.

2. PLEDGE OF ALLEGIANCE

SEATING OF ALTERNATE(S):

Alternate Member Commissioner Khan-Bureau was seated for Commissioner Wenzel and Alternate Member Commissioner Norwood was seated for Commissioner Miller.

3. PUBLIC COMMENT:

Elizabeth Wolstenholme, 20 Salem Ridge Drive, requested the status of a letter and petition with 15 taxpayer signatures that was mailed to the Zoning Department regarding their concerns with 19 Salem Ridge Drive.

Roy Wolstenhome, 20 Salem Ridge Drive, questioned the process for a resident to request an amendment to the Town's Zoning Regulations.

The Commission agreed to move Item 8 to Item 4 and renumber the succeeding items accordingly.

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

Zoning and Wetlands Enforcement Officer (ZWEO) Matthew Allen confirmed the receipt of the Zoning complaint regarding the property located at 19 Salem Ridge Drive and reported that he, upon investigating the property and their concerns, has concluded that there are no zoning violations. He confirmed that, though the Town does have an Ordinance regarding the registration of vehicles, it is under the purview of the Board of Selectmen and not under that of the Commission.

Town Planner LaFountain added that the issue in question deals more with blight, which requires an Ordinance that the Town does not currently have. He recommended they present their concerns/ requests to the Board of Selectmen as the Commission is unable to address their concerns, per State Statutes. Should they wish to request a Zoning Regulation Amendment, they may obtain the application form online or at the Land Use office. A fee to cover the costs of the public notice will apply and notices to the respective property owners and/or towns will be required.

A Cease & Desist Order for the unpermitted use of the property and probable health & safety and fire code violations were issued to the property owner(s) of 45 Forest Drive via Certified Mail on two separate occasions; both of the letters were returned unreceived by the addressee. Per the Zoning Regulations (Section 17.4.2), should the property owner(s) fail to either contest the claim or cease & desist the illegal activity within 30 days, the Commission must affirmatively direct the ZEO to place a Notice of Zoning Violation on the Land Records and any further action would involve the Town Attorney. In response to Chairperson Savalle who questioned whether any attempt(s) was made to serve the Order in person at the location, ZWEO Allen stated that the property is not currently occupied by the owner(s) and the Zoning Regulations clearly states that the Order must be communicated via certified mail.

Violations discussed at last night's Inland Wetlands and Conservation Commission (IWCC) meeting included

- (a) work being conducted on beach property beyond the scope of a permit that was issued for non-regulated activity. The property owner appeared before the Commission and discussed and agreed to the Commission's corrective action(s).
- (b) the inadvertent dumping of clean fill in the wetlands/upland review area at the property located on Darling Road, with the approval of the owner, by the Public Works Department. The First Selectman has issued a directive requiring all fill be taken to the Transfer Station. The Commission, feeling that any restorative action might negatively impact the area, voted to not pursue or require the restoration of the area.
- (c) a draft proposal to restore the beach area of the property located on Fett Road, due to the filling of wetlands.

The proposed Zoning and Wetlands Complaint Form was reviewed by the Commission. The form requests the address in question and the nature of the complaint. Upon completion, it will be available online and at the Building/Zoning and the Town Clerk's offices.

5. PUBLIC HEARING:

- a. 19-ZRA-01: Salem Planning and Zoning Commission-Proposed Administrative Amendments to the Zoning Regulations
 - i. Section 11A.4.16 – Site Plan Requirements
 - ii. Section 12.1.3 and 12.3 – Nonconforming Uses
 - iii. Section 17 – Administration
 - iv. Inclusion of New Zoning Tables in Section 3

v. Update of References from Town Sanitarian to Designated Health Agent

Secretary Gadbois recited the Public Notice as published in *The Day* newspaper.

**M/S/C: Khan-Bureau/Smith, to open the Public Hearing at 7:31 p.m. Discussion: None.
Voice vote, 6-0, all in favor.**

Town Planner LaFountain introduced the proposed amendments:

i. Section 11A.4.16 – Site Plan Requirements

The proposed amendment would require special historical and archaeological resources to be noted on pertinent site plans. A fairly common requirement within Zoning Regulations, this amendment would also fulfill one of the recommended suggestions in the Town's Plan of Conservation and Development.

ii. Section 12.1.3 and 12.3 – Non-Conforming Uses

Changes in the State Statutes and recent case law prohibit non-conforming structures and uses to be eliminated due to the lack of use for a certain period of time. The use must maintain the original footprint, i.e., it cannot be expanded.

ZWEO Allen added that the amendment would clarify and eliminate any confusion between the State Statutes and the Town's Regulations, citing a recently received application.

iii. Section 17 – Administration

Similar to the previous amendment, the revision would align with the current State Statutes and describes the authority of the ZEO. It also provides additional details regarding how the ZEO is to conduct the enforcement of the Regulations, providing clarity as to how a property owner could respond to any violation notices.

ZEO Allen added that the amendment would, again, clarify and eliminate any confusion between the State Statutes and the Town's Regulations and cited the possible ramifications should the Regulations have been followed as currently stated.

iv. Inclusion of New Zoning Tables in Section 3

In an effort to help simplify the usage of the Zoning Regulations, the tables list all of the dimensional requirements for each of the zones, making it easily accessible.

v. Update of References from Town Sanitarian to Designated Health Agent

Because the Town of Salem no longer employs a sanitarian and currently employs the services of the Uncas Health District, the revision would provide a broader term, avoiding any future updates.

Notices regarding the proposed amendments were sent via certified mail to the neighboring towns of Bozrah, Montville, East Lyme, Colchester, Lyme, East Haddam, and Lebanon; no responses were received. A notification was hand-delivered to the Southeastern CT Council of Governments (SECCOG), who responded with a letter stating their opinion that the proposed changes were not likely to have any adverse inter-municipal impact. A notification was also sent to the Lower CT

River Valley Council of Governments and a letter indicating the same was received.

Chairperson Savalle asked if there were any members of the public who would like to speak either for or against the proposed amendments.

David Bingham, 50 White Birch Road, felt that any proposed changes to the Regulations should also be mailed to the Eight Mile River Wild & Scenic Watershed Coordinating Committee. He added that, though requested and placed on the list to receive meeting notices, he did not receive the proposed amendments. That being said, he felt that all of the proposed changes appear reasonable and relayed his personal experience with Section 12 of the Regulations regarding non-conforming uses. He also suggested the possibility of including verbiage or changing the title from “agent” to “sanitarian” to ensure that the individual(s) is properly certified and has an understanding of soils.

Hugh McKenney, 33 Woodland Drive, agreed with Dr. Bingham, adding that the Commission should maintain the authority and ensure that the Town hires an individual or agency that meets the minimum requirements and qualifications of the position, thereby guiding the First Selectman and the Board of Selectmen. He also recommended keeping the Public Hearing open and sending the proposed amendments to the Land Use Attorney for review.

Extensive discussion ensued regarding the necessary qualifications of the Designated Health Agent and the title, itself. The Commission, in their previous discussions, decided to term the position more broadly to eliminate the need for any future updates. Chairperson Savalle expressed her concerns regarding the possibility of the hiring of an individual who is not a qualified sanitarian. In response, Town Planner LaFountain reminded the Commission that the qualifications or minimum requirements of a Sanitarian and the hiring of that individual(s) is a personnel issue and is neither under the purview of the Commission nor its Regulations. In addition, changing the references to the Town Sanitarian within the Regulations does not change the qualifications of the position. Selectman McKenney proposed the possibility of including the definition of the position. After much discussion, the Commissioners agreed to maintain the current terminology, “Town-Designated Health Official”, and add the following definition in the definitions section of the Regulations: “The Uncas Health District or a comparably qualified organization with a Connecticut registered Sanitarian.”

Chairperson Savalle asked if there were any additional comments or concerns the public would like to address regarding the proposed amendments.

**M/S/C: Smith/Khan-Bureau, to close the Public Hearing at 8:16 p.m. Discussion: None.
Voice vote, 6-0, all in favor.**

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

a) Regular Meeting Minutes August 20, 2019

**M/S/C: Smith/Salas, to approve the Regular Meeting Minutes of August 20, 2019,
with the following amendment:**

Item 6(a), First Sentence:

Commissioner Khan-Bureau introduced her former student Andrew Nyman, who *conducted the study during his internship as a student at Three Rivers Community College and* is currently studying Civil Engineering at the University of Connecticut.

Discussion: None. Voice vote, 6-0, all in favor.

7. OLD BUSINESS

- a) 19-ZRA-01: Salem Planning and Zoning Commission-Proposed Administrative Amendments to the Zoning Regulations
- i. Section 11A.4.16 – Site Plan Requirements
 - ii. Section 12.1.3 and 12.3 –Non-Conforming Uses
 - iii. Section 17 – Administration
 - iv. Inclusion of New Zoning Tables in Section 3
 - v. Update of References from Town Sanitarian to Designated Health Agent

M/S/C: Smith/Salas, to approve 19-ZRA-01: Salem Planning & Zoning Commission-Proposed Administrative Amendments to the Zoning Regulations, effective November 1, 2019:

- i. Section 11A.4.16 – Site Plan Requirements
- ii. Section 12.1.3 and 12.3 – Non-Conforming Uses
- iii. Section 17 – Administration
- iv. Addition of Section 3A: Zoning Tables
- i. Update of References from Town Sanitarian to Town Designated Health Official and the addition of the following definition to Section 2: Definitions:
Town Designated Health Official – The Uncas Health District or a comparably qualified organization with a Connecticut registered Sanitarian.

Discussion: Discussion ensued regarding sending the Regulation amendments to the Town Attorney for review, as recommended by Selectman McKenney. Because the revisions are not controversial and are, primarily, administrative/ clerical, the Commission agreed that it would not be necessary to send them to the Town Attorney. Voice vote, 6-0, all in favor.

8. NEW BUSINESS: *none*

9. TOWN PLANNER REPORT

At the request of the First Selectman, Town Planner LaFountain attended a Regional Transportation Project meeting. As part of the project, a meeting between himself, a Traffic Engineer, and Resident State Trooper Chris Pariseau was held to discuss and designate the most hazardous and/or accident prone areas of the Town. The two areas pinpointed as such were the Salem Round-a-Bout and the area just south of the Round-a-Bout. The potential issues will be

reviewed and possible resolutions determined and a region-wide report will be released in the near future. Once completed, the report will be provided to the Commission for their information.

He suggested and the Commissioners agreed to cancel the Commission's October 15 Regular Meeting to accommodate the IWCC who will be holding their Regular Meeting on the same evening due to the Columbus Day holiday.

In response to Commissioner Gadbois, ZWEO Allen stated that a permit renewal letter would be re-mailed to the new owners of the quarry located on East Haddam Road once the ownership has been recorded and updated in the Town Clerk's office.

In response to Chairperson Savalle, Town Planner LaFountain stated that there is a provision in the Statutes that allows residents to receive public notices of the meetings and meeting agendas are sent to those individuals. The attachments/supporting documents, which are not included in the e-mails, are available by request at the Land Use and Town Clerk's offices, per the Regulations and State Statutes. To his knowledge, there is no requirement to send a notice to the Eight Mile River Scenic and Watershed Coordinating Committee. That being said, should there be any amendments to the regulation regarding the Riparian Corridor Overlay Zone, the Eight Mile River Scenic and Watershed Coordinating Committee would be notified as any revisions would directly impact the River. Commissioner Khan-Bureau felt that Dr. Bingham, an esteemed member of the community and former member of the Commission, should be provided with the supporting materials.

10. CORRESPONDENCE

- a. A copy of the legal bill from the Town Attorney

11. PUBLIC COMMENT:

Hugh McKenney, 33 Woodland Drive, shared his past experience as the former Commission Chairperson and, having overheard a comment stating the possibility of consulting the Town Attorney after the Public Hearing is closed, corrected that the Public Hearing must remain open should the Commissioners have agreed to send the proposed amendments to the Town Attorney. Any information that is received following the closing of the Public Hearing could not be considered in the rendering of their decision. He stated the importance of maintaining the fidelity of the process to protect the Town from any potential lawsuits.

In response to Commissioner Norwood, Selectman McKenney agreed that the Public Hearing could be re-opened.

12. PLUS DELTAS: none

13. ADJOURNMENT

M/S/C: Smith/Khan-Bureau, to adjourn the meeting at 8:40 p.m. Discussion: None. Voice vote, 6-0, all in favor. Meeting adjourned.