

**SALISBURY PLANNING AND ZONING COMMISSION
SPECIAL MEETING MINUTES
MARCH 22, 2021 5:30 PM**

Remote Meeting by Live Internet Video Stream and Telephone

Members Present:

Dr. Michael Klemens (Chairman)
Debra Allee (Alternate)
Allen Cockerline (Regular Member)
Dr. Danella Schiffer (Alternate)
Bob Riva (Regular Member)
Martin Whalen (Secretary)
Cathy Shyer (Regular Member)
Jon Higgins (Alternate)

Staff Present:

Abby Conroy, Land Use Administrator (LUA)
Chuck Andres, Town Counsel

Brief Items and Announcements

1. Call to Order/Approval of Agenda
Chairman Klemens called the meeting to order at 5:30 p.m.
2. Seating of Members & Alternates
All of the Regular Members were present and seated.

Public Hearing

3. #2021-0123 / Salisbury Housing Committee / 11 Holley Street / Special Permit to Construct 12-Unit Multifamily Dwelling in the PKSQ District and Aquifer Protection Area (Section 403 & 405) / Map 45 / Lot 2 / DOR: 02/08/2021

In response to a question posed by the intervenor, Attorney Casagrande, Town Attorney Andres confirmed that this webinar format is in compliance with the Governor's Executive Order. LUA Conroy reviewed the list of documents received and posted on the Town's website. Chairman Klemens asked for an additional \$5,000 escrow. He explained that going forward the Commission will need to have their attorney present. Attorney Smith, Counsel for Salisbury Housing Committee agreed to forward the additional \$5,000 for the escrow account.

Jocelyn Ayer came forward with a PowerPoint presentation answering questions raised at the last public hearing. Jon Tunsy, Landscape Architect, presented the modified site plan which includes the fire lane on the western side of the building, directional arrows within the driveway, three bike racks, and 2 tenant designated outdoor spaces. In response to questions raised by Chairman Klemens, he noted that this project will not result in any adverse impacts to the aquifer and identified that the lot coverage was reduced from 86 percent of original development. Rocco Petitto, Architect, reviewed new submissions including a view of the proposed building from Millerton Road heading east which was updated to demonstrate an existing utility pole, a view of the rear of the building looking north from factory pond, and a night view of the rear of the building showing modified downlighting and the

44 existing guardrail between 7 and 11 Holley Street. Kent McCoy, Historic Architect, read his report
45 finding this design appropriate to historical context.

46
47 Chairman Klemens questioned whether some vegetative screening could be added to deal with the
48 lighting concerns that have been raised. Mr. Tunsky agreed to present screening options at next
49 meeting.

50
51 Kent McCoy reported that he met on site with a representative from the State Historic Preservation
52 Office (SHPO) so that they could review the existing conditions and historical features. He conveyed
53 that although he followed up with SHPO regarding the visit, he had not heard back with their findings
54 as of yet. Federal or State funding would be dependent on SHPO approval.

55
56 Mr. Tunsky reported that the current plan includes 9364 square feet at 68.9 percent of impermeable
57 coverage. There is an increase of 19 percent from current conditions with this proposal.

58
59 Commissioner Schiffer questioned whether resident parking would be designated. Ms. Ayer agreed
60 that they would do that, if it made sense. Additionally, they will add a sign noting public parking for
61 the available outside spaces.

62
63 Commissioner Allee questioned whether, in response to claims made by the interveners any parking
64 would be reserved for the neighbors who have stated a right to use and dependance on the existing
65 parking spaces. Attorney Smith responded that they will be in a better position to answer this
66 question after the presentation from the interveners.

67
68 Commissioner Higgins asked about the width of the fire lane pass-way. Mr. Tunsky responded that
69 the width is 15.22 feet including the fire lane.

70
71 Chairman Klemens asked about the designation of the two outdoor parking spaces for the tenants
72 noting he feels this would create an issue. Jocelyn Ayer explained that this was in response to what
73 they thought the Commission had previously wanted, but that if it is the Commission's preference,
74 they will not specifically designate the spaces.

75
76 Chairman Klemens asked Mr. McCoy about standard procedure related to SHPO reviews and local
77 Planning and Zoning process. Mr. McCoy explained for Chairman Klemens that sometimes SHPO
78 approval is a condition of zoning approval and other times he has seen zoning approval held for
79 SHPO's determination.

80
81 Attorney Casagrande was given the floor:

82
83 Lot coverage was discussed with Mr. Tunsky. Attorney Smith answered questions about the projected
84 number of cars per tenant versus required parking and expressed that a traffic expert could respond
85 but that, there is no projection at this time.

86 Mr. McCoy was asked about the National Register regarding Bicentennial Park. It was his opinion that
87 elimination is not an impairment of historical site.

88 Mr. Tunsy confirmed that the guardrail on the west side is on the neighbor's property (7 Holley
89 Street) as shown in the survey.

90
91 Chairman Klemens opened the floor for the interveners' presentation:

92
93 Attorney Casagrande introduced Mr. Brian Miller, Planning Consultant and Mr. Virbickas, Engineer.
94 He reported that there are two additional experts who will be available for the continuation of this
95 hearing.

96
97 Attorney Casagrande reviewed the PowerPoint presentation submitted for the record. He explained
98 that their arguments are that this is a historic site, there are alternatives, and that the plan does not
99 comply with Regulations or general standards.

100
101 Attorney Casagrande reviewed the historic significance of the site and noted that the applicant
102 mischaracterizes the current use as a dilapidated empty parking lot. He stated that this proposal is
103 likely to impair the historic resources of the State.

104
105 Brian Miller came forward and discussed feasible and prudent alternatives. He briefly reviewed the 7
106 potentially suitable sites noted in the Affordable Housing Plan adopted in May 2018 as alternatives
107 and discussed why they would be more suitable locations for affordable housing than the property in
108 question. Attorney Casagrande stated that development costs invested does not render this site the
109 only one feasible for development.

110
111 Dainius Virbickas, PE, came forward and reported on his third-party review of this application. He
112 noted that he found this proposal to have deficiencies with regard to the Zoning Requirements:

- 113 • Section 800.3 CT licensed engineer and drainage engineering reports are required.
- 114 • Section 801.5 Plan requires infiltration equivalent to natural state.
- 115 • Section 601.3 Excavation exceeds 250 cubic yards.
- 116 • Section 602.1 Storm water management plan is required.
- 117 • Section 300.3 Must meet front yard setbacks.
- 118 • Section 700.3 Maximum driveway grade shall be 18%.
- 119 • Section 801.10 Preservation of historical factors.

120
121 Mr. Virbickas noted deficiencies with the calculations for fire truck and other large vehicle turning
122 radius. He asked for clarification on how many employees would be occupying the building at any
123 given time. He noted the extreme density of the proposal.

124 Attorney Casagrande explained that there is case law stating that a Commission is powerless to grant
125 a special permit when the application does not meet the technical requirements. The Commission has
126 authority to deny for failure to comply with the general health and safety standards. A decision should
127 be in the best interest of community and not due to the asserted will those in favor or against a
128 proposal. The Commission should consider the impact of the uses and assure that the design is in
129 character with the neighborhood. It is not the interveners burden to show that the application does
130 not meet standards. The applicant must show application meets standards.

131

132 Mr. Miller came forward and reviewed the potential impacts on Lakeville Village businesses. He
133 referenced the low walkability score of the site and the need for parking. He explained that area
134 businesses depend on this parking area. In many cases Zoning Permits were granted using this site to
135 meet the parking requirements. He questioned whether these businesses would now become
136 nonconforming. Mr. Miller stated that the impact of this proposal could have an impact on the
137 sustainability to the village center.

138
139 Attorney Casagrande reported that the area businesses testified that 13 to 16 spaces are regularly
140 used in this lot. Deano's Pizza's Special Permit states that all employees must use satellite parking;
141 therefore, this proposal will put them in direct violation of their Special Permit. He explained that the
142 Zoning Commission has no authority to grant an application that renders adjacent properties
143 nonconforming. Attorney Casagrande read aloud sworn statements from the owners of the area
144 businesses stating that a loss of parking would have adverse effects on their businesses. Attorney
145 Casagrande closed by respectfully asking the Commission to deny this application.

146
147 Chairman Klemens opened the floor for questions from the Commission:

148
149 Chairman Klemens inquired about the Carley Report and whether she had seen the most recent
150 rendering prior to the statement read for the record. Attorney Casagrande noted that he would have
151 to defer to her for that question. Chairman Klemens addressed Mr. Miller's discussion of alternative
152 sites and the uncertainty regarding development of those properties due to site specific conditions.
153 He emphasized, contrary to Mr. Virbickas that the zoning regulations regarding setbacks are
154 significantly relaxed in the Pocket Knife Square Overlay District.

155
156 Chairman Klemens queried Mr. Miller about the impacts of added population base resulting from this
157 proposal and whether more people would add to the vitality of the area. Mr. Miller's opinion was
158 that if this many unites were proposed on another site then the development would not be an issue.

159
160 It was confirmed for Chairman Klemens that Deano's has 29 offsite deeded spaces. Mr. Klemens
161 expressed the importance of ascertaining the legality of neighboring properties and whether the uses
162 have changed, or buildings been subdivided without appropriate permits; therefore, it should be
163 understood if these activities are operating legally. It was agreed that the LUA could assist in
164 following up on this. Chairman Klemens asked if this became an 8-30g application, how much of this
165 would be relevant. Attorney Casagrande noted that he would not want to speculate; however, an 8-
166 30g has different requirements. He would argue that health and safety outweigh the need for
167 affordable housing and an intervention under 22a-19 is not trumped by 8-30g.

168
169 Commissioner Riva asked Mr. Virbickas to indicate where on the plan, the driveway proposal exceeds
170 the maximum 18 percent grade zoning requirement. Attorney Smith advised that if needed the plan
171 can be adjusted so that it is less than 18 percent.

172
173 Commissioner Riva asked about the fire access noting that the fire department had no concerns with
174 this plan. He asked for clarification of the concerns from Mr. Virbickas. Mr. Virbickas explained that
175 the overhang interferes with the turning radius. Commissioner Riva asked about the notation that the

176 sprinkler system design is deficient from the plan. Attorney Smith agreed to follow up with his clients
177 regarding this; however, he read a letter aloud from the Fire Marshal stating he had no concerns. LUA
178 Conroy reported that this is a preliminary review by the Fire Marshal and he would further review
179 based upon the construction plans. Chairman Klemens requested that these issues be forwarded to
180 the Fire Marshal.

181
182 Commissioner Shyer asked for clarification regarding Mr. Miller's testimony about walkability. He
183 noted that this is a broad-based measure, and it is not accurate to call this is walkable site.
184 Commissioner Cockerline asked Mr. Virbickas about the distance between the building and the
185 setback. Mr. Virbickas reported that it is 18 feet and opined that structures can match the existing
186 buildings with regard to the leeway afforded.

187
188 Commissioner Schiffer questioned whether a fire professional opined on truck access. Mr. Virbickas
189 advised that his calculations regarding access are based upon the dimensional details of fire trucks
190 provided to him by the Fire Marshal.

191
192 Commissioner Higgins questioned whether the intervenor considered the 10 public parking spaces
193 included in this proposal when they projected on impacts to neighboring businesses. Mr. Miller
194 explained that, in addition to day-to-day operations, there are many large events that should be
195 considered with regard to the parking.

196
197 The floor was given to Attorney Smith for questions:

198
199 Attorney Smith asked if Mr. Virbickas was a fire safety expert. Mr. Virbickas advised that he
200 generated his report based on information discussed with the Fire Marshal.

201
202 Attorney Smith asked if Mr. Miller was a traffic expert. Mr. Miller stated that he was not. He
203 reported that he was retained within the last two weeks as a planning consultant. Attorney Smith
204 quoted from the POCD regarding the need for this type of housing. Mr. Miller explained that the
205 POCD contains general statements that are not applicable in every location. The alternative sites
206 were discussed, and Mr. Miller clarified that these are alternatives that the Commission should
207 consider when making their decision.

208 The floor was opened to the public:

209
210 Hobart VanDeusen asked about handicap parking.

211
212 M. Stucke asked why a stormwater management plan submitted by a registered engineer was not
213 done and questioned whether there will there be such a report.

214
215 Attorney Grickis noted that an important issue raised is the fire lane and advised that not simply the
216 Fire Marshal, but also the Fire Chief should make these determinations. Additionally, the importance
217 of public safety should not be overlooked. He stated that Commissioner Cockerline should not be
218 seated due to his conflict of interest.

219 Brigitte Ruthman came forward as a member of the fire department and explained the process of
220 firefighting. She stated that the argument Mr. Virbickas makes regarding this matter should be set
221 aside. She explained the need for this project and noted that there will be the same arguments
222 regarding alternate sites.

223
224 Bob LaBonne reported that his store had a 50 percent increase last year and noted that he cannot
225 staff the store. There is a need for affordable housing. He suggested that the town invest in creating
226 more public parking.

227
228 Steve Alquesta agreed that there will be opposition regardless of the location of such a proposal. He
229 reported that it is difficult for people his age to move to this area. He encourages the Town to
230 develop affordable housing in all of the locations identified in the Affordable Housing Plan.

231
232 Artemis Growth Partners stated that this project is not financially feasible and asked why a smaller
233 development was not feasible.

234
235 Eileen Fox stated that this is not about parking and asked that the Commission please help us
236 welcome people into the community.

237
238 David Rich noted that finances are not an issue for Zoning. He explained that there is underwriting by
239 the State for such projects.

240
241 *Motion:* To continue to April 14, 2021 at 5:30 p.m. #2021-0123 / Salisbury Housing Committee / 11
242 Holley Street / Special Permit to Construct 12-Unit Multifamily Dwelling in the PKSQ District and
243 Aquifer Protection Area (Section 403 & 405)

244 Made by Cockerline, seconded by Riva.

245 Vote: 5-0-0 in favor.

246 The deadline for technical submission Thursday, April 8, 2021 at 12:00 pm.

247

248 **Adjournment**

249 *Motion:* To adjourn the meeting at 9:50 p.m.

250 Made by Whalen, seconded by Shyer.

251 Vote: 5-0-0 in favor.

252

253

254 Respectfully submitted,

255

256 Tai Kern,

257 Recording Secretary