

**SALISBURY PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
SEPTEMBER 20, 2021 6:30 PM**

Remote Meeting by Live Internet Video Stream and Telephone

Members Present:

1 **Members Present:**
2 Dr. Michael Klemens (Chairman)
3 Cathy Shyer (Regular Member) – arrived at 6:32
4 Martin Whalen (Secretary) – arrived at 6:40
5 Allen Cockerline (Regular Member)
6 Bob Riva (Regular Member)
7 Jon Higgins (Alternate)
8 Dr. Danella Schiffer (Alternate)
9

Staff Present:

Abby Conroy, Land Use Administrator (LUA)

Members Absent:

Debra Allee (Alternate)

Brief Items and Announcements

1. Call to Order/Approval of Agenda

Chairman Klemens called the meeting to order at 6:30 p.m., seated Alternate Higgins and Alternate Schiffer, and requested that item #3 on the agenda be removed and tabled until the next meeting.

Alternate Higgins identified that the minutes from the August 16th meeting also need to be approved and should be added to the next agenda.

The Chairman asked that both minutes be added to the agenda for the Special meeting scheduled on October 4th.

Motion: To approve the agenda as amended.

Made by Cockerline, seconded by Riva

Vote: 4-0-0.

2. Seating of Members & Alternates

The regular members present were seated. Commissioner Shyer arrived at 6:32pm and after discussion with the alternates, it was determined that Alternate Higgins would be seated for Member Whalen for all except item #10 for which Alternate Schiffer will be seated.

3. Minutes of August 30, 2021

This item was removed at the Chairman's request.

4. Correspondence

LUA Conroy reported that there was no correspondence received for the meeting.

Public Comment

5. Public Comment

43 No one from the public came forward with comments.

44

45 10. #2021-0147 / Red Mountain Properties, LLC (Higgins) / 14 Red Mountain Road / 4-Lot Subdivision
46 / Map 3 / Lot 5-2 / DOR 09/20/2021 / Reception

47

48 At 6:35pm, the Chairman moved to item #10 because the hearings were noticed for a 6:45pm start time.
49 Alternate Schiffer was seated in lieu of Alternate Higgins due to his relationship with the applicant.

50

51 Chairman Klemens gave the Commission an update on the applicant's efforts since their initial
52 application was withdrawn. The DEEP has been consulted (Natural Diversity Database) and an
53 environmental report by Dennis Quinn completed. The applicant has filed simultaneously with the Inland
54 Wetlands and Watercourses Commission. It was established that the Commission would hold a hearing
55 on the subdivision application.

56

57 *Motion:* To schedule a public hearing for application #2021-0147 / Red Mountain Properties, LLC
58 (Higgins) / 14 Red Mountain Road / 4-Lot Subdivision / Map 3 / Lot 5-2 on October 18, 2021 at 6:45pm
59 via Zoom.

60 Made by Cockerline, seconded by Riva

61 Vote: 5-0-0.

62

63 11. #2021-0148 / McBride Builders LLC (Rice) / 64 Hammertown Road / 2-Lot Resubdivision / Map 23
64 / Lot 37-9 / DOR 09/20/2021 / Receive and Schedule Hearing

65

66 Alternate Schiffer stepped down and Alternate Higgins was reseated. Peggy Rice was present to
67 represent the application. Chairman Klemens had questions regarding the easements. Ms. Rice explained
68 that the "flag pole" portion of lot #2 would not be used as a driveway. Rather the easement to the east is
69 to provide access to proposed lot #2. The access easement to the west serves another rear lot that
70 contains significant wetlands but is not under consideration as it is part of the original subdivision. There
71 is potential that the wetlands lot will be placed in conservation at some point in the future which could
72 result in dissolution of the access easement. Chairman Klemens and Ms. Rice discussed the location of
73 the proposed dwelling on Lot#2 and it was requested that a more realistic location be shown or the
74 buildable area expanded to reflect area of potential development.

75

76 At 6:48 the matter was tabled until after the scheduled public hearing.

77

78 **Public Hearing – 6:45**

79

80 6. #2021-0141 / Burger (Allee Design) / 23 Harrison Street / Special Permit Application to Convert an
81 Existing Accessory Structure to Contain an Accessory Apartment (Section 208) / Map 45 / Lot 11-1
82 / DOR 07/19/2021 / Continue Hearing and Possible Consideration

83

84 It was acknowledged that Commissioner Whalen entered the meeting at approximately 6:40pm and
85 Alternate Higgins stepped down.

86

87 LUA Conroy explained the notification requirements for the hearing have been met. John Allee and Sean
88 Kennedy of Allee Architecture + Design were present to represent the application. The property owner
89 has plans to build an addition on the main house and is proposing to convert an existing workshop to
90 contain living quarters for her to reside in while the work on the main house is being completed. After
91 the renovations to the principal dwelling are complete the apartment will be used for a guest house.

92
93 Chairman Klemens inquired about proximity to wetlands, setbacks, and ownership of the circle on
94 Harrison Street. Commissioner Cockerline verified that the height of the structure complies with the
95 requirements of the regulations. Commissioner Shyer noted that the pool fence encroaches on the
96 neighboring parcel. Mr. Kennedy identified that the woodshed which also encroaches on the neighboring
97 property has been demolished. Chairman Klemens clarified that the encroachments could not be
98 addressed as part of this application. The Commission considered an as-built and mylar at the time of
99 Certificate of Occupancy (C.O.) as a condition of approval.

100
101 No one from the public came forward with comments.

102
103 *Motion:* to close the public hearing
104 Made by Cockerline, seconded by Riva
105 Vote: 5-0-0.

106
107 *Motion:* to approve application #2021-0141 / Burger (Allee Design) / 23 Harrison Street / Special Permit
108 Application to Convert an Existing Accessory Structure to Contain an Accessory Apartment (Section 208) /
109 Map 45 / Lot 11-1 subject to submission of an A-2 as-built and mylar filed in the Town Clerk's Office prior
110 to issuance of a C.O.

111
112 Made by Cockerline, seconded by Riva
113 Vote: 5-0-0.

114
115 7. #2021-0143 / Richardson & Spiliotopoulos (Connors) / 14 Laddie Lane / Special Permit Application
116 to Construct a detached Accessory Apartment (Section 208) / Map 7 / Lot 11-2 / DOR 08/16/2021
117 / Public Hearing and Possible Consideration

118
119 Commissioner Whalen read the hearing notice. Architect Stephen Connors represented the application
120 giving a brief overview of the application. No one from the public came forward with comments.
121 Chairman Klemens inquired about the estimated cost for the project. It was explained that the apartment
122 is part of a larger project including pool area and the budget approximately \$600,000.

123
124 No one from the public came forward with comments.

125
126 *Motion:* to close the public hearing
127 Made by Cockerline, seconded by Riva
128 Vote: 5-0-0.

129
130 *Motion:* to approve application #2021-0143 / Richardson & Spiliotopoulos (Connors) / 14 Laddie Lane /
131 Special Permit Application to Construct a detached Accessory Apartment (Section 208) / Map 7 / Lot 11-2

132 subject to submission of an A-2 as-built and mylar filed in the Town Clerk's Office prior to issuance of a
133 C.O.

134

135 Made by Cockerline, seconded by Riva.

136 Vote: 5-0-0.

137

138 8. #2021-0144 / Reiland (Capecelatro) / 63 Washinee Heights Road / Special Permit Application to
139 Construct a detached Accessory Apartment (Section 208) / Map 67 / Lot 02-2 / DOR 08/16/2021 /
140 Public Hearing and Possible Consideration

141

142 Commissioner Whalen read the hearing notice. Attorney Mark Capecelatro represented the application
143 providing a brief overview of the proposed pool house structure. There was some discussion about the
144 terms kitchen and cooking facilities which lack definitions in both local and State regulations.

145

146 No one from the public came forward with comments.

147

148 *Motion:* to close the public hearing

149 Made by Cockerline, seconded by Riva

150 Vote: 5-0-0.

151

152 *Motion:* to approve application #2021-0144 / Reiland (Capecelatro) / 63 Washinee Heights Road / Special
153 Permit Application to Construct a detached Accessory Apartment (Section 208) / Map 67 / Lot 02-2 ~~++~~

154

155 Made by Cockerline, seconded by Riva.

156 Vote: 5-0-0.

157

158 9. #2021-0145 / Ramcharran (LRC Group) / 24 Cleaveland Street / Special Permit for Vertical
159 Expansion of a Nonconforming Dwelling in the Aquifer and Flood Plain Overlay Districts (Section
160 401, 403 & 503.2) / Map 49 / Lot 116 / DOR 08/16/2021 / Public Hearing and Possible
161 Consideration

162

163 Commissioner Whalen read the hearing notice and Chairman Klemens introduced a request from the
164 applicant that the matter be tabled and continued at the October 18th meeting. The Commission briefly
165 reviewed the revised materials. It was requested that elevations be shown for the generator and air
166 conditioner pads. The Chairman inquired about the use and whether it required additional aquifer
167 protection area approvals and asked for the logic behind locating the accessory structures. LUA Conroy
168 explained that residential uses are permitted in aquifer protection areas.

169

170 *Motion:* to continue application #2021-0145 / Ramcharran (LRC Group) / 24 Cleaveland Street / Special
171 Permit for Vertical Expansion of a Nonconforming Dwelling in the Aquifer and Flood Plain Overlay
172 Districts (Section 401, 403 & 503.2) / Map 49 / Lot 116 to the October 18, 2021 meeting.

173

174 Made by Cockerline, seconded by Riva.

175 Vote: 5-0-0.

176

177 At 7:39pm the Commission took a recess.

178

179 **New Business**

180

181 At 7:43 the Commission reconvened continuing their earlier discussion on item number 11.

182

183 11. #2021-0148 / McBride Builders LLC (Rice) / 64 Hammertown Road / 2-Lot Resubdivision / Map 23
184 / Lot 37-9 / DOR 09/20/2021 / Receive and Schedule Hearing

185

186 Ms. Rice explained the existing conditions and layout of surrounding land. It was clarified that lot #2 is
187 being proposed as a flag lot but that the access and utilities would be constructed in the easement/right
188 of way. She also explained that the buildable area shown on lot #2 was intended to demonstrate
189 feasibility but was likely not where a future house and septic would be constructed. Her plan is to retain
190 proposed lot #2 and convey lot #1 with the house once the subdivision is approved.

191

192 Chairman Klemens expressed concern over the manner in which open space was proposed. The slivers
193 have very little open space value and an alternative approach with connectivity should be proposed. Ms.
194 Rice expressed concern over binding the piece by proposing open space on all sides as there is potential
195 for further development through future land transactions.

196

197 The Commission requested that the plans be revised to clarify actual intentions for development as
198 opposed to minimum feasibility. It was determined that the Chairman and LUA Conroy would meet on
199 site with the applicant and her surveyor to resolve open space concerns.

200

201 *Motion:* to schedule a hearing on application #2021-0148 / McBride Builders LLC (Rice) / 64 Hammertown
202 Road / 2-Lot Resubdivision / Map 23 / Lot 37-9 on October 18, 2021 at 6:45pm via Zoom.

203

204 Made by Cockerline, seconded by Riva.

205 Vote: 5-0-0.

206

207 12. #2021-0149 / Smith / 119 & 121 Long Pond Road / Special Permit Application for Philanthropic
208 Use / Map 2 / Lots 16 & 28 / DOR 09/20/2021 / Receive and Schedule Hearing

209

210 Chairman Klemens reported that he and LUA met the owner on site to have a preliminary discussion
211 about their plans for the property. It was explained that if the Special Permit is issued, as a condition the
212 properties would need to be merged, but that they could not be merged prior to approval without
213 creating a nonconforming situation. Applicant Linda Smith added that she has already had an initial
214 conversation with an attorney to discuss the lot merger.

215

216 The existing conditions survey was reviewed and Ms. Smith explained that there were no plans for
217 development in proximity to the wetland but that there was potential in the future to develop a horse
218 barn and access driveway. She felt that the existing layout of the property would facilitate educational
219 classes for animal husbandry, food preparation and processing. There are several models for this type of
220 use across the country, one of which is the Glynwood Center, though this use would be on a smaller
221 scale. Alternate Schiffer asked if the change of use would alter the taxes on the property. Ms. Smith was

222 unsure but she expressed that the intent for the use would to be not for profit. While the Smiths have a
223 non-profit entity, she explained that it was likely to be only a component of programming versus the
224 basis of the use. Alternate Schiffer explained that non-profits do receive a tax reduction. Ms. Smith
225 responded that the non-profit entity is not the owner of the property. Chairman Klemens did not think
226 taxes are a legal factor for consideration in a zoning decision.

227
228 Ms. Smith continued to explain that she has an interest in hosting community fund raising events such as
229 a once per year harvest fundraiser for the local emergency services.
230

231 Chairman Klemens emphasized that because this decision runs with the land his biggest concern was
232 establishing a defined program. His understanding is that the applicant would be creating a campus for a
233 philanthropic retreat center
234

235 *Motion:* to schedule a hearing on application #2021-0149 / Smith / 119 & 121 Long Pond Road / Special
236 Permit Application for Philanthropic Use / Map 2 / Lots 16 & 28 / on October 18, 2021 at 6:45pm via
237 Zoom.
238

239 Made by Shyer, seconded by Cockerline.

240 Vote: 5-0-0.
241

242 13. #2021-0150 / O'Hara (Haab/Schmidt/Hackett) / 254 Twin Lakes Road / Site Plan Modification for
243 New Stormwater Management Basin in the Lake Protection Overlay District (Section 404) / Map 63 / Lot
244 1 / DOR 09/20/2021 / Reception and Possible Consideration
245

246 Fred Schmidt and Pat Hackett were present to represent the application. They explained that the
247 Commission already approved the expansion of the building but that the original stormwater
248 management plan did not meet public health code for commercial facilities as per TAHD. Therefore, this
249 application is being proposed for stormwater management improvements on a different portion of the
250 site. One of the entrances to O'Hara's will be closed off and converted to grass reducing the amount of
251 impervious on site and preventing road runoff from entering the site, eroding the driveway and
252 discharging turbid water into the lake. The basin design is relatively simple to ensure that it can easily be
253 maintained with equipment already on site.
254

255 *Motion:* to approve application #2021-0150 / O'Hara (Haab/Schmidt/Hackett) / 254 Twin Lakes Road /
256 Site Plan Modification for New Stormwater Management Basin in the Lake Protection Overlay District
257 (Section 404) / Map 63 / Lot 1 as meeting the regulations of the Salisbury Planning & Zoning Commission
258

259 Made by Cockerline, seconded by Riva.

260 Vote: 5-0-0.
261

262 14. #2021-0151 / Cox (Zimmerman) / 50 Channel Road / Special Permit for Vertical Expansion of a
263 Nonconforming Dwelling (Section 503.2) / Map 68 / Lot 4 / DOR 09/20/2021 / Receive and Schedule
264 Hearing
265

266 Chairman Klemens briefly recapped the proposal for the Commission.

267 *Motion:* to schedule a hearing on application #2021-0151 / Cox (Zimmerman) / 50 Channel Road / Special
268 Permit for Vertical Expansion of a Nonconforming Dwelling (Section 503.2) / Map 68 / Lot 4 on October
269 18, 2021 at 6:45pm via Zoom.

270

271 Made by Cockerline, seconded by Riva.

272 Vote: 5-0-0.

273

274 **Other Business**

275

276 15. Enforcement / Brazzale / 17 Railroad Street / Notice of Potential Violation of 901.1 / Map 54 / Lot
277 58

278

279 16. Enforcement / Salisbury Housing Trust & Brazzale / 12 Indian Cave Road / Notice of Potential
280 Violation of 901.1 / Map 54 / Lot 60-12T

281

282 Chairman Klemens introduced items 15 & 16 simultaneously explaining that the two properties abut and
283 complaints have been received by the Land Use Office relative to commercial activities conducted by Mr.
284 Brazzale. He requested that in the future, enforcement actions be placed earlier on the agenda. Mr.
285 Brazzale was present as was his representative Attorney Grickis. The Chairman opened the floor to
286 Attorney Grickis.

287

288 Attorney Grickis introduced a letter into the record which includes recommendations and proposed
289 actions for bringing 17 Railroad Street into compliance with the regulations. The Chairman explained that
290 there are inherent conflicts between commercial and residential uses that occur in commercial districts.

291

292 Attorney Grickis explained that there is no business occurring onsite. Instead, employees of the business
293 meet at the premise to collect equipment and operations are conducted offsite. Commissioner Whalen
294 inquired about equipment storage. Attorney Grickis represented that less than 750 square feet are being
295 used for storage onsite.

296

297 Chairman Klemens emphasized that equipment and materials are being kept on site. The materials could
298 be removed from the site and a zoning permit obtained for the equipment storage. However, he felt the
299 property was being used as a contractor's yard. The Commission agreed that the equipment and
300 materials should be quantified and neatened up, and that a special permit obtained for the business
301 operation.

302

303 Attorney Grickis explained that because the lot is small, a variance would need to be obtained through
304 ZBA before a Special Permit for contractor's yard could be applied for. In the interim, it was requested
305 that the Commission allow a 60-day grace period from further enforcement for Mr. Brazzale to work
306 towards compliance and apply for a variance. Attorney Grickis agreed to the installation of a fence,
307 reducing the woodpile to that needed for Mr. Brazzale's personal use, removing the boat from the
308 premises, and burning the brush pile. He further offered that Mr. Brazzale will also apply for a variance
309 within that timeframe. It was agreed that the matter would be continued to the November meeting.

310

311 Chairman Klemens addressed the alleged commercial activities occurring at 12 Indian Cave Road.
312 Attorney Grickis was not aware of that violation nor was he retained to address the issue. Mr. Brazzale
313 has represented that he was not conducting activities at 12 Indian Cave. Chairman Klemens requested a
314 formal response to the potential violation. Attorney Grickis agreed to consult with his client on the
315 matter.

316 The Commission agreed that if progress is not made by the November meeting, they reserve the right to
317 continue enforcement.

318

319 **Adjournment**

320

321 *Motion:* To adjourn the meeting at 9:24 p.m.

322 Made by Cockerline, seconded by Riva.

323 Vote: 5-0-0 in favor.

324

325

326 Respectfully submitted,

327

328

329 Abby Conroy,

330 Land Use Administrator