

**SALISBURY PLANNING AND ZONING COMMISSION**

**SPECIAL MEETING MINUTES**

**October 26, 2021 6:30 PM**

Remote Meeting by Live Internet Video Stream and Telephone

**Members Present:**

1 Dr. Michael Klemens (Chairman)  
2 Martin Whalen (Secretary)  
3 Cathy Shyer (Commissioner)  
4 Allen Cockerline (Commissioner)  
5 Bob Riva (Commissioner)  
6 Debra Allee (Alternate) arrived at 6:52 pm  
7 Jon Higgins (Alternate)  
8 Dr. Danella Schiffer (Alternate)  
9

**Staff Present:**

Abby Conroy, Land Use Administrator (LUA)  
Alison Forman, Land Use Assistant

**Members Absent:**

None

**Brief Items and Announcements**

- 10  
11  
12  
13 1. Call to Order/Seating of Members & Alternates /Approval of Agenda  
14

15 Chairman Klemens called the meeting to order at 6:30 PM and introduced Alison Forman as the  
16 new Land Use Assistant. All regular members were in attendance with no need to seat any alternates.  
17 The Chairman requested that item #3 on the agenda (minutes of October 4, 2021) be tabled.  
18

- 19 2. Minutes of September 20, 2021  
20

21 Commissioner Shyer identified typos on line 53, 251 and 300.  
22 Line 53 adding **was** in front of completed, should read "**was** completed."  
23 Line 251 missing the word **surface**, should read "impervious **surface** on **the** site."  
24 Line 300 to add the word **be**, should read "permit **be** obtained."  
25 No additional corrections were made.  
26

27 It was noted that Alternate Allee had not yet joined the meeting.  
28

29 *Motion:* To approve the minutes as amended.

30 Made by Cockerline, seconded by Riva.

31 Vote: 5-0-0.  
32

- 33 3. Minutes of October 4, 2021  
34

35 This item was tabled at the Chairman's request.  
36

**Public Hearing - 6:37 PM**  
37  
38

- 39 4. #2021-0153 / Firehouse Place LLC (Capecelatro) / 9 & 9A Sharon Road / Special Permit for  
40 Parking Flexibility and Satellite Parking Associated with a Change of Use from Low Turnover Restaurant,  
41 Retail and Office to Low Turnover Restaurant and Apartment (Section 703.7 & 703.8) / Map 49 / Lot 27-  
42 2 / DOR 10/26/2021 *Open Hearing & Possible Consideration*

Salisbury Planning & Zoning Commission Minutes  
10/26/2021

43 Commissioner Cockerline noted that the time was 6:37 PM and the hearing starting a bit  
44 premature. Chairman Klemens decided to open the hearing acknowledging the need for a continuation.  
45 Commission Secretary Whalen read the hearing notice. Chairman Klemens explained the applicant asked  
46 for the hearing to be continued to November 15, 2021 because of a defect in their notification of  
47 abutters.

48  
49 *Motion:* To continue the public hearing for application #2021-0153 / Firehouse Place LLC (Capecelatro) /  
50 9 & 9A Sharon Road / Special Permit for Parking Flexibility and Satellite Parking Associated with a Change  
51 of Use from Low Turnover Restaurant, Retail and Office to Low Turnover Restaurant and Apartment  
52 (Section 703.7 & 703.8) / Map 49 / Lot 27-2 to November 15, 2021, at 5:45 PM.

53 Made by Shyer, seconded by Whalen.

54 Vote: 5-0-0.

55

56 At 6:42 PM The commission moved to item #6 on the agenda.

57

### 58 **Other Business**

59

60 6. Inter-commission (IWWC and PZC) subcommittee on matters related to wetlands and  
61 watercourses

62

63 Chairman Klemens explained that a subcommittee is being formed to address issues of overlapping  
64 jurisdiction between the two commissions, not limited to lakes, setbacks, and land clearing, with one goal  
65 of achieving homogeneous definitions associated to these issues. Wetlands (IWWC) has appointed three  
66 members and asked for three members from Planning and Zoning (PZC). Chairman Klemens expressed a  
67 desire to serve and asked Commissioner Shyer and Alternate Debra Allee to serve as well.

68

69 *Motion:* To endorse Chairman Klemens, Commissioner Shyer and Alternate Allee to serve on the  
70 IWWC/PZC inter-commission subcommittee.

71 Made by Cockerline, second by Riva.

72 Vote: 5-0-0.

73

### 74 **Public Hearing: 6:44**

75

76 5. #2021-0151 / Cox (Zimmerman) / 50 Channel Road / Special Permit for Vertical Expansion of a  
77 Nonconforming Dwelling (Section 503.2) / Map 68 / Lot 4 / DOR 09/20/2021 *Continued Public*  
78 *Hearing*

79

80 Chairman Klemens explained that this public hearing was a continuation as the applicant needed  
81 to obtain approval from the Inland Wetlands and Watercourses Commission (IWWC) before this  
82 Commission could act. IWWC approval has since been obtained. Adam Zimmerman, architect  
83 represented the application presenting an overview of the proposal for the vertical expansion of a  
84 nonconforming structure. A third floor would be added to the existing single-family dwelling without  
85 changing the footprint. The 760 square foot addition would consist of minor interior work. No changes to  
86 number of bathrooms or bedrooms are proposed. Mr. Zimmerman confirmed that no changes would be

87 made to existing impervious or pervious surfaces, foundation/footings, landscaping, or grading, except  
88 that a splash pad would be installed below a scupper at the request of IWWC.

89  
90 Alternate Schiffer inquired about the designation of the non-conforming structure. Chairman  
91 Klemens explained that the structure is less than 75 feet from the water's edge deeming it non-  
92 conforming. Mr. Zimmerman explained that the only area appropriate for a new building meeting the  
93 regulations would be a small area between the patio and driveway in the center of the property. With  
94 the intent of preserving the site a vertical expansion would be the foremost design solution.

95  
96 Application materials including site plans, renderings and photographs were used to display  
97 existing and proposed conditions. It was established that the proposed roof midline would be 28 feet  
98 from the average grade point shown in the elevation renderings.

99  
100 It was acknowledged that Alternate Debra Allee entered the meeting at 6:52.

101  
102 Commissioner Shyer asked about roof drainage. Mr. Zimmerman explained that a splash pad  
103 would be located around the proposed roof deck; the pitch would direct runoff into a gutter then down  
104 to a splash pad below a scupper. He described how landscaping and gravel outline the drip line of the  
105 existing second floor roof. Mr. Zimmerman displayed the E&S plan and explained the use and orientation  
106 of the proposed splash pad distributing runoff into the landscape. He confirmed that the plan had been  
107 revised to meet the IWWC's conditions, including daily removal of construction and demolition debris.

108  
109 Commissioner Shyer asked about the distance from the water. Mr. Zimmerman stated that it was  
110 approximately 22-23 feet. Commissioner Shyer inquired as to the use of the pump house in the photo.  
111 Mr. Zimmerman replied he was not sure of its use. Alternate Higgins suggested it was an irrigation pump  
112 for landscaping, Chairman Klemens agreed.

113  
114 Alternate Higgins also attested to the discreet nature of the house on the site in relation to the channel  
115 view.

116  
117 Chairman Klemens inquired if there would be an increase in the number of bathrooms. LUA  
118 Conroy confirmed no increase would be made and it has been approved by the Torrington Health  
119 District. She also added that on the E&S plan from Berkshire Engineering construction fencing has been  
120 added around areas of the septic and reserve areas to minimize potential negative impacts during  
121 construction. Chairman Klemens and LUA Conroy discussed the conditions required by the IWWC,  
122 including the readjusted placement of the scupper splash pad, silt sock extension along the lake side and  
123 refuse removal to be done daily due to limited space on site. Mr. Zimmerman also added that debris  
124 netting would be used over the dumpster during construction to contain litter.

125  
126 The Chairman opened the floor to the public. No one from the public came forward with comments.

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

132 *Motion:* to approve application #2021-0151 / Cox (Zimmerman) / 50 Channel Road / Special Permit for  
133 Vertical Expansion of a Nonconforming Dwelling (Section 503.2) / Map 68 / Lot 4  
134 Made by Riva, seconded by Cockerline  
135 Vote : 5-0-0.

136

137 **Other Business**

138

139 7. POCD Review Session

140

141 Chairman Klemens addressed the commission concerning the Plan of Conservation and  
142 Development (POCD) specifying that the review will begin page by page. Commissioner Shyer expressed  
143 that she would like to address the larger picture including changes in the community and landscape over  
144 the past ten years, not just achievements made. Chairman Klemens acknowledged her concerns.

145

146 Commissioner Cockerline inquired if the POCD was a Planimetrics plan (a planning & consulting  
147 firm), Chairman Klemens confirmed it was done by Glenn Chalder of Planimetrics. Chairman Klemens  
148 informed the commission that he and LUA Conroy have a preliminary meeting with Glenn Chalder on  
149 November 1, 2021, to identify areas where he could help in the revision and act as a technical assistant.  
150 Commissioner Cockerline expressed he felt 80% of the text was boilerplate material noting many items  
151 remain the same, some have been accomplished and others need to be updated.

152

153 The Commission reviewed the POCD page by page making the following comments.

154

155 *Page 2* – Commissioner Cockerline pointed out that side bar data (population) needs updating.

156

157 *Page 4* - Chairman Klemens pointed out changes need to be made: Weantinogue Heritage Land Trust has  
158 been merged with another land trust, and adding Housatonic Valley Association (HVA), Greenprint, and  
159 The Highlands initiative.

160 Strategies including loss of ecological structural complexity, wetland designations such as buffers, vernal  
161 pools, high gradient streams, fens and lakes should be added. Commissioner Cockerline mentioned  
162 upland review area should be added as well. Chairman Klemens expressed that much of the current  
163 POCD structure can be repetitive; this is an introduction and certain subjects will be addressed later in  
164 the document.

165

166 *Page 5* - Chairman Klemens noted that the Natural Diversity Database Areas needs to be updated.  
167 Alternate Higgins questioned if IWWC had provided any input. Chairman Klemens explained that the  
168 IWWC will give input and meetings will be established with multiple stakeholders. Chairman Klemens  
169 asked if both 100- and 500-year floodplain are up to date, LUA Conroy indicated that they are dated but  
170 would see if she could obtain updates from Council of Government (COG).

171

172 *Page 6* - Alternate Schiffer expressed that there is a lack of emphasis concerning invasive species noting  
173 that the mention in the side bar was rather brief. She believes a full discussion could take place around  
174 the issue and many of the invasive plants in the area are located on private property. She also inquired as  
175 to the status of the Natural Resource Inventory (NRI), is it up to date? Are plants such as the “tree of  
176 heaven” included as invasive?

177 LUA Conroy confirmed the 2009 NRI was updated but not finalized. Chairman Klemens offered to follow-  
178 up is needed with Maria Grace to finalize the NRI. He explained that it is plausible to highlight the issues  
179 of invasive species under item “H.” by adding the concepts of lakes and botanical communities  
180 emphasizing them as prominent features. Commissioner Cockerline pointed out that item “I.” would be  
181 appropriate section to incorporate invasive species.

182  
183 Chairman Klemens reminded the Commission of the need to show progress to the OPM (Office of Policy  
184 and Management) to prevent default and ensure State funding which is contingent upon an updated  
185 POCD. Although some relief is given due to the pandemic for completion it is essential to keep moving  
186 forward with the revision of the POCD.

187  
188 Commissioner Cockerline addressed item “F.” questioning if mapping of wildlife corridors should be done  
189 and or is it even possible and what resources are available to advise the commission. Chairman Klemens  
190 explained the problem with the term “corridor” as it is restrictive and implies terrestrial linear movement  
191 that not all wildlife conforms to. He suggested the term “landscape connectivity” be used instead,  
192 indicating the goal is to establish porosity throughout the landscape. It was proposed that items “E.” and  
193 “F.” be combined into one and needs reworking.

194  
195 Alternate Higgins expressed that the format of tasks and strategies is satisfactory but sometimes  
196 strategies and tasks get jumbled. Emphasizing the Commission could focus on implementation of tasks  
197 and addressing this at meetings.

198  
199 *Page 7* - Chairman Klemens and LUA Conroy questioned how this map was developed. Commissioner  
200 Cockerline asked specifically about the Riga Lake area adding that these areas are not able to be  
201 purchased and the lakes drain into the Aquarion reservoir, why they were not identified as sensitive.  
202 Chairman Klemens expressed that these high elevation boreal lakes are some of the most ecologically  
203 unique in Salisbury and should be included as climate change will increase the sensitivity designation.  
204 Commissioner Shyer agreed that they should be included. Chairman Klemens stated much of the focus  
205 lately has been around three lakes yet there are six in Salisbury, and this has understated their  
206 importance especially in relation to climate change.

207  
208 LUA Conroy proposed looking at the water resources map with a different approach. She suggested using  
209 watersheds delineation and statistical data to show changes that have occurred in the past ten years. She  
210 was unsure of what data are available. Further what dataset was used to create the exiting map? It lacks  
211 a citation.

212  
213 Chairman Klemens suggested asking Glen Chalder about the map’s origin adding that it may have come  
214 from HVA. Commissioner Cockerline questioned if the well field in both villages were identified Chairman  
215 Klemens clarified that those were included in the purple sections. Chairman Klemens asked the  
216 committee what kind of map would we like to see or is a map even needed or wanted?

217  
218 Commissioner Shyer added that recently at a IWWC meeting they questioned whether the Riga lakes are  
219 part of their jurisdiction. LUA Conroy stated they were but because of strict regulations they rarely see  
220 applications for those areas. Alternate Allee noted the map provides a visual guide, but it seems there

221 are too many layers to put on one map, adding that many watersheds cross state lines. There was a  
222 consensus that the map is problematic.

223

224 *Page 8* - Chairman Klemens reiterated that the NRI needs to be investigated (item N.). LUA Conroy and  
225 Commissioner Cockerline agreed.

226

227 *Page 9* - Chairman Klemens, referring to item "O.", announced that lake associations such as  
228 Wononscopomuc and Twin Lakes should not be included "agencies" adding that the list needs to be  
229 reconsidered. Commissioner Cockerline added while developing regulations many groups are consulted  
230 and wording should be amended to "continue working with local organizations" also mentioning it could  
231 be perceived as exclusivity. Chairman Klemens agreed and recommends using more inclusive language  
232 also asking the Commission if anyone opposed. None did.

233

234 Chairman Klemens inquired as to the significance of case studies stressing much of the POCD can be  
235 repetitive. Commissioner Shyer agreed about repetition and promoted the central point of the document  
236 henceforth focusing on what can be done as opposed to what has been done. Alternate Higgins agreed  
237 that the document is repetitive at times but added that the repetition provides emphasis to issues.

238

239 *Page 10* - Chairman Klemens stated item "P." has not been done and "Q." is used more. LUA Conroy finds  
240 difficulties in item "P." as it is the place of the Commission to make decisions on the matter.

241 Commissioner Cockerline added during preliminary reviews it can be relevant to things such as NDDB.

242 Chairman Klemens mentioned this could be an opportunity to integrate item "P." into the permitting  
243 software. LUA Conroy agreed. Chairman Klemens explained that the Commission is responsible for asking  
244 the relevant questions, but it is ultimately up to the applicant to define resources on their land and  
245 determine the appropriate studies. Whereas it is the role of the committee to determine if the proposal  
246 has been made properly. Commissioner Cockerline suggested it should be discussed with Glen Chalder.  
247 Chairman Klemens proposed that item "P." be removed from the POCD. Chairman Klemens and  
248 Commissioner Shyer agreed Item "Q." has been largely accomplished.

249

250 *Page 11* - Chairman Klemens queried the Commission on "Environmental Quality Task #1" Low Impact  
251 Development (LID), also adding IWWC should be consulted, Commissioner Shyer and Cockerline agreed.  
252 Chairman Klemens emphasized the language and the suggestion of mandatory use of LID on all projects  
253 unless it can be documented that LID techniques cannot be used. He recommended adjusting the  
254 language in the regulations to include the use of LID, committing to conservation development on all  
255 applications unless the stakeholders can prove it is not feasible.

256

257 LUA Conroy and Chairman Klemens brought up the ideas that the format of strategies and tasks  
258 suggesting it could be reorganized having the strategies directly followed by the associated tasks.

259

260 Alternate Schiffer inquired if there was a contradiction in the text of "Environmental Quality Task #2"  
261 that implies nonnatives are invasive. Chairman Klemens expressed that the term nonnative does not  
262 necessarily imply invasive but, in ecologically sensitive areas, the use of exclusively native plants and not  
263 just nursery cultivators should be encouraged. Commissioner Cockerline added the Commission would  
264 never and has never approved plans that included invasive plants and believes this task has been  
265 accomplished. It was agreed upon this section needs reworking.

266 Alternate Higgins voiced the POCD needs to be reviewed more frequently.

267

268 Commissioner Cockerline declared that some of “Environmental Quality Task #3” has been done adding  
269 that the Town of Falls Village has ridgeline regulations. Chairman Klemens noted ridgeline regulations  
270 have also been adopted in the town of Amenia NY and suggested looking into the regulations of Falls  
271 Village to see if this would be something the Commission would like to add.

272

273 Chairman Klemens identified that “Environmental Quality Task #4” is partly done and moved on to  
274 “Environmental Quality Task #5” polling the Commission on whether this should be considered a job of  
275 the Town. Commissioner Cockerline stated it is part of Aquarion’s business plan. Alternate Higgins added  
276 it is a requirement for them. It was suggested that Aquarion could report on the matter annually. LUA  
277 Conroy asked if this task stems from the aquifer protection area despite a lack of alignment with the  
278 State’s program. Chairman Klemens added this section is questionable.

279

280 *Page 12* - Chairman Klemens stated that “Environmental Quality Task #6” has not been done directly by  
281 the Town. Commissioner Cockerline added that the task would be nearly impossible to be done by the  
282 Town. He identified that it is based mostly on concerns of hunters. They provide the source of funding for  
283 programs such as the one identified in “Environmental Quality Task #8” and the deer population studies,  
284 done by DEEP Wildlife Division 2-5 years ago. The Commission concluded that a local wildlife program is  
285 not needed but that the Town should provide education & outreach. It was suggested removing the  
286 second sentence and referencing NRCS (Natural Resources Conservation Service) programs and the  
287 Town’s newly-formed Conservation Commission.

288

289 Chairman Klemens indicated that “Environmental Quality Task #7” is actively being done. Commissioner  
290 Cockerline added it is addressed by the NRCS.

291

292 There was a consensus that “Environmental Quality Task #8” should be removed.

293

294 Commissioner Cockerline expressed that “Environmental Quality Task #9” is not our domain.  
295 Commissioner Shyer asked whose domain, is it? Commissioner Cockerline suggested letting the schools  
296 (Salisbury and Hotchkiss) provide information if they have monitors. Alternate Allee inquired if we have  
297 reason to believe we have an air quality problem? Commissioner Cockerline added not since establishing  
298 regulations on outdoor wood burning stoves. Alternate Allee suggested establishing a connection with  
299 the schools seeing if this something they do and if so, could they report on the matter. Chairman  
300 Klemens proposed this task be removed if the schools are not interested.

301 Chairman Klemens suggested keeping “Environmental Quality Task #10” and identified that  
302 “Environmental Quality Task #11” is ongoing but needs to focus on wildlife corridors.

303

304 *Page 13* - Chairman Klemens suggested not doing “Environmental Quality Task #12” adding it is a role of  
305 the NRI. Commissioner Cockerline inquired about funding for the NRI It was established the Town and  
306 nonprofits such as the Salisbury Association provide funding.

307

308 Chairman Klemens affirmed that “Environmental Quality Task #13” has been done and can come out. The  
309 Commission agreed. Commissioner Cockerline noted that action was taken on “Environmental Quality  
310 Task #14” tonight with the development of the intercommission and the LUA as an established link to

311 IWWA & Conservation Commission. Chairman Klemens countered that intercommission and  
312 interdepartmental communication should not be limited to these two groups. Stressing that we need  
313 more interactions with others like the Economic Development Committee, Pathways Committee, and the  
314 Salisbury Association. It was agreed to reference the annual report to develop a list of active committees'  
315 and establish annual meetings between these groups after the report is released.

316  
317 *Page 14* - Commissioner Cockerline expressed that this section needs updating.

318  
319 *Page 15* - Chairman Klemens expressed that agricultural land continues to be lost suggesting that the PA  
320 490 program could be highlighted in the POCD.

321  
322 *Page 16* - Chairman Klemens asserted we need to be more proactive of keeping working landscapes in  
323 Salisbury adding a "right to farm" ordinance may be an effective tool. Commissioner Cockerline and  
324 Shyer agreed. It was also suggested as a question for the public charettes.

325 "A." Yes, keep. Chairman Klemens adding a "right to farm" as an ordinance.

326 "B." Commissioner Cockerline suggested removing, Chairman Klemens agreed.

327 "C." Chairman Klemens emphasized that this should be kept. Commissioner Cockerline recommended  
328 including regenerative farming.

329 "D." Chairman Klemens suggested considering adding accessory uses and categorizing types as well as  
330 questioned allowing more than one type? Commissioner Shyer asked if this should it be in a form of a  
331 special permit? Chairman Klemens answered yes but would need to be added to regulations.

332 Commissioner Cockerline agreed but pointed out that it needs to be defined and established as to what is  
333 considered agricultural accessory use. The Commission agreed that uses such as entertainment,  
334 education, farm to table dinners, wine tastings etc. could be considered under a special permit.

335 "E." Chairman Klemens identified PA 490 gives financial incentives and we do not have a need to increase  
336 those benefits. Commissioner Cockerline agreed.

337 "F." Chairman Klemens suggested updating text to just "encourage" eliminating what precedes.

338 "G." Chairman Klemens proposed removing, Commissioner Cockerline agreed.

339 "H." Chairman Klemens mentioned this was worthy and to keep.

340

341 Chairman Klemens recommended adding cannabis into this section, Commissioner Shyer agreed.

342 Commissioner Cockerline brought up the issue of dispensaries. LUA Conroy informed the Commission  
343 that only one would be allowed in the Town.

344

345 *Page 17* - Chairman Klemens specified the need to update the PA 490 map, Commissioner Cockerline  
346 added it is an important resource.

347

348 *Page 18* -

349 "1." "Right to Farm" Commission agreed it should be kept.

350 "2." LUA Conroy proposed that this is an EDC priority, Commissioner Cockerline added they may have an  
351 interest. Chairman Klemens recommended adding "to promoting local agriculture including farm  
352 markets."

353 "3." Chairman Klemens tasked Commissioner Cockerline with investigating farmmatch.

354 "4." Chairman Klemens indicated that this information is already be available and suggested that the task  
355 be removed

356 "5." Commissioner Cockerline explained that this is a legislative issue, but that the Commission should  
357 work closely with land trusts to understand their goals to see if they align with the Commission's.  
358  
359 Commissioner Cockerline suggested adding another task to encourage farm to table. Chairman Klemens  
360 acknowledged that the Commission needs to add more accessory uses and designation on farms.  
361  
362 *Page 19* - Chairman Klemens identified the need for defining "prime" and "statewide important" soils.  
363 Commissioner Cockerline addressed the discrepancy on the map between the designation of prime and  
364 suitable soils. Commissioner Shyer inquired as to the source of the map. Commissioner Cockerline  
365 explained it could be USGS or USDA and added these types of are readily available, but the source should  
366 be identified. The Commission agreed the map needs updating.  
367  
368 *Page 20* - Chairman Klemens acknowledged the need to replace the word "character" as it is problematic.  
369 He suggested using the words fabric or nature instead.  
370  
371 The Commission agreed upon a special meeting to continue the review of the POCD. It will be held on  
372 November 9, 2021, 5:30 until 7:30.

373

374 **Adjournment**

375

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

377 Made by Shyer, seconded by Cockerline.

378 Vote: 5-0-0 in favor.

379

380

381 Respectfully submitted,

382

383

384 Alison Forman,

385 Land Use Assistant