

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

Remote Meeting by Live Internet Video Stream and Telephone

1 **Members Present:**

2 Dr. Michael Klemens (Chairman)
3 Cathy Shyer (Vice Chair)
4 Martin Whalen (Secretary)
5 Bob Riva (Regular Member)
6 Allen Cockerline (Regular Member)
7 Dr. Danella Schiffer (Alternate)
8 Debra Allee (Alternate)

Members Absent:

Staff Present:

Abby Conroy, Land Use Administrator (LUA)

9 **Brief Items and Announcement**

10 1. Call to Order / Establish Quorum

11 Chairman Klemens called the meeting to order at 5:35PM. With a quorum of five regular members
12 present (Michael Klemens, Cathy Shyer, Martin Whalen, Bob Riva, and Allen Cockerline). Alternates
13 Danella Schiffer and Debra Allee were also present.

14
15 Chairman Klemens proposed the following amendment:

16 Add item #5.A. "POCD Discussion"

17

18 2. Approval of Agenda

19 **Motion:** To approve Agenda as amended.

20 Made by Cockerline, seconded by Shyer.

21 Vote: 5-0-0 in favor.

22

23 3. Commissioner Training Update

24 LUA Conroy reminded the Commission of an email she sent out regarding legislation changes. There
25 are now education requirements for members serving on Planning & Zoning Commissions and Zoning
26 Board of Appeals. This is a state-wide change with no opt out clause. The deadline for training is
27 January 2024. Reporting is required at town meetings each year to show that Commission members
28 are in good standing with training. All Commission Members expressed interest in registering for
29 upcoming training.

30

31 4. Report of Discussion with P&Z Counsel - Permit Process and Sequencing

32 Chairman Klemens reported a discussion with the Town Attorney which involved permit sequencing
33 issues in Town Hall. There have been several permits issued out of sequence that created excess work
34 for Planning & Zoning Commission members, which could put the Town of Salisbury in legal jeopardy.
35 This problem is ongoing and increasing, more so with larger projects, and Chairman Klemens
36 commented his dislike that the Commission's hard work is being negated or compromised by permit
37 sequencing issues.

38

39 Commissioner Cockerline asked if there were grounds for a "Cease & Desist" order. Chairman Klemens
40 replied Cease & Desist could be utilized but is a lengthy legal process that must be properly executed
41 and documented. Vice Chair Shyer asked for a solution to this concern. Chairman Klemens explained
42 that P&Z Counsel plans to further discuss with Wetlands and Town Counsel, so the solution is ongoing.

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

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43 5. Minutes of June 21, 2022 - *pending*
44 Commissioner Cockerline and Commissioner Riva recused themselves from the vote and Alternate
45 Schiffer was seated on this item.

46
47 Vice Chair Shyer proposed the following amendment:
48 Line 209 - Added time of meeting adjournment

49
50 Alternate Schiffer proposed the following amendments:
51 Line 95 - Corrected "restaurateurs" to "restauranters"
52 Line 116 - Replaced comma "," after "Allied" with semicolon ";"
53 Line 127 - Corrected "respond" to "responded"
54 Line 127 - Added quotations around "no"

55
56 **Motion:** To add adjournment time to Line 209 and approve Minutes of June 21, 2022.
57 Made by Klemens, seconded by Shyer.
58 Vote: 4-0-0 in favor

59
60 5.A. POCD Discussion
61 Chairman Klemens and LUA Conroy have reviewed and composed an annotated POCD survey outline,
62 but it is not complete. After the annotated outline is completed, it must be presented to the
63 Commission for approval. Chairman Klemens mentioned two upcoming meetings scheduled January
64 30, 2023 and February 6, 2023. Since LUA Conroy must continue with the outline incorporating
65 changes, editing, and then reviewing a second time, Chairman Klemens proposed canceling the
66 meeting on January 30.

67
68 Vice Chair Shyer shared she is in agreement with this decision. Commissioner Cockerline asked if a
69 draft of the annotated outline will be shared prior to the meeting. LUA Conroy responded that copies
70 can be shared after a final review with Dr. Klemens. There were no further questions or comments
71 from the Commission.

72
73 6. Minutes of June 29, 2022 - *pending*
74 7. Minutes of July 18, 2022 - *pending*
75 8. Minutes of August 1, 2022 - *pending*
76 9. Minutes of August 15, 2022 - *pending*
77 10. Minutes of September 6, 2022 - *pending*
78 11. Minutes of September 19, 2022 - *pending*
79 12. Minutes of September 20, 2022 - *pending*
80 13. Minutes of October 4, 2022 - *pending*
81 14. Minutes of October 17, 2022 - *pending*
82 15. Minutes of November 7, 2022 - *pending*
83 16. Minutes of November 21, 2022 - *pending*
84 17. Minutes of December 12, 2022 - *pending*

85

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

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86 **Public Comment**

87 18. Public Comment - Public Comment is restricted to items that are neither on the agenda nor the
88 subject of any pending Planning & Zoning application or action and are limited to three minutes
89 per person

90
91 **Pending Business**

92 19. #2022-0205 / Super Sumo Enterprises LLC (Little) / 438 Lime Rock Road / Site Plan Approval for
93 Change of Use from Storage Building to Carpentry or Woodworking, Generator, Driveway and Parking
94 Improvements / Map 27 / Lot 9 / DOR: 11/07/2022 / Extension granted through 01/17/2023 / Possible
95 Consideration

96
97 Chairman Klemens introduced this application and explained that some, but not all required materials
98 have been shared, and an extension may need to be granted. LUA Conroy presented a letter granting
99 an extension to a future meeting on February 21, 2023. Attorney Mark Capecelatro joined the meeting
100 and shared that Engineer Pat Hackett has performed a site visit and is working on plans that are not yet
101 completed. These plans will be made available before the upcoming meeting for Commissioners to
102 review.

103
104 20. #2022-0208 / Skattum (Capecelatro/Hackett) / 27 & 29 West Shore Place / Site Plan to
105 Demolish Two Existing Residences and Construct New Single-Family Residence in the Lake Protection
106 Overlay District (Section 404) / Map 66 / Lot 40 & 41 / DOR: 12/19/2022 / Reception and Possible
107 Consideration

108
109 Attorney Mark Capecelatro and Engineer Pat Hackett joined the meeting. Attorney Capecelatro
110 presented the revised site plan, explaining the proposal to demolish and rebuild the pre-existing
111 woodshed. At a previous meeting, it was determined the site plan was one hundred-forty square feet
112 over the impervious surface coverage allowance according to the Lake Protection Overlay District
113 (LPOD). This updated proposal included deconstruction of the current woodshed, and another rebuild
114 on the exact footprint. The new structure will contain a small area of impervious surface for wood
115 storage, but will be mostly composed of a pervious sunshade and deck structure, without an
116 impervious roof. This see-through indoor area will be utilized for kayak storage. Attorney Capecelatro
117 added that this structure's visual impact will be less objectionable than the current structure, and is
118 more aesthetically pleasing for the property owners and lake users. The property will be seventy-three
119 square feet under the impervious surface coverage allowance. Attorney Capecelatro added the
120 maximum height from the peak of the roof to the ground is slightly over thirteen feet, which is less
121 than fifteen feet allowed for accessory buildings.

122
123 Chairman Klemens mentioned a slope present underneath the structure and asked which direction
124 stormwater will flow. LUA Conroy responded water will flow underneath towards the lake. Chairman
125 Klemens asked if this is considered a pre-existing non-conforming structure that will be demolished
126 and rebuilt in the same footprint, Attorney Capecelatro replied yes. Chairman Klemens asked if the
127 driveway is paved, Attorney Capecelatro replied no. Alan Cockerline asked for an explanation of two
128 blue ovals to the left of the driveway included in the site plan, Engineer Hackett replied this represents

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

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129 a storage area and temporary stockpile for round hay bales. Vice Chair Shyer asked if pathways
130 throughout the property will be gravel, Engineer Hackett replied yes, either gravel or grass.

131
132 Chairman Klemens requested to review the Inland Wetlands & Watercourses Agency approval to be
133 incorporated by reference. Attorney Capecelatro reviewed the conditions required:

134
135 Vice Chair Shyer expressed concern regarding references to three docks on the planting plan. Attorney
136 Capecelatro replied these docks are present on that plan but not on the site plan. Chairman Klemens
137 explained the planting plan was submitted alongside the site plan and is therefore included in the
138 application. Chairman Klemens asked if the docks are, or will be, newly constructed. Attorney
139 Capecelatro replied there are three concrete slabs present, but no docks. Chairman Klemens asked if
140 the slabs are included in the impervious surface calculations, Attorney Capecelatro replied yes.

141
142 Chairman Klemens understood Vice Chair Shyer's concerns about the docks, but explained that they
143 are not under the Commission's jurisdiction. LUA Conroy explained the terrain leading to the bank is
144 steep, and the three pre-existing access points to the lake are rough cuts into the bank. Construction of
145 docks would require a zoning permit. Commissioner Cockerline asked if "no dock approvals" could be
146 added to the conditions of this application, LUA Conroy replied yes. There were no further comments
147 or questions from the Commission.

148
149 **Motion:** To approve #2022-0208 / Skattum (Capecelatro/Hackett) / 27 & 29 West Shore Place / Site
150 Plan to Demolish Two Existing Residences and Construct New Single-Family Residence in the Lake
151 Protection Overlay District (Section 404) / Map 66 / Lot 40 & 41 / with the following conditions:

- 152
- 153 1. Submit revised Engineering Plans to the Town Engineer for review/approval.
 - 154
 - 155 2. Final approved plans shall have live signature and embossed seal of the Engineer and Surveyor
156 of record. These shall be submitted to the Town of Salisbury Land Use Administrator prior to
157 any construction.
 - 158
 - 159 3. Prior to the commencement of any construction, the Applicant's Engineer shall provide an
160 Erosion and Sedimentation (E&S) Control Measures Bond Estimate, which shall be reviewed
161 and approved by the Town Engineer. The Town Engineer shall set the final bond amount. The
162 bond shall be a cash bond payable to the Town of Salisbury.
 - 163
 - 164 4. A Pre-Construction Meeting is required with Town staff prior to the start of construction to
165 inspect E & S control measures and to discuss construction sequencing/phasing.
 - 166
 - 167 5. The Design Engineer shall inspect all phases of the site work and provide a monthly report with
168 photographs to the Land Use Administrator.
 - 169
 - 170 6. During the construction process, the Owner/Developer/Contractor shall add erosion and
171 sedimentation control measures as deemed necessary by the Town of Salisbury staff and/or the

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

Remote Meeting by Live Internet Video Stream and Telephone

- 172 Consulting Town Engineer.
173
174 7. Daily inspections and required maintenance of all erosion & sedimentation control measures
175 shall be completed by the General Contractor until a permanent vegetated cover is established.
176 Repairs shall be made immediately after inspections.
177
178 8. An escrow in the amount of \$1,215.00 shall be provided for three inspections to be conducted
179 by the Consulting Town Engineer. The inspections shall include the preconstruction meeting,
180 one during construction, and a final site inspection prior to release of the Erosion &
181 Sedimentation Control Bond and/or the issuance of a Certificate of Occupancy.
182
183 9. An As-Built Site Improvement and Grading Plan, prepared by a State of Connecticut Registered
184 Land Surveyor, shall be submitted to the Land Use Administrator after all the site work is
185 completed, and prior to requesting a Certificate of Occupancy.
186
187 10. A final site inspection shall be completed by the Land Use Administrator and/or the Consulting
188 Town Engineer prior to the release of the Erosion & Sedimentation Control Bond and/or the is-
189 suance of a Certificate of Occupancy.
190
191 11. The approval does not include the issuance of dock permit(s) and
192
193 12. The lots must be legally merged by deed prior to issuance of a zoning permit.
194

IWWC Standard Conditions

- 195
196
197 1. The permittee shall notify the Salisbury Inland Wetlands Agent immediately upon the
198 commencement of work and its completion. **A pre-construction meeting with the contractor**
199 **and the Agent is required.**
200
201 2. All work and all regulated activities conducted pursuant to this authorization shall be
202 consistent with the terms and conditions of this permit. Any structures, excavation, fill,
203 obstructions, encroachments, or regulated activities not specifically identified and authorized
204 herein shall constitute a violation of this permit and may result in its modification, suspension
205 or revocation.
206
207 3. This authorization is not transferable without written consent of the Commission.
208
209 4. In evaluating an application, the Commission and their Agent rely on the information provided
210 by the applicant. If such information is subsequently proven to be false, incomplete or
211 misleading, this permit may be modified, suspended, or revoked and the permittee may be
212 subject to any other remedies or penalties provided by law.
213

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

Remote Meeting by Live Internet Video Stream and Telephone

- 214 5. The permittee shall employ the practices as outlined in the 2002 CT E & S Guidelines, March
215 2002 edition and amendments, consistent with the terms and condition of this permit, to
216 control storm water discharges and to prevent erosion and sedimentation and to otherwise
217 prevent pollution of wetlands or watercourses.
218
- 219 6. **The permittee shall immediately inform the Agent of any problems involving the wetlands or**
220 **watercourses that have developed or are caused by the authorized work.**
221
- 222 7. No equipment or material including without limitation, fill construction materials or debris shall
223 be deposited, placed or stored in any wetland or watercourse on the site.
224
- 225 8. This authorization is subject to and does not derogate any rights and powers of the Town of
226 Salisbury, conveys no property rights or exclusive privileges, and is subject to all public and
227 private rights and to all applicable federal, state and local laws. In conducting and maintaining
228 any activities authorized herein, the permittee may not cause pollution, impairment or
229 destruction of the wetlands and watercourses.
230
- 231 10. If the activity authorized also involves activity or a project that requires zoning or subdivision
232 approval, special permit, variance, or special exception, no work pursuant to the wetlands
233 permit may begin until such approval is obtained.
234
- 235 11. The permittee shall maintain sediment and erosion controls at the site in such an operable
236 condition as to prevent the pollution of wetlands and watercourses. Said controls are to be
237 inspected by the permittee for deficiencies at least once per week and immediately after rain
238 events. The permittee shall correct any such deficiencies within 24 hours of said deficiency
239 being found. The permittee shall maintain such control measures until all areas of disturbed
240 soils, at the site, are stabilized.
241
- 242 12. Erosion and sediment controls must be installed and inspected prior to construction.
243
- 244 13. The site must be stabilized within 30 days of completing any ground disturbance.
245

246 Made by Cockerline, seconded by Riva.

247 Vote: 5-0-0 in favor.
248

249 **New Business**

250 21. #2023-0208 / American School for the Deaf (Allied/Johannesen) / 410 Twin Lakes Road / Site
251 Plan Modification to Construct New 400 sq ft Art Barn for Storage and Instruction in the Lake
252 Protection Overlay District (Section 404) / Map 64 / Lot 8 / DOR: 01/17/2023
253

254 Engineer George Johannesen joined the meeting. Mr. Johannesen explained a four-hundred square
255 foot art barn is proposed for construction to the left of the athletic courts, which they received
256 approval for installation last year. The barn will be constructed on piers, and is intended for art supply

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

Remote Meeting by Live Internet Video Stream and Telephone

257 storage and classes on rainy days. Approval from Torrington Area Health District (TAHD) has been
258 received, and the barn location is outside of any regulated areas associated with wetlands.

259
260 Chairman Klemens asked if the Fire Marshal approved of these plans, Mr. Johannesen replied not yet.
261 LUA Conroy asked to see calculation changes for lot coverage, Mr. Johannesen replied the barn is small
262 that it does not change percentage calculations. LUA Conroy asked for an update on the athletic courts.
263 Mr. Johannesen explained the courts have been installed and are stable, and they are waiting until
264 early spring to do buffer planting. Commissioner Cockerline suggested approving the site plan
265 modification with the contingency of approval from the Fire Marshal. The Commission is in agreement
266 and has no further questions.

267
268 **Motion:** To approve site plan modification for #2023-0208 / American School for the Deaf
269 (Allied/Johannesen) / 410 Twin Lakes Road / Site Plan Modification to Construct New 400 sq ft Art Barn
270 for Storage and Instruction in the Lake Protection Overlay District (Section 404) / Map 64 / Lot 8 /
271 contingent on Fire Marshal's approval of the plan's design.
272 Made by Cockerline, seconded by Whalen.
273 Vote: 5-0-0 in favor.

274
275 **Other Business**

276 22. Report of Potential Land Use Violation - Resolved

277 a. 329 Main Street - Neon Sign and Change of Use

278 LUA Conroy reviewed a potential violation involving a neon sign and unpermitted change of
279 use for the building. Tenant EJ Homes responded quickly, turned off the neon sign and was
280 working with the landlord for permission to apply for change of use. The landlord
281 subsequently followed up with LUA Conroy, and ultimately the tenant is no longer in the
282 building. Therefore, there is no need for a change of use or sign permit.

283
284 b. 13 Perry Street - Short Term Rental

285 LUA Conroy explained that legal counsel I has advised not to move forward with
286 enforcement of this short-term rental, and wait to hear the outcome of pending court
287 decisions.

288
289 c. 56 East Main Street - RV's & Construction of Accessory Apartment without Zoning Permit

290 LUA Conroy reviewed this complaint involving an accessory apartment and airstream
291 trailers on the property's front yard. LUA Conroy contacted the property owner, who
292 received approval for a zoning permit, sold one RV and moved the rest of them from sight.

293
294 23. Report of Potential Land Use Violations - Unresolved

295 a. 22 Lincoln City Road - Shed and shed addition without the benefit of permits

296 LUA Conroy explained this property also includes a building permit violation and anticipates
297 collaborating with the Building Department on enforcement efforts.

298
299 b. 106 Millerton Road - +/- 10'x25' shed installed without the benefit of permits

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

Remote Meeting by Live Internet Video Stream and Telephone

300 LUA Conroy explained this new complaint was received regarding a new shed being
301 installed. There was an enforcement issue at this property last year involving a swimming
302 pool being installed without permits. The pool was taken down. The shed is estimated to be
303 ten by twenty-five square feet, which may trigger a building permit.
304

- 305 c. 230 Salmon Kill Road - Structures and boarding camp use without the benefit of permits
306 LUA Conroy explained that enforcement originated from a complaint given to Torrington
307 Area Health District (TAHD) regarding a campground being operated at this property. LUA
308 Conroy, the building official and representative from TAHD visited the site to understand
309 what violations exist. To LUA Conroy's understanding, there are no building permit
310 violations, but a few violations involving TAHD. One violation that must be brought into
311 compliance is an outdoor shower with hot water, which is not permitted unless covered and
312 tied into a septic system. Another violation involved change of use. If more than one
313 campsite is in operation, they are required to perform water testing, provide sanitary
314 facilities, and register with TAHD as a campground.
315

316 LUA Conroy reviewed other concerns. The use meets the definition of Boarding Camp under
317 the zoning regulations, which may be a pathway for compliance if the property owner
318 applied and demonstrated they could meet all of the special permit standards. LUA Conroy
319 explained there are also structures that do not have zoning permits, including a shed and
320 camping platforms.
321

322 Currently, no campsites are being rented. The camp's website is still listed, but there is no
323 availability to rent. However, LUA Conroy explained this land was previously owned by the
324 Nature Conservancy, and when conveyed, a deed description only allowed construction of
325 the main house and garage. The rest of the property is under Nature Conservancy control,
326 therefore building these other structures and conducting another use are subject to deed
327 restrictions. LUA Conroy stated that we are unable to enforce deed restrictions, but that the
328 property owner is required to notify the Nature Conservancy easement holder if they intend
329 to apply for permitting.
330

331 LUA Conroy asked the Commission's opinion on mailing a notice of potential zoning
332 violation to the property owners. The Commission is in agreement to send a notice.
333

- 334 d. 281 & 283 Wells Hill Road - Temporary zoning permit expired, unpermitted accessory
335 apartment in barn. Occupying principal residence without Zoning Certificate of
336 Compliance.

337 LUA Conroy reviewed the first violation involving a generator that was subsequently
338 relocated by the property owner. A second violation included a barn that has all the
339 components of an accessory apartment, but exceeds the allowable size. The Commission
340 gave 12 months of leeway to complete the main house project and resolve the accessory
341 apartment. This permit expired in August, and LUA Conroy explained the issue has not
342 been resolved, and a letter has been drafted for the Town Attorney to review.

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

JANUARY 17th, 2023 5:30PM

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343 Alternate Schiffer asked if a resolution was made at 17 Railroad Street which involved contractor
344 equipment storage. Chairman Klemens and LUA Conroy sent a letter to the property owners in an
345 attempt to rectify a neighbor's concerns with the appearance of construction fencing. LUA Conroy
346 replied that although the fence may not be aesthetically pleasing, it was installed and complies with
347 current zoning regulations. Further conflict exists with the neighboring property owner who
348 constructed a deck without permits. The Building Official issued a stop work order for the deck. The
349 property owner has subsequently attempted to remedy this and completed a zoning permit
350 application with LUA Conroy.

351

352 **Adjournment**

353

354 **Motion:** To adjourn meeting at 7:25PM.

355 Made by Cockerline, seconded by Shyer.

356 Vote: 5-0-0 in favor.

357 Respectfully Submitted,

358 Erika Spino

359 Secretary of Minutes