

SALISBURY PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
OCTOBER 16, 2023 6:30PM

Remote Meeting by Live Internet Video Stream and Telephone

Members Present:

Dr. Michael Klemens (Chair)
Cathy Shyer (Vice Chair)
Martin Whalen (Secretary)
Bob Riva (Regular Member)
Allen Cockerline (Regular Member)
Dr. Danella Schiffer (Alternate Member)

Staff Present:

Abby Conroy, Director of Land Use
Miles Todaro, Land Use Technical Specialist

Members Absent:

Debra Allee (Alternate Member)

1 **Brief Items and Announcements**

2

3 1. Call to Order / Establish Quorum

4

5 Chair Klemens called the meeting called to order at 6:30pm. All Commission members were
6 present except for Alternate Member Allee.

7

8 2. Approval of Agenda

9

10 Chair Klemens explained that there was a request by the applicant to withdraw item #17 from
11 the agenda. Additionally, a few corrections were made to the listed minutes. Item #8 (Minutes
12 of May 15, 2023) is pending and item #10 (Minutes of August 29, 2023) is to be replaced with
13 Minutes of September 18, 2023.

14

15 **Motion:** To approve the agenda as amended.

16 Made by Cockerline, seconded by Riva

17 Vote: 5-0-0

18

19 Agenda items #3-8 were skipped.

20

21 9. Minutes of June 5, 2023

22

23 Throughout - Debbie Lawlor should be referred to as "Ms. Lawlor."

24 Throughout - Land Use Administrator (LUA) Conroy should be Land Use Director (LUD) Conroy

25 Line 8 – Change "Regional Manager of Planning Debbie Lawlor" to "Debbie Lawlor, Regional
26 Manager of Planning at Collier's Design"

27 Line 49 – Add "North" before "Canaan"

28 Line 121 – Add "Station" after "Railroad"

29 Line 154 – Add "Resident" before "State Trooper"

30 Lines 199, 226, and 284 – Change "Chair Klemens" to "Dr. Klemens"

31 Line 310 – Change the first "non-confirming" to "non-conforming"

32 Line 49 – Delete the last "to"

33 Line 91 – Change "Ttrail" to "Trail"

34 Line 132 – Delete "any"

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35 Line 158 – Add “Ms. Lawlor added” to the beginning of the line

36 Line 189 – Change “for a” to “for”

37 Line 219 – add “of” before “the statement”

38 Line 234 – Change “idea” to “ideal”

39 Line 267 – Add “use” after “residential”

40 Line 291 – Change “through” to “throughout”

41 Line 292 – Change “the” to “that”

42

43 **Motion:** To approve the minutes of June 5, 2023 as amended.

44 Made by Cockerline, seconded by Riva

45 Vote: 4-0-1

46

47 10. Minutes of September 18, 2023

48

49 Throughout – Change “Alternate” to “Alternate Member”

50 Line 43 – Add “the” after “on”

51 Line 134 – Change “Builder” to “Seth”

52 Line 141 – Add “a” after “roughly”

53 Line 179 – Change “conscientious” to “conscious”

54 Line 207 – Add “he” after “expressed that”

55 Line 366 – Add “owner” after “previous”

56

57 **Motion:** To approve the minutes of September 18, 2023 as amended.

58 Made by Cockerline, seconded by Riva

59 Vote: 4-0-0

60 Secretary Whalen was unavailable to vote.

61

62 **Public Comment**

63

64 11. Public Comment - Public Comment is restricted to items that are neither on the agenda
65 nor the subject of any pending Planning & Zoning application or action and are limited to three
66 minutes per person

67

68 Elizabeth Whalen joined the meeting at 6:57pm. Ms. Whalen asked if the application on 17
69 Perry Street is still on the agenda. Land Use Director (LUD) Conroy answered that it is not, but
70 the hearing for that application will be held on October 30th, 2023. There was no further
71 comment from the public.

72

73 **Enforcement**

74

75 12. Enforcement and Reports of Potential Violation:

76 12.a. 167 Canaan Road – Salisbury Garden Center

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LUD Conroy explained that she will be writing a potential notice of violation for the expanding use onto an adjoining parcel.

12.b. 12 Indian Cave Road – Brazzale – Housing Trust Letter

Chair Klemens asked LUD Conroy to share the most recent letter from the Housing Trust. The Commission reviewed the letter. Chair Klemens commented that he believes that at this point a notice of violation should be issued. Commissioner Cockerline disagreed, and expressed that he feels Mr. Brazzale has shown he is acting in good faith and moving forward with complying even if it's taking a long time. He also asked what the status was of the building under construction. LUD Conroy clarified that the building under construction is on 17 Railroad Street, the potential violation currently being discussed is on 12 Indian Cave Road. Chair Klemens added that potential violation is about lawnmowers being stored on the property for a commercial business for at least two years since the complaint was made.

Chair Klemens stated that the Zoom Chat function cannot be used during the meeting, as it does not go on the official record. He read aloud comments made by meeting participant John Harney: "The mowers have moved, the barn is finished, and the mowers are in it." Chair Klemens explained that this is not a public hearing so members of the public cannot make comments during the public process.

Commissioner Cockerline asked for more clarification regarding the two addresses of the complaints. Additionally, he asked if the Land Use Director can visit the sites to examine the current conditions. Chair Klemens asked if he's requesting that LUD Conroy look at everything, or just 12 Indian Cave Road, the topic of the current discussion. Commissioner Cockerline clarified that 12 Indian Cave Road would suffice. Chair Klemens explained that the last official communication received stated that the lawnmowers were still present. He added that the Commission cannot admit Mr. Harney's Zoom Chat comments into the official record, so they must be disregarded at present time. Based on the last official communication received from the Housing Trust, Chair Klemens requested that the Commission initiate a notice of violation. During the course of the violation proof may be gathered showing compliance, but as the legal record stands now Chair Klemens believes the notice of violation should be issued.

Vice Chair Shyer recused herself at 7:07pm, on the grounds of a business relationship with Mr. Brazzale. Alternate Member Schiffer was seated.

Alternate Member Schiffer agrees that Mr. Brazzale has proven to be acting in good faith, but also believes the regulations that need to be upheld.

LUD Conroy described the notice of violation process. First, she would write a notice of violation that the attorney would review. That letter would be sent to the property owner and lessee, typically with a 30-day grace period. After the 30 days, a cease-and-desist letter would be drafted, reviewed by the attorney, and sent. Chair Klemens commented that the Commission wants to see issues resolved, not go to court. He added that he assumes the issue can be easily resolved within the 30 days, but given the history of this violation he believes the Commission has an obligation to issue the letter and treat everyone equally under the law.

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119 Alternate Member Schiffer asked for more clarification on what it would mean to “cease and
120 desist” in this particular case. LUD Conroy showed the Commission aerial photographs of the
121 properties in question. She pointed out where the barn under construction is in relation to the
122 violation being discussed on 12 Indian Cave Road. The permits are in place for 17 Railroad
123 Street, the issue being discussed is the commercial use of a residential property on 12 Indian
124 Cave Road. Chair Klemens added that he fully anticipates that issue will be resolved within the
125 30 days, but the Commission must pursue it as they’re charged to under the law. Alternate
126 Member Schiffer reiterated her question, asking what it would mean to “cease and desist” in
127 this case. LUD Conroy explained that the issue is the operation of a commercial business on
128 residential property. She added that the original notice of potential violation was issued August
129 3, 2021. Chair Klemens reiterated that he believes it’s time to move to the next step, with the
130 expectation that it will be resolved well before a cease-and-desist letter needs to be issued.
131 The full Commission supported LUD Conroy submitting a notice of violation.
132

133 **New Business**

134
135 13. #2023-0227 / Marisa Simmons / 37 Undermountain Road / Special Permit for Cottage
136 Bakery Home Occupation (Sections 210.1 & 210.2) / Map 56 / Lot 25 / DOR 10/16/2023
137 / Reception, Consideration of Completeness, and Schedule Hearing
138

139 Applicant Marisa Simmons joined the meeting to explain her application. She would like to
140 obtain a Cottage Food Operator License, which requires a verification of Zoning Compliance.
141 She’s interested in obtaining the license in order to bake shelf-stable low risk food such as cakes
142 and cupcakes. LUD Conroy displayed the location of the property submitted with the
143 application. Chair Klemens commented that the applicant should coordinate with LUD Conroy
144 regarding Public Hearing Noticing Requirements. LUD Conroy briefly explained that she’ll be
145 sending the applicant the information required for the notices. She emphasized the
146 requirement that the notices are sent Certified Mail Return Receipt. Chair Klemens reinforced
147 the importance of this.

148
149 **Motion:** To set a public hearing on October 30, 2023 at 6:45pm via Zoom for application #2023-
150 0227 / Marisa Simmons / 37 Undermountain Road / Special Permit for Cottage Bakery Home
151 Occupation (Sections 210.1 & 210.2) / Map 56 / Lot 25 / DOR 10/16/2023 /
152 Made by Cockerline, seconded by Riva
153 Vote: 5-0-0
154

155 14. 2023-0229 / McGhee (Ehle) / 254 Housatonic River Road / Special Permit for Vertical
156 Expansion of a Nonconforming Structure (Section 503) / Map 12 / Lot 30 / DOR:
157 10/16/2023 / Reception, Consideration of Completeness, and Schedule Hearing for
158 October 30
159

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160 Applicant Rick Ehle joined the meeting at 7:21pm and explained that the property owners
161 would like to completely rehab their house at 254 Housatonic River Road. This includes
162 replacing the existing foundation under a sunroom, which would not change house footprint.
163 They would like to make this more structurally sound and enclose it to add basement space.
164 Additionally, a portico over the front door and a 12 by 20-foot deck are planned. LUD Conroy
165 explained that enclosing the basement portion qualifies as vertical expansion in the
166 Regulations, which means a Special Permit is required. She believes that the deck and portico
167 qualify as accessory structures, which do not require a Special Permit.
168 Chair Klemens asked if this application needs to go to the Housatonic River Commission (HRC).
169 LUD Conroy answered probably, however she was unsure what aspect of the application they
170 would be reviewing since there is no change to impervious surfaces. Chair Klemens added that
171 it is a visual improvement as well. He asked if HRC will be meeting before October 30th. LUD
172 Conroy answered that their next meeting is on November 14th, 2023. Commissioner Cockerline
173 commented that he doesn't see any way it would have a negative impact on the river corridor.
174 Chair Klemens concluded that they will not send the application to HRC, as it is a net
175 improvement.
176 Commissioner Cockerline asked for clarification regarding where the road easement is. LUD
177 Conroy showed the Commission the submitted survey showing the property boundary. Chair
178 Klemens explained that the road easement is complicated on this stretch of road, and in some
179 cases is 66 feet wide. Commissioner Cockerline added that in either case the building is
180 preexisting non-conforming.

181
182 **Motion:** To set a public hearing on October 30, 2023 at 6:45pm via Zoom for application 2023-
183 0229 / McGhee (Ehle) / 254 Housatonic River Road / Special Permit for Vertical Expansion of a
184 Nonconforming Structure (Section 503) / Map 12 / Lot 30 / DOR: 10/16/2023
185 Made by Cockerline, seconded by Riva
186 Vote: 5-0-0

187
188 15. 2023-0231 / Lime Rock Park II, LLC (Riegel, SLR Consulting – Ritchie) / 497 Lime Rock
189 Road / Site Plan for New Garage Building /Map 4 / Lot 16 / DOR: 10/16/2023 /
190 Reception, Consideration of Completeness, Possible Consideration

191
192 General Partner Bill Rueckert, SLR Consulting Engineer Todd Ritchie, and Lime Rock Park
193 President and CEO Dickie Riegel joined the meeting at 7:30pm. Mr. Riegel introduced the
194 application as a project nearly the same one approved by the Commission in 2022. The project
195 is for the construction of a garage, which was originally planned for a location in the floodplain.
196 The revised plan being presented at this meeting is located outside of the floodplain, in a less
197 complex location to build, and in proximity to existing utilities.
198 Engineer Ritchie showed the Commission the plans. Chair Klemens explained as a Site Plan, this
199 application would typically get a full presentation at this meeting. However, in the past the
200 Commission has requested Public Hearings for applications at Lime Rock Park. Vice Chair Shyer
201 expressed that this is a positive change from the last application, however she supports having

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202 a Public Hearing. Commissioner Cockerline disagrees that a public hearing is necessary. He
203 added that it's now in a better location than the previously approved application.
204 Commissioner Riva expressed that he would like to think a Public Hearing isn't needed, but it
205 would be a good gesture given the history of the area. Secretary Whalen recused himself at
206 7:04pm on account of being an abutting property owner. Alternate Member Schiffer was
207 seated and agreed that a Public Hearing would be appropriate given the impact of the Race
208 Track on the local community. Commissioner Cockerline decided to support a public hearing
209 with the rest of the Commission.

210 LUD Conroy asked the Commission if they feel this application should be reviewed by the Town
211 Engineer. Commissioner Cockerline expressed that he doesn't see a need for the Town
212 Engineer's review. Commissioner Riva and Vice Chair Shyer agreed.

213 LUD Conroy commented the Public Hearing can't be scheduled for Oct 30th, since it's too late to
214 mail the notices. Commissioner Cockerline asked why the two prior applications could be
215 scheduled for that meeting. Chair Klemens explained that LUD Conroy already sent out those
216 notices in anticipation of the hearings being scheduled. LUD Conroy added that the next
217 available meeting is November 20th. Commissioner Riva asked Mr. Riegel if the project is time
218 sensitive. Mr. Riegel replied that they're eager to move forward but respect the process.
219 Alternate Member Schiffer commented that she agrees the Town Engineer is not needed.

220 Engineer Ritchie described the application. He showed the Commission the location of the
221 proposed 378 foot by 42-foot building for individual garages. There will be a central restroom
222 facility for the garage users. He explained the soils are sandy which makes them conducive for
223 subsurface sewage disposal and stormwater infiltration. There will be a one-way driveway to
224 access and exit.

225 Commissioner Cockerline asked if there will there be a maintenance schedule on the plan,
226 which Engineer Ritchie confirmed. Chair Klemens asked if the lot line adjustment could be
227 explained further. Engineer Ritchie displayed the survey showing the adjustment between 497
228 Lime Rock Road and 52 White Hollow Road (also owned by Lime Rock Park). He explained that
229 the proposed adjustment will put the ticket booths and the proposed buildings on 497 Lime
230 Rock Road, the same lot as the Race Track. Chair Klemens explained that the current lot
231 configuration means the ticket booths are non-conforming as an accessory building without a
232 principal use, so this adjustment would increase zoning conformity. Commissioner Cockerline
233 asked if this would change the RE Zone. Chair Klemens answered that there are no proposed
234 plans that would change the RE Zone. Engineer Ritchie added that the lot line adjustment
235 allows the proposed building to be as close to the Race Track as reasonable.

236 Alternate Member Schiffer asked if gas will be stored in the building. Mr. Riegel responded no,
237 that it is for storage only as it was when proposed for the location in the floodplain.
238 The Commission decided review by the Town Engineer was not needed.
239

240 **Motion:** To set a Public Hearing date on November 20, 5:45pm via Zoom for application 2023-
241 0231 / Lime Rock Park II, LLC (Riegel, SLR Consulting – Ritchie) / 497 Lime Rock Road / Site Plan
242 for New Garage Building /Map 4 / Lot 16 / DOR: 10/16/2023
243 Made by Cockerline, seconded by Riva

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244 Vote: 5-0-0

245

246 16. #2023-0228 / American School for the Deaf (Allied Engineering) / 410 Twin Lakes Road /
247 Site Plan for Addition to Camp Kitchen and Staff Dormitory in the Lake Protection
248 Overlay District (Section 404) / Map 64 / Lot 8 / DOR: 10/16/2023 / Reception and
249 Possible Consideration

250

251 Chair Klemens explained that this application has not changed much since the Commission last
252 reviewed it, except now it has received TAHD approval. Engineer George Johannesen joined the
253 meeting and explained the last time the application was denied without prejudice, having not
254 received TAHD approval in time. Additionally, he explained that after having monitored water
255 usage throughout the season, they were able to obtain a B100a and TAHD approval. He also
256 pointed out a small change to the ramps since the last time the Commission viewed the plans.
257 The Commission had no questions or comments.

258

259 **Motion:** To approve Site Plan application #2023-0228 / American School for the Deaf (Allied
260 Engineering) / 410 Twin Lakes Road / Site Plan for Addition to Camp Kitchen and Staff
261 Dormitory in the Lake Protection Overlay District (Section 404) / Map 64 / Lot 8 / DOR:
262 10/16/2023

263 Made by Cockerline, Seconded by Whalen

264 Vote: 5-0-0

265

266 **Other Business**

267

268 18. #ZP23-113 / Hotchkiss School / 22 Lime Rock Road / Temporary Zoning Permit for
269 Mobile Kitchen Facilities Associated with Dining Hall Renovations (Section 906) /
270 Authorization of Zoning Administrator

271

272 Commissioner Cockerline recused himself and Alternate Member Schiffer was seated. LUD
273 Conroy explained that Hotchkiss School is renovating their dining hall to accommodate the
274 whole school. They have already applied to IWWC for temporary kitchen facilities involving
275 temporary pull offs in the upland review area. They are seeking a temporary Zoning Permit to
276 begin the work, and will then be seeking Site Plan approval. Chair Klemens asked if they have
277 received IWWC approval. LUD Conroy responded that they only received the application at the
278 last meeting so it could not be approved. Additionally, the application is being reviewed by the
279 Town Engineer.

280 Chair Klemens expressed concern about students crossing route 41 multiple times a day for
281 dining, and added that he would like to see the plans include a crossing guard or similar safety
282 measures. Commissioner Whalen concurred. LUD Conroy clarified that the Commission will
283 have a chance to review the full Site Plan before the facilities will be used by students.

284 Commissioner Riva asked if this will be fully reviewed by the Fire Marshal. LUD Conroy

285 responded that it will be, and they've already had a pre-meeting. Chair Klemens suggested

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286 conveying the Commission's concern regarding the crossing of Route 41 to the applicant. The
287 Commission supported LUD Conroy authorizing a Temporary Zoning Permit.

288

289 19. #ZP23-23 / Saint Martin of Tours Parish Corp / 80 Sharon Road / The Corner Food
290 Pantry/ Temporary Zoning Permit for Philanthropic Use in the R20 Zone (Section 906) /
291 Grant of Extension

292

293 LUD Conroy explained that this agenda item is for an extension of a Temporary Zoning Permit.
294 Chair Klemens asked if the applicant is aware that this is the last extension they can receive,
295 which LUD Conroy confirmed. The Commission supported authorizing LUD Conroy to extend
296 the Temporary Zoning Permit.

297

298 **Adjournment**

299

300 **Motion:** To adjourn the meeting at 8:15pm

301 Made by Shyer, seconded by Cockerline

302 Vote: 5-0-0