

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

April 15th, 2024 6:30PM

Remote Meeting by Live Internet Video Stream and Telephone

1 **Members Present:**

2 Dr. Michael Klemens (Chair)

3 Cathy Shyer (Vice Chair)

4 Martin Whalen (Secretary)

5 Bob Riva (Regular Member)

6 Dr. Danella Schiffer (Alternate Member)

7 Beth Wells (Alternate Member) *arrived 6:35PM*

8

9 **Brief Items and Announcements**

10 1. Call to Order / Establish Quorum

11 Chair Klemens called the meeting to order at 6:30PM. A quorum was established with four regular
12 members present (Dr. Michael Klemens, Cathy Shyer, Martin Whalen, Bob Riva). Alternate Member Dr.
13 Danella Schiffer was also present.

14

15 Chair Klemens appointed Alternate Member Schiffer as a voting member.

16

17 2. Approval of Agenda

18 **Motion:** To approve the agenda.

19 Made by Riva, seconded by Shyer.

20 Vote: 5-0-0 in favor.

21

22 3. Minutes of March 18, 2024

23 Chair Klemens proposed the following amendments:

24 Line 63: Replace "this" with "Conroy's"

25 Line 67: Replace "Klemens" with "Klemens"

26 Line 157: Replace "sewer" with "WPCA"

27 Line 191: Replace "Ayers" with "Ayer's"

28

29 Vice Chair Shyer proposed the following amendments:

30 Line 265: Add "as" after "pavers"

31 Line 342: Add "whether" after "decision"

32

33 **Motion:** To approve Minutes of March 18, 2024 as amended.

34 Made by Shyer, seconded by Whalen.

35 Vote: 5-0-0 in favor.

36

37 4. Minutes of April 1, 2024 *pending*

38

39 *Alternate Member Beth Wells joined the meeting at 6:35PM*

40

41 **Old Business**

42 6. Acceptance of Revised Salisbury Open Space & Recreation Plan

43

44 Chair Klemens asked the Commission if they wished to accept the revised Salisbury Open Space &
45 Recreation Plan. Chair Klemens advised that the Commission is under no obligation to include all the
46 Salisbury Open Space & Recreation Plan recommendations in the Plan of Conservation and Development

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

April 15th, 2024 6:30PM

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47 (POCD).

48

49 **Motion:** To accept the revised Salisbury Open Space & Recreation Plan.

50 Made by Riva, seconded by Whalen.

51 Vote: 5-0-0 in favor.

52

53 **Other Business**

54 8. Correspondence – Petition for Special Town Meeting

55

56 Chair Klemens explained that the Land Use Office (LUO) received a petition for a Special Town Meeting.

57 Chair Klemens explained that Special Town Meetings are handled and acted upon by the Board of

58 Selectmen. Chair Klemens stated the correspondence was received and has been acknowledged by the

59 Commission.

60

61 9. Enforcement Updates

62 a. Salisbury Garden Center

63

64 LUD Conroy explained a potential notice of violation was issued November 2023 in response to a
65 complaint regarding the Salisbury Garden Center. LUD Conroy explained that the present owner of the
66 Garden Center acquired a parcel on the corner of Route 44 and Prospect Mountain Road that has been
67 used as an overflow storage area for large trees wrapped in burlap. LUD Conroy explained an accessory
68 use to the nursery operation cannot be located on a different lot than the principal use. The issued
69 notice suggested pursuing a path forward to compliance with a Special Permit which would enable
70 continued use of the property as an overflow storage area. LUD Conroy explained the enforcement letter
71 was sent in November with a goal to proceed during the Garden Center’s slowest season. LUD Conroy
72 received a response from the Garden Center three weeks ago which stated they can work with an
73 attorney to apply for a Special Permit. LUD Conroy explained if an application for a Special Permit is not
74 received by the May 6th Planning and Zoning Commission meeting, the parcel cannot be used for
75 nursery storage or a notice of violation will be issued. Secretary Whalen commented that the stored
76 trees are no longer present on the parcel. Commissioner Riva added that it appeared the Garden Center
77 has utilized the parcel seasonally over the years. Chair Klemens advised that if the parcel is used for
78 extended seasonal nursery storage, a Special Permit must be obtained and the lots merged.

79

80 b. 135 Farnum Road

81

82 Chair Klemens explained the property owners of 135 Farnum Road have installed a large privacy fence
83 where the posts appear to exceed the eight-foot limit. LUD Conroy and LUTS Todaro will investigate the
84 potential violation and report back to the Commission.

85

86 **Public Hearings - 6:45PM**

87 5. #2024-0241 / Fransam LLC (Peter D’Aprile) / 20 Main Street / Special Permit Application for Parking
88 Flexibility, Retail, Multifamily, and Personal Service / Map 54 / Lot 20 / DOR: 03/18/2024 / *Open Hearing*
89 *and Possible Consideration*

90

91 The public hearing opened at 6:45PM. Secretary Whalen read the legal notice. Property Owner Peter
92 D’Aprile and Barbershop Owner Jamie Murphy joined the meeting to present the application. Mr.

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

April 15th, 2024 6:30PM

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93 D'Aprile purchased the property in 2022, with a first-floor retail store and three second-floor
94 apartments. A flower shop previously located in the building terminated their lease, and current tenant
95 Jamie Murphy wants to open a barbershop in this location. Mr. D'Aprile explained that the building was
96 found to not possess proper permits for its multiple uses. Mr. D'Aprile explained the current application
97 for parking flexibility and retail, multi-family, and personal service uses for the property. The building will
98 maintain the same services existing prior to the application. Approval was received from the Fire
99 Marshal and Torrington Area Health District (TAHD).

100

101 LUD Conroy commented that a similar application processed a few months ago featured in depth
102 discussion about available public parking in this area. LUD Conroy clarified the Commission's previous
103 concerns that low turnover office use would occupy many parking spaces and prevent citizens from
104 patronizing nearby businesses. Retail and barbershop uses experience relatively high turnover and have
105 different parking demands. Chair Klemens agreed with this assessment. There were no further questions
106 or comments from the Commission or public.

107

108 **Motion:** To close the public hearing at 6:52PM.

109 Made by Shyer, seconded by Whalen.

110 Vote: 4-0-0 in favor. (Commissioner Riva was absent at the time and did not vote)

111

112 Chair Klemens noted \$60 is still owed to the Town for this application.

113

114 **Motion:** To approve application #2024-0241 / Fransam LLC (Peter D'Aprile) / 20 Main Street / Special
115 Permit Application for Parking Flexibility, Retail, Multifamily, and Personal Service / Map 54 / Lot 20 /
116 DOR: 03/18/2024 / with the condition that the additional \$60 owed is provided to the Land Use Office.

117 Made by Shyer, seconded by Whalen.

118 Vote: 5-0-0 in favor.

119

120 **New Business**

121 7. #2024-0244 / Town of Salisbury (Salisbury Housing Trust) / Undermountain Road / Special Permit
122 Application for New Multi-Family Housing Construction in the Multifamily Housing Overlay District / Map
123 56 / Lot 05 and Lot 06 / DOR: 04/15/2024 / *Reception and Set Public Hearing Date for May 20, 2024 at*
124 *6:45PM*

125

126 Vice President of the Salisbury Housing Trust (SHT) Jennifer Kronholm Clark joined the meeting to
127 present the application. The parcel on Undermountain Road is typically referred to as the "Grove Street
128 School Site" and is often used for overflow parking. Ms. Clark explained the property is owned by the
129 Town and the SHT was granted permission to explore the concept of building two single-family homes.
130 Ms. Clark explained the SHT took time to discuss concerns with neighbors and other citizens, and
131 composed two separate site plans as a result. Ms. Clark explained the SHT would like the Commission to
132 review the two site plans and provide feedback on which plan would be best suited for the
133 neighborhood.

134

135 Ms. Clark presented the first site plan with three uses from the left to right (west to east): open space,
136 two single-family homes, and a municipal parking lot. Ms. Clark explained the buildings will be
137 significantly set back from property lines, and a fence will be included to provide private space. Ms. Clark
138 presented the second site plan showing two uses: open space and two-single family homes. The second

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

April 15th, 2024 6:30PM

Remote Meeting by Live Internet Video Stream and Telephone

139 site plan excludes the municipal parking lot. The front home will be in line with other houses on
140 Undermountain Road, and share a driveway with the second home with open space in the rear of the
141 property.
142

143 Chair Klemens asked if both site plans will be presented at the public hearing. Ms. Clark replied the site
144 plan preferred by the Commission can be brought to the hearing. Chair Klemens cited the 8-24 referral's
145 suggestion regarding respect for neighborhood design, and expressed a personal preference for the
146 second site plan. Vice Chair Shyer expressed concern for construction of a municipal parking lot in a
147 residential area, but noted there are often three to four cars parked on this property. She suggested
148 finding an alternative area for overflow parking and preferred the second site plan with a larger open
149 space. Secretary Whalen also expressed favor for the second site plan. Alternate Member Schiffer asked
150 for a description of the open space area. LUD Conroy explained it is a field maintained by the Town.
151 Alternate Member Schiffer expressed favor for the second site plan and asked how the open space will
152 be utilized. Ms. Clark replied the Town would retain ownership of the space and it would remain a field.
153 Commissioner Riva expressed the importance of maintaining parking in this area. Commissioner Riva
154 favored both site plans to be presented at the public hearing. LUD Conroy noted that presenting both
155 plans could be beneficial for the public to witness and provide comment throughout the process. Chair
156 Klemens advised that the applicant present both site plans at the upcoming hearing.
157

158 **Motion:** To schedule a public hearing for application #2024-0244 / Town of Salisbury (Salisbury Housing
159 Trust) / Undermountain Road / Special Permit Application for New Multi-Family Housing Construction in
160 the Multifamily Housing Overlay District / Map 56 / Lot 05 and Lot 06 / DOR: 04/15/2024 / for May 20th
161 2024, at 6:45PM via Zoom.

162 Made by Shyer, seconded by Whalen.

163 Vote: 4-0-0 in favor. (Commissioner Riva was absent at the time and did not vote)

164

165 **Other Business**

166 10. Discussion of Sports Courts on Private Property

167

168 LUD Conroy presented the definition of "Structure" in the Town of Salisbury Zoning Regulations and
169 explained that past Commission discussions have occurred regarding structures such as generators,
170 mechanical units, and storage tanks. LUD Conroy explained this definition has been in place since 2007,
171 but may not have always been implemented correctly. LUD Conroy was unsure of the reasoning behind
172 the definition, but suggested potential impact to surrounding properties may have led the Commission
173 to decide that these structures are subject to setback requirements.
174

174

175 Chair Klemens asked the Commission if structures such as tennis courts, platform courts, or pickleball
176 courts should be generalized under one "sports court" definition. Chair Klemens asked if pickleball courts
177 are a specialized case that should require a separate set of standards and regulations for use in
178 residential areas. Alternate Member Wells replied pickleball courts present a specific noise concern that
179 exceeds potential sounds from other types of sports courts. Alternate Member Wells provided examples
180 of municipalities in other states that have implemented larger setbacks and increased height of noise-
181 control fences for pickleball courts as a result of citizen concerns and lawsuits. Alternate Member Wells
182 added that use of pickleball courts is of special concern to the residential areas around the lakes.
183

183

184 Chair Klemens asked the Commission if they feel that the noise produced by pickleball courts is of

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

April 15th, 2024 6:30PM

Remote Meeting by Live Internet Video Stream and Telephone

185 sufficient concern to address it differently in residential zones. Chair Klemens asked if prohibition of
186 pickleball courts in residential areas should be considered. Vice Chair Shyer believed pickleball courts do
187 present a noise issue unlike other court structures. Vice Chair Shyer also mentioned pickleball courts are
188 relatively small and can be considered for use in more confined areas than other sports courts. Secretary
189 Whalen agreed that pickleball sounds are intrusive. He suggested banning use in residential areas due to
190 small lots and insignificant space between houses in Town.

191
192 Commissioner Riva explained he has noticed increased activity and public interest in pickleball but has
193 not experienced the courts or sound firsthand. Commissioner Riva was unable to take a position on this
194 matter and suggested pursuing further investigation. Alternate Member Schiffer noted she has also not
195 experienced pickleball court games or noises. She suggested approaching the matter in terms of decibel
196 levels rather than specific sports activities.

197
198 Chair Klemens suggested pickleball courts may not be suitable in zones that are densely populated, but
199 could be allowed on larger parcels of property. LUD Conroy mentioned that there is a minimal number of
200 sports courts permits pulled for residential properties, so there are higher priority issues present in Town
201 Regulations that could be addressed first. She asked the Commission if the concern of potential impacts
202 from pickleball courts should be prioritized immediately, or if pickleball concerns could be more closely
203 investigated during the comprehensive Regulation revisions once the Plan of Conservation &
204 Development (POCD) is completed. Chair Klemens believed the concern of pickleball and sports court
205 structures could be addressed during the comprehensive rewrite of the POCD. Vice Chair Shyer
206 understood other matters take precedence, but asked how the Commission would address pickleball
207 courts that are constructed in residential areas prior to regulation changes. LUD Conroy replied the LUO
208 has not received any applications for pickleball court construction on residential properties. Alternate
209 Member Wells asked what would occur if a pickleball court is constructed without an application. LUD
210 Conroy replied that a structure with no permit is a violation.

211
212 Chair Klemens asked LUD Conroy to describe the Report of Potential Violation process. LUD Conroy
213 explained enforcement of potential violations is discretionary. The LUO has decided to approach
214 concerns based on higher priority criteria versus complaint-based enforcement that is often related to
215 private disputes. LUD Conroy explained violation reports must be documented, and when language in
216 the regulations is not strong, it can be difficult to cite a violation. LUD Conroy explained her objective is
217 to prioritize rewriting the regulations to provide the best initial defense prior to a violation. The LUO
218 experiences significant workload with statutory deadlines and enforcement is often handled
219 opportunistically in between deadlines. LUD Conroy concluded enforcement should be prioritized when
220 it poses a threat to the environment, public health and safety, or welfare of the community. Chair
221 Klemens added enforcement is not always initialized right away and a Report of Potential Violation can
222 take months to process.

223
224 Alternate Member Wells asked if a moratorium could be implemented for this matter while it is
225 investigated. Chair Klemens replied a moratorium is not possible as construction of pickleball courts on
226 residential property is hearsay. Secretary Whalen asked where permit applications can be found on the
227 Town's website. LUD Conroy demonstrated that a link under "Building Department" leads to the online
228 record portal. LUD Conroy complimented research done by Alternate Member Wells and replied that
229 regulating pickleball courts differently than other sports courts may result in issues from a legal
230 standpoint.

SALISBURY PLANNING AND ZONING COMMISSION

REGULAR MEETING MINUTES

April 15th, 2024 6:30PM

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231 **Public Comment**

232 Public Comment - Public Comment is restricted to items that are neither on the agenda nor the subject
233 of any pending Planning & Zoning application or action and are limited to three minutes per person
234

235 Member of the public Holly Leibrock joined the meeting and asked if a proposal can go to a public
236 meeting without adherence to the Zoning Regulations. LUD Conroy replied all Planning and Zoning
237 Commission meetings are public meetings, but they are not all public hearings. Different uses and zones
238 require altering levels of discretionary review. LUD Conroy said for example, a zoning permit requires the
239 least amount of discretion but a special permit requires a public hearing. Ms. Leibrock asked if a proposal
240 could go to public hearing without adherence to the Zoning Regulations. LUD Conroy replied yes, the
241 Commission determines whether or not an application complies with the Regulations. She explained the
242 Commission or public can call out deficiencies in an application during the public hearing process, which
243 the applicant could be granted time to remedy. LUD Conroy explained the Commission ultimately
244 approves an application once it complies with all Zoning Regulations.
245

246 **Adjournment**

247
248 **Motion:** To adjourn meeting at 7:53PM.

249 Made by Shyer, seconded by Whalen.

250 Vote: 5-0-0 in favor.

251
252 Respectfully Submitted,

253 Erika Spino

254 Secretary of Minutes