



The Salisbury Planning Board held its regular meeting Tuesday, August 25, 2020, in the Council Chamber at Salisbury City Hall, 217 S. Main Street, at 4:00 p.m. with the following being present and absent:

PRESENT: Bill Burgin, Tim Norris, John Schaffer, John Struzick, and Bill Wagoner

ZOOM: Jayne Land, Jon Post, Patricia Ricks, Dennis Rogers (late arrival)

STAFF: Teresa Barringer, Graham Corriher, Catherine Garner, Dana Ruth and Diana Cummings

WELCOME GUESTS AND VISITORS

John Schaffer, Chair, called the Planning Board meeting to order. There is only one case to be heard today.

APPROVAL OF MINUTES

Planning Board Minutes of July 28, 2020 approved as submitted.

NEW BUSINESS

Explanation of quasi-judicial procedure was read into the minutes by the Chair.

In deciding a special use permit, Planning Board follows quasi-judicial hearing procedures. The purpose of the hearing is to gather evidence as to whether or not this particular application is consistent with the standards set forth in the City's Land Development Ordinance. Your task is to consider all of the competent and material evidence presented by the applicant and other parties, to ask questions about and deliberate on that evidence, to make findings-of-fact based on that evidence, and to apply those findings-of-fact to the City's Land Development Ordinance.

I will ask those who are going to participate in the hearing to come forward and be sworn. When making this type of decision, ensure that the applicant gets a fair hearing by only allowing evidence that is relevant to the issue before the board. In making this decision, do not consider opinions, speculative evidence or assertions, generalized objections or concerns, or hypothetical situations. The only evidence that this board is allowed to consider is evidence that is competent and material and directly related to the issue of whether the application complies with the standards in the ordinance.

Conflicts Questions/Disclosures

As a matter of basic due process, every applicant is entitled to an impartial decision maker. To that end, the chair asked the following four questions to ensure that the board is impartial in this matter.

“Board members, please respond to the following questions, and answer out loud so the responses can be reflected in the minutes:

- Does any Planning Board member have a fixed opinion on this matter that is not susceptible to change? None
- Has any member of Planning Board had any ex-parte communication about the subject matter of this request with the applicant? None
- Does any member of Planning Board have a close familial, business, or other associational relationship with the applicant? None
- Does any member of Planning Board have a financial interest in the outcome of this matter?” None

Jon Post later recused himself because he owns rental property a block away that might influence his opinion. Jon Post and Dennis Rogers listened to the meeting but did not vote.

SE-07-20 Frontage Width Special Exception

David Glass (applicant) and Dana Ruth (Engineering staff) were sworn in for testimony.

- West D Avenue (Current parcel address is 1828 Second Street) Applicant is requesting the subdivision of Parcel 223 on Tax Map 014 into three lots. Two of the parcels are by right and don’t need a special exception.
- It is currently zoned UR8 and considered infill development.
- Dana Ruth presented the 12 comparison lots and the formula. The applicant can request a minimum frontage of 45 feet—they are asking for frontage width of 49.72 feet. In this zoning district the minimum is 30 feet.

Findings of Fact

“I, Dana Ruth, subdivision administrator for the City of Salisbury, have reviewed the application, the supporting documents, and all the evidence presented in Special Exception case # SE-07-2020. I am familiar with the property in question and with the applicable sections of the Land Development Ordinance (LDO). Based on my review, I recommend the Salisbury Planning Board find the following facts concerning this case.”

As required by the below defined sections of the LDO:

Section 6.3.E.3.d

1. The minimum frontage width, as requested, is not less than the minimum frontage width permitted for the applicable LDO district.

Bill Burgin made the following MOTION, “We recognize that the minimum frontage lot width is acceptable based on staff’s report that, by right, in a non-infill circumstance it could be as narrow as 30 feet; by right, it needed to be 50 feet, but it is 49.72 ft. (only 2.5 inches narrower). Applicant has the ability to request 90 percent, which is 45 feet. Therefore, it has met the applicable section of the Land Development Ordinance for width.”

The MOTION was seconded by Jayne Land with all members VOTING AYE. (7-0)

2. The minimum frontage width, as requested, is not less than 90 percent of the narrowest frontage width of the applicable comparison lots.

The average lot width of the comparison lots is 50 ft.; the resulting 90 percent minimum is 45 ft. The proposal for a lot width of 49.72 ft. therefore meets the minimum requirement of the LDO.

3. The minimum frontage width, as requested, and subsequent subdivision will not create or increase any known nonconformities associated with the subject property.

Patricia Ricks made the following MOTION, "There are no known nonconformities associated with the subject property nor the proposed special exception." John Struzick seconded the MOTION with all members VOTING AYE. (7-0)

4. The minimum frontage width, as requested, is uniform from the front to the rear of the property so as to substantially maintain right angles or radial lot lines to the fronting street.

John Struzick made the following MOTION, "The proposed width of the front of the property is 49.72 ft. The proposed width of the rear of each property is 49.72 ft. The property fronts on West D Avenue. Patricia Ricks seconded the MOTION with all members VOTING AYE. (7-0)

Section 6.3.E.3.e

5. The minimum frontage width, as requested, or some modification thereof and subsequent subdivision does not negatively impact the provision of city services or utilities.

Bill Burgin made the following MOTION, "Public water sewer will remain available to the frontage of each parcel abutting 2nd Street as proposed." Patricia Ricks seconded the MOTION with all members VOTING AYE. (7-0)

6. The applicable comparison lots adequately represent the larger surrounding area.

John Struzick made the following MOTION, "The proposed lot widths are 45 ft., which is exactly 90 percent of the narrowest frontage width of 50 ft. of the comparison lots, and therefore adequately represents the larger surrounding area." Ricks seconded the MOTION with all members VOTING AYE. (7-0)

7. Natural or man-made features of the land neither help nor hinder the minimum frontage width as required and requested.

Patricia Ricks made the following MOTION, "There are no natural or man-made features affected by this proposal." John Struzick seconded the MOTION with all members VOTING AYE. (7-0)

The applicant stated that he plans to build two single-family homes.

Courtesy Hearing

John Schaffer opened public comment period. No one spoke in favor or opposition.

Discussion

The chair explained to the board the options.

If this were not infill, by right they could do 30 feet; the fact that it is infill the average and formula is calculated. Ninety percent of the smallest frontage for infill in this case is 45 feet.

Planning Board Action

Motion

John Struzick made the following MOTION, “Based on the foregoing findings-of-fact, I move that the Planning Board approve SE-07-2020 as presented.”

Jayne Land seconded the MOTION with all members VOTING AYE. (7-0)

ADJOURN

There being no further business to come before the Planning Board the meeting was adjourned.

John Schaffer, Chair

Diana Cummings, Secretary