



**Salisbury Conservation Commission  
Meeting Minutes  
November 6, 2019  
Colchester Auditorium, Town Hall  
5 Beach Road  
Salisbury, MA 01952  
7:00 P.M.**

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**COMMISSION MEMBERS PRESENT:** Emily Round (**EGR**), Jane Purinton (**JKP**), Julie Doughman-Johnson (**JDJ**), Joanne Perreault (**JP**) and Blake Leibert (**BL**).

**COMMISSION MEMBERS ABSENT:** Chairman Sheila Albertelli (**SA**)

**ALSO PRESENT:** Director of Planning & Community Development Lisa Pearson (**LP**), Conservation Secretary Adriane Marchand.

Emily Round opened the meeting at 7:10 pm under the Wetlands Protection Act & Open Meeting Law and informed the public that the meeting was being recorded.

**A. MINUTES:**

**1. September 18, 2019 –**

**JDJ** motioned to approve the minutes for September 18, 2019,  
**JP** seconded.

**Vote: 4-0, JKP abstained. Motion Carried.**

**2. October 2, 2019-**

**JDJ** motioned to approve the minutes for October 2, 2019.  
**JP** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

**3. October 16, 2019-**

**JDJ** motioned to approve the minutes for October 16, 2019.  
**JP** seconded.

**Vote: 4-0, JKP abstained. Motion Carried.**

**B. PUBLIC HEARINGS at 7:10pm:**

**1. NOI: Leo LoPiano, 199 Atlantic Ave (9/18/19)**

**JP** motioned to continue the Notice of Intent for 199 Atlantic Ave to November 20, 2019 at 7:10p.m.  
**BL** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

## **2. NOI: Richard Shaheen, 201 Atlantic Ave (10/2/19)**

**JP** motioned to continue the Notice of Intent for Richard Shaheen, 201 Atlantic Ave to November 20, 2019 at 7:10p.m.

**BL** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

## **3. NOI: Tom Patenaude Homes, Inc, 48 & 50 Old County Road (10/2/19)**

Dennis Griecci (**DG**) from Andover Consultants, Inc. represented the applicant. Updated the Commission on the site walk that resulted in plan revisions. Have received their DEP number. **JDJ** asked if the paved driveways could be permeable. Tom Patenaude (**TP**) replied they can do a gravel or permeable paver for the driveways. **JKP** reminded them the hay for erosion control will need to be salt hay. **TP** asked if they could substitute for a mulch silt sock. Commission agreed. **JKP** stated they are removing two (2) mature trees, would they consider replacing them. **TP** agreed. They would plant three (3) trees, one (1) on each corner of the property and one (1) in the middle of the property. **EGR** asked them to clean up the garbage that is on the edges of the property in the vegetation.

**JKP** motioned to approve the Notice of Intent for Tom Patenaude Homes, Inc, 48 & 50 Old County Road with the standard special conditions and the additional conditions as follows:

Three (3) appropriate trees shall be planted on the property, one (1) in each corner and one (1) in center.

Only salt hay is permitted on site or proposed erosion control may be replaced with 12" silt sock backed with a silt fence.

Driveways will be pervious paver or gravel.

**JP** seconded.

**LP** reminded the applicant the cutting of the tree in the right of way requires a tree hearing and DPW will need to issue a permit for the driveway openings.

**JKP** amended the motion to include DPW approval for the driveway openings and the tree in the public right of way will require approval to be removed.

**JP** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

## **4. NOI: Tom Patenaude Homes, Inc, 35 Liberty Street (10/2/19)**

Matt Steinel (**MS**) of Millennium Engineering, Inc represented the applicant. **AM** informed the Commission she discussed the project with DEP on the Commission's behalf and included the notes in the staff report. **EGR** stated after reviewing the performance standards she does not believe the site meets them. She would be in favor of denying the project and the applicant can appeal to DEP. They would then review and could issue a superseding Order of Conditions. Commission discussed the flooding situation on Liberty Street. **EGR** expressed concern about the parking being in an area that is regularly under water. The applicant stresses they have a right to redevelop, as there is already a structure on the property. **MS** added rising the parking will make the cost of the project unreasonable. **LP** suggested they consider combining lots. **MS** denied the option, not feasible.

**JDJ** motioned to approve the Notice of Intent for Tom Patenaude Homes, Inc, 35 Liberty Street with the standard special conditions and the additional conditions as follows:

All construction activities shall be conducted from the landward side of the top of the bank. No heavy construction equipment, vehicles or fill are allowed in the resource area.

If the supports for the deck within resource area cannot be removed easily with no excavation, they will be cut as close to grade as possible and capped if necessary for safety.

Holes left from the deck removal will be filled to grade with native material before being planted according to the landscape plan, yet to be submitted to the Commission for approval.

All areas disturbed during construction shall be immediately stabilized against erosion and revegetated with appropriate fast growing erosion control species or local indigenous plants.

A row of filter fabric fencing, backed by one row of staked erosion/sedimentation sock placed end to end with a minimum 6" overlap, shall be placed up-gradient of all resource areas along the limit of work between all disturbed areas and the wetland.

The use of chemical fertilizers, herbicides, pesticides, and salts are not permitted without prior approval from the Salisbury Conservation Commission.

Exterior stair risers will have a 4-inch opening.

A Corridor of undisturbed vegetation of maximum feasible width will be established and will not impair water quality marked with a fence that is greater than 50 % open.

No fill will be allowed with this approval

Approval condition on receiving revised plans and a landscape plan approved by the Commission's representative.

**JKP** seconded.

**Vote: 4 in favor (JKP, JDJ, BL, JP) - 1 opposed (EGR). Motion Carried.**

#### **5. NOI: Li Family Trust, 139 Elm Street (10/2/19)**

**BL** motioned to continue the Notice of Intent for Li Family Trust, 139 Elm Street to December 4, 2019 at 7:10p.m.

**JP** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

#### **6. NOI: Brian Mullen, 8 Friedenfels Rd. (10/16/19)**

David Smith (**DS**) of GZA Environmental represented the applicant. Brian Mullen was also present (**BM**).

Reviewed the project. Complied all the updates and provided them to the Commission in a letter packet. Mary Rimmer also submitted a review letter. **JKP** requested they continue the public hearing as the Commission just received a substantial amount of information and would like to process it before issuing an Order. **JKP** questioned page 13 of the narrative where it states additional equipment may be required. **DS** replied they don't anticipate running into any issues. They did borings to determine the composition of the fill. The boring went to 0 and it was all sand and gravel fill. **JKP** asked if the ledge to be removed would be removed at low tide with a jackhammer. **DS** confirmed or possibly a mechanical attachment to a crane, it will be done at low tide. **JKP** suggested having an environmental monitor present, should surround the work area with protection and removed the debris created. **BL** clarified the rock will not be removed below grade, just to elevation +1.

**JKP** motioned to continue the Notice of Intent for Brian Mullen, 8 Friedenfels Rd. to November 20, 2019 at 7:10p.m. to allow the Commission sufficient time to review newly submitted materials.

**JP** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

#### **7. NOI: Mark Saab, 504 North End Blvd. (11/6/19)**

**EGR** stated there is no DEP number for this project so the Commission will not make a decision tonight.

Matt Steinel (**MS**) of Millennium Engineering, Inc represented the applicant. Proposing to remove two (2) six-unit structures and replace them with one (1) single-family structure. Familiarized the Commission with the existing site conditions. Waiting on NHESP and DCR approval.

**JKP** asked them to address the pool and the flood zones. Shannon (**SH**) from TCS Architects replied they spoke to building inspector on the flood zones. Building envelope will have one structure and the deck and pool will have its own structure so they will be considered separately. **BL** stated the elevator does not meet the dune performance standards. **MS** replied the Commission approved and elevator at 76 Central Ave. **JDJ** added that elevator was conditioned for a specific situation. **JKP** asked for the dimensions of the elevator and if the base of the elevator requires a concrete pad. **SH** stated the pad is 18 by 20 feet for the elevator but the elevator itself is 4 by 5 feet. The elevator is important to allow the current owner to age in place. **JKP** asked if there is a concrete pad required for the elevator. **MS** stated they installed the pad within a paved area. **EGR** referred to the space constraints the property at 76 Central Ave had, where this property has ample space for a ramp or other alternative.

Tom Sabb (**TS**) spoke in favor of the elevator.

**EGR** asked them to limit the graveled area. **MS** stated they can limit it but they tried to maintain ample parking. Also drew the Commission's attention to the elevated barn and carport structure also on the site. **JKP** requested a site visit.

**JKP** motioned to continue the Notice of Intent for Mark Saab, 504 North End Blvd., to November 20, 2019 at 7:10p.m. to allow for a site visit in the interim.

**JDJ** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

#### **8. NOI: Rodger Thurlow, 24 Cushing St. (11/6/19)**

**EGR** stated there is no DEP number for this project so the Commission will not make a decision tonight.

Bob Grasso (**BG**) of Engineering Land Services resented the application for an addition to a single family home with a full basement. All activity takes place in the existing lawn area surrounded by 12-inch silt sock filled with salt hay. Closest point of the structure is 69 feet from the wetland, there will be some fill brought in that will take the grading to the 50-foot buffer line. **JKP** asked if the deck would wrap around the house. **BG** stated there is a 2-foot drip edge around the house. A small deck is present on the plan that does not wrap around the house.

**BL** motioned to continue the Notice of Intent for Rodger Thurlow, 24 Cushing St., to November 20, 2019 at 7:10p.m

**JP** seconded.

**Vote: 6-0, unanimous. Motion Carried.**

#### **RDA: Ian and Sean Morrison, 238 North End Blvd. (11/6/19)**

Tom Hughes (**TH**) of Hughes Environmental Consulting represented the applicant. Reminded the Commission of the Emergency Certificate that was issued to repair the existing deck. Also removed a solid wall that was on the property. The walkway to access the property has been undermined. They are also applying to repair the walkway. Requesting to submit structural details to the Commission's representative for approval but believe it will likely require three (3) helical piles. Also proposing to use sand fencing and bales to prevent erosion between the buildings. **BL** asked him if planting could be done in this area. **TH** stated there is not much light in the area to allow vegetation to take. **JKP** requested a site visit. Commission discussed issuing an Emergency Certificate with the structural plan conditioned in the determination. **AM** asked why hay bales are proposed and not a more traditional fiber roll. **TH** replied the length of the roll vs. bale is the determining factor. **AM** asked if

the there will be multiple checks down the alley to slow the water as it runs through. **TH** confirmed, much like a check dam, but they would like to see what works and change the layout as needed.

**JKP** motioned to continue the Request for Determination of Applicability for Ian and Sean Morrison, 238 North End Blvd., to November 20, 2019 at 7:10p.m. to allow for a site visit in the interim.

**JDJ** seconded.

**Vote: 6-0, unanimous. Motion Carried.**

**9. NOI: Jessica White, 35 Old County Rd. (11/6/19)**

**EGR** stated there is no DEP number for this project; the Commission will not issue a decision tonight.

Mark Beaudry (**MB**) of Meridian Associates, Inc represented the applicant who was also present. Proposing to develop small section of upland on the 7-acre property. Property is in AE flood zone, elevation 9. The house will be on piles and lifted out the flood plain. It will be made of three (3) shipping containers. Received a variance from the Zoning Board to move the structure out of the wetland to the greatest extent possible. **AM** asked him to address salt marsh vs. bordering vegetated wetland. **MB** described the red maple swamp that transitions to saltmarsh farther back on the parcel. **BL** asked him to address the house being in the wetland. **MB** confirmed the house extends 18 feet into the wetlands.

**LP** asked if the DPW had been consulted on the driveway open in regards to sightlines. **MB** stated they have reached out to DPW with the utilities installation. **LP** reminded him he also needs to get approval from the sewer commission. **JKP** asked if they could pivot the house to pull it further out of the wetland. **JKP** stated their will also

Edwin Garside, 39 Old County Rd., spoke in favor of the project.

**JDJ** motioned to continue the Notice of Intent for Jessica White, 35 Old County Rd., to November 20, 2019 at 7:10p.m. to allow for a site visit in the interim.

**JP** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

**C. NEW BUSINESS:**

**1. Request for Extension, 1 11<sup>th</sup> St. West**

Ronald Laffely (**RL**), Fulcrum Architects was present to request a 2-year extension. The project has been in land court to review the easement, which has been resolved but has cost significant amount of time.

**BL** motioned to grant the extension for 1 11<sup>th</sup> St. West with a new expiration date of 12/7/2021.

**JDJ** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

**2. Request for Certificate of Compliance, 90, 92, 94 Forest Rd. (formally 90 Forest Rd.)**

Property owner requests an invalid Certificate of Compliance as the work was never started and the Order of Conditions has expired. **AM** appraised the Commission of the property owners circumstances.

**BL** motioned to grant the invalid Certificate of Compliance for 90, 92, 94 Forest Rd. (formally 90 Forest Rd.)

**JDJ** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

**3. Significance of Change, Border to Boston Rail Trail Mudnock Road to NH**

Amy Lynch (**AL**), Mass DOT, introduced the request for significance of change for the project. Due to the location of the waterline, the location of the boardwalk abutment had to be shifted. The change in location resulted in 60 square feet of additional wetland fill. Even with the additional fill, the project is replicating at greater than a 1:1 ratio. They had planned for extra replication area in the original approval for just such a scenario.

**JKP** motioned to find the changes as presented insignificant for the Border to Boston Rail Trail Mudnock Road to NH project.

**BL** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

#### **4. 345 North End Blvd., Significance of Change/ Enforcement**

**LP** reviewed the project history and the discovery of the violation of fill being brought to the site. The order of conditions does not allow fill to be brought in. They applied for a significance of change and the commission deemed the changes as insignificant but did not include the fill in the approved changes. The fill currently on site is not an appropriate fill for the beach area and should be removed. **JKP** agreed the changes were insignificant when they were to reduce the units from three (3) to two (2), reduced the gravel and increasing the plantings. The addition of two (2) feet of fill in this area is certainly significant. **EGR** suggested they could rescind the significant of change, issue an enforcement order for the fill and the property owner can follow up with request to amend the Order of Conditions if they choose.

**JP** motioned to rescind the determination made on August 15, 2018 deeming the changes proposed as insignificant for 345 North End Blvd. The applicant may file for an amendment.

**JDJ** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

**JKP** motioned to issue the Enforcement Order to Richard Couillard 345 North End. Blvd immediately to remove the fill in violation.

**JDJ** seconded.

**Vote: 5-0, unanimous. Motion Carried.**

Matt Steinel (**MS**), representative, Richard “Buzz” Couillard (**BC**), property owner and Matthew Watsky (**MW**), Attorney, were present.

**MW** reviewed the project history. Upset with the distress this action will cause his client. Will resort to legal action.

#### **D. ENFORCEMENT ORDERS:**

- 1. 438 N. End Blvd.**
- 2. 565 North End Blvd.**
- 3. 128 Bridge Rd**
- 4. 30 Main St.**
- 5. 86/88 Elm St.**
- 6. 212 N. End Blvd.**
- 7. 83 Atlantic Ave.**
- 8. 9 Bayberry Ln.**
- 9. 211 N. End Blvd.**
- 10. 279 N. End Blvd.**

11. 82 Lafayette Rd.
12. 16 Hayes St.
13. 11 Railroad Ave.
14. 4 Main Street
15. 44 Old County Rd.
16. 61 Bridge Rd.
17. 139 Elm St.

E. **COMMISSIONER COMMENTS:**

F. **ADJOURNMENT:**

**JP** motioned to adjourn the November 6, 2019 Conservation Commission Meeting at 10:09 pm  
**JDJ** seconded.

**Vote: 5-0, unanimous. Motion Carried.**