

**Salisbury Conservation Commission
Meeting Minutes
September 6, 2023
Colchester Auditorium, Town Hall
5 Beach Road
Salisbury, MA 01952
Hybrid Meeting
7:00 P.M.**

COMMISSION MEMBERS PRESENT IN PERSON: Michael Colburn (MC), Chairman Jeffrey Ward (JW), Michael Lucas (ML), Christine Maxim (CM), Mark Warcewicz (MW), Julie Doughman-Johnson (JDJ)

COMMISSION MEMBERS PRESENT REMOTELY: Christopher Leahy (CL)

COMMISSION MEMBERS ABSENT:

ALSO PRESENT: Conservation Agent, Adriane Marchand (AM), Administrative Assistant, Alison Weaver (AW).

Chairman Jeffrey Ward (JW) opened the meeting at 7:00 PM under the Wetlands Protection Act & Open Meeting Law and informed the public that the meeting was being recorded and being held both remotely and in person.

A. EMERGENCY CERTIFICATES:

1. 10 Fanaras Drive.

AM states that the applicant tried an alternate beaver deterrent method of installing a culvert through the dam, but it is not working and will have to revert back to the traditional method of dam removal. Once beavers are removed they can breach the dam.

JDJ motioned to ratify the Emergency Certificate for 10 Fanaras Drive.

MC seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.

B. MINUTES:

1. June 15, 2022
2. July 6, 2022
3. July 20, 2022
4. June 7, 2023
5. June 21, 2023
6. August 16, 2023

MC motioned to continue the minutes June 15, 2022 through July 20, 2022, June 7, 2023, June 21, 2023 and August 16, 2023.

CL seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.

C. PUBLIC HEARINGS at 7:10pm:

1. **RDA: Department of Conservation and Recreation (DCR), Conduit on Atlantic Ave. (9/6/23)**
Liz Gorda (LG) and Martin Menke (MM) are representing the Department of Conservation and Recreation and explain the plans to eliminate 3 to 4 utility poles from the dune area and install an electrical conduit. JDJ asks about the pole removal equipment to be used for this project. CL asks about a dune restoration plan for digging on the dune. MM suggests doing a planting and then entering through the footpath.
CL motioned to approve the Request for Determination of Applicability for The Department of Conservation and Recreation, Conduit on Atlantic Ave.
JDJ seconded.
Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.
7-0-0. Motion Carried.
2. **Request for Significance of Change: DCR Campground Waterline Replacement and Improvements.**
Euris Gonzalez (EG), a regional engineer for the Department of Conservation and Recreation (DCR), explains briefly the project that was previously approved and worked on over the past winter. JW asks if the proposed work is going to be done in the area where approved work is done. EG answers yes, the nature center. David Rosengarten (DR), also representing DCR, explains that most work has been completed. They made a minor amendment in March for additional paving. The proposed work was for ADA accessible campground sites, replacement of existing infrastructure, and items such as replacing existing shade shelters. DR updates on the progress and then shows the paths and nature center that he does not believe, are any significant changes. JW wants to clarify that they are not expanding any of the existing plans. DR states that is correct.

CL motioned a negative determination of no Significance of Change for Department of Conservation and Recreation for the Campground Waterline Replacement and Improvements.
CM seconded.
Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.
7-0-0. Motion Carried.
3. **Request for Significance of Change: Bruce Arakelian, 195, 201 Elm St.**
Bruce Arakelian (BA) is representing himself and states that this is to change the size of the buildings and added two more buildings out of the wetland jurisdiction. AM walked the site and did not think there was any major change. She discussed the changes with Joeseeph Serwatka, the town engineer, and they both found the changes acceptable.

CL motioned a negative determination for significance of change for Bruce Arakelian, 195, 201 Elm St.
CM seconded.
Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.
7-0-0. Motion Carried.
4. **NOI: John Berglund, 127 North End Blvd. (9/6/23)**
Matthew Steinel (MS) of Millennium Engineering is representing the applicant and explains the plans for the new 2 family building. MS clarified that there is no DEP on file yet. Because of the mowing near the wetland line, they plan to install a wetland fence and placards. The access is off of North End Boulevard and parking under the structure. Elevated structure is less than 50 piles into the ground and gravel underneath the structure. Turf lawn removal and bayberry shrubs coming in. Two methods of erosion control, erosion silt socks and catch basin. Permitted trench paths. JW on calculations +12 square feet on mitigation. MS corrected JW and just includes what is impacting to the ground. Compatible surface with the dune. Everything is being lifted above grade. MC would like to have a site visit. Jillian Kortowski (JK) at 129 North End Boulevard is on the marsh, and it was brought to his attention that his neighbor's

house behind him were affected by the drainage system of another building put in near his property. All the water gets dumped onto his neighbor's lawns, and he is concerned that the same thing will happen to his property. **MS** explains that the new dwelling will be off the ground and water will be infiltrating to the ground by creating additional infiltration under the structure. **JK** asks when you lift it and put a driveway in, will you be doing work underneath it? **MS** explains that they are touching the ground but not putting a pervious pavement. They are putting in a surface that will soak the water in.

JDJ motioned to continue the Notice of Intent for John Berglund, 127 North End Blvd. to the next scheduled meeting September 20, 2023 at 7:10 PM.

MC seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.

5. **NOI: Christopher DeLuca, 108 Elm St. (11/16/22)**

Brian Knowles (**BK**) is representing the applicant and states that at prior meetings they proposed culvert pipes. Now they are looking to clean between the two pipes and maintain so that the water will be able to move freely through. **JW** asks if the revised plan maintenance has been submitted to the DEP? **BK** answers that it has not. **CL** wants to clarify that they are proposing ditch maintenance to reestablish the channel. **BK** agrees and states the proposed changes are so it will flow from one side to the other. **AM** asks for clarification of the grading that is proposed on the plan. **BK** explains that it is just to give you an idea of the existing measurements and bringing back. **CL** asks what the proposed grade is on the left of the plan. **BK** says it's about 34.5. **MC** asks if this is something that is approvable? **AM** answers yes, she has no issues with this being approved. As for the engineering portion of it working to solve his problem, she is unsure and would refer to the engineer. **AM** states that it is a change from the original scope, but is small and DEP could appeal it.

CL motioned to approve the Notice of Intent for Christopher DeLuca, 108 Elm Street (11/16/22) with the standard order of conditions.

CM seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.

6. **NOI: Steve Paquette, 6 Forest Road, LLC, 6, 10 & 18 Forest Rd. (1/19/22)**

Tom Hughes (**TH**) from Hughes Environmental Consulting is here representing the applicant. **TH** briefs the commissioners of the total project and past meetings and then updates the commissioners on what changes have been made and the current updates. **TJ** Melvin (**TJ**) speaks about the hydrology of the relatively flat site. Storm water is to be caught by the management system and catch basins. They have to catch water at the same elevation. Were asked by Mary Rimmer for alternatives and did not come up with anything to reduce the riverfront disturbance. When trying, it got closer to wetlands, and we tried changing the shape and looking at other options. **TH** shows the plans for the elevation in the area and the bottom of the basin to actual function with gravity. This location is about 30 feet to the nearest part of the river and is closer to wetland. Once constructed, these are fully vegetated wetland. **MW** explains the water fall rate that happens on his property and expresses his concern for the rainfall on this property. **JDJ** asks how much rain water is this plan designed to catch. **TJ** states that the record includes various rain events, 2 year, 5 year, and 10 year. The system is designed for a 100 year intensity (6.5 inch rain event in 24 hours) event storm, which is what this storm water regulations require. **JDJ** explains, the area around that brook, the water table is very high and the brook floods. It affects everyone upstream. **MC** would like to see all correspondences between Engineer and Rimmer Environmental showing all the discussion between possibilities. **MC** wants clarification that they cannot move the basin because of the grades, there are pump systems and engineering. **TH** explains that the Mass DEP standards and storm water policy want this to work by gravity. The water table is staying consistently below the surface. **MC** asks if the basin has to be there because of elevation, and suggests, less housing and less development so that they can move the road over and have the basin in another location. **TH** says they cannot because their wetlands on the other side. **MC** comments that multiple projects from the

past have massive drainage problems today. **TH** thinks that upstream flooding here is more from frequent beaver dam's and not rain water. The presence of a beaver dam and suggests adding this to the O&M plan. **TH** states this project can provide a means to alleviate the issue of beaver damns in this area. **TJ** explains the breakdown of sub areas that contribute down to water shed. **JDJ** asks about the water the trees drink that will be cut down and if that is in the calculations. **TH** explains they do a pre-development calculation and a post development calculation. **JDJ** asks if there is a maintenance plan to keep invasive species out. **TH** answers yes, it is in the management plan and should be conditioned. **TH** can add in a phragmite invasive treatment plan. **TH** then explains some of the Operation and Maintenance. **TH** shows the places on the plan at where they will be placing the markers for the conservation areas and where they limit and reinforce the wetland areas. **JDJ** asks about a contingency plan for wild animals? **TH** states wildlife will wander. Scott Smyer (**SS**) from Oxbow Associates INC states the main thing he has been advocating for is trying to keep things as far away from the riverfront as possible. The only activities is storm water that will have some impact when clearing trees, but once done, it is not a barrier and animals can still pass through. Sometimes they are considered a nuisance and can carry disease. **CL** is concerned that storm water runoff directed to the storm water system will start starving the vegetative wetlands by moving all the water into the storm water drainage system. **TH** explains that part of the reason why we have the roof run off not going into the drainage system is so that it will provide hydrology to the wetlands and will still contribute to those areas. **CL** asks to have the graphic present from the meeting in the spring. **TH** shows the water volume table. Applicant has an obligation to show alternatives and have not seen any other. **TH** explains the alternative analysis turns towards the riverfront, and they have further refined the alternative to remove units from that area. **JW** feels they have not met the alternative analysis requirements and states they must demonstrate no applicable alternatives within the scope with less adverse effects, then submit configurations to the authority for determination. **JW** states that two distinct plans need to be presented before us for determination that show there is less impact. The Commission would like a smaller number of units to show a better adverse effect. S. Furlough (**SF**), council for the applicant states that he got involved a few months ago. A reason why you have not seen smaller is because we have pulled out of the riverfront. I do not think there is a requirement that provides fewer units. It's interpreting the language. DEP might have taken issue with building in the river front area but are confident that DEP will not interpret it the same way. **JW** disagrees and would like to see support for the argument. The previous alternative was one that had building in the riverfront area. **SF** states that the cost of dropping more units to avoid river front area will out-weigh any benefit to the riverfront area. Steve Paquette (**SP**), the applicant, wants to clarify for the record that there has never been an application presented with 44 units. It has been downsized to 56 units from our original 76 units. From a developer standpoint and its length, we have looked at what is feasible and what is not. **TJ** suggests graphics with his test pits. **JW** agrees that would be helpful. 10, 13, 12 are test pits of concern. **TH** shows the tables. **JW** asks if there is a risk if the basin starts collecting ground water instead of the storm water. **JW** agrees that groundwater levels are rising and asks if the plan takes into consideration where ground water will be in 5 or 10 years. **TH** states that these basins are designed to meet the regulations and are based on the current conditions. **JW** speaks about the draft order of special conditions. **TH** asks for those to be submitted to him for reviewing. Lynn Welch (**LW**) of 50 Lafayette Road states about the water pumped out her basement being extreme. She speaks about monitoring the beavers and what happens if they don't monitor. The markers to delineate wetlands, are going to be 50 feet apart. We are to believe those people won't go within the wetland. We have no bylaws to prevent people from going in. With the water table and hearing a lot of unsure possibilities. Perennial stream and WPA 200 foot buffer off of that stream is extremely important. Dan Welch (**DW**) of 50 Lafayette Road has a couple questions with the trees coming off of the property and some research he did on his own. A single tree absorbs 11,000 gallons of water a year. Upstream and downstream must be looked at for this project. Beaver dams and all the backups we had the water swelled to over 100 feet. All the surrounding properties were flooded. Sheila Albertelli (**SA**) has had requests from residence to share her personal experience. Her property was effected by storm water from a development abutting her property. It met standards and all her concerns and apprehension for

someone to please listen, and it was overlooked. Attorney Pyle (**AP**), representing the abutters, states they agree with the chair that they would like to see an alternative analysis for a smaller size not so upland. The size of the basin is being driven by the intensity of this development. Units A, N, and D are a concern. All beyond the 25 foot buffer zones and a smaller basin. Patrick Garner (**PG**) a wetlands scientist who is representing the abutters states his professional opinion. The basin to the east doesn't have a lot of movement and the one to the west could be pulled back. Basin could be shallower. Precipitation quantities are 35% more than when the regulations were release in the 70's and DEP plans on issuing new ones. These are falling short, about 25%, because of this. Reducing duplexes to single family would make it far more environmentally friendly. Trees and the loss of trees creates, on a site like this, an occurrence that ground water does rise. **AM** states the walkways are through flow decking.

MC motioned to continue the Notice of Intent for 6 Steve Paquette, 6 Forest Road, LLC, 6, 10 &18 Forest Road (1/19/22)

to the September 20, 2023 meeting 7:10 PM.

JDJ seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.

7. NOI: Ocean Front South LLC, One Ocean Front South Development. (4/19/23)

Attorney Nylon (**AN**) is representing the applicant along with Tome Hughes (**TH**) of Hughes Environmental and TJ Melvin (**TJ**) from Millennium Engineering. **AN** speaks on the previous meeting and presented the updates and allowing **AM** to put together a draft of decisions working alongside Tom Hughes and Rimmer Environmental. **JW** states he is satisfied that they received everything they had requested from the last meeting. **JW** confirms they did receive a letter from **AN**, and in that letter he addresses the concerns raised at the last meeting. Two drafts of Special conditions, one provided by **AM** and the other that includes **TH** comments and Rimmer Environmental responses. **JW** talks on the lengthy conditions and how to appropriately address them, as there are some conditions that do not contain any comments and identify them as acceptable as drafted. **TH** asks the Commissioners to read condition 24, and asks if there is a Salisbury emergency management agency, or director to reflect in the language? **AM** confirms that it would be the Salisbury Emergency Management Agency. **TH** comments that all language up to 33 is good. Decision 34, **TH** suggests a change to be consistent to other language. Vibratory method of installation definition. Approval by the Commission or its designated representative. Changes to the installation method may require a new submission at the agent's discretion. Commission discuss with applicant the importance of being able to change method based on ground, as the project area is so vast and would like to individualize install based on each need. **JDJ** comments on decision 35, and asks if concrete pile caps are permissible for this project. **TH** states that it is allowed, there was sand, peat, and bedrock. We have to drive down to a point of refusal or to a point where we rest on the bedrock. Wayne Capolupo (**WP**) the applicant, contemplates that all of these piling will be driven into bedrock. **JDJ** asks will they all be the same depth? **WP** explains that the bedrock will have significant variations. He asks the Commission respectfully why it is a preference for vibrating rather than hammering. **JW** explains that the Vibrating method gets that sand adhesion, where hammered you may not get that. **JW** addresses condition 34. Pile methodology shall be provided prior to start of construction. **TH** accepts and then move on to decision 35. **TH** states the idea behind this decision he presumes was structural plans that are not final. He would like to change the language generally to reasonably. Decision 36, **TH** described lattice being 2 feet above grade and or at flood. Lattice component was included and provides that allowance. Decision 37, **TH** comments were incorporated. Decision 40, **TH** understood that the intent was to avoid developments to start and go a wall. He suggests to give a bond, and prior to occupancy or prolonged abandonment and stop work, for the replacement cost of the replication area bond may be terminated upon completion of that work. Decision 47, **TH** talks about the management plan and one to do swift inspections daily. Decision 48, **TH** further added to comment. Exploratory test pits with Joe on site could be substituted.

Decision 53, **TH** suggests changing substantial before compliance as determined by the Commission or its representative. **AM** explains that she put thought into conditional phases. Storm water be excavated first and if the plan required changes. **JW** asks what the purpose is for 62. **AM** explains it is perpetual. **JW** asks if there is anything else the applicant would like to add.

CL motioned to approve the Notice of Intent for Ocean Front South LLC, One Ocean Front South Development (4/19/23) with our Standard Order of Conditions and Special Order.

CM seconded.

Roll Call Vote: MW-no, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-no, JW-yes.

5-2-0. Motion Carried.

MC motioned to close the public hearing.

CM seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.

D. NEW BUSINESS:

1. Request for Extension, 82 Rabbit Rd.

MC motioned to approve the request for extension of 82 Rabbit Road.

CL seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.

2. Request for Minor Modification, 75 Ferry Road.

Matthew Steinel (**MS**) from Millennium Engineering shows examples of the two plans and the minor changes.

MC motioned to approve the request for minor modification for 75 Ferry Road.

CL seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.

E. ENFORCEMENT ORDERS:

HOLD, PENDING UPDATE:

1. 10 Ferry Lots Lane.
2. 2A, 12th St. W.
3. 14 Old County Rd.
4. 100 Main St.
5. 14 10th St. W.
6. 36 Pike St.
7. 2 Baker Rd.
8. 565 North End Blvd.
9. 30 Main St.
10. 211 N. End Blvd.
11. 16 Hayes St.
12. 11 Railroad Ave.
13. 95 Railroad Ave
14. 48 Commonwealth Ave.

ACTIVE, PENDING COMPLETION:

15. 5 Patriot Way
16. Lafayette Rd. Sewer

17. 27 12th St. W.
18. 253 North End Blvd
19. 375 North End Blvd.

COMPLETE, PENDING APPROVAL:

20. 29 Lafayette Rd.
21. 114 Bridge Rd.
22. 6 Sycamore Ln.
23. 16 Commonwealth Ave.
24. 139 Elm
25. 4 Main Street

F. COMMISSIONER COMMENTS:

JDJ speak about visiting the beach this week with the full moon being larger than normal there was no beach at high tide.

G. ADJOURNMENT:

CL motioned to adjourn the September 6, 2023 Salisbury Conservation Commission Meeting at 11:55 PM.

MC seconded.

Roll Call Vote: MW-yes, ML-yes, CL-yes, CM-yes, MC-yes, JDJ-yes, JW-yes.

7-0-0. Motion Carried.