

Salisbury Conservation Commission
June 5, 2013
Colchester Auditorium, Town Hall
5 Beach Road
Salisbury, MA 01952
7:00 P.M.

COMMISSIONER MEMBERS PRESENT: Sheila Albertelli (SA), Chairperson, Matt Carignan (MC), Sally Laffely (SL) Joanne Perreault (JP) and Andria Nemoda (AN)

COMMISSIONER MEMBERS ABSENT: Patricia Fowler and Larry O'Brien

ALSO PRESENT: Michelle Rowden, Conservation Agent, and Lori Robertson, Secretary

S. Albertelli opened the meeting at 7:15 pm under the Wetlands Protection Act & Open Meeting Law and informed the public that the meeting is being recorded.

Reorganization:

JP motions to continue to a future meeting when there is a full board present. **AN** seconds the motion. All members present voted in favor. **Motion Passed.**

Emergency Certificate:

79 Atlantic Avenue

MC motions to ratify 79 Atlantic Avenue. **SL** seconded the motion. All members present voted in favor. **Motion Passed.**

102-112 Central Avenue

MC motions to add to the agenda: 102-112 Central Avenue. **JP** seconded the motion. All members present voted in favor. **Motion Passed.**

MC motions to ratify 102-112 Central Avenue. **SL** seconded the motion. All members present voted in favor. **Motion Passed.**

MINUTES:

May 15, 2013

JP motions to accept the minutes from 5/13/13. **MC** seconded the motion. All members present voted in favor (AN abstained). **Motion Passed.**

PUBLIC HEARINGS at 7:10 p.m.

NOI: Bayring Communications, 8 Friedenfels Road: David Smith (DS) of GZA Environmental addressed the board on behalf of the applicant. We have obtained the DEP file number. The DEP had two comments 1. They wanted us to file with Newburyport Conservation Commission. *We have filed with them and received approval.* 2. Will there be any alteration to the Coastal Bank? *No.* We have received information from the Division of Fisheries and they have no problem. We did provide a contingency plan if there were to be a spill. **SA** stated I would like to salt/straw hay used for erosion control. **MR** stated we usually do a pre-construction meeting.

SL motioned to approve the notice of intent with the provision of salt/straw hay. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

RDA: Town of Salisbury DPW, End of Lena Mae Way: Raymond Talkington (RT) of Geosphere Environmental Management Inc. addressed the board on behalf of the applicant. This project involves the upgrading the existing

pump station. A new well has been installed which is well #8. This has been the town's main water supply. There will be a permanent generator at well #5. Well #8 is out of the buffer zone. (RT discusses the details of the plan) We expect construction to be completed by the winter/early spring. **SL** asked about the 25' buffer, I thought we eliminated that. **MR** stated yes they just added more detail. **AN** asked about the demolition key notes: it says install haybales or siltation fence. We ask for salt hay. **RT** stated yes. Lance asked about the drought and competing with the New Hampshire for the water. How much will this well make it. **RT** stated it adds a third more water.

JP motioned to issue a negative determination with a condition salt hay would be used. **AN** seconded the motion. All members present voted in favor. **Motion Passed.**

George Haseltine, 381&383 North End Blvd.: Mr. Tom Hughes addressed the board on behalf of the applicant. We are looking to provide parking for 381 North End Blvd. We negotiated the easement and provide parking at 383 North End Blvd. and will have a walkway. We will have to take a few shrubs. There will be two trees removed and one dead tree removed. As mitigation, the applicant is proposing to plant 2 Amalanchier Canadensis as mitigation for the trees, 6 Thuja occidentalis along the southern property line to mitigate for the shrubs, and another 6 native shrubs such as blueberry will be used to replace invasive on site and expand the shrub area into an area where this is currently a debris pile that will be removed. **SL** stated we usually have the applicants wait for two growing seasons. **TH** stated with the number of plants we are putting in there is well above the mitigation. We are proposing closer to 4 – 1 for the mitigation.

AN motioned to issue a negative determination with a provision be at least 50% survival after one growing season (4-1 mitigation) and based on the revised plan dated May 28, 2013. **JP** seconded the motion. All members present voted in favor. **Motion Passed.**

RDA: Robert and Nancy OReal, 4 Coulson Pratt Drive: Mr. Robert OReal addressed the board. We currently have a deck which we would like to enclose into a sunroom and attach another deck to that. **MR** stated the deck is more than 40' away from the salt marsh. This is the lot #8 which is subject to a superseding order with a perpetual condition on that lot that states a certain tree line must be kept. This is in compliance with that.

JP motioned to issue a negative determination in compliance with the superseding order of conditions. **AN** seconded the motion. All members present voted in favor. **Motion Passed..**

RDA: Constance Mencis, 282 North End Blvd. Mr. Mike Wolpert (MW) addressed the board on behalf of the applicant. We are looking to build an access to the beach per the requirements of DCR. A site visit has already been done with DCR and DEP. (Sheila signed the tracking sheet) **AN** asked if there would be equipment? **MW** stated no equipment.

SL motioned to issue a negative determination. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

RDA: Pearl Conte, 260 North End Blvd.: Mike Wolpert (MW) addressed the board on behalf of the applicant. We are looking to build access to the beach per the requirements of DCR. A site visit has already been done with DCR and DEP. (Sheila signed tracking sheet)

MC motioned to issue a negative determination. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

RDA: Lee Mack, 286 North End Blvd.: Mike Wolpert (MW) addressed the board on behalf of the applicant. We are looking to build access to the beach per the requirements of DCR. A site visit has already been done with DCR and DEP. (Sheila signed tracking sheet)

JP motioned to issue a negative determination. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

RDA: Linda Weiner, 214 North End Blvd.: Mr. Derek Wallace (DW) addressed the board on behalf of the applicant. We are looking to build access to the beach per the requirements of DCR. A site visit has already been done with DCR and DEP. It will be in the exact same spot. It will be 18" off of the dune.

JP motioned to issue a negative determination. **MC** seconded the motion. All members present voted in favor. **Motion Passed.**

RDA: Patrick Bissonette, 256 North End Blvd. Mr. Derek Wallace (DW) addressed the board on behalf of the applicant. We are looking to build access to the beach per the requirements of DCR. A site visit has already been done with DCR and DEP. It will be in the exact same spot. It will be 18" off of the dune. **AN** stated any debris is removed from the dunes.

JP motioned to issue a negative determination. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

NEW BUSINESS:

1. **Enforcement, 178 North End Blvd.** **MR** stated they just need to raise the platform and shift it over so the angle is correct. They stated they would get started on that. An email dated June 5th stating what they plan on doing. I am okay with what they are planning. **SL** asked if they will need to do a DCR tracking sheet? **MR** stated I will check with DCR. **SA** stated I think the best protocol is to go by the beach management plan.

MC motioned to ratify the enforcement for 178 North End Blvd. **SL** seconded the motion. All members present voted in favor. **Motion Passed.**

2. **Enforcement, 86 Central Avenue,** **MR** stated they are slightly to the south. He is going to lift the stairs up and angle more to the south.

MC motioned to ratify the enforcement per the retrofit. **JP** seconded the motion. All members present voted in favor. **Motion Passed.**

3. **Enforcement, 180 North End Blvd,** Ms. Paula Moore (PM) addressed the board. I object to the enforcement order stating that I built these stairs. I borrowed them. I don't have a dune. I have never had a dune (shows picture from 2005). Never needed steps. If I listened to rumor, the previous owner bulldozed the dunes before 1999. **MC** asked about the present state and 2005. The present state has stairs and a dune. **SA** stated I am confused because it looks like these stairs are on a dune. **PM** stated that is not a dune. It cost me \$10,000.00 I put this sand in March. It is not a dune. It is protecting my house. You want me to put stairs over an imaginary dune. I don't have a dune. **JP** stated I know there is not a natural dune but by putting the sand in you created a dune to protect your home. That slope is called a dune. **PM** stated putting the sand in I saved my house. Its not a dune it's a sand pile. The next high tide I will lose this sand. The Conservation Commission chose not to give me a dune. **SA** stated there is a formal appeal process. "An enforcement order issued by the Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court." **PM** stated you want me to hire a \$30,000.00 lawyer to appeal \$4,000.00 steps. I have to take my chances. I am trying to reason with you that there is no dune. **SA** stated we have residents that actually would like to adhere to the rules and help the beach. DEP has ordered us to put out these enforcement orders. Any stairs on the beach not in compliance are to get enforcement order. **PM** stated I guess DEP will have to deal with me. This is my property and I don't like being threatened. **JP** asked how would you get down the beach if you didn't have stairs? **PM** stated I can't get down to the beach. DEP should give us sand. Then I would be more than happy to put stairs in. **AN** stated this area is a natural resource. Lots of studies have been conducted to preserve this. We as a commission want to work with Salisbury residents to help understand what we are trying to do. I would recommend looking into getting someone to talk with you to preserve your property. I think it's a lack of communication with the process. **PM** asked if anyone lived on the beach? You make all these decisions and you don't even live there. Discussion about volunteering for the board. **SA** asked what happens if someone ignores the enforcement order. **MR** stated If you can't work it out through this process the commission can refer to DEP. DEP has their own process. **MC** asked if you can see what the neighbors are doing to preserve the beach by putting in these new dunes.

AN motioned to ratify the enforcement order. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

MC asked the applicant if she would like to work the Commission or send it off to DEP? **PM** stated I will roll the dice with DEP.

JP motioned to move this enforcement to DEP. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

SL stepped down.

4. Enforcement, 188/190 North End Blvd. Mr. Tom Saab (TS) addressed the board.

TS reads from the Salisbury Dune Walkover Access Design Standards. **TS** asked who came up with the design? **SA** stated Salisbury Conservation and DCR. **TS** asked if there were workshops or resident input? **SA** stated a Notice of Intent was filed, publicized, had a meeting on it and voted on it. The design standards were from DEP. **TS** stated it is unconstitutional for someone to tell me what I can and cannot use to get from one side of my property to the other. DEP can't tell me what to do. You as a Conservation Commission should stand up for the residents of Salisbury. The stairs that I have and rebuilt work and have been there since 1992. DEP allowed me to rebuild things I lost in the storm under the Emergency Management Plan. My stairs have lasted 22 years. They were built properly and lasted that long. (Discussion about fighting DEP.)

TS stated DEP allowed us to rebuild anything we lost in the storms as long as it wasn't 50% of the property value. **MR** stated the Emergency Declaration that he is referring to said you could windows, deck, etc. The stairs were not included. **TS** stated one the stairs you cited me for is not my property. Those are my neighbor's stairs. **TS** stated these stairs are not even on the state beach. I still have 20' of my property before I hit the beach. **JP** stated if you wanted to put a septic system on your property. All departments such as Conservation, Board of Health must come in and state that you comply. The same goes for the stairs. It's the law. **TS** stated this is not a law. My stairs have been there since 1992. **SA** stated it is from the Dune Performance Standards within the Wetland Protection Act, that's the law.

SA asked if the owner wanted to work with the Commission or have it sent to DEP. **TS** stated I would like to check with DEP to see if the stairs are part of the Emergency Management Plan. I will be willing to come back to the next meeting.

JP motioned to ratify the enforcement order 188 and 190 North End Blvd. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

ENFORCEMENT ORDERS:

1 Main Street-MR I would recommend lifting the enforcement order. They built the parking lot according to the plan. It was reviewed by Joe, it is a gravel parking lot.

JP motions to lift the enforcement order. **MC** seconded the motion. All members present voted in favor. **Motion Passed.**

20 Dock Lane-no action

148 Lafayette Road-no action

Salisbury Woods-no action

14 Rabbit Road-no action

Broadway-no action

16 Hayes Street-no action

4 Fanaras Drive-no action

COMMISSIONERS COMMENTS:

AN asked if the meetings could move to 7:30 p.m. She has new hours at work. Commission will wait for Larry O'Brien to be present for a vote. It was noted by **AN** that she maybe late to meetings if the new time is not accepted.

ADJOURNMENT:

MC motioned to adjourn at 9:35 p.m. **Seconded by SL.** All members present voted in favor. **Motion Passed.**