

Salisbury Conservation Commission
July 16, 2014
Colchester Auditorium, Town Hall
5 Beach Road
Salisbury, MA 01952
7:00 P.M.

COMMISSIONER MEMBERS PRESENT: Chairperson Sheila Albertelli (SA), Matt Carignan (MC), Sally Laffley (SL) and Joanne Perreault (JP), Andria Nemoda (AN) and Jane Purinton (J.Purinton)

COMMISSIONER MEMBERS ABSENT: None

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

S. Albertelli opened the meeting at 7:10 pm under the Wetlands Protection Act & Open Meeting Law and informed the public that the meeting is being recorded.

MINUTES:

June 18, 2014

MC motions to accept the minutes of the June 18, 2014 meeting. **SL** seconded the motion. All members present voted in favor with the exception of J.Purinton who abstained. **Motion Passed.**

PUBLIC HEARINGS at 7:15 pm:

NOI: Jay Davis, 12 Wyman Greely Street: **SA** stated the applicant is still gathering the required information. They requested a continuance.

MC motioned to continue to the August 6, 2014 meeting at 7:10 pm. **JP** seconded the motion. All members present voted in favor with the exception of J.Purinton who abstained. **Motion Passed.**

ANRAD: Myrna Davis, 77 Rabbit Road, **SA** stated the applicant requested a continuance to the next meeting.

SL motioned to continue to the August 6, 2014 meeting at 7:10 pm. **JP** seconded the motion. All members present voted in favor with the exception of J.Purinton who abstained. **Motion Passed.**

NOI: Robert Tindle, 118 Rabbit Road, **SA** stated the applicant requested a continuance to the next meeting.

JP motioned to continue the NOI to August 6, 2014 at 7:10 pm. Seconded by **MC**. All members present voted in favor with the exception of J.Purinton who abstained. **Motion Passed.**

RDA: Dawn Burke, 1 Coulson-Pratt Drive, Bernard Christopher (BC) of Great Woods addressed the board on behalf of the applicant. We are looking to add 20' to the back of the house. There is a stair on the right side that is up against the sideline. We will remove that stair and have a stair in the back. We just did this for 4 Coulson-Pratt. Everything will be on sono-tubes. There are 8 existing and it will end up being 18 total. **MC** asked about the delineation and buffer zone. **MR** stated this is an old plan when the subdivision was built. The house is already existing and they drew the deck on. **SL** stated we have no delineation. That is my concern. I think most people go through a NOI for an addition, not just a deck. We are on a barrier beach. I live in that area so I am very familiar with it. **SA** stated I share the same concern as Sally. I question how far from the marsh is this house. Dawn Burke (DB) addressed the board. We are the first house and closet to North End Blvd. **JP** stated I don't feel comfortable without a NOI filing and pile plan. **Jpurinton** stated I expect to see the piling plans. **BC** stated I will have the plans in a minute. (passed around piling plans). **DB** stated I spoke with my neighbor and hired the same people. Our backyard is flat, there is no marshland in the back. **MC** asked what would be looking for at the next meeting. **SA** stated we are looking at the project at 4 Coulson-Pratt and whether or not it is a Notice of Intent. **Jpurinton** stated this look like a wonderful project and everything will be fine. Could you reassure the Burkes that this is just a process. **SA** stated it is just a matter of process whether it's an RDA or NOI.

SL motioned to continue to the August 6, 2014 at 7:10 pm to allow for a site visit and gather more information. **JP** seconded the motion. All members present voted in favor with the exception of **MC** who abstained. **Motion Passed.**

RDA: Blair Properties, 155 Lafayette Road, Matt Steinel (MS) of Millennium Engineering addressed the board on behalf of the applicant. This property is up for sale. We have a minor typo error on the plan. We show proposed silt fence but we have silt sock detail on here. We will use what you prefer. The applicant is looking to grade the property. Silt fence will be installed at the 50' buffer line to ensure no grading within the 50' of the delineated wetland. **SA** asked what would be going on the site. **MS** stated I am not sure yet. They are trying to clean it up to sell it. **SL** asked when the wetlands delineation was done. **MS** stated in the spring. **SA** asked if there was a breakdown of the quality of material that would be brought in. **MS** stated not at this point. The applicant believes most of the fill will already be on site. There will be minimal fill brought in. **JP** asked about the types of soils that are there. **MS** stated it is stockpiled materials. **JP** asked if there was debris on the site. **MS** stated mostly stuff people are dumping from their cars. **J.Purinton** stated we have no idea what is underneath the mounds, however, since I pass this constantly I believe there is enough soil to grade. It looks like sand. **SA** stated it seems like the commission would like to do a site visit. **SL** asked what the elevation would be? **MS** stated 98. About a 2' fill.

JP motioned to continue to the August 6, 2014 at 7:10 pm to allow for a site visit. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**

SA stepped down. **SL** took over as Chairperson.

NOI: Brad Kutcher, 20 Ferry Road, Michael Seekamp (MS) of Seekamp Environmental Consulting addressed on behalf of the applicant. (passed green cards and DEP comments). This was a commercial property used for cabinet making, or wood working. The buildings have been removed. The site is devoid of vegetation. There are some trees and shrubs in the rear of the site. We have bordering vegetated wetland. The site will be divided into 3 lots and each will have 2 single family units on them. The bordering vegetative wetland is beyond the driveway easement (goes over site plan). (points to plan)-this unit is in the buffer zone. The site is surrounded by erosion control. This is why we filed the NOI. We also filed an RDA for underground utilities in the buffer zone. The storm water features will be rain gardens. I believe there will be five rain gardens on the site. We provided a packet on rain gardens.

Jpurinton stated I took a drive by there and there looks like a fair amount of work has been done. **MS** stated we tore down the buildings. As you can see, it is a pretty flat site. **SL** asked if a demolition permit was pulled? Was there a requirement for Michelle to sign off? **MR** stated yes, he asked me to sign the demolition permit and I asked him directly if there would be any excavation. He (Brad Kutcher) assured me there would be none. No excavation should have been on the site. **MS** stated I was not aware of that. I don't believe there were any erosion or adverse impact to the site from the excavation. **MR** stated I would not have allowed that without a filing. **MC** asked if it could be shown on the plan where the pavement was. **JP** asked if it would be wise to have the flags reviewed? **MR** stated yes. **MC** asked what should be done about the pavement being excavated. **SL** stated we will have to deal with it from this point forward. **MR** stated the DEP comments did say, however, that there is not a 2 foot separation to the seasonal high groundwater table. **MS** stated there is a fairly high water table.

Applicant, Brad Kutcher (BK) addressed the board. Myself and Mark Wojiccki (present) are the applicants. When we applied for the demolition permit we put down we were scraping the asphalt. We didn't do it with ill-intent. We applied for the demolition permit. **MR** stated I don't think you changed the grades but I definitely remember asking, this is just taking the buildings down. You said yes. There will be no excavation and you said yes. **BK** stated there was no excavation done. We were cleaning the site. We were pro-active by putting the haybales, erosion controls. We scraped the top layers.

Abutter, Bruce Weiker (BW) of 14 Ferry Road addressed the board. Will there be storm drains put in? What are rain gardens? I already have 5 storm drains on Pleasant Street and Ferry Road that dump onto my property. This is the reason I have wetlands. I have met with DPW 5 times since 2006. If they are going to put storm drains in that area, does it go out to Route 1 or Ferry Road? **MS** stated the intent is to keep the water on site. That is the reason for the rain garden. There is no underground piping systems with the exception of on Douglas Avenue there maybe some drainage that goes to the street after treatment. **BW** asked none of the properties will be raised at all. **MS** stated the impervious surface is going to be reduced 20,000 s/f. **BW** asked if the underground utilities will be mounded. **MS** stated nothing will be diverted.

Jpurinton asked if the grading on the lawns of these homes will be such that the water will be diverted into the rain gardens. **MS** stated yes.

Abutter, Isa Cann (IC) of 22 Ferry Road addressed the board with her Attorney John Hamilton (JH) of Beverly, Ma. **IC** stated there is a development diagonally to this development which have these water management systems. My neighbors, the Graves have extensive water problems from the property even with this water management system. I am pretty concerned about my basement. It used to flood and spent a great deal of money on measures to keep it dry. It has been dry and I would like to keep it that way. **JH** stated MR sent IC an email in response to the suggestion that you could not act or accept this application until all local permits had been obtained. MR pointed out this would be a permit granted under the subdivision control act. She is absolutely correct but because this project will have two houses per lot it also requires a special permit under the Outer Village Overlay District. That special permit is a local permit and therefore these permits are pre-mature. MR is correct, subdivision permits need not be granted before the wetland issues are considered however, this project and subdivision control act and local regulations thereunder, state permit will require Outer Village Overlay District special permit which is a local permit and therefore these hearings are premature. **SL** stated I would be curious because of the project down the street. Wetland Protection Act says the only exception is if all local permits have been filed and all potential for environmental damage have been described in the filings which is virtually impossible. **SL** stated it is very difficult since so many properties in this town fall within the jurisdiction of the wetland protection act and a lot of people will do it ahead of time so they don't have to spend a lot of money. **JH** stated the activity within the buffer zone may change as the permit process goes forward. We won't know what the final plans will be until the Planning Board issues permits. Would you like me to continue with the issue but at this point I believe that this application should be dismissed because the application to the planning board has yet to be filed. **MR** stated it is not a requirement to file with the Planning Board before the Conservation Commission. It is up to the Commission to decide if a permit is more impactful to the design of the permit. It is not something that is required.

Jpurinton asked IC where in relationship to the property is your home? **IC** stated to the left if you are facing the property on Ferry Road.

BK stated I believe the project across the street is the Village at Sawyer Farm and they are implying that we further caused the problem of the water in the basement. That is not true. We went to this before this board and all the abutters stated they had water problems. I have pictures. They had water problems because they built within the water table. We had to show that we would not make the problem worse. Over the years, I have spoken with abutters and they said it had no impact on the water problem. We have met with the Town Planner and we brought up the Conservation issue and we were told we were allowed to meet with them. These two lots are Form A lot. It is actually one house within this ANR lot. We believe this hearing can continue.

IC stated I would like to speak for my neighbors (I know this is third party information), the Graves, yes, there was always water problems but it got considerably worse after. I have witnessed gushing water. **JH** asked about the proceedings tonight, RDA? **MR** stated currently we are listening to the NOI for this one house and they have also have on the agenda and RDA for underground utilities. **JH** stated the NOI cannot be listened to by this commission until the Planning Board has issued a special permit. He quoted the Wetland Protection Act "No such notice shall be sent before all permits, variances, and approvals required by local by-law with respect to the proposed activity which are obtainable at the time of such notice, have been obtained. **SL** stated we only have one NOI. **JH** stated because MS gave such a complete description project and the utility features and the lawn in the buffer zone too I mistakenly thought it was NOI. I walked along Ferry Road, my clients land and along the driveway it has been cleared and graded of an area of 4 acres. It is subsurface exposed now and I arrived this evening after rain and there was ponding all over the 4 acres. I saw some siltation fencing, which was built on my clients land and was moved. I am not able to tell from this plan if there will be danger for discharge of the recently scraped surface into the resource area.

MR stated I would like to clarify something the only two filings at this point for this entire project including the Sycamore Way (four houses) because this is our jurisdiction line only the work within the 100' would be presented. There will not be a future NOI for the Sycamore Way. It will go before the planning board and they will deal with the storm water. **JH** stated I believe some of the grading was in the buffer zone. **MR** stated yes, there is an RDA which will be opened after this hearing is done for the utility easement that will be installed. **JH** stated I believe with the grading that there was some impact to the buffer zone. Some portions of the siltation barrier will not work. We contest the ability of the applicant to use Douglas at all for the access another reason to delay since this might change also.

Andria Nemoda arrived.

AN asked about the stormwater report? Is that just the rain garden? **JH** stated Lisa Pearson told me in an email, that there was never any permitting for the grading that took place. (MR stated this is the abutter not the applicant) **MR** stated we do have the stormwater calculations. We rely on Joe Serwatka to review the calculations. **AN** stated I understand the area of the property is within the buffer zone. **MS** (pointed to map to explain wetland boundaries). **AN** asked if soil testing was done? **MS** stated I did not. **AN** stated my concern is the rain gardens if it is going to be used for infiltration or to slow the water down. **MS** stated it is going to be used for infiltration. **AN** asked if it was going to be 2' above...**MS** stated DEP has some comments about that. We will verify that. **AN** asked if we could request soil sampling? **MR** stated yes. **AN** stated for wetland delineation. **MS** stated soil sampling is usually for engineering purposes. **AN** stated she has a concern about the rain garden and the soil underneath is not the correct soil it will just rise. **MS** stated someone will be reviewing that information.

Abutter, Sheila Albertelli of 10 Douglas Avenue addressed the board. I have direct problems with the development. My neighbor Isa, has given me pictures she has taken about some toxicity of the site. I have abutted this property for 11 years. Now the excavation of the pavement has exposed the soils. When the Barton property was in business there were barrels that were leaking onto the soil. The employees took IC around and she saw 50 gallon drums that say toxic content on it. At the bottom of the barrels they are so worn out a brown/green fluid is leaking out. **AN** asked what the business was? **SA** stated they made wooden shipping crates for large products. The property has been in a trust. We can't find out that information of what the barrels held (pointed out where the barrels were stored and where her property was located). I was wondering if the commission has seen a phase I report. It seems like that a phase I has not been done. **MC** asked how you can prove that the barrels were on that site. **SA** stated my neighbor made formal complaints to fire and health. They were made in 2011. **MC** asked if there was confirmation from the departments. **IC** stated the only response I got from the Health Department followed up a notice of cleanup. I asked the assistant in the office if anything had been done and to her knowledge nothing had been done. The barrels I took pictures of were closer to my end. **MC** asked if the board of health confirmed the fluid? **IC** stated I don't believe he ever went to the site. I tried everybody and I have emails of records to the fire department also.

BK stated we saw nothing. We asked the broker and sellers. I spoke with the Fire Department and Health Department and there was nothing on site. I spoke with IC and she informed me of the barrels after we closed on the property. **SL** asked if a 21E had been done. **BK** stated not that I am aware of. **IC** stated I agree with Brad by the time he saw the property the barrels had been removed. **SA** stated to follow-up it is very difficult to get a hold of the owners. The undersoils are different colors and makes me concerned about how long the barrels were leaking. I think a Phase I report should be done.

Abutter, Henry Mauer (HM) of 18 Ferry Road addressed the board. I live next door to the property. Before the pavement was taken up it the water would come off of Ferry Road and run between our driveway and buildings. When there was a heavy rain the water would come to the backyard and into a pond into an inlet and would end up to Route 1 and the tidal area. Our concern is that rain gardens are done properly and are required. Just curious at what point the rain gardens are required. **SL** stated we can stipulate it. **HM** stated the sump pump runs pretty regularly because of the water table.

AN asked if the rain gardens don't work, what would be the plan? **MS** stated the water goes into the soil. **AN** stated I have seen rain gardens and I have seen them not work. What would be the backup plan if the rain garden doesn't work? **MS** stated I really don't know how to answer that. I think you should rely on the engineer who will be reviewing for that answer. **AN** stated I don't mean to be forceful. I have seen them not work. I have a real concern.

BW stated the storm drain (pointed to plan) goes down 6' and doesn't go anywhere else. When it rains, it goes across the street to Ferry Road and becomes a total pond. The storm drains that are on the corner of Pleasant Street and upper Ferry Road dump into my backyard. I don't have water in basement. I have a sump pump in my basement and it doesn't run at all. We have so much water building up on Ferry Road already I can't see this working without some storm drain. I don't want anymore water added to my backyard. **JPurinton** stated it seems to me that a lot of the issues have to do with what is going to happen to water. A lot of the issues have to do with issues that things weren't properly dealt with. I hate to see something penalized due to pre-existing, horrible conditions.

Abutter, Julie Niles (JN) of 16 Ferry Road addressed the board. The wetlands are my land because I pay taxes on it. It is so wonderful knowing my neighbors are so proactive. I have a sump pump that is constantly running. Barton's were an excellent neighbor. Their activity did not affect me. I can't see having a house right here (points to plan) and it not affect me. I would be distressed if anything was going to affect my wetlands.

Abutton Deborah Mauer (DM) of 18 Ferry Road addressed the board. My husband didn't mention that we have a well. The water ponding flows directly into the wetlands. There is a lot of flooding and it doesn't dissipate for weeks. It's not clear to me on how this will help. There is an impact as it stands, this is without any structure, driveway, roads, etc.

JH stated it has been well established that this area is pretty problematic. We have a very high water table with rain gardens that will be built with very little elevation to the water table. For rain gardens to work there are variables each of which must be at a certain range. If the variables aren't there then there will be some failure. I've seen some fail and with scrutiny be redesigned. My suggestion on behalf of my client, would be the rain gardens are an appropriate area of inquiry by an independent consultant.

JP stated obviously this is a complex issue. There are some things that need to be looked at before we move forward, such as wetland flags being reviewed. Scraping of the pavement looked at. Site inspection. Joe Serwatka for the storm water management. There are some other people that need to look at the property.

MS stated I think it would be advantageous of the commission were to have a site walk.

MC asked if lot #3, the builder ever thought of designing it different and splitting it in half. Taking the proposed dwelling that is in the proposed 100' buffer zone and putting it on this side and splitting the property in half. **BK** stated pushing both properties outside the buffer zone. I would look into that. We keep talking about making things worse, this is better than what is there now. The asphalt, rooftops are reduced by at least 40%.

JP motioned to continue...

MC asked are we going to list everything that needs to be done. **AN** stated I would like soil sampling done. **SL** asked Phase I site assessment? **AN** stated yes. **SL** asked would the applicant be willing to do that? (inaudible – applicant away from microphone) **BK** stated I would like to walk the site with the commission first. **AN** stated it was documented in 2011 I think it is warranted to follow-up and find out how that was removed and give closure. **BK** stated I have spoken to Fire Department, seller. These pictures, in my experience are not oil drums. They look like rusted 55 gallon drums. How do I know these were on my site? There is no background in these pictures. We walked the site, sellers, fire department and there was no indication of this anywhere. **SL** asked if Brad's engineer that did some soil. Would he be willing to meet with us if we did a site visit. **BK** stated yes. **MC** stated I would like to see a phase I to give everyone a comfort level. **BK** stated if that is the wish of the commission, we would certainly do that. I would ask that if the Phase I comes back fine that it will stop there. What will stop the commission from a phase II and III? **MS** asked can we leave the decision to have the Phase I until after the site walk. **JP** stated we are not qualified to look at the site in terms of being able to identify soil colors. For being thorough it would be worthwhile to have the phase I, site walk and get a couple of these things out of the way. **BK** stated yes, we will do the phase I. **IC** stated since I was the one who took the pictures I am the only person can point out approximately where it was. I know the barrels weren't there when we bought the land but that doesn't dismiss the problem. I intentionally took a couple of pictures that were more architecturally involved. **JP** stated I have no problem with you coming along on the site walk. **IC** stated I would like to help. **MS** stated that would be up to you **BK**. **BK** stated I would rather keep the site walk with the commission and you (**MS**). **IC** stated it may have been swept over really nice. There is discoloration in the general area. **BK** stated who did you think swept it over? **IC** stated maybe the people who sold you the property. **SL** asked if **BK** was ok if **IC** was there. **BK** stated let's do the phase I first before the site walk. I don't want to walk the site with this in the back of your mind. **IC** stated I don't think you are going to identify without me. **MS** stated it would be a license site professional that would do the phase I. **IC** stated I am not against the subdivision there is just certain concerns as abutters.

MS stated at the request of the applicant we would like to do the Phase I before we do the site walk.

MC motioned to continue the NOI for 20 Ferry Road to the August 6, 2014 meeting at 7:10 pm contingent upon 1. Performing a phase I assessment. 2. Site walk by the commission. 3. A third party review of the wetland flags. **JP** seconded the motion. All members present voted in favor 5 – 0. **Motion Passed.**

RDA: Brad Kutcher, 20 Ferry Road, MS stated we request a continuance.

AN motioned to continue the RDA for 20 Ferry Road to the August 6, 2014 meeting at 7:10 pm. **JP** seconded the motion. All members present voted in favor 5 – 0. **Motion Passed.**

SA came back to the meeting.
SL stepped down.

Request for significance of change, 108 Railroad Avenue, Applicant is not present. **MR** stated she would like to discuss it anyway. They would like to add some decorative stone to the top of the slope to keep the erosion down. They have jute netting and plants but they are experiencing significant erosion. **AN** asked if they looked into other options that we might use? **MR** stated they have jute netting but it's not helping lots of exposed sand. The sidewalk is in disrepair and at the edge of the sidewalk put a line of permeable pavers as a buffer as well. **AN** asked about salt hay? **MC and JPurinton** stated this is someone's property and front yard. **MC** asked if it's permanent or temporary? **MR** stated I can ask them that. **AN** stated my concern is that decorative rocks are not on the list for erosion control. **MR** stated this is not beach front. **AN** asked what would happen with amendments? **MR** stated they would have to refile, advertise, re-notify the abutters, draw up amended plans. **AN** asked if other erosion control stated on the plan? **MR** stated the jute netting. **AN** asked how would we know the rocks would work? **MR** stated we don't. **AN** asked do we know salt hay works? **MR** stated I am sure it would. **MR** stated scour protection due allow for decorative rocks. **SA** asked is this because it is not on the beach? **MR** stated there is no wave action at this property. The reason why rocks are not allowed on the beach front is because of the waves.

JP motioned to issue an insignificance of change for 108 Railroad Avenue. **MC** seconded the motion. 3 in favor and 2 abstained (**AN** and **Jpurinton**). **Motion Passed.**

Request for Extension, 2 Denrael Drive, **MR** stated they requested a 3 year extension. Due to the automatic extension act this permit is valid until August 5, 2018. I informed them of this and wanted the commission to still vote on it.

MC motioned to confirm the Order of Conditions for 2 Denrael Drive is valid until 8/5/18. **SA** seconded the motion. All members present voted in favor with the exception of 1 (**Jpurinton**) who abstained.

ENFORCEMENT ORDERS:

- **20 Dock Lane-no action**
Salisbury Woods-no action
2 Broadway-no action
16 Hayes Street-no action
4 Fanaras Drive-no action
178 North End Blvd.-no action
44 Lafayette Road-met with homeowner & wetland scientist-drawing up a restoration plan

COMMISSIONERS COMMENT:

- **Re-organization – August 20, 2014 meeting**

ADJOURNMENT:

- **AN** motioned to adjourn at 9:30 p.m. **SA** seconded the motion. All members present voted in favor. **Motion Passed.**