

**Salisbury Planning Board  
Meeting Minutes  
Wednesday, January 22, 2014 7:30 p.m.**

**PB Members Present:** Robert Straubel (RS), Berenice McLaughlin (BHM), Brendan Burke (BB), Lou Masiello (LM), and Trudi Holder (TH), Don Egan (DE)

**PB Members Absent:** None

**Also Present:** Leah Hill, Asst. Planner, Lisa Pearson, Planning Director and Lori Robertson, Planning Secretary

**Time:** 7:00 p.m.

Chairman Straubel called the meeting to order at 7:03 p.m. in the Colchester Room, Salisbury Town Hall. **RS** announced, per the Open Meeting Law, that this meeting was being recorded and broadcast live via [www.sctvmc.org/index](http://www.sctvmc.org/index).

**a. Signing of Plans/Permits:** N/a

**b. Minor SPR-76-78 Elm Street-Gaby Daaboul:** Mr. Fred Ford (FF) of Cammett Engineering addressed the board on behalf of the applicant. The use of this property is a used car and auto repair business. The applicant is proposing an addition of 2,932 square feet to the rear of the existing building. The entire lot is paved. The back of the property along the northern and easterly side has wetlands. We will be adding pavement to the west side of the property to gain access to the proposed building (shows architectural plans). There currently is no drainage on the site. We are proposing to create a small drainage basin and that will outlet into a grass swale. There will be three lights on the west side of the building. An additional light on the east side and one on the rear of the building. The dumpster will be located in the northwest corner of the building.

**LM** asked if the existing building will be changed. **FF** stated no. **LM** asked will the dumpster have a concrete pad under it? **FF** stated yes.

**DE** asked about the landscape waiver. He noted there is some landscaping on the plan. **FF** stated we are leaving the landscaping as it currently is onsite.

**RS** stated that you are looking to put landscaping on the edge of the wetlands. **FF** stated that was part of the discussion with the Conservation Commission. We are going to clean up the buffer zone and re-vegetate it. We will provide shrubs along the back pavement edge.

**DE** stated I am okay with a landscape waiver.

**BHM** asked about how close the residential homes were located next to the property. **FF** stated those homes are close to the next street.

**RS** asked about the filing of an ANR since this property is combining two lots. This will need to occur prior to site plan approval. **FF** stated yes, we will file an ANR.

**DE** stated the applicant is requesting a waiver of the landscaping requirement. Why is the waiver needed and the fact that the application does show landscaping? **FF** stated we are not proposing anything new. We can call the back plantings shrubbery.

**DE** stated the site is wide open, is there any intention to limit this? **LH** stated curb appeal should be located. Maybe define areas where we want cars coming in. **LM** stated it's a good opportunity to define the exit and entrances.

**RS** stated the addition is to an existing building, which is located on state road. Will his addition need MA DOT approval. **FF** stated we are not looking to do that.

**RS** asked if the lighting would be dark – sky compliant? **FF** stated yes.

**RS** stated its 7:30 and we have public hearings scheduled.

**RS** stated we received comments from the review engineer, Assessor, Fire, Police and Conservation:

**Conservation:** Requested storm water calculations-**FF** stated we are doing those for Conservation.

**Fire:** The proposed emergency access on the east side of the building does not appear to be adequate. 18' is required for a fire lane. **LH** stated what about parking space #1. **FF** stated if they really needed to go through they could, it's just grass on the other side.

**Assessor:** Ask whether the lots will be combined? If so, the address of the property will remain 76 Elm Street

**Police:** Request for further information on the emergency access. Lighting request more information.

**FF** stated the east side is a paved area that can be used for emergency access.

**BB** asked about the sidewalks? **FF** stated we show the striping on Elm Street and the cars are parked back from that. **BB** asked if the applicant takes care of it of that area. **FF** stated yes.

**DE** stated the intent for site plan review is to try and enhance the infrastructure in the town. Just some minor improvement to make the property look a little more attractive. We just need to confirm that the lighting is dark sky compliant.

Applicant representative, on the property itself there is actual landscaping up front. On the front of the building there is granite stone. We do have flowers planted there. To the edge of the lot and the near the sign we plant flowers.

**RS** stated I think it would be beneficial if the PB took a drive by the property to check out the landscaping.

No abutters present.

**LM** motions to continue to the February 12, 2014 at 7:00 p.m.

**DE** Seconds – vote on motion 5 – 0 unanimous.

**RS** asked 44 Railroad Avenue applicant if they minded waiting until the PB continues with new business. Applicant did not have an issue with that.

#### **Request for Certificate of Partial Completion – 23 Fanaras Drive – John T. Sarkis for T.H.**

**Glennon:** Mr. John Sarkis (JS) addressed the board on behalf of the applicant. We are requesting a partial certificate of compliance. Phase A has been completed. An as-built plan has been submitted and comments have been received from Joe Serwatka, engineer. We are requesting a waiver from any bonding requirements. Remaining work that needs to be done is as follows:

- Top coat of paving
- Striping
- Stop sign
- Curbing
- Stabilization
- Removal of erosion control

**BB** asked what the cost of acquiring a \$30,000.00 bond would be. **JS** stated I haven't looked into it. **LH** stated not positive but I believe between \$100 - \$200. **BB** stated its in the towns interest to have a bond to insure everything gets done. **JS** stated in most communities that I work in bonding is used specifically for health and safety. **RS** stated I believe striping qualifies for safety. **JS** stated as far as bonding the top coat where there are future phases to come it seems unreasonable to put up a large bond. **JS** stated the striping is for the parking spots. **JS** stated its customary to be clear in what will be returned when items are completed. **RS** stated the bond will be item by item and when they are completed that part of the bond will be released. **JS** stated we would like to put up a \$10,000.00 cash bond. **RS** stated leave out top-coat? **JS** stated yes. **LH** asked what items? **LM** stated I believe all the items mentioned in the staff report. We could have our inspector associate a cost with each item. **RS** stated Mr. Sarkis is suggesting we cut out the pavement

because that is a large amount. He doesn't feel that is a health or safety issue.

**JS** stated I can send you figures tomorrow. **LH** stated are you proposing to do temporary striping on the binder coat. **JS** stated if you would like. **LH** stated is there a need? **JS** stated no. The use is a warehouse/storage.

**JS** stated I am fine with a cash bond assuming the pavement is not in the amount. **RS** stated what I hear from the board is all the items. Could we agree with \$10,000.00 with perhaps \$5,000 for the curbing, striping \$1,000. **DE** stated my recommendation would be to go with what the applicant is suggesting \$10,000.00 cash bond with the curbing, stabilization, striping, removal of erosion control. **JS** stated that is fine I can send a schedule tomorrow.

**DE** motions to request a \$10,000.00 cash bond to cover these items: 1.) Striping 2.) Stop sign 3.) Stabilization 4.) Curbing 5.) Removal Erosion control on a schedule between the applicant and Planning Department.

**TH** Seconds.

**LM** stated I prefer the \$30,000.00.

**DE** motions to request a \$10,000.00 cash bond to cover these items: 1. Striping 2. Stop sign 3. Stabilization 4. Removal Erosion control on a schedule between the applicant and Planning Department.

**TH** Seconds – vote on motion 4-yes, 1 (LM) no and 1 (RS) not voting.

### **7:30PM Public Hearings**

**Cont. SPR-44 Railroad Avenue-Michael Larkin, Tr. 44 Railroad Avenue Realty Trust:** Mr. John Sullivan (JS) of Sullivan Engineering addressed the board on behalf of the applicant. Also, present was Michael Larkin (ML). We have satisfied Joe Serwatka's letter.

**LM** asked how you ensure the driveways will be lighted. I understand that lighting will be on the buildings. **ML** stated each building will have a light that will light up the driveway. It will be hard-wired and motioned censored. Underneath the building there will be recessed lights, so when you drive in the garage will light up. **LM** asked will this protect cars driving on the road? **ML** stated yes.

**DE** stated the Zoning By-law states that side setbacks need to be 5' with fire resistance or 10' without. **ML** stated we will come into compliance. **RS** stated the building inspector would make that determination. We could put it in the condition. **DE** asked about the two buildings on Railroad Avenue-design standards for screening. I don't see that shown anywhere. I didn't see any elevation of the proposed buildings. **JS** stated we chose a planter to be placed in front of each. We could add a planter in that area. **DE** stated some people do lattice work. **RS** asked if this is compliant with lattice work. **LH** stated we will have to hear from Conservation with this be on easterly side? **DE** stated if you read the design standards bylaw it requires all areas. **DE** stated I believe most important is the street (2 units). **LH** stated originally a fence was going to go around the property. **JS** stated Conservation wanted us to have it 50% open and raise the fence up. We felt that it was pointless to put one there. **ML** stated a lattice on the side of each unit would be ok. **LH** stated the east and west side. The longer side of the building. **ML** stated yes.

**LM** stated the snow storage area looks very narrow. **JS** stated we will use a bob-cat and on larger storms the snow would have to be removed. **LH** stated the decision conditions that at well.

**DE** asked if aesthetically something could be done to make the units look differently. **ML** stated we will have different colors for each of the buildings. **DE** stated I just wanted to make a comment that sometimes builders have a different porch depths, etc.

**BHM** asked everyone would be entering the deck entrance? **JS** stated yes except for unit 7 and

Discussion about living area.

**LH** stated the inclusionary zoning it has been determined that the applicant wishes to pay in to the inclusionary housing fund, instead of setting aside a unit as affordable. Were you able to sign the agreement? **ML** stated I can come into the office to sign it.

**DE** motioned to close the public hearing.

**BB** Seconds. Vote on motion 5 – 0 unanimous.

**LM** motioned to approve the draft decision for 44 Railroad Avenue dated 1/22/14 with the conditions stated therein and with these additional conditions:

1. Fire resistant construction
2. Screening/lattice on the east and west side of the longer side of the building
3. Hardwire lighting

**BB** Seconds. Vote on motion 5 – 0 unanimous.

**To amend the Zoning By-law of the Town of Salisbury by: Creating a new zoning bylaw entitled Medical Marijuana and to take any other action relative thereto:** **RS** stated on January 1, 2013, the Humanitarian Medical Use of Marijuana Act G.L. c.94c, App 1-1, et seq., enacted by voter referendum, took effect. A temporary moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries was passed at October 28, 2013 Town Meeting. Workshops have been held to discuss options associated with Medical Marijuana Zoning. –September 17, 2013 with the Board of Selectman, November 12, 2013 and December 11, 2013. We only received comments from Jerry Klima and there were no abutters who spoke. The state law requires certain buffer zones, such as any area where children congregate, schools, daycares. We figured commercial zones of the town were the best fit. The bylaw is written as a zoning overlay. We should point out there are a couple of errors on the draft model. Section 9.5.3 paragraph 2A it should be the reference of the actual marijuana overlay district bylaw. Paragraph 7 it refers to site plan approval Section 9.5. it should state Section 100.

Board of Selectman Fred Knowles addressed the board with three

1. When we had the workshop the town counsel stated 500' buffer between schools was a good idea. What made you pick 300'? **LH** stated Town Counsel mentioned that if no buffer is mentioned in a town bylaw than 500' is used by Department of Public Health. 300' worked because that is the Massachusetts Drug Free zone requirement. 1,000' is the federal drug free zone.
2. I don't remember the Town Counsel stating anything about dwelling units along where kids congregate. **RS** stated that commercial zones in Salisbury have dwelling units. It is something that doesn't have to be there. My thought was to put it in there to see if anybody objected to it. **BB** asked if this has been reviewed by Town Counsel. **LH** stated no not with the dwelling unit included in there.
3. I read somewhere that a town in Essex County has a hosting fee. **LH** stated that would have to do with licensing.

Police Chief, Tom Fowler (TF) addressed the board. I thought the 300' buffer zone was small. My first thought was the federal drug free zone of 1,000' but I am not sure if that will eliminate every possible zone in Salisbury. **RS** asked why you feel 300' is not appropriate. **TF** stated I just feel it is too small. I do believe it's a comprehensive bylaw. It will allow a business to come and still fit into Salisbury.

Board of Selectman Don Beaulieu (DB) addressed the board. I have a concern about the language for a daycare facility. They are licensed by the state. The town doesn't issue licenses. I wonder if it would be more clear to state a licensed day care facility. I believe there should be a reference relative to daycare facilities having to identify themselves to the town. **DE** stated we do have the reference of the dwelling unit so they would have to be 300' away. **DB** stated the chief

indicated to me that he would differentiate between 1,000' from a growing facility and a distribution facility.

Citizen, Joanne Housiantis (JH) of 4 Vermont Street addressed the board. I have a question relative to the section shaded near the beach. **LH** stated that is a commercial area. **JH** stated I would ask that beach be added to where minors congregate. **LH** stated it has to be more of a scheduled activity. **JH** stated I would ask that you consider removing that section. **RS** stated I believe we can since it's an overlay.

Board of Selectman Freeman Condon of Forest Road addressed the board.

1. Are they all subject to site plan review? **LH** stated they all are subject to special permit unless they can demonstrate that they are under the agricultural exemption. Then they don't need a special permit but then they are still subject to site plan. **RS** stated we should make sure this zoning overlay bylaw includes a site plan review in addition to. We probably need to get an opinion on this from our Legal Counsel. We may have to amend the site plan review bylaw. **DE** stated it might covered under the requirements of a site plan. As long as it is 2,500 square feet we would have site plan review.
2. If you are a growing facility is that considered a commercial use or agricultural use.

Reporter for the Daily News Angeljean Chiarmide (AC) addressed the board.

1. The Town Counsel has not reviewed the draft. **LH** stated they wrote the draft. We have since worked and added a few things, which they have not reviewed. **AC** asked will they? **RS** stated yes.
2. In granting a special permit are abutters notified? **LH** stated yes.
3. If a medical marijuana distribution and cultivation is given permission to locate somewhere a buffer related business wants to move within that buffer zone. Who will be in charge of saying yes or no? **LH** stated I still need to research but the buffer zone is to protect the existing daycare. We would need a definite answer from Town Counsel or Department of Public Health. **AC** stated I believe that the buffer is there to protect the children. Whether it's a child who is existing or a child to come.

**DE** stated the areas that need to be clarified and looked at for the next meeting:

- Chief Fowler wishes a 1,000' buffer zone
- Change child care facility to license child care facility/investigate what the licensing entails from the state and whether or not we should all license child care facility notify someone in the town, yet to be determined.
- How site plan review will be handled or if it is actually required or whether or if we should add that requirement not that will conflict with present site plan review bylaw.
- Buffered entity moved in after an RMD was sited would that be allowed or precluded. Whether or not we need to amend our other existing zoning bylaw to state certain types of business cannot go within a buffer zone of an existing RMD.
- Remove the section of the commercial district near the beach.
- Contributions to the Town. In the beach overlay district there is a public improvement fund section

**DE** asked when does this need to be completed by. **LH** stated the warrant closes April 18<sup>th</sup>.

**LM** motions to continue the zoning bylaw hearing until February 12, 2014 at 7:30 p.m.

**BHM** Seconds- vote on motion 6 – 0 unanimous.

#### **Old Business:**

1. **Old Business:** **RS** stated we had a meeting with Joe Serwatka about the library and the issues that were discussed they were resolved.
2. **Rings Island Zoning-****RS** gave an update stating the consensus from abutters' discussion at various workshops was they were ok with zoning changes as long as there isn't an increase in density or blocking of people's views. We are looking into hiring a consultant to work on this

zoning.

**3. Other Business**

**4. Correspondence**

**a. Minutes from January 11, 2014.**

**BHM** motions to accept and sign the minutes from January 11, 2014

**BB Seconds – Vote on motion 5 – 0 unanimous. (DE-abstained)**

**5. Reports of Committees**

**6. Adjournment**

**DE** motions to adjourn at 9:12 pm

**TH Seconds – Vote on motion 6 – 0 unanimous.**

---

**Chairman**

---

**Date**