

**Salisbury Planning Board
Meeting Minutes**

Date: Wednesday, October 10, 2018

Place: Colchester Auditorium, Salisbury Town Hall, 5 Beach Road

Time: 7:00 p.m.

PB Members Present: Chair Don Egan (**DE**), Vice Chair Gina Park (**GP**), Clerk John “Marty” Doggett (**JMD**), Louis Masiello (**LM**), Gil Medeiros (**GM**) and Alternate Deb Rider (**DR**).

PB Members Absent: None – **GM** arrived at 7:10pm.

Also Present: Assistant Planner Bart McDonough (**BMD**), Planning Board secretary Sue Johnson (**SJ**)

Don Egan brought the meeting to order at **7:00 p.m.** in the Colchester Auditorium, Salisbury Town Hall. Announced, per opening meeting law, that the meeting was being recorded.

1. New Business

- a. Signing of Plans / Permits - None**
- b. Site Plan Modification Request**—107-111 Elm Street, Alternative Therapies Group, Inc.

Chris York (**CY**) of Millennium Engineering stated that he was representing Alternative Therapies Group. **CY** stated that after meeting with the Conservation Commission and the Town, they were asked to look into low impact development strategies and went on to state that they are back before the Planning Board with a minor change. **CY** stated instead of curbing along the westerly side of the parking lot they will put in a grass swale and the parking lot will be graded so that the water runoff will flow toward the swale and slowly drain into the infiltration basin. **CY** stated that they are asking for a waiver on the curbing. **CY** stated that the Town Engineer had a few technical things with the plan that needed to be changed which he had replied to and stated that he is hoping for approval tonight. **CY** stated that he needed to change the wording from water quality swale to drainage channel. **JMD** stated that there was concern that the revised grading may have an impact on the mature trees on the property line and asked if the trees could be saved. **CY** replied that the 2 trees on the corner of the parking lot where there is a 2 foot drop from the sidewalk might be in trouble. **CY** stated that due to the new grading of the parking lot these trees may not be able to be saved along with a few trees back along the retention pond. **LM** asked if they would replace the trees that could not be saved. **CY** replied yes. **DE** stated that the Board would need to be specific about what type, size and where the replaced trees would be planted. **DE** stated that the approved original plan called for granite curbing and on the plan in front of the Board now shows concrete curbing. **CY** stated that it was switched to concrete curbing because it is cheaper and that the work was going to be done by SPS who has access to concrete. **DE** stated that he would not be in favor of approving the change to concrete and **JMD** agreed. **DE** stated that the Town

Engineer did not agree with all of the responses. **GP** stated that the proposed sidewalk has a 2-3ft drop along the back which may not be safe. **CY** stated that there are 3 to 1 slopes behind the sidewalks. **DE** stated that we don't want a sidewalk where you step off inadvertently and it is 3ft down. **CY** stated that it was sloped. **GP** asked if it could be mitigated because the Town Engineer thinks it is an issue. **CY** stated that he could talk with the Town Engineer and lessen the slope. Lisa Pearson (**LP**) stated that people tend to take the shortest path and if someone parks in that corner they could walk down the slope to the other driveway to get to the store. **DE** stated that the following items need to be resolved: make the sidewalk safer on all sides by lessening the slope, replace all trees that are removed due to the changes, revise the landscape plan to show the replacement trees of an acceptable caliper and put the granite curbing back onto the plan except where Con Com asked for the swale. **LP** stated that Con Com has not asked for the curbing to be removed they asked the applicant to look at low impact development techniques. **DE** asked if the applicant had an approved conservation plan. **LP** replied no. **DE** stated that he was concerned with the Town Engineer's comment that the revised grading increases disturbance to existing trees along the property line between 107 & 111 Elm. **CY** stated that we had already discussed this. **DE** stated that the Town Engineer was also concerned that the swale did not meet policy design requirements. **BMD** stated that he had spoken with the Town Engineer this afternoon and reviewed the revised set of plans and was good with the plan as long as he is provided with the detail. **DE** asked the Board if they would prefer to continue to the next meeting pending all of the issues and submission of new plans or fashion an approval with conditions for the changes. **LM** stated that he would feel better with continuing. **GM** asked **CY** what impact a continuance would have on the applicant. **CY** replied that the applicant is running out of time to start construction of the parking lot this fall and by approving this tonight it would save the applicant a couple of weeks. **LP** stated that there was still a 21 day appeal for conservation and went on to state that if they get approval on 10/17/2018 from conservation they cannot do anything in the appeals period and the next Planning Board meeting falls within this timeframe.

LM motioned to determine that this is a minor modification.

JMD seconded.

Vote: 5-0 motion passed (DR voted because GM was late).

LM motioned to continue to the next meeting on 10/24/2018

GP seconded.

Vote: 5-0 motion passed (DR voted because GM was late).

2. 7:10 Public Hearings

a. **Public Hearing: Site Plan Modification and Extension Request—57 & 63 Railroad Avenue, Downeast Building and Development, LLC**

Katie Cruz (**KC**) stated that she was a civil engineer with Hancock Associates and was representing the developer. **KC** stated that the project has an approval and the developer is asking for a major modification. **KC** stated that the previously approved plan was for one building with 8 units and the new plan is for four buildings each with 2 units which is a smaller building footprint from the approved plan. **KC** stated that they are proposing crushed stone for the driveways and pedestrian area. **KC** stated that their plan is to keep the existing site plan the same as much as possible which means that they haven't modified the drainage system even though it was sized for the larger building with more impervious area so the proposed drainage system is a little oversized for the project and what it will do is keep all of the storm water runoff from the impervious areas. **KC** stated that the site is on Railroad Ave and it slopes up to the east and we have graded the site to match the existing topography and there will be landscaped areas around the proposed buildings that will be planted with native vegetation. **KC** stated at this point they had received peer review comments and are in the process of responding to them and coordinating with DPW. **GP** asked if there was a timetable for this to be built. **KC** stated not just yet.

Vince Mauti (**VM**), 10 Brissette Ave, stated that he owns property at 70 Railroad Ave and no problem with someone building there because it has been an eyesore for about 20 years. **VM** stated that his concern is old sewer system and if it could support their development. **BMD** stated that DPW and Town Engineer would make sure that the sewer line was sufficient.

DE stated that this is a complicated application and went on to state that the original site plan was approved in 2007 which was 11 years ago and it was continued twice, once by the state because of the recession and the second time by the Planning Board in 2016. **DE** stated that this is a vastly different plan and you're replacing one building with four and went on to state that building standards are different and environmental standards have changed. **DE** stated that the Board needs to make a determination to go with the original site plan which doesn't really match in many ways what is currently being proposed or request a new application. **DE** asked the applicant why they are not starting over fresh. **KC** stated that they see it as a similar project having the same number of units, parking spaces and are within the setbacks so the overall load or impact of the project and see this as an improvement with a lot less impervious area and is a good design from a storm water standpoint. **KC** stated that wanting to continue with an approved plan rather than going through all the steps again. **KC** stated that they have already sent out notices to abutters, posted a legal notice and have had a thorough peer review and does not know that there would be a lot to gain by doing a whole new application. **DE** asked **BMD** what the status of the project review fees are in relationship to this project. **BMD** replied that the fees have not been exhausted and there is still a significant amount of money for the Town Engineer to review. **KC** stated that she feels that the new plan fits better into the neighborhood. **LM** asked if an applicant can withdraw a previous proposal and submit a new one. **DE** replied that they are trying to change certain aspects of the original proposal and the applicant has stated that they are not resubmitting a new drainage plan. **DE** stated

that the footprint and the architectural is completely different, the traffic flow is different and the landscaping is different. **LP** stated that the plan was approved 11 years ago and most likely there are new abutters, it is essentially a new plan, the builder is different and it is going to expire and you would have to approve an extension without having a timeframe for building. **LM** asked what the impact would be to the applicant if they have to file a new plan. **LP** stated that they would have to refile, notify the abutters and put a legal ad in the paper. Mike Opre (**MO**) stated that he is the owner of the property and stated that extension expires on 10/29/2018. **MO** stated that his intention is to sell the property to the new developer and one of the main contingencies in their contract are that the modifications happen under the current approval to let the purchase and sale go through. **MO** stated that they have received approval from Conservation. **MO** stated if the Board decides that it is new it could take the purchase and sale away. **DE** stated that this could get really complicated because this is a vastly different plan and we don't have any elevations and the parking space are labeled as 9'x18' and they should be 10'x20' and believes that the turning radius is going to be very tight and snow storage is depicted on the landscaping. **KC** stated that all of the items that were just brought up were things that were mentioned in the peer review letter and that the Board would have a chance to make sure that they are corrected. **KC** stated that they filed for the major modification because they got a letter from the Planning Department telling them that it would be a major modification. **LP** stated that the Planning Department does not decide if they are filing new or not but they determine whether or not this is a minor or major modification and this is a major modification at the very minimum. **GM** asked about adding conditions. **DE** stated that the conditions that were put into the decision 11 years ago would need to be looked at and feels that all new conditions would need to be revisited and a new decision written. **GM** stated if this is the case could they build the original approved plan. **DE** stated that the applicant would have to get a building permit and start construction before the existing approval expires. **MO** stated that he would like to extend the existing plan until 2020 which is when conservation expires. **MO** stated that in the event that this gets changed to a new application he would like the existing to be continued or extended for 2 years to try to identify the right project for this space. **DE** stated that the standards have changed quite a bit in 11 years. **DE** stated that zoning, flood standards have changed and the environment at the beach is different. **DE** went on to state that recently in the south end there has been attention to a severe lack of on street parking and there is a group that is trying to address this and the lack of visitor parking is troubling. **MO** stated that he has an approval for it and it is his understanding from what he read that asking for an extension should be approved unless there is significant reason not to. **DE** stated that the original approval is 11 years old and this proposed project is vastly different and the DEP has different building standards on the beach. **KC** stated that they are working with DEP and feels confident that the old design and the new design meet Massachusetts storm water standards and then some. **KC** stated that all of the water can be infiltrated on site, there will be proper treatment of water and proper erosion controls. **KC** stated that the first floor elevations will be above the FEMA flood elevation. **KC** stated that they meet all of the dimensional requirements for both plans and believes this is a by right project. **DE** stated that there were a few things that the board could do, we could continue until the next meeting pending receipt of additional plans because these are not complete or we could vote not to extend the old approval. **DE** stated that if we voted not to extend

then we would close the public hearing before making that vote. **GM** stated if we continue this for a couple more weeks it would give the applicant time to get more information to us. **LM** stated that it would give them time to respond to the Town Engineers comments and any comments we might have tonight. **LP** stated that the Board should vote if this is a major modification or a new filing and vote separately on the extension. **LP** stated that she didn't think it would be a good idea to continue for two weeks and then determine that it is a new filing because that would set them back. **JMD** asked what would be new within the next two weeks that would help the Board make a better decision. **DE** stated that he didn't think there would be additional information and **LP** agreed. **DE** stated that the Board should decide if it is a major modification and move forward in that direction or decide that it is a completely new submission and start over. **KC** stated that this is a major change to the project which is why they filed a major modification. **KC** stated that the Board would have the same opportunity to vet all of the issues on the project under this process. **KC** stated that if the Board votes this as a new submission it would affect the property owners timeline which puts a burden on the property owner and further delay the developer. **DE** stated that the zoning has definitely changed. **KC** stated that there is a zoning table on this plan that shows that we meet all of the current setback and dimensional requirements. **GM** asked **DE** what changes on the new plan that the Board has issues with vs the approved plan. **DE** stated that in the old plan the traffic flow was different. **DE** stated that the old plan did not have the snow plowing issue because the parking was underneath the entirety of the building. **LM** stated that the old plan has been approved and if the Board determines this to be a major modification it implies that the Board approved it and could still make conditions. **LP** stated that there is no appeal process for any abutters if they did not like the new design. **KC** stated that the abutters were notified and if there was strong opposition that the abutters would have been here tonight. **DE** stated that in reference to the abutters when they get a notice that there is going to be a modification to a project they have no idea that it is a completely different plan. **MO** stated that if the Board denies the major modification it puts a huge financial burden on him and it has been his intent since the day he bought the property to sell it and the market has not allowed this, but there is an opportunity to sell it now.

GP motioned to determine that this is a new filing not a major modification.

LM seconded.

Discussion:

GM stated that he did not know what the harm would be in waiting two weeks and stated that the could come in and build the old plan and the Board would have no say.

LM asked what happens with the currently approved plan. **DE** stated that they have until the 29th to begin building the project.

Vote: 4-1, GM opposed, motion passed.

LP suggested that the Board could wait two weeks and make a decision about the extension at the next meeting on October 24th. **MO** asked what the legal reason would be if the Board does not grant the extension. **DE** stated that the approval only lasts for so long and it has already been extended and it does not meet the requirement for extension. **MO** stated that there has to be something in writing about why or why not you would grant an extension. **DE** stated that he believes that it is the discretion of the Planning Board. **MO** stated that his Conservation was extended to 2020 and would

like to have the approved plan extended also to 2020. **MO** stated that had he known that he would have asked the Board to have made the extension for four years. **DE** stated that the Board can only grant a two year extension. **MO** stated if he has the original extended then he has the opportunity to market the property as an 8 unit condo approved and ready to be built. **MO** stated that if the extension was denied it would be a great hardship. **DE** stated that you need a schedule of completion submitted with the extension request.

GM motioned to extend to the next meeting on 10/24/2018.

LM seconded.

Vote: 5-0 motion passed.

GP motioned to close the public hearing.

JMD seconded.

Vote: 5-0 motion passed.

- b. Public Hearing:** to amend the Town of Salisbury Zoning Bylaw by modifying Article I General Provisions, or take any other action relative thereto.

Lisa Pearson (**LP**) stated that the Town Manager is submitting this Warrant Article to Town Meeting. **LP** stated that currently all municipal buildings are subject to all of the local zoning bylaws. **LP** stated that the process when building the Library and Police Station was that the Town had to go to the Planning Board for site plan review, the Zoning Board for special permit and for a sign bylaw and this was all after Town Meeting had voted to approve these projects. **LP** stated that what this would do is streamline the process, save the Town funds and build buildings in Town that would be exempt from zoning. **LP** stated that the Town would still need to notify abutters and hold a public hearing. **LP** stated that the language for this came from Danvers. **LM** asked if this was the norm for most cities and towns. **LP** stated that she did not know if it was the norm for most but we have found several that did have this in place. **DE** stated that the purpose of this is to see if the Planning Board would recommend to Town Meeting. **LP** replied yes. **GP** asked if the Town would allow the public to weigh in. **LP** stated yes and went on to state that the Town would need to make all reasonable efforts to comply with zoning and abutters would be notified. **DE** stated that he had a concern about the language “reasonable effort” to comply with the zoning bylaws and went on to state that this means that this is no force of law. **DE** asked what the appeal process would be for the public or abutter who feels aggrieved by a proposal. **LP** replied that they could appeal the building permit or the notice of intent application with the Conservation Commission. **DE** stated that in regards to engineers, the applicants that come before the Planning Board with drainage plans and engineering drawings are subject to peer review and asked how that process would work if the Town was submitting plans. **LP** stated that the Town Engineer reviews the plans. **GP** asked what the risk would be if a new Town Manager and new Planner were hired by the Town could this be abused. **LP** replied that there would still be state laws, they would have to meet storm water and DEP regulations.

LM motioned to close the public hearing.

GM seconded.

Vote: 5-0 motion passed.

GM Motioned to recommend to Town Meeting.

JMD seconded.

Vote: 3-2, DE and GP opposed, motion passed.

- c. **Public Hearing:** to amend the Town of Salisbury Zoning Bylaw by modifying Article VI Administration and Enforcement, or take any other action relative thereto.

LP stated that this is a regulation in the zoning bylaw and needs to be changed. **LP** stated that the Town now files everything by Map and Lot because addresses and property owners change. **LP** stated that the Assessors went back and forth with the Building Department and the Building Inspector found in the bylaw where he couldn't file by map and lot. **LP** stated that this change would allow the Building Department to file by map and lot.

GP motioned to close the public hearing.

JMD seconded.

Vote: 5-0, motion passed.

- d. **Cont. Public Hearing:** to amend the Town of Salisbury Zoning Bylaw by modifying Article III Use Regulations, §300-12: Table of Uses, or take any other action relative thereto.

LP stated that the Planning Department made a lot of changes based on the Board's comments from the prior meeting. **LP** stated that the vertical and horizontal housing were removed as well as storage trailers and dumpsters. **JMD** asked if it was too late to make any changes. **LP** replied yes and stated that this is what has been prepared if the Board recommends to Town Meeting. **JMD** asked why Bed and Breakfasts would not be allowed in the Beach Commercial District. **LP** replied that it is the Planning Department's hopes to continue the conversation and add it in the future. **GP** stated that she had concerns about the "storage of flammable liquids" in the Beach Commercial District for safety reasons. **LP** stated that all permits would need to go through the Building Inspector and the Fire Department.

LM motioned to close the public hearing.

JMD seconded.

Vote: 5-0, motion passed.

LM motioned to recommend the amendments to Article III Use Regulations, §300-12: Table of Uses to Town Meeting.

GP seconded.

Vote: 5-0, motion passed.

- e. **Cont. Public Hearing:** to amend the Town of Salisbury Zoning Bylaw by modifying Article I General Provisions, §300-5: Definitions, or take any other action relative thereto.

LP stated that the Planning Department reviewed the definitions and revised or removed the ones that did not make sense or were outdated.

GM motioned to close the public hearing.

GP seconded.

Vote: 5-0, motion passed.

LM motioned to recommend to Town Meeting

JMD seconded.

Vote: 5-0, motion passed.

3. Correspondence

- a. Minutes: September 26, 2018 – Continued to next meeting

4. Executive Session

- a. Executive session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to litigation: Big Block Development Group v. Town of Salisbury Planning Board

DE stated that there was nothing new to discuss.

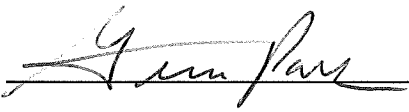
5. Adjournment

GM motioned to adjourn.

GP seconded.

Vote: 5-0, motion passed.

* Documents provided at the meeting are on file in the Planning Office

Minutes approved by: 

Date: 11-14-2018

