



TOWN OF SALISBURY
Zoning Board of Appeals Hearing
Colchester Room @ Town Hall, 5 Beach Rd
Meeting was hybrid (in person and remote via Zoom)

MEETING MINUTES- PUBLIC HEARING

Hearing Date: June 22, 2021 @ 7:00 pm

Members Present: Susan Pawlisheck (Chair), Derek DePetrillo (Secretary), Drew Dana, Paul Descoteaux, John Schillizzi and C.J. Fitzwater (Alternate)

Additional Persons Present: Town Council, Amy Kwesell, from KP Law, Abutter's Attorney, Scott Vandewalle, Building Commissioner, Lisa Pearson, Director of Planning and Kate White ZBA Admin

Chair Pawlisheck called the meeting to order at 7:00 pm.

1. Continued Public Hearing

Case No. 20-30 Petition for Relief – Comprehensive Special Permit to construct a residential development of 56 units in accordance with M.G.L. Ch. 40B.

Address: Forest Rd, 6 Forest Rd, 10 Forest Rd & 18 Forest Rd

Map: 20, **Lots:** 45, 44, 43 & 91 (Respectively)

Applicant(s): 6 Forest Rd, LLC

Mr. Paquette presents information pertaining to the projects drainage, wet basement concerns, domestic wells, fencing, extension and evidence of site control (purchase and sales agreement)

Stormwater Drainage

The proposed project has two separate stormwater basins designed to store runoff water and release it at a rate lower than the existing conditions. The stormwater calculations show that there will be 7% decrease in runoff flowing in the direction of Garafalo Drive. The following are distances from neighboring homes to the onsite drainage detention structures:

3 Garafalo Drive 930 feet

5 Garafalo Drive 850 feet

9 Garafalo Drive 810 feet

2 Morgan Ave 510 feet

12, 14 & 16 Forest Rd 550 to 700 feet

Domestic Wells

14 and 16 Forest Rd homes are not connected to the Salisbury municipal water system. No activities proposed during site construction and subsequently with the maintenance of the community post development will have any deleterious effect on the wells.

Basements

The proposed drainage design collects runoff and directs it hundreds of feet away from Garafalo Drive and will potentially improve drainage in that area.

Fencing

There will be approximately 400 feet of 6-foot tall solid vinyl fence running along the northern side of the site entrance driveway.

Timeline for continued review under 40B regulations

A written confirmation with respect to all permit review timelines has been submitted to the Planning Department per the request of the Board members.

Evidence of site control

Per the request of the Zoning Board Chairperson, evidence of continued site control has not been provided.

The following abutters appeared in person:

Lynn Welch, 50 Lafayette Rd, feels the Board has not asked what the neighbors want in their neighborhood.

Claudia Keyian, 11 Lafayette Rd, concerned with the size of the project and the wildlife that will be affected.

Mark Ironfield, 4 Garafalo Dr. asks about the trail and sidewalks.

Lisa Pearson explains that the sidewalks are part of the Town's project, but the applicant would be responsible for sidewalks in the development.

Deirdra Ironfield, 4 Garafalo Dr. via zoom, concerns with maintenance of the trail.

Mr. Paquette responds that the trail is still on the plan and he will be responsible for the maintenance of it.

Ryan Spinney – 2 Morgan Ave, asks the applicant to elaborate on the drainage affecting his property, asks why the Town is catering to the minority instead of the majority and feels this project is a conflict of interest, as the property is owned by a selectman.

Eric Botterman, Millennium Engineering, explains that due to the design of the drainage system there will be less discharge on Morgan Ave after the development is complete.

Ruth True, 17 Gerrish Rd, concerns with water in her back yard from previous development, road conditions, water usage, safe harbor and ZBA responsibility and right to deny the project.

Chair Pawlisheck and Attorney Kwesell discuss the outcomes of denying the project, the appeals process; they express the ability to control the project with conditions, and reiterate that all documents including peer reviews are available online and in Town Hall and have been spoken about at various meetings.

Attorney Kwesell, per request, further explains that Mass Housing has a very involved process, including research and site visits, in determining whether project is eligible to be looked at as a 40B or not. The Mass Housing contact for Salisbury is Mike Busby.

Tim Neal, 28 Gerrish Rd, concerns with testing for saturation and PPM levels in domestic wells.

Mr. Paquette is willing to do the baseline assessment of the two wells.

Shai Woodman, 46 Forest Rd via zoom, asks when the meeting for the Town sidewalks will be and how many 40B projects are projected for this developer.

Lisa Pearson responds, notification with meeting information will be mailed to the affected residents and the meeting will be posted on the Town's online calendar as well.

Chair Pawlisheck confirms no plans for other 40B projects at this time.

Kerry LeBreck, 3 Gaelic Wy, via zoom, opposed to the density of the project and concerned that the Town does not have protection from 40B projects.

Dan Welch, question regarding safe harbor and the quantity of 40B projects the applicant has developed in Town.

Attorney Kwesell discusses the process and types of safe harbor.

Mr. Paquette has built three 40B developments in Town including the elderly development on Sacks Wy, Windgate on Beach Rd and Sheffield Village on Beach Rd.

Mike Gabrian, 35 Forest Rd, whose responsibility was it to inform the residents of the 40B project. Feels like the Board does not care about the residents. Are the Board members paid or volunteers? Asks the Board to say no to the project.

Chair Pawlisheck confirms that the Board members are all volunteers and have the Town's best interest.

Stephen Pivacek, 14 Forest Rd, concerns that since there will be less water going towards Garafalo and Morgan Ave if that water will now be going towards his home. Suggests the Board deny the project and take their chances in court against the State together.

Kerry LeBreck, if we cannot say no to the project, maybe not make it easy for the develop going forward.

Wendy Richardson, Seabrook Rd, is opposed to the project, has concerns with traffic on Seabrook Rd, class sizes in the elementary school, water, and feels the residents do not stand a chance because a selectman owns the property. Wendy asks the Board to deny the project.

Claudia Keyian, asks the Board why they said yes to the project to begin with and asks about safe harbor.

Chair Pawlisheck summarizes the 40B application process, the time sensitive deadlines throughout the decision-making process and safe harbor.

Mike Gabrian, asks who is responsible for not looking out for the residents, was it a paid employee or a volunteer.

Dan Welch, the Town has been eligible for Safe Harbor since 2016.

Lynn Welch, when are peer reviews to be done for a 40B?

Attorney Kwesell summarizes the entire process of filing a comprehensive special permit. She explains that there are no due dates set for peer reviews.

Lynn Welch, if the Board had seen the Planning Board's review prior to the 15-day safe harbor window would it have made a difference.

Chair Pawlisheck confirms that having the peer reviews she would have recommended invoking safe harbor.

Lynn Welch asks the Board to deny the project.

Attorney Kwesell clarifies that a developer that is denied appeals to the Housing Appeals Committee. If a project is approved, the abutters have the ability to appeal to Superior Court.

Lynn Welch, states that the Board has not asked what the residents want.

Chair Pawlisheck asks Lynn Welch is any number of units that she would accept there.

Lynn Welch 14 duplexes (28 units).

Aaron Semiao, 129 No End Blvd, asks why 40B would be the best decision for growth in Salisbury.

Mr. Paquette explains that the direction he took for the project was not only to introduce housing that was not only affordable for 40B lottery approved buyers but for everybody. This is a single family sized home (2,500 sf) that serves two families; designed to appeal to first time homebuyers and to age restricted or elderly homebuyers. The project has been reviewed in its entirety by his engineers as well as the Towns.

Tim Neal suspects tax fraud and concerns with the conditioning of the project.

Attorney Dan Murphy suggests that the Board take a vote to see which members would have invoked Safe Harbor give the opportunity. Attorney Murphy also suggests that the Board ask the applicant to withdraw his application and then reapply to allow the Board to have the opportunity to invoke Safe Harbor.

Shai Woodman asks if Mr. Paquette would consider reducing the project to 14 buildings (28 Units).

Mr. Paquette responds that he is incapable of doing that, the economics are going backwards as a result to the reduction of the project.

MOTION: Mr. DePetrillo makes a motion to continue Case No. 20-30 for the 40B project on Forest Rd until the July 27, 2021 meeting. Mr. Schillizzi seconds the motion.

VOTES: Mr. DePetrillo, Mr. Dana, Mr. Schillizzi, Mr. Descoteaux and Chair Pawlisheck vote in favor of the motion. Members express their vote individually and verbally. 5 in favor, 0 opposed. Motion carries unanimously.

2. **Minutes**

May 25, 2021 Meeting Minutes

MOTION: Mr. Descoteaux makes a motion to approve the May 25, 2021 meeting minutes as written. Mr. Schillizzi seconds the motion.

VOTES: Mr. DePetrillo, Mr. Dana, Mr. Schillizzi, Chair Pawlisheck and Mr. Descoteaux vote in favor of the motion. Members express their vote individually and verbally. 5 in favor, 0 opposed. Motion carries unanimously.

June 8, 2021 Meeting Minutes

MOTION: Mr. Schillizzi makes a motion to approve the June 8, 2021 meeting minutes as written. Mr. Descoteaux seconds the motion.

VOTES: Mr. DePetrillo, Mr. Dana, Mr. Schillizzi, Chair Pawlisheck and Mr. Descoteaux vote in favor of the motion. Members express their vote individually and verbally. 5 in favor, 0 opposed. Motion carries unanimously.

3. **Correspondence and Other Board Business**

4. **Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting**

5. **Adjournment**

- The Board reserves the right to consider items on the agenda out of order. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

MOTION: Mr. Dana makes a motion to adjourn the meeting. Mr. Schillizzi seconds the motion.

VOTES: Mr. Dana, Mr. DePetrillo, Mr. Descoteaux, Mr. Schillizzi, and Chair Pawlisheck vote in favor of the motion. Members express their vote individually and verbally. 5 in favor, 0 opposed. Motion carries unanimously.

Respectfully submitted by Kate White, Board Secretary and accepted at the July 13, 2021 meeting of the Zoning Board of Appeals.

Accepted as Presented:



Chairperson Susan Pawlisheck

Cc: Town Clerk