



**Salisbury Conservation Commission
Meeting Minutes
November 17, 2021
Colchester Auditorium, Town Hall
5 Beach Road
Salisbury, MA 01952
Virtual Meeting
7:00 P.M.**

COMMISSION MEMBERS PRESENT: Chairwoman Sheila Albertelli (**SA**), Jane Purinton (**JKP**), Michael Colburn (**MC**), Julie Doughman-Johnson (**JDJ**), Jeffrey Ward (**JW**), Christopher Leahy (**CL**)

COMMISSION MEMBERS ABSENT:

ALSO PRESENT: Conservation Agent, Adriane Marchand (**AM**).

Chairwoman Sheila Albertelli opened the meeting at 7:09 pm under the Wetlands Protection Act & Open Meeting Law and informed the public that the meeting was being recorded and being held remotely.

A. MINUTES:

1. **July 2, 2021**
2. **July 7, 2021**
3. **August 4, 2021**
4. **August 18, 2021**
5. **September 1, 2021**
6. **September 15, 2021**
7. **October 6, 2021**
8. **October 20, 2021**

JDJ motioned to approve the minutes for July 2, 2021
MC seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Abstain
Vote: 5-0-1. Motion carried

JDJ motioned to continue the minutes for July 7, 2021; August 4, 2021; August 18, 2021; September 1, 2021; September 15, 2021; October 6, 2021; and October 20, 2021
MC seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes
Vote: 6-0-0. Unanimous. Motion carried

B. PUBLIC HEARINGS at 7:10pm:

1. **NOI: Patrick DiMartino, 14 Lewis Ave (7/21/21)**

SA stated no DEP # has been issued, and the applicant had requested a continuance to December 1, 2021.

JDJ motioned to continue the Notice of Intent for Patrick DiMartino, 14 Lewis Ave. to December 1, 2021.
MC seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

2. NOI: Tom Patenaude, 207 Beach Road, lots 249-258 (8/4/21)

SA stated the applicant has requested a continuance to December 1, 2021

JDJ motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lots 249-258. to December 1, 2021.
MC seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

3. NOI: Tom Patenaude, 207 Beach Road, lot 259 (8/4/21)

SA stated the applicant has requested a continuance to December 1, 2021

JDJ motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lot 259. to December 1, 2021.
MC seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

4. NOI: Tom Patenaude, 207 Beach Road, lot 260 (8/4/21)

SA stated the applicant has requested a continuance to December 1, 2021

JDJ motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lot 260. to December 1, 2021.
MC seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

5. NOI: Wayne Capolupo, 13 Beach Road, LLC, 13 North End Blvd. (8/4/21)

Matt Steinel from Millennium Engineering (**MS**) updated the Commission. He reviewed the most recent plan. Per Ms. Rimmer's request, they added the delineation date to the plan. The pump location has been added to plan, with a note stating it would be removed, with restoration work done by hand and using dune quality beach sand. **MS** reviewed Mary Rimmer's comment letter of August 18, 2022 and their responses. Spot grades have been added to the plan. They have also added the mean high-water line to the plan, which runs along the rear property line, mostly off property. In response to Ms. Rimmer's comment regarding water quality, **MS** stated he

spoke with the Agent and people at DEP and found that there is no evidence that the salt marsh or surrounding resources are designated open resource waters. **MS** stated that the applicant is against putting restrictions on the use of the lot as was suggested by Ms. Rimmer. **SA** stated she shares Mary's concern about storm water run-off with putting down fresh petroleum product. **JKP** stated she agreed, and asked how the salt marsh was not designated Open Resource Water. **MS** explained it is a special designation made by the state and explained the process to get the designation. **JKP** asked if the pump has been removed. **MS** replied that the Commission had previously requested that it just be disconnected. **JKP** asked if it is no longer running. **MS** confirmed that it is no longer in operation. **MC** verified with **MS** that they will be changing the grade in the back corner by about 3 inches. **MS** confirmed, and discussed the shimming process. **SA** asked if they can break up the existing pavement and use it as the base for the new pavement **MS** replied he will follow up with the applicant, but he believes they will just lay new pavement on top.

JKP motioned to continue the Notice of Intent for Wayne Capolupo, 13 Beach Road, LLC, 13 North End Blvd. to December 1, 2021 at 7:10 pm. In the interim, the agent will contact Mary Rimmer to address comment #4 on her letter dated November 11, 2021

JDJ seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Abstain; **CL** - Abstain
Vote: 4-0-2. Motion carried

6. NOI: Damon Amato, Downeast Residential, LLC, 30 & 32 Cable Ave. (9/15/21)

SA stated the applicant has requested a continuance to December 1, 2021

MC motioned to continue the Notice of Intent for Damon Amato, Downeast Residential, LLC, 30 & 32 Cable Ave. to December 1, 2021.

JDJ seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

7. NOI: Brian Thibaut, ZJBV Investment Realty Trust, 191 Atlantic Ave. (10/6/21) –

SA stated the applicant has requested a continuance to December 1, 2021

MC motioned to continue the Notice of Intent for Brian Thibaut, ZJBV Investment Realty, 191 Atlantic Ave. to December 1, 2021.

JDJ seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

8. NOI: Todd Fitzgerald, Father & Son Construction, 40 Brissette Ave. (10/20/

SA stated the applicant has requested a continuance to December 1, 2021

MC motioned to continue the Notice of Intent for Todd Fitzgerald, Father & Son Construction, 40 Brissette Ave. to December 1, 2021

JDJ seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes
Vote: 6-0-0. Unanimous. Motion carried

9. RDA: Merrimack Valley Planning Commission, Phragmites Control in the Great Marsh (11/17/2021)

Peter Phippen of Merrimack Valley Planning Commission (**PP**) presented the application, which is to apply herbicide to control phragmites. He stated they are basically looking for a renewal of an existing RDA, with work taking place south of Beach Road, and west of the Reservation road. **PP** noted that this project was for controlling phragmites in the open marsh as opposed to the upland edge, and has been going on for about 8 – 10 years. **SA** informed the Commission that there has been a complaint from a resident regarding this project. The resident has reported that there are dead trees on his property, and he feels it correlates to the herbicide application nearby. **SA** advised that a site visit of the property should be conducted and requested that the Agent discuss possible causes. **AM** agreed that plant die off could be caused by improper use of herbicide, which is why Massachusetts has certified sprayers who are trained to make sure this does not happen. She added that the cause could be herbicide, but could also be caused by sea level rise, which would also cause rising ground water. The trees in question may not be wetland species, so rising water could drown them. It could also be salt inundation from salt being pushed inland due to more frequent severe coastal storms. **AM** advised she would like a site visit to assess the conditions. Herbicide would have signs and symptoms. It's the reasonable next step, but we need the homeowner's permission. **PP** noted that there is documentation that marsh die off can be an early signal of sea level rise. He also informed the Commission that the sprays only phragmites, out in the marsh, and not along the upland edges, so he doesn't think that contributed to the trees dying. He also noted that from the photographs, it looks like the trees have been dead for a long time. The Contractor, Kurt Ehrhart (**KE**), informed the Commission that they use salt acid, and a hand-held targeted sprayer. 25 gallons of finished mix, which contains one pint of herbicide, is used per acre, and is applied to phragmites to the point of wetness. They cannot spray during windy conditions. With regards to the dead trees in question, **KE** noted that herbicide would not cause complete die off, there would instead be slight die off of the tree. He also noted that he is familiar with the area and there are signs that tree die off has been occurring for a long time, perhaps more than forty years. **JW** asked what signs would indicate an overuse of the product. **KE** stated accidental spray would slightly damage a tree. One would have to empty a whole 25-gallon tank to do that much damage. **JW** asked if there would be damage to other plant life as well in that area **KE** stated there would. **PP** stated they use backpack treatments in other towns, but unfortunately, they have been delayed getting into Salisbury so there are still large stands they are attacking that can't be done with a backpack sprayer. In time they will be able to use backpacks as maintenance treatments. Geoff Walker of the Great Marsh Partnership (**GW**) stated that he has worked with Peter for almost 22 years, and discussed the detriments of phragmites. **SA** added that controlling the phragmites has become more challenging as the plants are becoming more salt tolerant. **PP** stated that native plants come in quickly to replace the phragmites **JKP** suggested continuing to do site visit with the concerned abutter. **JW** replied that he lives in that neighborhood, and the trees can be viewed from the end of the street. The trees look like they've been in that state for decades. **GW** stated it would be highly unlikely that they would be killing large oak trees with the application.

JKP motioned to continue Request for Determination for MVPC Phragmites Control in the Great Marsh to December 1, 2021 in the interim a site visit
MC seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes
Vote: 6-0-0. Unanimous. Motion carried

C. NEW BUSINESS

1. Request for Significance of Change, 93 Railroad Ave

Homeowners Michelle Blanchette (**MB**) and John Burns (**JB**) were present to discuss the request. **MB** stated they would like to request approval for 3 small changes to the approved plan. They would like to replace the existing enclosed deck with an open deck in lieu of an enclosed porch. They would also like to construct an open balcony over the rear shed roof footprint, and construct a small landing with stairs for rear egress. They reviewed side elevations with proposed changes.

JKP motioned to find the proposed changes insignificant for 93 Railroad Ave.
MC seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

2. Request for Significance of Change, 529 North End Blvd.

Tom Hughes of Hughes Environmental (**TH**) represented the applicant, David Daly. They had previously proposed one means of egress, but they interpreted the code differently than the inspector. They added an additional egress off the balcony, but within the footprint of the gravel surface. Also, as a part of the DOT curb cut, three shrubs were requested which will probably be Virginia Rose, but he will provide the species to the agent when the decision is finalized. **CL** asked if Mass DOT was requiring the shrubs. **TH** replied he wasn't sure if it was a requirement or a suggestion, but they wanted to better define the two curb cuts.

JKP motioned to find the proposed change insignificant for 529 North End Blvd.
JDJ seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

3. Request for Significance of Change, 504 North End Blvd.

Tom Hughes of Hughes Environmental (**TH**) represented the applicant, David Daly. He stated this project had the same issue as 504 North End Blvd and a second means of egress needed to be added to each structure. They used the existing balconies and added stairways under the balconies. He added that what touches ground will be reduced because the size of the utility chases has been reduced.

JKP motioned to find the proposed change insignificant for 504 North End Blvd.
MC seconded

Roll Call Vote: SA – Yes; **JDJ** – Yes; **JKP** - Yes; **MC** – Yes; **JW** – Yes; **CL** - Yes
Vote: 6-0-0. Unanimous. Motion carried

4. Request for Extension, 1, 11th Street W.

Jim Casey, the homeowner, stated they're finishing construction and haven't had opportunity to plant beach grass. Needs at least another year.

JKP motioned to grant the extension for 1, 11th St. W until December 8, 2024
JDJ seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes
Vote: 6-0-0. Unanimous. Motion carried

5. Request for Certificate of Compliance, 20 Pike Street.

Evan Weymouth (EW), the homeowner informed the Commission the Order was for a septic install and repair of a failing retaining wall. SA asked if the Agent conducted a site visit AM stated she visited the site earlier that afternoon and she has no immediate concerns. She noted that erosion control needs to be removed, and the fence is up. EW added that he replaced a tree with an Eastern Red Cedar.

JKP motioned to grant the Certificate of Compliance for 20 Pike Street.
JDJ seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes
Vote: 6-0-0. Unanimous. Motion carried

6. Enforcement Order, 100 Main St.

SA stated the Commission needs to ratify the Enforcement Order, which is for constructing a gravel lot and retaining wall without permits.

JDJ motioned to ratify the Enforcement Order for 100 Main.
MC seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes
Vote: 6-0-0. Unanimous. Motion carried

Discussion: Michael Seekamp of Seekamp Environmental Consulting (MS) represented the homeowner. He shared a plan from when the septic system was installed that shows the wetland resource, which needs to be re-established by a surveyor. He would like to file an after-the-fact NOI and restore the grade and vegetation in the wetland area, as well as maintain some of the changes in the buffer zone. He added that the two options for stabilizing the site would be to regrade and mulch, or just mulch. AM stated she had no preference as long as it was stabilized before the first snowfall. JKP asked where the fill came from. The homeowner, Greg Muse replied he had pulled the fill from the lot. MS stated they will file an NOI as soon as the wetland line is reestablished and they can get a plan. MC asked if they built a wall. MS replied there is a small 2 foot retaining wall that is part of the upper terrace, which is mostly in the buffer zone. MC asked how much was disturbed. MS replied an area about 30' x 80'. MC asked if it's on a slope. MS replied the area is now flat, but was a slope. The homeowner did a cut and fill and flattened it out. MS stated the homeowner will mulch ASAP and will try to line up a surveyor to establish the wetland line.

7. 2022 Schedule of Meetings and Deadlines

The Commission reviewed the 2022 meeting schedule and deadlines. SA asked if there were any adjustments needed JDJ suggested there be one meeting in January and one in December, that the Commission skip the January 5th and December 21st meetings. SA replied she didn't think that was a good idea. MC commented that with more Commissioners quorum won't be as much of an issue if a member has to miss a meeting.

JKP Motioned to accept the 2022 Schedule of Meetings and Deadlines
MC Seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes

Vote: 6-0-0. Unanimous. Motion carried

D. OLD BUSINESS

1. Request for Certificate of Compliance, 536 North End Blvd.

Thorsen Ackerley with Williams and Sparages (TA) presented. He stated the project was for razing and reconstructing a single-family home. Everything is in compliance, with the exception of decking used for storage. SA asked if the Agent had conducted a site visit. AM replied she did. TA stated the slats under the structure were removed. AM noted they were placed nearby, and could turn into debris. TA stated they will be removed. JKP asked about the other cross bracing in back AM replied they are on the pilings and required for structural support, they're perpendicular to the ocean so not as much risk. MC asked if the homeowner was aware he can't put decking back after he gets the certificate. TA replied it can be a condition of the Certificate. JW asked the Agent if the cross bracing was perpendicular to the ocean at the site visit, because it looks to be going in both directions in the photo. AM replied some of the bracing is supporting an AC unit and is in both directions, which is ok. JW asked if everything that was requested to be removed was in fact removed AM replied it was. MC asked if the bracing was on the plan. AM replied it wasn't, and it's often not.

JKP motioned to issue the Certificate of Compliance for 536 North End Blvd. with the condition that future bracing will be prohibited, and it will be held by the Agent until such a time as the debris is removed from under the structure

MC seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Abstain

Vote: 5-0-1. Motion carried

2. Request for Certificate of Compliance, 534 North End Blvd.

Thorsen Ackerley with Williams and Sparages (TA) presented. He noted the property is next door to 536 North End Blvd, just to the south. The project was for a wood deck, and is in substantial compliance. More pavers were installed than was permitted, and they have been removed. The new as-built shows their removal.

JKP motioned to issue the Certificate of Compliance for 534 North End Blvd.

JDJ seconded

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Abstain

Vote: 5-0-1. Motion carried

E. CORRESPONDENCE:

1. Massachusetts Environmental Policy Act (MEPA) Environmental Notification Form (ENF), Big Block Development Group, 6- 28 Ocean Front South, 16-18 Broadway

AM stated Big Block withdrew their previous ENF. They have since made revisions and filed a new one. The ENF file can be accessed through the environmental monitor. Questions can be directed to the representative, Tom Hughes of Hughes Environmental Consulting. Comments must be submitted by November 30th. The Commission's comments can be done as a group or individually. SA asked if they submitted comments as a Commission the last time. AM replied they did. JKP stated she felt they should submit comments as a Commission. JW asked if the Commission can meet in executive session to discuss. AM replied that going into

executive session can only be done under certain circumstances, and she will have to investigate. Tom Hughes of Hughes Environmental (**TH**) suggested the Commission could do a workshop meeting. He added that he could present the ENF to the Commission to bring new members up to speed and highlight some changes that were made to the project. **SA** replied that they don't want to give the appearance of a conflict, or make the public think the Commission is reviewing the material as it is not currently under their review. **MC** stated he'd like to do some kind of meeting or workshop. **SA** asked if there was a public platform where Mr. Hughes could give his update without directly addressing the Commission. **TH** replied there is a public site visit scheduled for next Tuesday morning. He also noted that it's not uncommon to provide a presentation to the agencies that receive a copy of the ENF to answer questions, etc. **JKP** stated she wants to meet with the rest of the Commission to discuss. **TH** summarized some of the changes included in the ENF.

JKP motioned for the Commission to write a comment letter as a group to MEPA. Agent Marchand will get back to them with how to proceed
SA seconded.

Roll Call Vote: **SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes**
Vote: 6-0-0. Unanimous. Motion carried

F. ENFORCEMENT ORDERS:

HOLD, PENDING UPDATE:

1. 53 Railroad Ave.
2. 14, 10th St. W.
3. 97 Atlantic Ave.
4. 114 Bridge Rd.
5. 36 Pike St.
6. 2 Baker Rd.
7. 16 Commonwealth Ave.
8. 150 North End Blvd.
9. 565 North End Blvd.
10. 30 Main St.
11. 83 Atlantic Ave.
12. 211 N. End Blvd.
13. 16 Hayes St.
14. 11 Railroad Ave.
15. 6 Sycamore Ln.

ACTIVE, PENDING COMPLETION:

COMPLETE, PENDING APPROVAL:

16. 61 Bridge Rd.
17. 139 Elm
18. 86/88 Elm St.
19. 165 Atlantic Ave.
20. 4 Main Street
21. 82 Lafayette Rd

G. COMMISSIONER COMMENTS:

MC asked for a status regarding 17th Street **AM** replied that they are preparing an NOI for vegetation management. Most engineers are backlogged, but she will check in for progress report. **JKP** requested more information regarding what had occurred at the property. **SA** replied that the owner had permission to manage

invasives and overstepped. **MC** added that he cut down trees. **AM** advised that she can do enforcement, or schedule a site visit, whatever the Commission would like to do. **AM** will get in touch with homeowner and gather more information

H. ADJOURNMENT:

JKP motioned to adjourn the November 17, 2021 Salisbury Conservation Commission Meeting at 9:48 PM

CL seconded.

Roll Call Vote: SA – Yes; JDJ – Yes; JKP - Yes; MC – Yes; JW – Yes; CL - Yes

Vote: 6-0-0. Unanimous. Motion carried