



**Salisbury Conservation Commission
Meeting Minutes
November 2, 2016
Colchester Auditorium, Town Hall
5 Beach Road
Salisbury, MA 01952
7:00 P.M.**

COMMISSIONER MEMBERS PRESENT: Chairman Sheila Albertelli (**SA**), David Arel (**DA**), Jane Purinton (**JKP**), Jessica Stucker (**JS**), Walter Moquin (**WM**), and Alison Novello (**AN**)

COMMISSIONER MEMBERS ABSENT: Jennifer Troisi (**JT**),

ALSO PRESENT: Conservation Agent, Michelle Rowden (**MR**), Conservation Secretary, Adriane Marchand (**AM**)

Sheila Albertelli opened the meeting at 7:06 p.m. under the Wetlands Protection Act & Open Meeting Law and informed the public that the meeting is being recorded.

A. Emergency Certification:

1. Salisbury DPW, Forest Rd

A beaver dam is flooding the pump station located on Trout Way.

WM motioned to ratify the Emergency Certification for the Salisbury DPW on Forest Rd for beaver dam removal.

JKP seconded.

Vote: 6-0 Unanimous. Motion Carried.

B. PUBLIC HEARINGS at 7:10pm:

1. NOI: Sterling Ventures Inc., Rear Ferry Rd/123 Bridge Rd (7/20/16)

DA motioned to continue the Notice of Intent for Sterling Ventures Inc., Rear Ferry Rd/123 Bridge Rd to November 16, 2016 at 7:10 p.m.

WM seconded.

Vote: 6-0 Unanimous. Motion Carried.

2. NOI: D.E.C.M. LLC, 167 Beach Rd (10/19/16)

Chris York (**CY**) of Millennium Engineering represented the applicant. Introduced the commission to the alterations and additions that have been made to the proposed site plan. Stated most of the trees will be removed, but those in the Grant Street area will remain. DEP did not give any comments.

JKP asked **CY** to review the elevations. **CY** showed them on the plans. **JKP** asked where the soil stock pile would be located. **CY** stated it is not on the plans but he would add it. **JKP** requested a silt sock to be placed around any work that is going to be with the 50 foot buffer zone.

WM asked if the houses are going to be on piles. **CY** replied they are not; they will be on slab foundation. **WM** responded that the presentation at the prior meeting was given for houses on pilings. If they are on slabs the infiltration is going to be much different. **JKP** asked how they intend to raise the structures out of the flood

zone. **CY** responded that most of the lots are above 9 feet naturally, some are under, showed on grading plan. **JKP** clarified that the purpose of the grading is to bring the houses out of the flood zone. **CY** replied that was correct. **WM** asked if with raise in grade the drainage will now run to the road. **CY** answered that the drainage will run towards Old County Rd. We want to keep the drainage running away from the houses foundations. **DA** asked what the slope of the driveway is. **CY**. Stated the lots are pretty flat, about 1-2 percent slope. **DA** stated he remains uncomfortable with the drainage plan. Expressed concerns about flooding on the properties and settling diminishing the likelihood of successful drainage away from the buildings. **CY** responded that settling is not a concern. **DA** requested elevating the buildings further, either on pilings or by raising the slabs. **CY** agreed it can be done. Discussion on the means of raising the buildings followed. **SA** recapped the last meeting and asked with the houses now on the ground and not on pilings, where is the snow going to be stored? **CY** answered the snow will be stored where most home owners store snow, blown to the sides of their driveways. **SA** Requested that the Commission include in the motion that the site must meet flood regulations. Also requested that the catch basins on Beach Road be protected with erosion control. **CY** agreed to use erosion control around the catch basins. **JKP** asked if they intend to start work immediately. **CY** responded he was not sure, but that they may. **JKP** asked if they do, what their plans are for stabilizing the site over the winter months. **CY** responded they would stabilize the site with silt socks. **JKP** Asked **MR** if she was comfortable with that plan. **MR** responded she was. Puddling concerns her but it does not concern the builders.

JKP motioned to approve the Notice of Intent for D.E.C.M. LLC, 167 Beach Rd with the standard special conditions. Silt socks are to be used to stabilize the site. Erosion control around any catch basins, the stock pile is to be shown on the plan and that lots 279 and 279 B are to be raised a half (½) foot to one (1) foot.

DA seconded.

JKP amended the motion to include that site must meet all flood regulations.

DA seconded.

Vote: SA, JKP, DA, JS, AN FOR; WM OPPOSED. Motion Carried.

3. NOI: Mass DCR, West Street, Salisbury Beach State Reservation (11/2/16)

JKP motioned to continue the Notice of Intent for Mass DCR, West Street, Salisbury Beach State Reservation to the November 16, 2016 meeting at 7:10pm.

JS seconded.

Vote: 6-0 Unanimous. Motion Carried.

4. NOI: James and Ellen Casey, 1 11th Street West (11/2/16)

Ron Laffely (**RL**) of Fulcrum Architects represented the applicants. Introduced the Commission to the project that includes removal of a single family home and the reconstruction of a new single family home on pilings.

Stated the following:

1. They will be raising the grade to elevation 8.
2. We will use seismic recording and video to protect neighbor's properties during the pile driving.
3. Will be removing a stockade fence and replacing it with a dune standard compliant 50 percent open fence.
4. There are also concerns about ledge but we are not anticipating any.

Abutter Tim Harris (**TH**) of 435 North End Boulevard shares the right of way with the applicants and owns the parking easement on the property in question. Stated his discontent with the lack of communication with the applicant. Apprised the commission that the deed states the easement is to be used only for parking. Expressed concerns about the means in which the existing houses will be demolished and removed from the property.

RL recognized that the area has difficulties with right of ways and easements and is interested in protecting them. The demolition in question will take about 4 hours and there are multiple means of removal. This is a property owner's dispute and should be discussed in another venue.

TH refuted **RL** comment. He stated he received a certified letter to be at the meeting and would like to discuss it at the meeting, not independently. Further expressed his concerns about heavy equipment on the unpaved driveway and concerns about the safety of a sewer pipe that runs under the driveway. Worried about the condition of the drive way and what happens after construction is done.

SA stated this issue is not the jurisdiction of the conservation commission but is a civil matter to be resolved between neighbors.

RL requested a continuance to resolve this issue before proceeding.

TH spoke to the commission again about the rental history of the property, reiterated prior points.

JKP reassured **TH** that building at the beach is highly regulated.

Janice Farrell (**JF**) abutter at 433 North End Boulevard addressed the commission. Also shares concerns about the sewer pipe that runs under the driveway being damaged by heavy machinery. Asked about the size of the house.

RL briefed the commission and abutters on the project to build a 3 story house with 3 bedrooms on piles in the same size footprint as the existing home. **DA** asked if the Zoning Board had made a decision before the Conservation Commission decision. **RL** responded they had not. **DA** would prefer that they did.

JKP motions to continue the Notice of Intent for James and Ellen Casey, 1 11th Street West to December 7, 2016 meeting at 7:10PM.

WM seconded.

Vote: 6-0 Unanimous. Motion Carried.

5. NOI: Mark Wojcicki, 170 Bridge Road (11/2/16)

SA announced that no DEP number had been issued for this project. Although it can be heard tonight, the Commission cannot vote or act on it.

George Zambouras (**GZ**) of Atlantic Engineering represented the applicant. Listed the following:

1. The site is about 800 feet north of the Merrimack River.
2. A pond and Bordering Vegetated Wetland are located at the rear of the property
3. An isolated federal wetland located on site (A series).
4. Site is located in the 100 year flood plain.
5. Also located in a Rare Species Habitat Area.

GZ stated the disturbed area will be 3500 square feet for the construction of a parking lot, 1200 feet of that are located in the wetland buffer zone. Shallow ledge is present. It will be hammered out, not blasted. One (1) percent grades with small area of two (2) percent will require minimal grading. Three quarters (3/4) of the drainage drains to the wetland. Grades are being placed to mimic natural drainage.

Continued to brief on the drainage plans. It will be a private gravel parking lot that supplies parking for a neighboring restaurant. Wetland review by Mary Rimmer and storm water review by Joe Serwatka, Town Engineer. Proposing to line the work area with silt socks. Applying to MA DOT for curb cuts. Submitted to Natural Heritage.

WM asked if this lot be used year round. **GZ** answered yes. **WM** asked what is your snow storage plan and chemical use plan. **GZ** replied that he would need to discuss that with the applicants. **JKP** apprised him that the Commission would require no chemicals or salt are to be used on the site. **WM** asked what the required parking for the restaurant. **GZ** responded that he did not know but they asked for 100 parking spaces. They are planning to accommodate special events with this parking lot. **WM** suggested vegetation screening and landscaping. Also concerned about oil and vehicle fluids from the parking lot running off into the resource areas. **GZ** responded

that his concerns will be included in the storm water management plan. **DA** asked if the abutters to the south going to be affected. **GZ** replied the site work will be improving the flooding situation or having no effect on it. **DA** asked for **MR** to comment. **MR** stated that she would like to wait to receive comments back from Natural Heritage, Mary Rimmer, and Joe Serwatka, and the Planning Board before making comment.

Steven Jayne (**SJ**) and Cindy Jayne (**CJ**) of 162 Bridge Road, Great Bay Auto Body, were present to air their concerns about the proposed site plan impacting their business. **SJ** stated the area is heavily wooded up to the pond and the Rail Trail abuts the pond. This area works as a buffer for the noise and dust from their business. Worried removing the buffer would trouble the neighbors and increase complaints against their business. **CJ** stated they are also concerned about the flooding in the area increasing due to the large area of disruption and the public accessing their property from the proposed lot. Further elaborated their concerns with drainage, snow removal, and impacts to the Rail Trail. **GZ** responded that adjacent to their property about 75 feet of trees will be removed, all else will remain. The lot will not be open to the public, only valets will be using the lot. He also stated they will not be increasing the flooding in the area as they will be managing their runoff on site.

The abutter across the street expressed concern about the Rail Trail but is far more concerned about pedestrian safety. Very dangerous area for pedestrians, no sidewalk, no crosswalk. Would appreciate screening from the street as well.

DA referred to page 4 from the letter from the applicant to Conservation Agent dated October 19, 2016. It refers to an addendum to the original plan? **GZ** confirmed there was a correction to the lot size. Proceeded to elaborate. **DA** asked for a clarification that 46.7 percent of the parcel will be cleared in some way. **GZ** confirmed.

DA motioned to continue the Notice of Intent for Mark Wojcicki, 170 Bridge Road to the November 16, 2016 meeting of the conservation commission at 7:10pm.

JKP seconded.

Vote: 6-0 Unanimous. Motion Carried.

C. NEW BUSINESS:

1. Request for Certificate of Compliance, 5 Palis Dr.

JKP motioned to approve the Certificate of Compliance for 5 Palis Dr

WM seconded.

Vote: 6-0 Unanimous. Motion Carried.

D. ENFORCEMENT ORDERS:

1. 100 Elm St.
2. 28 CCC Rd.
3. 126 N. End Blvd
4. 7 Elmwood St

5. 13 Commonwealth Ave – Return to Compliance Proposal.

Eric Botterman (**EB**) of Millennium Engineering and Bernie Christopher (**BC**) the developer are present. **EB** briefed on the history of the project and the plan to return to compliance. **MR** confirmed numerous visits to the site, a difficult process to return to compliance. Not 100 percent compliant but the best they feel they can do. The commission job to review and decide. Discussion followed. **MR** asked how much of the area is in the flood Zone. **BC** answered there is a 150 square foot room that is half in and half out of the flood area, but all the utilities are raised out of the flood area. Proceeded to explain why this has been a problem to change and should

be allowed. Discussion followed on return to compliance plan, how the violations came to be and how it was discovered. **JKP** asked for **MR's** take on the situation. **MR** briefed the commission on the considerable violations and advised them of their options to proceed. **SA** stated she would like to understand what would be required to relocate the utilities. **CB** explained how the utilities will be removed from the flood zone so they will be in compliance with building code, but the room will still be there. **MR** clarified for the commission that the building requirement is 2 feet above flood zone so 19 feet. The flood zone is 17 feet. The utilities are above 17 feet but not above 19 feet. They received a variance from the State Building Commission to build under the 19 foot requirement. Further elaboration took place.

DA requested written approval from the building inspector that the utilities are compliant to code. Commission agreed. **CB** asked for a conditional approval. The Commission denied. **SA** requested a copy of the variance.

JKP motioned to continue the Return to Compliance Plan for 13 Commonwealth to November 16, 2016 at 7:10p.m.

JS seconded.

Vote: 6-0 Unanimous. Motion Carried.

6. 457 N. End Blvd
7. 73 Mudnock Rd.
8. 81 Railroad Ave.

9. **105 Rabbit Rd. — Return to Compliance Proposal.**

Drew Vardakis (**DV**) of AMEC present on behalf of Ameresco. Briefed on the proposed replication plan. proposed a 2:1 replication area. **JKP** led a discussion with the applicant on the violation that occurred. Expressed her displeasure with the mistake made and asked how the error occurred. **DV** apologized and explained. **DA** concurred with **JKP's** comment. **JKP** asked who discovered the violation. **MR** answered it was during her site visit. **DA** asked if any of the representatives present tonight had also been present for the original NOI public hearing. **DV** answered they were not. **SA** Stated there is a disconnect in the company. Also concurred with **JKP's** displeasure and added that this is not the first time this has happened in Salisbury and stated she was glad it was not as severe as the prior violation. Paul Delmar (**PD**) of Amersco is present and offers an apology for the violation that occurred. He is taking over as project manager. Offered further explanation and will be sure this error is remedied and no further issues occur.

WM motioned to accept the Wetland Restoration and Replication Plan for 105 Rabbit Road as of the October 26, 2016 letter to the Conservation Commission.

SA seconded.

Vote: 6-0 Unanimous. Motion Carried.

10. **438 N. End Blvd – Return to Compliance Proposal.**

Belinda Traub (**BT**) presented a return to compliance plan. **WM** outlined the violations. Asked that the slates be removed from the fenced storage area and that the plantings go in as soon as possible. **JS** asked what size the storage area is. **BT** answered she does not know the measurement, but that it is not very large. Discussion followed on the storage area. **WM** asked if the storage area is to build the dune. **BT** stated it was aesthetic and practical. **SA** agreed with removing the slates from the fenced storage area. Asked where the storage area is in relation to the ocean. **MR** responded to the east. **SA** offered clarification on the walkway and stairs to the chase. **JKP** offered understanding of their tough situation but reminded them that the Commission has a legal obligation to uphold the law. The fence, walkway, and pad are in violation of the law and therefore need to be removed so the property meets current performance standards. Recommended the removal of the fence in question and the immediate planting of vegetation to act as a wind break. Discussion followed on the trials of

living on the beach and the performance standards. **MR** commented that before the house was rebuilt the area was vegetated. The vegetation will hold sand, not immediately but over time. Believed that roof runoff is a contributing eroding factor and that more vegetation should be planted there. The fence, if it stays at all, needs to be 50 percent open. **SA** added a wooden walkway as opposed to the concrete one would be much better. Discussion followed on the negative aspects of lifting the house and how to mitigate the issues.

DA asked **MR** what the Building Inspector had said about the fence. **MR** replied that his main concern is that it is 50 percent open. It is the Conservation Commission's duty to uphold the dune performance standards. **WM** suggested allowing the fence to stand giving the plantings time to grow and mandate the removal of the fence at a later date. **DA** disagreed. **WM** clarified that it is not a preexisting fence and its intent is not to build the dune so it needs to be removed. **SA** quotes the law which reinforced that statement. **DA** responded that he would not vote for its removal. **DA** outlined his vote which would be to allow the fence to be 50 percent open and remain with the storage area, pad, and walkway. **MR** reminded the commission that the house was 100 percent impervious and had they requested the cement pad to support the stairs, under that context the commission would have likely approved. **JKP** agreed with **WM**'s plan of allowing the fence to remain 50 percent open for a temporary period of time, the storage area to remain 50 percent open, allowing the pad to remain, and the plantings done. Discussion on whether to allow the walkway to remain or be removed followed. **MR** recommended removing the walkway. Commission agreed. **JKP** suggested setting a time line. Commission discussed and decided on 6 months. **WM** suggested extending the deadline for the fence removal to allow the vegetation to grow. **MR** reminded the Commission that the deck, although under ownership of the condo association, is included in the enforcement order and would also need to be addressed. **DA** requested that the language of the motion state the separation of the deck from the enforcement order and a new enforcement order be issued for the deck.

WM motioned to approve the return to compliance plan for 438 North End Blvd. with the following conditions:

1. The planting of vegetation around the fence area should take place as soon possible.
2. The concrete pad under the stairs is allowed to remain.
3. Every other slat is to be removed from the fence including the storage area so it is 50 percent open.
4. Remove the concrete walkway and replace it with a wooden or floating type walkway if desired.

All of this will be complete in 6 months from this day

The deck the condo association ownership will be removed from the current enforcement order and a new enforcement order will be issued.

WM amends motion to allow the complete removal of the fence in 2 years' time from this date with the exception of the storage area.

Discussion on fencing followed. The commission comes to the determination that they are not ready to vote.

E. COMMISSIONER COMMENTS:

F. ADJOURNMENT:

WM motioned to adjourn the November 2, 2016 Conservation Commission Meeting at 10:36 p.m.

JS seconds.

Vote: 6-0 Unanimous. Motion Carried.