



**Salisbury Conservation Commission
Meeting Minutes
February 2, 2022
Colchester Auditorium, Town Hall
5 Beach Road
Salisbury, MA 01952
Hybrid Meeting
7:00 P.M.**

COMMISSION MEMBERS PRESENT IN PERSON: Michael Colburn (MC), Jeffrey Ward (JW), Christopher Leahy (CL)

COMMISSION MEMBERS PRESENT REMOTELY: Chairwoman Sheila Albertelli (SA), Julie Doughman-Johnson (JDJ), Jane Purinton (JKP)

COMMISSION MEMBERS ABSENT:

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

Chairwoman Sheila Albertelli opened the meeting at 7:08 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. **October 6, 2021**
2. **October 20, 2021**
3. **December 1, 2021**
4. **December 15, 2021**
5. **January 5, 2022**
6. **January 19, 2022**
7. **January 21, 2022**

JDJ motioned to continue the minutes from October 6, 2021 through January 21, 2022

MC seconded

Roll Call Vote: SA- yes, MC- yes, JKP yes, JDJ- yes, CL-yes, JW- yes.

7-0, unanimous. Motion Carried.

B. PUBLIC HEARINGS at 7:10pm:

1. **NOI: Town of Salisbury Planning Director, Lisa Pearson, Meaders Lane, Gove Lane, Short Lane & Sandy Lane (2/2/22)**

Brain Murray (**BM**) and Matt Steinel (**MS**) of Millennium Engineering represented the project. **BM** introduced the 4 phase, 3200 linear feet, 52 residential lot project. Phases will be done each year pending state and local funds. First phase will be done this spring. Project includes installation of new watermain on all streets, reconstruction 800-900 feet of roadway at the end of Meaders Ln. to about Gove Ln., replacing drainage systems, pipes, catch basins, man holes, and outlets. Sidewalks are proposed on one side, mostly east side of Meaders Lane. Very little work is occurring inside 100-foot buffer outside of the drainage system outlet

locations. They are working on easements for outlets. Noted GIS dated was used for delineation in some areas which the Commission does not accept, needs to get it flagged by a wetland scientist.

SA asked if there is any evidence on site that any oil/gas has traveled to wetland? **BM** stated no. **CL** asks if outlet location can be moved farther from the edge of Bordering Vegetated Wetland, do they have to be that close? **BM** stated they could, but they are trying to keep disturbance and disruption to people's property minimal. Could have a grass swale from the outlet to wetlands. **JKP** agreed GIS not acceptable for wetlands delineation. Would like peer review on wetland delineation by Mary Rimmer and a site walk. **SA** asked if stormwater had had a peer review yet? **BM** responded no. **CL** asked if the project will this go before planning? **BM** answered no. **CL** questioned the duration of the project, what provisions will be made to stabilize site year to year? **BM** replied everything will be patched after work. There won't be unstable areas, it will be paved between work periods. **CL** asked if erosion control and street sweeping will be utilized. **BM** replied it will be included in the contract, street sweeping at least once a week and when needed. **MC** shared **CL** concerns. Requested a weekly update as they work and when they stop work, and to have someone from Commission go back to inspect erosion control. **CL** asked if they need to get NPDES permits? **BM** replied it's more than 1-acre disturbance, so they will do NPDES when contractor is chosen. **SA** asked if the drainage design can handle a 100 years storm. **BM** replied it is designed for 10-year storm event. The benefit of designing to a 100-year event does not justify the significant cost. **SA** expressed her ongoing concerns about water tables getting higher and frequency of 100-year storms. Good to know why it is designed for 10-year storm. **JKP** asked for the Storm Water Report to be reviewed by Joe Serwatka.

JKP motioned to continue the Notice of Intent for Town of Salisbury Planning Director, Lisa Pearson, Meaders Lane, Gove Lane, Short Lane & Sandy Lane until February 16, 2022 at 7:10 PM.

MC seconded.

Roll Call Vote: **SA-** yes, **MC-** yes, **JKP** yes, **JDJ-** yes, **CL-**yes, **JW-** yes.

7-0, unanimous. Motion Carried.

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

Chris York of Millennium Engineering (**CY**) and Tom Patenaude (**TP**) were present. **SA** stated Mary Rimmer couldn't conduct review due to storm activity so the Commission will continue the public hearing to allow her time to complete her review. **CY** agreed, but wanted to reintroduced the project to the Commission. Proposing a 14-unit development. 6 duplexes, 2 single family houses with drainage system, erosion control, post and rail fence. **JKP** asked, regarding Joe Serwatka's review letter from August 13, have most of those comments been addressed? **CY** replied, yes, he believes Joe is satisfied with the drainage. **CL** asked what's the roadway length? **CY** answered 319 feet. **CL** asked if MA DOT had approved the drainage tie in? **CY** confirmed it had been approved and the approval letter could be provided. **CL** questioned what foundation types are proposed? **TP** replied the same as 48 & 50 Old County Rd. **CY** will provide updated plans to show flood vents. **CL** states he has seen images from abutters with substantial depth of water on site when it floods. **TP** confirmed it did flood in a recent storm. **MC** asked the elevation of the garage floors. **CY** replied they are 2-3 feet above Beach Road's elevation. **MC** asked for the elevation above Old County Rd? **CY** answered Old County Rd. is at elevation 7. **MC** stated he has been to the site when there was about 1.5 feet of water on that property. Where will that water be displaced to? Who will be negatively impacted? The States drainage system doesn't work when it floods. **CY** replied they are building the site up so the houses stay dry. The site will always flood, but they are not displacing water as it is Land Subject to Coastal Storm Flowage, the water will just go around it, but not get higher than current because of it. **CL** agreed we don't want the water to negatively impact abutters? **TP** explained the difference of tidal flooding vs. runoff flooding. **MC** asks **AM**. **AM** stated if it was Bordering Land Subject to Flooding. **MS** interjected and explained it was Land Subject to Coastal Storm Flowage so it does not require compensatory flood storage. **MC** is not in favor of the project. He would hate to negatively impact neighbors in this flood prone area. **JKP** asked if the Commission could attend the site visit when Mary Rimmer does her review.

Stuart Cohen, 50 Old County Rd, stood in favor of the project, but is concerned with flooding.

CL motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lots 249-258 to February 16, 2022 to complete peer review and allow for a site visit.

MC seconded.

Roll Call Vote: SA- yes, MC- yes, JKP -yes, JDJ- yes, CL-yes, JW- yes.

7-0, unanimous. Motion Carried.

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

Chris York of Millennium Engineering (**CY**) presented the project. Same layout as 207 Beach Road, Lot 260, reviewed layout which matches the units to the north. **JKP** asked will Mary also be reviewing these lots. **AM** clarified, separate NOI filings would need separate peer review requests. **SA** asked for wetland and flooding impacts. **JKP** agreed. **CL** stated it would be helpful to have a profile view of lot from the street to the back of the lot. Resident at 45 Old County supports the development but shares the concerns about flooding. Asked why this project would not have a greater extent of permeable surfaces? **CY** can discuss with Tom Patenaude about alternatives.

JKP motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lot 259. to February 16, 2022. in interim, peer review by Mary Rimmer for wetlands.

JDJ seconded

Discussion: **SA** asked they add the profile on plan as request by **CL**. **JKP** amended to include the profile and a site visit.

JDJ seconded

Roll Call Vote: SA- yes, MC- yes, JKP -yes, JDJ- yes, CL-yes, JW- yes.

7-0, unanimous. Motion Carried.

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

Chris York of Millennium Engineering (**CY**) presented the project. Same layout as prior hearing **SA** asked of Stormwater was being reviewed by Joe Serwatka for planning? **CY** confirmed it was.

CL motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lot 260. to February 16, 2022.

MC seconded

Roll Call Vote: SA- yes, MC- yes, JKP -yes, JDJ- yes, CL-yes, JW- yes.

7-0, unanimous. Motion Carried.

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

SA noted **JW** and **CL** need to abstain but there is a quorum so the hearing can proceed.

Matt Steinel (**MS**) of Millennium Engineering represented the project. **MS** noted the revised plan includes spot grades, removed a 3' strip of pavement along northern edge and replaced with clean washed stone. The pump is to be removed and the disturbance restored. Mean high water is recorded on plan. **JKP** discussed the inclusion of the gravel strip. **MS** responded it will help with infiltration as tide/storms subside. **JDJ** would like to double size of strip to 6' wide? **MS** replied it is possible, but the applicant will probably say no. **JDJ** asked is they can still park on it? **MS** replied they are not proposing to park on it. Will be lost pavement. **SA** would prefer gravel parking lot. Asked if oil from fresh tar will go into the gravel? **MS** comments they are allowed to maintain existing. **SA** don't feel it's the most responsible project. **MC** asked if they make sure won't negatively impact neighbors? The applicant has shown he's trying to improve existing conditions with infiltration strip. **JDJ** asked if they could repave whole lot eventually that was there for drive in? **MS** replied it has been flagged as resource area.

MC motioned to approve the Notice of Intent for Wayne Capolupo, 13 Beach Road, LLC, 13 North End Blvd w/ standard order of conditions

discussion: **JKP** stated based on Rimmer Environmental's recommendations, in addition to the standard order she would like to include the following 8 special conditions: mitigation planting 1 foot on center, restoration of disturbed area overseen by saltmarsh restoration specialist, additional 3' strip on west and the north side of the lot with gravel or crushed stone, no use of parking lot when flooded, no overnight parking, no stockpiling of snow in the marsh, no deicing chemicals in parking lot.

MC did not agree to amend.

MS stated they had no problem with first or second condition. The trench is just on the north side, wouldn't add to the west. They do object with restrictions of use and maintenance of the lot. They are fine with not placing snow in the marsh or using deicing chemicals.

MC would agree with amending the motion in accordance with **MS** comments. **JKP** will retract the west side trench and overnight parking.

JDJ seconded

Roll Call Vote: SA- yes, MC- yes, **JKP** -yes, **JDJ**- yes, **CL**-abstained, **JW**- abstained.

4-0, 2 abstained. 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 February 16, 2022.

MC motioned to continue the Notice of Intent for Damon Amato, Downeast Residential, LLC, 30 & 32 Cable Ave. to February 16, 2022.

JW seconded.

Roll Call Vote: SA- yes, MC- yes, **JKP** -yes, **JDJ**- yes, **CL**-yes, **JW**- yes.

7-0, unanimous. Motion Carried.

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

SA stated the applicant requested a continuance to February 16, 2022.

MC motioned to continue the Notice of Intent for Brian Thibaut, ZJBV Investment Realty, 191 Atlantic Ave. to February 16, 2022.

JW seconded.

Roll Call Vote: SA- yes, MC- yes, **JKP** -yes, **JDJ**- yes, **CL**-yes, **JW**- yes.

7-0, unanimous. Motion Carried.

8. NOI: Todd Fitzgerald, Father & Son Construction, 40 Brissette Ave. (10/20/21)

SA stated the applicant has requested to withdraw their application.

CL motioned to grant the withdrawal without prejudice for the Notice of Intent for Todd Fitzgerald, Father & Son Construction, 40 Brissette Ave.

JW seconded.

Roll Call Vote: SA- yes, MC- yes, **JKP** -yes, **JDJ**- yes, **CL**-yes, **JW**- yes.

7-0, unanimous. Motion Carried.

9. NOI: Henry A. Richard, Jr., 247-249 North End Blvd. (1/5/22) –

SA stated the applicant requested a continuance to February 16, 2022.

JW motioned to continue the Notice of Intent for Henry A. Richard, Jr., 247-249 North End Blvd. to February 16, 2022

MC seconded.

Roll Call Vote: SA- yes, MC- yes, JKP -yes, JDJ- yes, CL-yes , JW- yes.

7-0, unanimous. Motion Carried.

10. NOI: New Cingular Wireless PCS LLC, 91 North End Blvd. (1/5/22)

SA noted there is no DEP # so the Commission will not close the public hearing.

Edward Pare (EP) of Brown Rudnick represented the applicant. **EP** reviewed project. They obtained a special permit and site plan review from the Planning Board for the installation of the elevated generator. Pad is elevated 4.5 feet above grade. **JKP** asked what distance from marsh/wetlands is the pad? **EP** stated it's outside the marsh, but not far. **JKP** asked for that measurement and a more comprehensive narrative. **CL** and **EP** discussed flood zones, determined platform is out of flood zone and not within salt marsh. **CL** questioned the meter located and maintenance requirements. If the meter box is in the flood zone, should it be elevated. **EP** will get clarification on meter location and height. **CL** refer to application and 19.6 sq. feet of disturbance from the platform. Does this include conduit work disturbance? should that be included in the temporary impacts? **EP** will address that. **MC** requested clarification on meter question. **AM** stated it is considered machinery and should be out of flood zone, but that elevation not always practical for maintenance reasons, so that is not always the case and can't be required.

CL motioned to continue the Notice of Intent for New Cingular Wireless PCS LLC, 91 North End Blvd. to February 16, 2022

JW seconded

SA discussion: what is to take place in the interim?

CL amended to continue until DEP # is issued and in the interim the applicant with clarify temporary impacts, investigate elevating meter, adding narrative.

JW second.

CL withdraws motion.

CL motions to continue the public hearing for NOI: New Cingular Wireless PCS LLC, 91 North End Blvd. until February 16, clarify temporary impacts, investigate elevating meter, and provide a narrative.

JW second

Roll Call Vote: SA- yes, MC- yes, JKP -yes, JDJ- yes, CL-yes , JW- yes.

7-0, unanimous. Motion Carried.

11. NOI: Steven Paquette, 6 Forest Road, LLC, 6, 10, & 18 Forest Rd. (1/19/22)

SA stated this item had been continued at the January 19, 2021 meeting until February 16. no action needed.

12. NOI: Daniel Moynihan, 69 Railroad Ave (2/2/22)

Dan Moynihan (DM) presented the application. Replacing exterior staircases to code and a retaining wall/foundation wall inside the structure holding up a porch is failing. Proposing to build a new retaining wall over the old. Includes moving the door over, out of way of retaining wall. A small section outside house is in rough shape, plan to repair by driving rebar through the cinder blocks and fill with concrete. Other exterior work includes 4 metal poles holding up roof over door, replace with 4x4's and secured to existing concrete.

JW asked if retaining wall is in front or to the rear of the house. **DM** clarified the wall is to the rear of house.

Exterior stairs are on the left of house. **JW** asked if the retaining wall is a foundation wall. **DM** confirmed. **JW** asked if it is compromised, is more than just the porch at risk? **DM** replied just the 3-season porch. **JW** asked if the dune being held back by wall? **DM** replied it's a street of hard packed dirt. **JW** asked if excavation is

planned. **DM** confirmed no excavation or removal if dune material is proposed. **JKP** asked for a narrative and a site visit. Also asked any wall that can be removed should be.

JW motioned to continue the Notice of Intent for Daniel Moynihan, 69 Railroad Ave. to February 16, 2022 in the interim schedule a site visit and a narrative describing scope of work shall be submitted.

MC seconded

Roll Call Vote: SA- yes, MC- yes, **JKP** -yes, **JDJ**- yes, **CL**-yes , **JW**- yes.

7-0, unanimous. Motion Carried.

13. NOI: Benjamin Legare, Downeast Building and Development, 2 Gravel Way (2/2/22)

TJ Melvin (**TJ**) and Matt Steinel (**MS**) of Millennium Engineering represented the applicant, also present. Reviewed the proposed Flexible Residential Development being proposed. This type of development includes open space areas on plan. Reviewed the stormwater and drainage plan. **JKP** requested a peer review for stormwater and requested a site visit. **TJ** informed the commission the Town Engineer is reviewing the stormwater plan under the Planning Boards review. **CL** asked if the project will need to file a SWPPP. **TJ** confirmed they would need to file a SWPPP. Ben Legare (**BL**) comments regarding the public park in front of the lot for the density bonus. **CL** asked if they could reconfigure pond to get required storage and pull away from resource area? **MS** stated with no bylaw there is no set distance to be from wetland. **SA** asked if they are planning to excavate close to wetland to the create pond? Will that be by excavator or by hand? **BL** replied by excavator. **MS** can add dewatering detail to plans. **CL** asked for detail for stockpiles to also be added.

JKP motioned to continue the Notice of Intent for Benjamin Legare, Downeast Building and Development, 2 Gravel Way. to February 16, 2022 with, in the interim, a stormwater peer review and site visit.

JDJ seconded.

Roll Call Vote: SA- yes, MC- yes, **JKP** -yes, **JDJ**- yes, **CL**-yes , **JW**- yes.

7-0, unanimous. Motion Carried.

C. NEW BUSINESS

1. Request for Significance of Change, 41 Gardner Street

Chris York (**CY**) of Millennium Engineering reviewed the previously approved plan. The new plan has same foot print with no new disturbance, just has new proposed porches and decks off the front and back. The building has been shifted back a little to get the porch in. **JKP** stated the property is very wet. Should we look at again? Verified the post and rail fence is protecting the wetlands. **MS** pulled up the prior plan for the commission to compare. **SA** asked if the process is raised or on grade? **CY** replied raised on piles. **JKP** asked if they are hand digging pilings for porch? **MS** replied they will use a hand-held auger. Brad Kucher confirmed they could be hand dug sonotubes. **JKP** asked if the structure is built? **MS** said site is currently an open field with snow. **CL** asked when this project was approved? **MS** replied it was approved in 2018. Revised in 2020. **JKP** asked if the house is closer to the wetland. **MS** states yes it got a little closer in the rear but front further away from the wetlands in the front so it balances overall. **MS** clarified there is also a change in the separate water and sewer lines per DPW's requirement. **JW** asked if the decks are first or second story? **CY** replied first story. **JW** asked what will be under the decks? **CY** replied the decks will be on sonotubes over crushed stone. **SA** recommended the commission condition the gravel under porch. **JW** asked if there is any signage on the post and rail fence indicating wetland area? **MS** replied it is a condition of original approval - wet meadow, can be mowed twice annually.

CL motioned to find the change for 41 Gardner Street as non-significant, contingent upon gravel under porch and deck with filter fabric or approved equal.

SA asked if the condition for the posts to be hand dug could be included

CL amended his motion to include posts shall be hand dug or augured.

MS seconded

Roll Call Vote: SA- yes, MC- yes, JKP -yes, JDJ- yes, CL-yes , JW- yes.

7-0, unanimous. Motion Carried.

D. OLD BUSINESS

1. Request for Certificate of Compliance, 17 Forest Road, Lot 3

JW motioned to continue the Certificate of Compliance for 17 Forest Road, Lot 3.

JDJ seconded.

Roll Call Vote: SA- yes, MC- yes, JKP -yes, JDJ- yes, CL-yes , JW- yes.

7-0, unanimous. Motion Carried.

2. Request for Certificate of Compliance, 19 Forest Road, Lot 4

JW motioned to continue the Certificate of Compliance for 19 Forest Road, Lot 4

MC seconded.

Roll Call Vote: SA- yes, MC- yes, JKP -yes, JDJ- yes, CL-yes , JW- yes.

7-0, unanimous. Motion Carried.

E. ENFORCEMENT ORDERS:

HOLD, PENDING UPDATE:

1. 100 Main St
2. 53 Railroad Ave
3. 14, 10th St. W.
4. 97 Atlantic Ave.
5. 114 Bridge Rd.
6. 36 Pike St.
7. 2 Baker Rd.
8. 565 North End Blvd.
9. 30 Main St.
10. 83 Atlantic Ave.
11. 211 N. End Blvd.
12. 16 Hayes St.
13. 11 Railroad Ave.

ACTIVE, PENDING COMPLETION:

14. Lafayette Rd. Sewer
15. 150 North End Blvd

COMPLETE, PENDING APPROVAL:

16. 6 Sycamore Ln.
17. 16 Commonwealth Ave.
18. 61 Bridge Rd.
19. 139 Elm
20. 86/88 Elm St.
21. 4 Main Street
22. 82 Lafayette Rd

F. COMMISSIONER COMMENTS:

AM stated she has received complaints regarding vegetation management within protected resource areas. She would like to remind resident to call the conservation office before altering an area that may be protected.

SA informed all she would not be able to attend the next meeting.

JKP apologize regarding going hybrid without SA's input.

F. ADJOURNMENT:

CL motioned to adjourn the February 2, 2022 Salisbury Conservation Commission Meeting at 10:54PM
JW seconded.

Roll Call Vote: **SA-** yes, **MC-** yes, **JKP -**yes, **JDJ-** yes, **CL-**yes , **JW-** yes.

Vote: 7-0, unanimous. Motion Carried.