



**Salisbury Conservation Commission
Meeting Minutes
January 5, 2022
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), Jeffrey Ward (JW), Christopher Leahy (CL)

COMMISSION MEMBERS ABSENT: Julie Doughman-Johnson (JDJ)

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. August 18, 2021
2. September 1, 2021
3. September 15, 2021
4. October 6, 2021
5. October 20, 2021
6. December 1, 2021

MC motioned to approve the minutes for August 18, 2021

JKP seconded

Roll Call Vote: SA – Yes, JKP - Yes; MC – Yes; JW – yes; CL – not present

Vote: 4-0-1. Motion carried

JKP motioned to continue the minutes for September 1, 2021; September 15, 2021; October 6, 2021; October 20, 2021; and December 1, 2021 to January 19, 2022.

MC seconded

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

Vote: 5-0-0. Motion carried

B. PUBLIC HEARINGS at 7:10pm:

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

SA stated the applicant had requested to withdraw the application.

JKP motioned to grant the request to withdraw the Notice of Intent for Patrick DiMartino, 14 Lewis Ave. without prejudice.

MC seconded

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

Vote: 5-0-0. Motion carried

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

SA stated the applicant has requested a continuance to January 19, 2022.

JKP motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lots 249-258. January 19, 2022.

JW seconded

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

Vote: 5-0-0. Motion carried

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

SA stated the applicant has requested a continuance to January 19, 2022.

JKP motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lot 259. to January 19, 2022.

JW seconded

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

Vote: 5-0-0. Motion carried

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

SA stated the applicant has requested a continuance to January 19, 2022.

JKP motioned to continue the Notice of Intent for Tom Patenaude, 207 Beach Road, lot 260. to January 19, 2022.

JW seconded

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

Vote: 5-0-0. Motion carried

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

SA stated the applicant has requested a continuance to January 19, 2022.

JW motioned to continue the Notice of Intent for Wayne Capolupo, 13 Beach Road, LLC, 13 North End Blvd to January 19, 2022.

CL seconded

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

Vote: 5-0-0. 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 January 19, 2022.

MC motioned to continue the Notice of Intent for Damon Amato, Downeast Residential, LLC, 30 & 32 Cable Ave. to January 19, 2022.

JW seconded

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

Vote: 5-0-0. Motion carried

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

Engineer Nick Golon of TF Moran (NG). & Mark West of West Environmental (MW) presented. NG reviewed their responses to the Commissions comments, including details added to the plans such as elevations and beach access. Vegetation was added to the plan, increasing the ratio from 1.5:1 to 4:1. Stair locations have been added to the plans. Vegetation impacts have been reduced with the revised plan. A stabilized construction entrance was added to the plan. The beach access was changed to a 45-degree angle, with a removable wooden walkway added. They changed a clamshell walkway to permeable pavers, and a staging area has been added to the plan and will be within the footprint of the existing building once it is demolished. MW discussed comments from DEP and their responses, stating they included a narrative explaining how the project meets dune performance standards. The new structure will be elevated and the existing hard structures will be removed. SA advised that pervious pavers aren't used in the velocity zone as they can be ripped up and become hazards during storm events. This project is in the velocity zone. She also added that they prefer open cell pavers. JKP noted that the area under the proposed structure is dune and asked if the vegetation will be protected. NG confirmed that all areas of existing vegetation that are impacted will be re-used at the site. JKP also advised the structure is too close to frontal dune and should be moved further westward, and noted that this project will be removing vital dune. She added that the lattice proposed is not allowed. SA added that no other enclosures can be placed around piles for aesthetics or screening JKP informed the applicant that risers on stairs need to be open as much as is allowed by building code, but the drawings look like the risers are solid. NG noted they are moving the proposed structure back from where the existing is currently. MW added that the lot isn't well vegetated currently, and they will be adding vegetation. The dune that will be lost is just little pieces around the old cottage, and not much else will be affected. SA advised that the chimney as it is currently designed acts as an obstruction as it goes all the way to the ground. CL asked about a utility chase NG reviewed plans showing a 2x2 utility chase.

JKP motioned to continue the Notice of Intent for Brian Thibaut, ZJBV Investment Realty, 191 Atlantic Ave. to January 19, 2022.

MC seconded

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

Vote: 5-0-0. Motion carried

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

SA stated the applicant has requested a continuance to January 19, 2022.

MC motioned to continue the Notice of Intent for Todd Fitzgerald, Father & Son Construction, 40 Brissette Ave. to January 19, 2022.

JW seconded

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

Vote: 5-0-0. Motion carried

9. NOI: Michael Terminiello, M.T.I. Properties, LLC, 26 Cushing St. (1/5/22)

SA advised there is no DEP # so the Commission can't close the public hearing. Matt Steinel of Millennium Engineering (MS) presented the application. He informed the Commission that it was previously submitted as an RDA. The proposed house has been moved to the upland portion of the lot, and the footprint has been changed since the previous submission. Post and rail fence with signage is proposed to demarcate the wet meadow, which they will mow twice a year. MS reviewed photos of the site. CL asked about material stockpiling. MS stated it would be a slab foundation, so there will be minimal excavation, but he can update the plan with a stockpile location. He noted that they will be working with an excavator that has a yard nearby, so material could be trucked off if needed.

JKP motioned to continue the Notice of Intent for Michael Terminiello, M.T.I. Properties, LLC, 26 Cushing St. to January 19, 2022 and in the interim, there will be a site visit.

CL seconded

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

Vote: 5-0-0. Motion carried

10. NOI: Brendan Corcoran, 2 Baker Rd. (1/5/22)

SA noted there was no DEP # yet. Matt Steinel of Millennium Engineering (MS) informed the Commission that the property is subject to enforcement action. The homeowner plans to build a garage where the large shed was taken down. They propose a manufactured prefab metal garage, which will go up quickly with little disturbance. CL requested that a stockpiling location be noted on the plan.

JKP motioned to continue the Notice of Intent for Brendan Corcoran, 2 Baker Rd. to January 19, 2022 and in the interim conduct a site visit

MC seconded

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

Vote: 5-0-0. Motion carried

11. NOI: McKenzie Johnston, 75 Ferry Rd. (1/5/22)

Matt Steinel of Millennium Engineering (MS) reviewed the application, which was to remove the existing mobile home and construct a new home and septic system, and clean up the yard. SA stated there has been correspondence from an abutter, Sean Jansen (SJ), at 73 Ferry Road who has concerns regarding potential grade changes, tree removal, and water disbursement onto other properties. SA read his letter into the record. SJ was in attendance and clarified he wasn't against the project. MS discussed the grades and drainage pattern, noting that there is wetland at the back corner where the abutter has noticed wetness. He stated one tree would be

removed as a result of this project. **MC** asked if there were any gutter drains planned. **MS** replied that he will have to find out. **MC** suggested gutters to direct water away from the abutter's property, and a change to the proposed grading. **MS** agreed that gutters could be installed on the side of the structure. **JKP** suggested a swale. **MS** suggested seeing if the slope could be pulled further back from the property line and maybe installing a retaining wall. **CL** asked if there were retaining wall details for the proposed wall on the other side of the property. **MS** replied they were not needed as the wall was under 4 feet, and the details are at the homeowner's discretion.

JKP motioned to continue the Notice of Intent for McKenzie Johnston, 75 Ferry Rd. to January 19, 2022 and in the interim there will be a site visit
MC seconded

Roll Call Vote: SA – Yes, JKP - Yes; MC – Yes; JW – yes; CL - Yes
Vote: 5-0-0. Motion carried

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

SA stated there is not a DEP # yet. Matt Steinel of Millennium Engineering (**MS**) presented the project and noted it was recently developed. A drainage line went through lot 3 and damage was done to the pipe during construction. DOT has an easement for the pipe. They propose to seal off the existing pipe, core a new pipe to a new manhole to put pipe down the side of the property line, which will terminate to a leaching basin at the rear of the properties. Attorney Kyle Guy (**KG**), who represents 249 and 250 North End Blvd., was present with Attorney Ryan Martin. **KG** asked who requested this work to be done. **MS** replied that the applicant, Henry Richard, who was part of the original development, was trying to correct the issue. **KG** asked if the work proposed would take place within the DOT easement and whether DOT has approved the plans **MS** replied the work was within the easement, DOT has seen the plans, and the project was designed based on their guidance. **KG** advised that the damage is subject to ongoing litigation. **MS** replied he was aware there was communication between the developer and the owners, but wasn't aware whether it developed into litigation. **KG** advised that this work, the flooding, and resulting damages are the subject of ongoing litigation. **KG** asserted that the pipe in question was supposed to be removed prior to construction, and advised they'd be filing for injunctive relief to halt the project. He added that the plans are incomplete as they don't address the drainage nor do they have any kind of hydrology report, and that water is pooling in the property and draining into the wetlands. **MS** replied that this is an attempt to remedy a problem and the easement gives them the right to do it. **KG** stated that, according to the expert they retained, the site work needs to be redone. Water is flowing onto the property from abutting properties and the damaged drainpipe is creating sink holes. **KG** also asserted that the person listed on the application as the applicant does not have any standing. **SA** advised the litigation doesn't stop the subject property and project from being reviewed for wetland compliance. **JW** noted that the objection to the Commission's jurisdiction should be accompanied by something other than argument, such as citation to regulations, and asked the Chair if there was to her knowledge that would prevent the Commission from weighing in on the application. **SA** stated she didn't see anything preventing the Commission from evaluating the project for compliance. **AM** added that the Wetland Protection Act defines an applicant as anyone filing a Notice of Intent, so she feels it doesn't have to be a person of interest and agrees with Commissioner Ward that if that is their stance, they should come forward with documentation. Attorney Ryan Martin (**RM**) referred to the MassDEP instructions for filing a Notice of Intent, which states that all landowners be listed on the application. The landowners for 249 North End Blvd. were not included on the application. **JW** asked if a stormwater plan was needed **SA** stated it was not submitted with one, but is subject to Stormwater standards, and this would be new discharge to the marsh. **MS** replied the project is exempt because it's a single-family home, and will not create any new discharges as the pipe currently discharges to the marsh, and with their plan, water will be discharged to subsurface leaching basin outside of the marsh. **SA** noted the proposed work is not associated with improvements to an existing single-family home, which would make the project exempt from stormwater standards, so the project is not exempt. With regards to the outfall to the marsh, this is a drainage

improvement project which does require stormwater management compliance, and she's not clear how the proposed plan will not be discharged to the marsh. **MS** replied that there is a pipe there that discharges to the marsh, and that it has been damaged, and all they are proposing to do is re-direct it, so there will not be new discharged. Additionally, any work on a single-family home lot is exempt. DPW Director Lisa Demeo stated she agreed with the Commission that the project is not exempt from stormwater. She then asked if it currently discharges to the marsh and they're proposing to move the flow, have they done the capacity calculations to show that the water isn't going to run out of the leaching basin and sheet flow over to the marsh anyway. The flow through the pipe before it was damaged was significant. She recommended the Commission require the applicant to submit the capacity calculations showing the discharge will not make it to the marsh. **SA** added they will need a site visit.

JKP motioned to continue the Notice of Intent for Henry A. Richard, Jr., 247-249 North End Blvd. to January 19, 2022 and in the interim the Commission will conduct a site visit
CL seconded

Roll Call Vote: SA – Yes, JKP - Yes; MC – Yes; JW – yes; CL - abstain
Vote: 4-0-1. Motion carried

13. RDA: Michael DeBiase, 2 12th St West, Unit 2 (1/5/22)

Homeowner Michael DeBiase (**MD**) discussed the project which is to install permeable pavers. **SA** noted the homeowner originally built an illegal on grade deck which was removed before enforcement action took place, and he would like to put the patio back and was informed he would have to file an RDA. **JW** asked if the foot print will be the same. **MD** replied it would be. **SA** advised the pavers would need to be installed properly. **MD** added he would also like to plant trees for privacy. **SA** stated they would need to be native to the barrier beach and the Agent can provide a list. **JW** asked if the Commission can condition the trees on the Determination **SA** replied they could

CL motioned to issue a negative Determination of Applicability for Michael DeBiase, 2 12th St. West, Unit 2. For the installation of a 8x24 porous paver patio & plantings of barrier beach appropriate shrubbery
MC requested an amendment to the motion to include plantings are subject to the Agent's approval
CL amended his motion to add that plantings are subject to the Agent's approval
MC seconded

Roll Call Vote: SA – Yes, JKP - Yes; MC – Yes; JW – yes; CL - Yes
Vote: 5-0-0. Motion carried

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

SA stated the applicant has requested a continuance until January 19, 2022

MC motioned to continue the Notice of Intent for New Cingular Wireless PCS LLC, 91 North End Blvd. to January 19, 2022
JW seconded

Roll Call Vote: SA – Yes, JKP - Yes; MC – Yes; JW – yes; CL - Yes
Vote: 5-0-0. Motion carried

C. NEW BUSINESS

1. Request for Certificate of Compliance, 2 Gravel Way.

Matt Steinel of Millennium Engineering (**MS**) presented the request. The project was for demolition and reconstruction. He discussed the deviations, noting that five native plantings and a post and rail fence have not been installed, but will go in in the spring. These are the only outstanding items from the Order of Conditions. They are requesting a partial Certificate of Compliance that states the other work is complete. He noted that they had originally proposed sewer, water, and natural gas service, but instead installed sewer and water, with a propane tank installed instead of natural gas. The gravel driveway is smaller and further away from the wetland than what was originally proposed. The retaining wall curled inward, further away from wetland than what was proposed as well. A smaller deck was built than what was proposed. **MS** suggested a cash bond for the plantings and fence that still need to be installed. The applicant, Ben Legare (**BL**) stated he had received a quote for about \$7050.00 for the plantings and fence. **SA** advised that the site is not stabilized and that's why the Commission wants a bond. **JKP** stated she is uncomfortable recommending even a partial certificate and suggested the applicant come back next spring for a full one. **BL** stated he is asking for a partial because they lost their excavator in the summer, and they have a family ready to close on the house. **SA** advised she would be comfortable with a partial certificate for the structure alone. **AM** advised that the occupancy would not be held up for a Certificate of Compliance. **JKP** asked why they can't wait until the spring for the Certificate of Compliance. **MS** replied there is a pending sale and the buyers don't want to lose their rate lock.

MC motioned to grant a partial Certificate of Compliance for 2 Gravel way, with a bond for the remaining work TBD with the Agent. The partial Certificate of Compliance is just for the house.
JW seconded

Roll Call Vote: SA – Yes, JKP - No; MC – Yes; JW – yes; CL - Yes
Vote: 4-1-0. Motion carried

D. 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** – DPW Director Lisa Demo (**LD**) stated that Gary Labonte from Albanese (**GL**) & Eric Doe from Weston and Sampson (**ED**) met with the Agent and the wetland consultant Mary Rimmer on site. The Commission confirmed that they had seen Mary's report **ED** provided an update on items to be completed, including having secondary tank on site for standby. The culvert under the Rail Trail bridge has been cleaned out per Mary's recommendation. They have not yet started restoration of the damaged stream bank, as they were advised by the Agent to wait for input from the Conservation Commission. **SA** advised they

would need a restoration plan to review and that repair and maintenance of erosion control measures can be done ASAP. She also suggested they submit a restoration plan by February 25th so it could be voted on at the March 2nd meeting. **AM** asked if the Commission wanted them to regrade the bank, which would likely require cutting down trees. **SA** asked what the alternatives were. **AM** replied the bank is currently vertical which is difficult to stabilize without regrading. **ED** advised that they may not need to as they won't be using the area in a few months. **SA** recommended ironing out whether the situation as changed and if bank needs to be regraded offline. The Commission discussed having another site visit to view the banks needing restoration.

CL motioned to continue the Enforcement Order for Lafayette Road Sewer until the next meeting and in the interim conduct a site walk

JKP seconded

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

Vote: 5-0-0. Motion carried

15. 150 North End Blvd
COMPLETE, PENDING APPROVAL:
16. 6 Sycamore Ln.
17. 16 Commonwealth Ave.
18. **61 Bridge Rd.** - Tom Hughes of Hughes Environmental (**TH**) shared photos of site. The site has been cleaned up, and was done pretty well. Ruts were left, and he recommended loam and seed. The area was heavily seeded and mulched and it looks great. They are now waiting for the seed to grow. They request the Commission either lift the Enforcement Order and post a bond, or amend the Enforcement Order to recognize all restorative work done and that the area needs to be permanently stabilized by a certain date. The owner might want to sell the property, and they will make sure the new owner is aware of any requirements. **SA** stated she is only comfortable with the amendment option. **JW** asked if there was any chance that it will need to be reseeded in the spring **TH** replied possibly. **SA** suggested they check June 1 for stability, replant by June 15, and the agent monitor until it is stable, at which time the enforcement order be lifted.

JKP motioned to amend the enforcement order to acknowledge that the site is in good condition, but it needs to be stabilized by June 1, if it is not stabilized, it shall be reseeded by June 15. If the property sale goes through in the interim, the Enforcement Order needs to be disclosed and taken over by new buyer.

JKP amended her motion to include that the language of the amendment will be up to the Agent's discretion

MC seconded

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

Vote: 5-0-0. Motion carried

19. 139 Elm
20. 86/88 Elm St.
21. 4 Main Street
22. 82 Lafayette Rd

E. COMMISSIONER COMMENTS:

F. ADJOURNMENT:

JKP motioned to adjourn the January 5, 2022 Salisbury Conservation Commission Meeting at 11:06 PM
CL seconded.

Roll Call Vote: SA – Yes, JKP - Yes; MC – Yes; JW – yes; CL - Yes
Vote: 5-0-0. Motion carried