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Planning Board

Town of Salisbury
5 Beach Road
Salisbury, MA 01952

Planning Board:

John "Marty" Doggett,
Chairperson

Deborah Rider,
Vice Chairperson

Gil Medeiros

Lou Masiello

Donald Egan

John Schillizzi, Alternate &
Clerk

SPECIAL PERMIT APPROVAL

March 18, 2022

Town Clerk
Town of Salisbury
Salisbury, MA 01952



RE: Special Permit Flexible Residential Development

Owner: **46 Beach Rd LLC, Benjamin Legare**
Address of Owner: **110 Maple Lane, Northborough, MA 01532**

Applicant: **Downeast Building and Development**
Address of Applicant: **110 Maple Lane, Northborough, MA 01532**
Address of Project: **46 Beach Road & 2 Gravel Way, Salisbury, MA 01952**
Map 4, Lot 122 & Map 4, Lot 136
Deed Book & Page: **Southern Essex District Registry of Deeds Book 26749, Page 62**
Zoning District: **Commercial & R-2 Medium Density**

To the Town Clerk:

This is to certify, at a duly noticed public hearing of the Salisbury Planning Board in regards to a Special Permit, opened on December 8, 2021, continued to December 22, 2021, January 12, 2022, and closed on January 26, 2022, by a motion duly made and seconded, it was voted:

"We, the Salisbury Planning Board, as requested by the Applicant, **Downeast Building and Development**, under the provisions of Articles X and XIII C of the Zoning By-Laws of the Town of Salisbury, to consider Special Permit approval upon the contemplated site plan development for the property addressed at 46 Beach Road (Map 4, Lot 122) & 2 Gravel Way (Map 4, Lot 136) as shown on plans ("The Plans") entitled:

Flexible Residential Development in Salisbury, MA at 46 Beach Road (Map 4, Lot 122) & 2 Gravel Way (Map 4, Lot 136) dated December 15, 2021, revised thru February 22, 2022, prepared for Downeast Building & Development, 18 Maple Lane, Northborough, MA 01532, and prepared by Millennium Engineering, Inc., 62 Elm Street, Salisbury, MA 01952 consisting of ten (10) sheets;

Landscape Plan prepared for Downeast Building & Development, 18 Maple Lane, Northborough, MA 01532, dated October 18, 2021, revised thru January 14, 2022, prepared by

Stormwater Management Report dated November 5, 2021, and revised thru February 10, 2022, and prepared by Millennium Engineering Inc., 62 Elm Street, Salisbury, MA 01952

do hereby vote:

I. WAIVER REQUESTS

The applicant has requested the following waivers from the FRD:

- a. (§300-52 B.) The ratio of uplands to wetlands within the proposed open space area shall be equal to or greater than the ratio of uplands to wetlands on the entire tract; provided, however, that the Planning Board may allow a lower ratio if it determines that doing so will substantially further the goals of this bylaw and otherwise be in the best interests of the community. Wetlands are considered resource areas as defined by Section 310 of the Code of Massachusetts Regulations.
 - i. **Gil Medeiros motions to grant the waiver.**
 - ii. **Lou Masiello seconds the motion**
 - iii. **Vote on motion 5-0. Motion passes**
 - Deborah Rider - YES
 - Don Egan - YES
 - Gil Medeiros - YES
 - John Schillizzi - YES
 - Lou Masiello - YES
- b. (§465-19 C.) Buffer areas. A buffer area of at least 25 feet shall be provided at the perimeter of the development tract where it abuts residentially zoned or residentially occupied properties. A buffer area of at least 100 feet shall be provided from natural and/or recreational resource areas such as wetlands, intermittent streams, agricultural or recreational fields, and land held for conservation purposes, except as noted below. A two-hundred-foot buffer must be maintained from perennial streams, except to the extent otherwise permitted by the Salisbury Conservation Commission. Driveways necessary for access and egress to and from the tract may cross such buffer areas. No native or noninvasive vegetation in this buffer area shall be disturbed, destroyed, or removed, except for normal maintenance of structures or in connection with landscaping approved

by the Planning Board as part of the project. The Planning Board may waive these buffer requirements to the extent it determines that a smaller buffer (or no buffer) will substantially further the goals of this section and otherwise be in the best interests of the community. Any such waiver decisions shall be made in consultation with the Conservation Commission where the Commission's jurisdiction is applicable.

- i. **Lou Masiello motions to grant the waiver for a 10-ft buffer specifically for Unit 1.**
- ii. **Donald Egan seconds the motion.**
- iii. **Vote on motion 5-0. Motion passes**
 - Deborah Rider - YES
 - Don Egan - YES
 - Gil Medeiros - YES
 - John Schillizzi - YES
 - Lou Masiello - YES

II.

SPECIAL PERMIT APPROVAL

1. **Per §300-54 of the Salisbury Zoning Bylaw, which states, the Planning Board may grant a special permit for a Flexible Residential Development (FRD) if it determines that the proposed FRD has less detrimental impact on the tract and advances further the interests of the community than a conventional development proposed for the tract, after considering the following factors:**
 - a. Whether the FRD achieves greater flexibility and creativity in the design of residential developments than a conventional plan;
 - i. **The Planning Board voted NO, the project does not meet this factor.**
 - b. Whether the FRD promotes permanent preservation of open space, scenic vistas, agricultural land, forestry land, wildlife and rare species habitat, other natural resources and features, including aquifers, water bodies, areas of critical environmental concern, and wetlands, and historical and archaeological resources in a manner that is consistent with the Town of Salisbury Community Development Plan;
 - c. Whether the FRD promotes a more efficient and compact form of development that consumes less open land and natural materials and conforms to existing topography and natural features better than a conventional subdivision;
 - d. Whether the FRD reduces the total amount of disturbance on the site as compared with a conventional subdivision;

- e. Whether the FRD furthers the goals and policies of the Town of Salisbury Community Development Plan as amended from time to time;
- f. Whether the FRD facilitates the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner than a conventional subdivision plan;
- g. Whether the FRD special permit plan and other supporting documentation comply with all provisions of this bylaw;
- h. Whether the proposed construction of housing, landscape and streetscape is in harmony with the architectural heritage and historic character of the Town of Salisbury;
- i. Whether the FRD promotes affordable housing and a more diversified housing stock

The Planning Board agreed that the Special Permit as contemplated by FRD appropriately addresses the above site-specific attributes or site-specific concerns, unless otherwise noted below that specific factor, as well as meeting the following general Special Permit Requirements:

- 1. The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made or is similar in character to permitted uses in a particular district but is not specifically mentioned.
 - 2. The requested use is essential and/or desirable to the public convenience or welfare.
 - 3. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
 - 4. The requested use will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
 - 5. Any special regulations for the use set forth in the Special Permit Table are fulfilled.
 - 6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare of the neighborhood.
 - 7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.
- 2. The Applicant is also requesting a 20% density bonus under §300-55. A for open space, for a total of 4 units.**
- i. **Lou Masiello motions to grant the density bonus.**
 - ii. **Gil Medeiros seconds the motion.**

iii. **Vote on motion 5-0. Motion passes, density bonus granted.**

- **Deborah Rider - YES**
- **Don Egan - YES**
- **Gil Medeiros - YES**
- **John Schillizzi - YES**
- **Lou Masiello - YES**

Donald Egan motioned to approve the Special Permit for property located at 46 Beach Road (Map 4, Lot 122) & 2 Gravel Way (Map 4, Lot 136), as shown on plans as represented, for a Flexible Residential Development, with the same Standard and Special Standards as Site Plan Review.

Gil Medeiros seconded

Vote on Special Permit:

Deborah Rider, Vice Chairperson: YES

Donald Egan: YES

Gil Medeiros: YES

Lou Masiello: YES

Jon Schillizzi, Alternate & Clerk: YES

Motion to approve the Special Permit passes 5-0

III.

MATERIALS

Hereinbelow but not limited to are the materials submitted to the Planning Board during the public hearing:

1. Flexible Residential Development in Salisbury, MA at 46 Beach Road (Map 4, Lot 122) & 2 Gravel Way (Map 4, Lot 136) dated November 5, 2021, revised thru February 22, 2022, prepared for Downeast Building & Development, 18 Maple Lane, Northborough, MA 01532, and prepared by Millennium Engineering, Inc., 62 Elm Street, Salisbury, MA 01952 consisting of ten (10) sheets;
 - Cover Sheet (Sheet 1 of 10)
 - Legend (Sheet 2 of 10)
 - Existing Conditions (Sheet 3 of 10)
 - Conventional Yield Plan (Sheet 4 of 10)

- Site Plan (Sheet 5 of 10)
 - Grading Plan (Sheet 6 of 10)
 - Utilities Plan (Sheet 7 of 10)
 - Erosion and Sedimentation Plan (Sheets 8-9 of 10)
 - Construction Details (Sheet 10 of 10)
2. Landscape Plan prepared for Downeast Building & Development, 18 Maple Lane, Northborough, MA 01532, dated October 18, 2021, revised thru January 14, 2022, prepared by _____
 3. Stormwater Report prepared by Millennium Engineering Inc, dated November 5, 2021 and revised through February 10, 2022.
 4. Special Permit Application, Received by Town Clerk November 19, 2021
 5. Review Letters from Joseph Serwatka, Planning Board Review Engineer, dated:
 - a. November 29, 2021, December 26, 2021, January 28, 2022, & February 19, 2022
 6. Town of Salisbury Review Letters:
 - a. Department of Public Works dated January 29, 2022, with revised comments received on February 22, 2022, and February 25, 2022.
 7. Millennium Engineering Inc. Response Letters dated:
 - a. December 20, 2021, January 18, 2022, February 10, 2022, and February 23, 2022.
 8. PowerPoint presentation titled "*A Flexible Residential Development Project*" dated December 22, 2021.

IV. FINDINGS

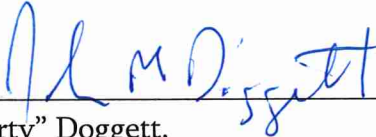
1. Currently 46 Beach Road (Map 4, Lot 122) & 2 Gravel Way (Map 4, Lot 136), the proposed site, is a 1.83-acre parcel that is located in the Commercial and R-2 Medium Density Zoning Districts.
2. The application proposes to build a Flexible Residential Development consisting of two (2) existing single family home, two (2) new proposed single-family homes, a common driveway, and a common park area under the provisions of Articles X of the Salisbury Zoning Bylaw and Article IV of the Planning Board Rules and Regulations.
3. The application demonstrates the preservation of open space, wetlands, and other natural resources. The minimum required Open Space for this project would be 39,833 SF or (50%) and the applicant has proposed 55,954 SF or (70.2%).
4. The application demonstrates that it reduces the total amount of disturbance on site by keeping the two (2) existing dwellings and keeping the proposed driveway in the same alignment and area as the exiting gravel driveway.
5. The applicant will be addressing stormwater with a proposed rain garden and a proposed exfiltrating bio-retention area

V. CONDITIONS

1. The approval is only to show the proposed use is allowed on the site and does not allow construction or site work to commence.
2. The applicant must apply for Site Plan Review and receive a valid approval from the Planning Board prior to the commencement of construction or site work.
3. Once the applicant has received an approval for Site Plan Review from the Planning Board, this Special Permit Decision is subject to all conditions set forth in the Site Plan Approval Decision.

MODIFICATION OF SPECIAL PERMIT

1. In the event that the Applicant intends to modify the approved special permit, the Applicant must submit to the Planning Board in accordance with MGL Chapter 40A.



John "Marty" Doggett,
Salisbury Planning Board Chairperson

Date: 3/18/22

cc: Applicant,
Building Inspector,
DPW Director
File

APPEAL NOTICE

Appeals of this decision shall be made in accordance with the M.G.L. Ch. 40A, §17 and shall be filed within twenty (20) days of the date of filing of this decision in the Office of the Salisbury Town Clerk.

By law, this decision shall not take effect until a copy of such notice has been certified by the Town Clerk that; Twenty (20) days has elapsed since the decision was filed and no appeal has been filed.

The Petitioner shall present and record the certified decision at the Essex Registry of Deeds in Salem MA. The cost of the recording shall be borne by the Petitioner. A registered copy must then be presented to the Building Inspector in order to apply for an appropriate permit.

This Decision will lapse if Substantial use of the Petitioned Relief is not made within two (2) years for a Special Permit and the work authorized hereunder must have active development or at least substantial progress toward implementation of the approved Site Plan occurring within five years or the approval becomes void. This approval may be extended by the issuing authority for an additional two-year period if, in the opinion of the issuing authority, there is just cause to approve an extension.