



Date: February 23, 2022

Place: Salisbury Town Hall, 5 Beach Road & Remotely Via Zoom

Time: 7:00 pm

PB Members Present in Person: Chairperson, John “Marty” Doggett (**JMD**), Vice Chairperson, Deb Rider (**DR**), Gil Medeiros (**GM**), and Alternate, John Schillizzi (**JS**)

PB Members Present via Zoom: Louis Masiello (**LM**) and Don Egan (**DE**)

PB Members Absent: None

Also Present: Director of Planning Lisa Pearson, and Planning Board Secretary, Susan Johnson

JMD brought the meeting to order at 7:20 p.m. remotely via zoom. Announced, per opening meeting law, that the meeting was being recorded.

* **JMD** took agenda item “2 Public Hearing” out of order.

1. New Business – 7:00 pm

- a. **ANR – 92, 96 & 98 Beach Road** (Map 24, Lots 38, 39 & 164). Applicant: Five C’s Realty Trust, c/o The Morin-Cameron Group, Inc. Request by applicant for an approval not required land plan endorsement for lot line adjustments. Lot size: 2.55+/-acre site, located in the Commercial Zoning District

- Discussed later in the meeting.

2. Public Hearing - 7:10 pm

- a. Request for Site Plan Approval for a six (6) residential condominium building at **30-32 Cable Ave** (Map 32, Lots 46 & 48) on a .16 +/- acre site in the Beach Commercial Overlay Zoning District. Applicant: Damon Amato. (Cont. 11-10-21, 12-8-21, 1-12-22, 1-26-22, 2-9-22)

- **JMD** stated the applicant has requested a continuance to the March 9, 2022 Planning Board meeting.

GM motioned to continue the Request for Site Plan Approval for **30-32 Cable Ave** to the March 9, 2022 Planning Board meeting. **DR** seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- b. Request for Site Plan Approval at **191 Lafayette Road** (Map 19, Lot 4). Proposed use: Development of a 4,588sf marijuana retail facility & a 6,166sf brewery with accompanying parking & other appurtenances in the Lafayette & Main Commercial District Subdistrict B and Recreational Marijuana Overlay District. Applicant: 191 Lafayette Road LLC. (Cont. 1-26-22, 2-9-22)

- See below for discussion.

- c. Request for Special Permit Approval at **191 Lafayette Road** (Map 19, Lot 4). Proposed use: Development of a 4,588sf marijuana retail facility & a 6,166sf brewery with accompanying parking & other appurtenances in the Lafayette & Main Commercial District Subdistrict B and Recreational Marijuana Overlay District. Applicant: 191 Lafayette Road LLC. (Cont. 1-26-22, 2-9-22)
- Adam Costa, Talerman, Mead & Costa, LLC, spoke on behalf of the applicant.
 - He stated that the Planning staff sent him a draft decision Monday which he was able to look over and edit with little corrections and comments and provide a redlined version for the Board tonight.
 - **JMD** requested tabling the discussion until the Board is able to read through the draft decision conditions.

DE motioned to table the Request for Site Plan Approval and Request for Special permit for 191 Lafayette Road until later in the meeting. DR seconded this motion. Roll call was taken, all members (5) voted in favor.

- d. Request for Site Plan Approval at **207 Beach Road** (Map 28, Lot 10). Proposed use: 14 Residential units are proposed (6 duplexes & 2 single family dwellings) along a proposed 24ft wide paved driveway and 2 additional duplexes along Old County Road in the Beach Commercial Zoning District. Applicant: Tom Patenaude. (Cont. 2-9-22)
- Chris York, Millennium Engineering, spoke on behalf of the applicant.
 - He stated the lighting plan has been updated to include what **DR** had requested last meeting.
 - He stated that **DE** wanted to see dimensions along Beach Road from the units to the edge of the property line.
 - He stated that the applicant agreed to have snow trucked off site as needed.
 - **LM** asked if the snow removal will be put into the condo documents.
 - Chris York replied, yes it will be.
 - **LM** asked how they are raising the sight.
 - Chris York said their shared driveway/road is 1 foot to 1.5 feet higher than Old County Road.
 - **JMD** asked if that means the runoff would flow onto Old County Road.
 - Chris York responded no, the site has created catch basins and a rain garden. This will actually help with excess water on Old County Road.
 - **DE** asked along Beach Road if there are any plans for a fence.
 - Chris York stated there is no plans for a fence but there is vegetation.
 - **DE** stated that what has happened before at a different property is a plan was approved with just vegetation and the applicant put up a large fence alongside Beach Road.
 - Tom Patenaude, the applicant, stated that they could add a stipulation that if there was to be a fence it would have to be posted rail.
 - **DE** said he is no opposed to a posted rail fence especially if it is integrated with the landscape
 - **JMD** said he is confused about visitor parking.

- Chris York stated that each garage can fit 2 cars and there is room for one car in the driveway. He said each unit is required to have 2 parking spaces, and these units each have 3.
- Cheryl Papandrea – 41 Old County Road – gave public comment with concerns about flooding.
- Chris York stated, to address the environmental issues, that this project is in front of the Conservation Commission currently and being reviewed by the Environmental Consultant.
- Lisa Pearson said there was still an open issue with impervious area and rain gardens that the Conservation Commission has not closed out yet.
 - Chris York confirmed that it will be going back before the Conservation Commission next Wednesday.
 - Lisa Pearson suggested to the Board that they wait to make a decision until after the Conservation Commission close out their concerns.
- Lisa Pearson asked what the height is in the garage.
 - The Applicant replied, it is just under 8 feet.
 - Lisa Pearson stated one of the duplexes only has 10 feet of driveway to the property line, the other 10 feet is on Town owned right of way. This means that there are not three parking spaces for that lot. She said she would like to know whether or not the garage would accommodate larger cars such as SVUs since the outside parking space is not applicable.
- Cheryl Papandrea – 41 Old County Road – gave public comment requesting the Planning Board make sure flooding is addressed.
- DE suggested the Town Engineer look at the rain garden again.
- The Applicant, Tom Patenaude, stated he believes that the flooding that happens on this site is from tidal flooding. He stated that the stormwater is for runoff and not rising tides.

GM motioned to continue the Site Plan Review for 207 Beach Road to the March 9, 2022 Planning Board meeting. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- e. Request for Site Plan Approval at **156 Bridge Road** (Map 14, Lot 4). Proposed use: Service garage with second floor apartment in the Commercial Zoning District. Applicant: Jamil Jourajj. (Cont. 2-9-22)
 - Chris York, Millennium Engineering, spoke on behalf of the applicant.
 - He stated that the comments from the Town Engineer seem like he is pretty satisfied. They have not changed much on the revised plans.
 - They have added landscaping along the back-property line, they added red maples and river birches along the parking spaces before the vinyl fence.
 - He stated where the open frontage is now will be an added curb cut creating a 24-FT driveway opening, however, doing this will leave the neighbor with a 7-FT driveway, they have spoken to the neighbor who is going to expand their driveway to make 10-FT.
 - He stated the applicant will be making a new sewer pump on the neighbor's property for them since currently it is shared.
 - The Town Engineer's comment is on how will the sewer pump and driveway be conditioned.

- Chris York stated in regards to the driveway that could be conditioned prior to building permit the driveway is completed.
 - In regards to the pump, he is unsure because the pump does not need to be built functionally, the sewer pump works. This could be conditioned as either the pump is built or there is an easement to continued use of the applicant's sewer pump.
- **DR** asked what the frontage is going to look like.
 - Chris York said the frontage is going to have the 24-FT opening with curb cuts for the business and the corner up to the property line will be loamed and seeded. He stated there will be some low and medium growth shrubs and a couple of sweetgum trees.
- **LM** asked if there is a second means of egress for the apartment.
 - Chris York said there is no plan yet, but per the Building Inspector there will need to be a second means of egress plan.
- **LM** commented he liked to see the landscaping on this plan, he said plans like that will help improve the look on Bridge Road.
- **JMD** asked Chris York to explain the test pit issue about fill materials whether or not it is appropriate for infiltration of building.
 - Chris York explained, back in the fall they used hand augers just to get water table. One of Town Engineer's comments were to go down deeper and do some more test pits. Chris said they went back and did 5 or 6 more test pits and a few of the test pits on the site do show that the whole site is fill. Infiltration is not recommended in fill. The water tables are high on this site as well, infiltration is not very feasible. One of the concerns with this is if the site is suitable for paving, Chris said this site has been paved many times over the times with no issues with the fill.
- Lisa Pearson asked Chris York to clarify handicapped parking on the site.
 - Chris York stated there is not a designated space for handicapped parking but they can add one.
- Lisa Pearson pointed out that the dumpster is going on the property line with the abutter.
 - Chris York replied saying yes, it is, it will have a privacy fence as well as the abutters have a line of arborvitaes. He said this is the best place for it since it cannot go on the wetlands.
 - Lisa Pearson stated that it would be really great if the dumpster would be moved away from the abutter's property.
- Lisa Pearson stated the Board needs to hear from the Abutter about the sewer and the driveway in writing.
- Lisa Pearson asked how are the patrons parking in the back going to get to the front of the building safely.
 - Chris York replied saying it is not a high traffic sight, they can put yellow stripes next to the building if that would be ok with the Board. He does not think there is a need for sidewalks.
 - **GM** asked about putting a waiting room in the back of the building.
 - The applicant said that the cars in the back are for doing repairs and will be put into the garage. The cars being dropped off are parked in the front and taken out back by the workers.
 - Lisa Pearson suggested making actual spots in the front for these cars to pull into.

LM motioned to continue the Site Plan Review for 156 Beach Road to the March 9, 2022 Planning Board meeting. DE seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- f. Request for Special Permit Approval at **41 Gardner Street** (Map 6, Lot 133). Proposed use: A residential duplex with driveway access via an easement through the adjacent property at 39 Gardner Street in the Village Residential Overlay District. Applicant: Brad Kutcher. (Cont. 2-9-22)

- **JMD** stated the applicant has requested a continuance to the March 9, 2022 Planning Board meeting.

GM motioned to continue the Special Permit Approval for 41 Gardner Street to the March 9, 2023 Planning Board meeting. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- g. Request to amend the Special Permit and Site Plan Review Decision for **3 Bridge Road** (Map 3, Lot 13) in the Village Center Zoning District. Proposal: To amend the 9-11-19 Special Permit & Site Plan Approvals Decision to include additional conditions. Applicant: 4 Beach Road LLC and Jonathan Miller, Trustee, Sail Lofts Realty Trust c/o Lisa Mead, Mead, Talerma and Costa, LLC.

- Lisa Mead, Talerma, Mead & Costa, spoke on behalf of the applicant.
 - She stated that the applicants were before the board in early January when they asked for 5 of the units to be released, at that time they had requested amendments to some of the conditions in the Special Permit in order to address some concerns the Board had in order to have a clearer oath forward.
 - She stated what they are here this evening is for the approval of amendments to conditions and the temporary landscape plan.
 - The plan before the Board currently is the as built of the approved plan so far and the temporary landscaping plan.
 - She stated that a concern of the Town Engineer is contractor parking once the 8 units have been released, they are proposing a site off the roadway in the temporary landscape plan where they can park.
 - She went through the proposed amendments.
- **LM** asked if the temporarily landscaped area can be accessed by the public.
 - Attorney Mead answered there will be a bench along the sidewalk, but this is still private property. There will not be signs saying no trespassing.
- **LM** asked why will the commercial aspect take years to figure out.
 - Attorney Mead responded that the applicants are not sure on what type of commercial building will be there. They did condition that is will *not* be a drive through. It will need to be a commercial aspect due to the mixed-use zoning bylaws. Because the permit did not have a timeframe for the commercial aspect, they wanted to get everything settled in order to move on.
- **DE** asked what happens if the commercial aspect is never constructed.
 - Attorney Mead responded, as it is stated in the proposed condition, the petitioner will commence construction of a commercial building within two years of the issuance of the certificate of occupancy of the 8 remaining units.

- **DE** stated he is concerned about the Town's recourse if they [the applicant] do not build the commercial building.
- **DE** and Attorney Mead had back and forth about enforcement laws.
- Attorney Mead stated that the applicant had messaged her stating that they are ok with bonding the commercial building so if it is not constructed within two years they will rip up the pavement to loam and seed that whole area. She said that would be added as a note on the plan and an amendment to the decision.
- There was discussion about the language of condition 5 and the use of the word "shall".
- Lisa Pearson commented that the Town Engineer does not have the authority to rule the driveway access from Beach Road only since the approved plan was for two driveways one on Beach Road and one on Bridge Road. She suggested getting a traffic study.
 - Lisa Mead stated that the Board has already approved the two driveways and with the commercial building not being built for two years the only entrance to the residential units would be through Beach Road.
 - Lisa Pearson said that has not been approved or deemed safe.
- **DE** suggested amending the condition to say that the applicant shall be issued the final occupancy permit for the 8 units dependent on the other conditions being met and satisfactory to the Board.
- Attorney Mead read through the adjusted amendments discussed at this meeting.
- **DE** suggested making the approval of the amendments contingent on Town Counsel review.

GM motioned to accept the proposed amendments to the Special Permit and Site Plan Review Decision for 3 Bridge Road with changes discussed at this meeting. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

1. New Business – 7:00 pm (Continued...)

- a. **ANR – 92, 96 & 98 Beach Road** (Map 24, Lots 38, 39 & 164). Applicant: Five C's Realty Trust, c/o The Morin-Cameron Group, Inc. Request by applicant for an approval not required land plan endorsement for lot line adjustments. Lot size: 2.55+/-acre site, located in the Commercial Zoning District
 - Scott Cameron, Civil Engineer for the Morin-Cameron Group, Haverhill. Spoke on behalf of the applicant.
 - He stated this is a lot line adjustment between two existing parcels. There are not any not lots being created it is simply an adjustment. He spoke with the Town Assessor and noted that depending on when they convey the land, he might have to create a new Assessors Parcel for what is shown on the plan as parcel a. Scott Cameron stated that is something that he is hoping the attorneys can work out and not have to create a separate assessor's parcel.
 - Lisa Pearson asked about combining the lots in the future.
 - Scott Cameron stated the plan is to eventually convey that to 90 Beach Road which is not part of this application. It is an existing buildable lot and anyone who would want to build on it would have to combine it. We [the applicant] are just doing it as an unbuildable parcel a.
 - Lisa Pearson asked to confirm that the applicant is ok that if they ever wanted to combine it would have to be its own separate plan. The reason she says that is because sometimes tax collection happens and people do not realize it is a separate mortgage and if the taxes are not paid it will go into tax title.
 - Scott Cameron stated he understands an appreciates the advice.

- The Board did not have additional questions.
- **JMD** stated the application meets all the criteria for an endorsement.

LM motioned to endorse the Form A (ANR) for 92, 96 & 98 Beach Road. GM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

2. Public Hearing - 7:10 pm (Continued...)

- h. Request for Site Plan Approval at **191 Lafayette Road** (Map 19, Lot 4). Proposed use: Development of a 4,588sf marijuana retail facility & a 6,166sf brewery with accompanying parking & other appurtenances in the Lafayette & Main Commercial District Subdistrict B and Recreational Marijuana Overlay District. Applicant: 191 Lafayette Road LLC. (Cont. 1-26-22, 2-9-22)

- See below for discussion.

- i. Request for Special Permit Approval at **191 Lafayette Road** (Map 19, Lot 4). Proposed use: Development of a 4,588sf marijuana retail facility & a 6,166sf brewery with accompanying parking & other appurtenances in the Lafayette & Main Commercial District Subdistrict B and Recreational Marijuana Overlay District. Applicant: 191 Lafayette Road LLC. (Cont. 1-26-22, 2-9-22)

- Adam Costa, Talerman, Mead & Costa, LLC, spoke on behalf of the applicant.
 - He went through comments from the Building Inspector with the Board.
- **DE** stated his only concern continues to be the noise to the neighbors. In terms of relying on the Town's noise ordinance solely, he does not believe it would be beneficial. He suggested adding a cut off at 9pm for noise.
 - **LM** stated that he believes that 9pm might be a little unreasonable. He does believe that something should be done.
 - Lisa Pearson said there is no decibel level in the noise ordinance. She corrected **DE** by confirming the noise ordinance goes into affect at 11pm not 1am in all of Salisbury except for the Beach.
 - **DE** said he is concerned since he does not think if there are any other outdoor dining establishments that abut residences.
 - Lisa Pearson suggested looking into the noise ordinance for the Town.
 - **GM** stated that the Board of Selectmen will be able to put their own stipulations on the business owners when they go for their entertainment license.
 - Adam Costa stated that he is happy to work with the board on conditions for noise, but he believes that between the sound barrier wall between the property and the neighbors, the Town's noise ordinance, the Board of Selectmen licensing boxes the future tenant in quite a bit already.
- Brian Kealey – 9 Del-Logan Drive – gave public comment, as a direct abutter, with concerns about the construction schedule hours of operation.
- **JMD** stated he would be comfortable with an amendment to the decision that the construction vehicles won't start until 7am.
- **DE** stated he would like to accept the amendment to condition 13 proposed by Adam Costa, having the applicant build a sound barrier.

GM motioned to close the public hearings for the Site Plan Review and Special Permit approvals for 191 Lafayette Road. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

LM motioned to approve the Site Plan Review for 191 Lafayette Road. GM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

GM motioned to approve the Special Permit for 191 Lafayette Road with two additional amendments; the applicant is to construct a sound barrier designed by professional acoustic consultants and that during the construction phase of the project, construction vehicles may not start up until 7am. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

3. Other Business

JMD said they received a Legal Notice from the City of Amesbury for a zoning amendment

Lisa Pearson gave an update on the Master Plan and Lafayette and Main Zoning.

4. Old Business

5. Correspondence

6. Adjournment

GM motioned to adjourn. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

Meeting adjourned at 10:50 pm

* Documents provided at the meeting are on file in the Planning Office

Minutes approved by: John H. Duggett

Date: 12/27/23