



Date: April 13, 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, Deborah Rider (**DR**), Lou Masiello (**LM**), Gil Medeiros (**GM**), and Alternate, John Schillizzi (**JS**)

PB Members Present via Zoom: Don Egan (**DE**)

PB Members Absent: None

Also Present: Director of Planning, Lisa Pearson and Assistant Planner, Danny Ruiz

JMD brought the meeting to order at 7:10 p.m. remotely via zoom. Announced, per opening meeting law, that the meeting was being recorded.

1. New Business – 7:00 pm

- a. Lafayette & Main Zoning Guidelines Update from Barrett Planning Group
 - Liz Maney from Barrett Planning Group gave an update presentation on the Lafayette and Main Zoning Guidelines.

* **JMD** stated the time is 7:25pm and the Board will need to proceed with the Public Hearings. “New Business” will continue after the Public Hearing portion. *

2. Public Hearing - 7:10 pm

- a. 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, 2-23-22, 3-9-22, 3-23-22)
 - Chris York, Millennium Engineering, presented on behalf of the project.
 - He stated they have updated the architectural plans to represent recommendations from the Planning Board from the last meeting. The changes were turning the front porch into a wraparound porch and adding real wood shutters on the windows.
 - Chris York stated they received a letter from the neighbor with one of their main concerns being drainage and runoff from the site. He stated the driveway is pitched so the runoff will go towards the wetlands and not the neighboring property. Another concern they outlined in the

letter was lighting. Chris York stated that the outside lighting consisted of a light over each other garages and porches that will be downward facing and dark sky compliant.

- Lisa Pearson stated they can add a condition stating that the outside lighting must remain dark sky compliant if ever switched out. And that there may not be any flood lighting.
- Chris York stated that the applicant has agreed to create a dry well to catch any roof runoff.
- Chris York was asked to explain the driveway. He stated that it going to be gravel. It pitches off Gardner street onto their property then pitches back up and off to the sides at the driveway.
- There was discussion about the driveway, curb cuts and buffers.
- Megan Boland – an abutter – gave public comment with concerns about the design and crawlspace of the building.
 - Brad Kutcher, the applicant, stated he is amenable to using a slab instead of a crawl space.
- Lisa Pearson stated that the only thing she recommends is seeing the updated plan which can be a condition on the decision.

GM motioned to close the public hearing for the Special Permit Approval for 41 Gardner Street. DR seconded this motion. Roll call was taken, 2 members voted in favor, 3 members voted not in favor (DE, LM & JMD). Motion failed.

- The Board went through the requested waivers from the applicant.

GM motioned to approve the applicant's waiver request from §300-82.17E. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

DE motioned to continue the Special Permit Approval for 41 Gardner Street to the April 27, 2022 Planning Board meeting. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- b. 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, 2-23-22, 3-9-22, 3-23-22)**

- Ben Legare, part of the Applicant Team, asked the Board to withdraw the project without prejudice.

- c. Request for Special Permit at REAR Lafayette (Map 22, Lot 62). Proposed use: Inpatient substance abuse treatment center in the Lafayette & Main Subdistrict B Zoning District. Applicant: Robert Johnson. (Cont. 3-23-22)**

- **JMD** stated that in the Board Member's packets there were letters from the Chief of Police and Superintendent of Schools endorsing this facility.
- Robert Johnson, the applicant, explained that they had provided the Board with items requested at the last meeting and opened the floor up for questions.
- **DE** asked the applicant about the DPH reports regarding citations for failing to obtain employee credentials prior to hiring and similarly not completing the intake procedure in a timely manner. He asked how would guarantee that these would not occur in Salisbury.
 - Jody Tarantino, a member of the Applicant's Team, explained that it is not uncommon to get feedback from the accrediting commission. She stated that they are coming before Salisbury with more information and practice from learning from their criticisms.
 - She explained that sometimes it is joint organization that they work with receiving the citations and that is when they would reevaluate that relationship.
- **DE** stated he would like a condition of the special permit to be the applicants provide the Town with state and federal licensure.
 - Lisa Pearson stated that the proof of accreditation should be sufficient to satisfy this.
 - Robert Johnson stated that anytime major changes happen, like a switch in directors or program managers, it has to go through BAS.
- **JMD** asked how often accreditation is.
 - Jody Tarantino stated that accreditation is every 3 years and licensing is every 2 years.
- **GM** asked if the medical director would remain onsite at all times.
 - Jody Tarantino responded, no they would not be required to be there at all times. They would have other nursing staff 24/7. They have not outlined their staffing plan yet.
- **GM** asked what the policy would be if someone shows up intoxicated.
 - Robert Johnson stated, no one can show up at the door and walk in. It's a locked facility. They get an intake call from their admissions line from another facility and they coordinate transportation of the patient. They always coordinate transportation with every intake. There are no walk ins.
- **LM** asked what happens if someone does show up to the facility.
 - Jody Tarantino stated there are policies and procedures for this circumstance. The facility does not turn people away. They will be assessed and appropriate action taken dependent on what the circumstance is.
- Dan Welch – 50 Lafayette Road – gave public comment asking about the accessibility of the "rear" lot.
 - Lisa Pearson stated that a condition on the draft decision right now is that this special permit is only valid once they can prove proper accessibility and frontage on a roadway.
- There was discussion about the buildability of the rear land behind the parcel with the proposed facility.

- Sean Twomey – a resident of Haverhill who owns a home in Salisbury as well – gave public comment in support of the facility.

LM motioned to close the Public Hearing for the Special Permit Application for REAR LAFAYETTE. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

GM motioned to approve the Special Permit Application with the condition that the applicant provide the Town proof of proper licensure of key personnel prior to the issuance of final occupancy permit as well as other conditions discussed. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- d. Request for a Definitive Subdivision at **115 & 121 Lafayette Road** (Map 18, Lot 43 & 128) proposed to subdivide the two parcels into four (4) separate lots and a 50' wide Right of Way. Applicant: Rusnik, Inc.
- Chris York, Millennium Engineering, spoke on behalf of the applicant.
 - Lisa Pearson stated she had been in discussions with the applicants over the past couple of years. She stated the applicants are essentially creating one new developable parcel, while proposed lot A and proposed lot C have existing structures on them, they will become individual lots.
 - Chris York stated the proposed easement on lot A will remain as the access area.
 - Lisa Pearson stated the plan needs to be revised to show the cul-de-sac.
 - **DE** stated the plans are a far cry from what is required of a subdivision which is his concern. He stated he is not sure how this can be approved as a subdivision if it does not include other required elements of a subdivision.
 - Lisa Pearson stated the Board has done this a couple different times before where typically it is for one lot with access. She stated that the applicant is requesting waivers for all of the items **DE** spoke concerns about. She did confirm with **DE** that they will not be able to have the drive way and the proposed roadway if they plan to developed the proposed roadway in the future. Lisa Pearson suggested adding conditions to the decision.
 - **DE** suggested adding conditions in regards to driveways for lots B and C being connected to the proposed 50-ft right of way when constructed.
 - Lisa Pearson stated that the applicant will need to come back before Planning Board as a condition of the decision. They will need to come back due to a change of conditions; addition of any units or the building of the road.

GM motioned to continue the Request for a Definitive Subdivision at 115 & 121 Lafayette Road to the April 27, 2022 Planning Board meeting. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

JMD moved agenda item 2 “Public Hearings” section e to the end of the agenda.

1. New Business – 7:00 pm (continued from beginning of meeting)

- c. Request for Partial Certificate of Completion and confirmation to the Building Inspector that the certificates of occupancy for the eight residential units at 3 Bridge Road/4 Beach Road (Map 3, Lots 13 & 10).
 - Jeffrey Porter, spoke on behalf of the applicant.
 - He stated since January a substantial amount of work on the commercial portion has been completed. He stated that they had worked hard on making that area safe and adding the temporary landscaping.
 - DE asked how to validate the bond.
 - Jeffrey Porter stated the Town Engineer had provided a list of outstanding items and price amounts to the total of \$260,375.15 the applicant is prepared to post a bond for that amount at the time of the release of the 8 units.
 - DE asked about the sink hole on Beach Road.
 - Matt Hamor with Landplex Engineering, responded saying there is a small sink hole depression by the entrance to that site on Beach Road. The team has notified Mass Highway multiple times. This hole is in the State Highway which requires permission to do anything to.
 - DR asked for confirmation of what was previously agreed to before the release of units.
 - Jeffrey Porter stated that the release of the next 8 units was conditioned upon the removal of the old commercial building which was completed in February and then progress but not until May 30th of the temporary site.
 - DR stated the Town Engineer noticed that the plantings were not the correct size.
 - David Daly of the Daly Group stated that the contractor was unable to source the correct plantings but agreed to switch them out. This has been incorporated into the bond.
 - JMD asked about the through way that connects to the pizza place’s parking lot.
 - Matt Hamor stated that will be a two way through what they call the pizza lot. That is a future easement should the Salisbury House get developed. The tenants are currently in Greece and have not been able to contact but they would like to put fencing back up.

- Matt Hamor stated that there was an outstanding item dealing with drainage mitigation. The applicants had proposed a temporary drainage system until the subsurface system would be installed with the commercial lot. He stated the Town Engineer was agreeable to that as long as the Board was agreeable to that.
- There was discussion to clarify language about the bond.

GM motioned to approve the Partial Certificate of Completion for 3 Bridge Road/ 4 Beach Road with the bond amount of \$260,375.15 and all outstanding residential items be completed no later than May 30, 2022. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

d. Request for Minor Site Plan Modification to pave the access way/loading area at the rear of the building located at 45 Toll Road (Map 18, Lot 227).

- Chris York, Millennium Engineering, spoke on behalf of the applicant.
 - Chris York stated on the original plan the turn around behind the building was shown as gravel. They wanted to make it pavement and added a 4-foot wide stone trench running along the backside of the property for stormwater.
- Lisa Pearson stated Town Staff recommends this modification. This area is where the trash trucks and the delivery trucks will be going and having it be pavement opposed to gravel will be better for maintenance and accessibility. She stated even though this is in our water resource district she does not believe it will affect the Town's wells and the stone trench should assist with that.

LM motioned to determine this as a Minor Modification to the Site Plan and Special Permit for 45 Toll Road. GM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

GM motioned to approve the Minor Site Plan Modification for 45 Toll Road. DR seconded this motion. Roll call was taken, all members (5) voted in favor.

2. Public Hearing - 7:10 pm

- e. Request for Site Plan Approval for the construction of 2 additional dwellings plus 2 existing dwellings with access to three of the dwellings via a shared driveway at **46 Beach Rd/2 Gravel Way** (Map 4, Lots 122 & 136), on a 1.83 +/- acre site in the Beach Commercial & R-2 zoning districts. Applicant: 46 Beach Road, LLC c/o Benjamin Legare.
- **DR** stated that the Planning Board had approved the Flexible Residential Development but is now coming before the Board with a Site Plan Review.
 - Chris York, Millennium Engineering spoke on behalf of the project.

- He stated there have been no new comments from the Town Engineer or the DPW Director.
 - He stated they added a water and sewer main and a second rain garden.
- Lisa Pearson stated that there is a legal issue. She stated that at the time of the FRD the applicant did not have ownership of Gravel Way. Since then there has been a deed provided. She stated there are somethings that Town Counsel needs to look at and decide whether or not there needs to be a rescinding of the existing subdivision plan in order to make this plan work. Lisa stated she recommends rescinding the subdivision so the applicant has legal rights to build on Gravel Way.
- Ben Legare stated the subdivision is a necessity for this plan seeing as it is a yield plan. He requested that the plan be approved tonight and the rescinding be a condition of approval before anything is send to the registry if it cannot be done.
- Megan Mulligan, Mulligan Law, spoke on behalf of the applicant.
 - She stated she wrote a letter to the Board explaining why no abutter has any legal rights to Gravel Way. She has run a title search on 50 Beach Road and has not found any easements. She stated just from a title point of view no other property has a right to this right of way. The subdivision plan has not been recorded and has not, as far as titles go, created any new legal rights. She said she thinks it would be appropriate to make it a condition of approval for the site plan that the subdivision plan be rescinded.
- **DE** stated he is open to the approval of this site plan conditional of Town Counsel's opinion.
- **LM** stated he thinks the Board should get Town Counsel's opinion before making a decision on the site plan.
- **GM** stated he agrees with **DE**.
- Ben Legare gave background on the right of way stating it was supposed to be an access for the rear lot which is now part of the land being used in the site plan. He stated the right of way it does not exist any longer.
- Lisa Pearson recommended not making Town Counsel's review contingent.
- **DR** stated her opinion is to get legal opinion before making a decision.
- Megan Mulligan stated the subdivision plan has not been recorded at the registry of deeds. She reiterated no other party has any legal right to use this right of way. She asked the Board if she could get the Town Counsel so she can share the title exams in hopes of moving it along.
- There was discussion about the process moving forward and the applicant team submitting all information they have regarding the right of way.

GM motioned to continue the Site Plan Approval for 46 Beach Road / 2 Gravel Way to the April 27, 2022 Planning Board meeting pending review by Town Counsel. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

1. **New Business – 7:00 pm** (continued from beginning of meeting)

- a. Review of the Maximum Housing Contribution Payment for the Inclusionary Zoning Bylaw (Cont. 3-9-22, 3-23-22)
 - Lisa Pearson gave a brief update.

3. **Other Business**

- a. Minutes
- b. **158 Beach Rd. aka 1 Washington St.** – Bond Expires on April 29th, 2022
 - Lisa Pearson suggested bringing this to Town Counsel to see what can legally be done with the bond.
- c. Master Plan
 - DR gave an update on the Master Plan, noting next steps will be a community wide survey and additional community meetings.

4. **Old Business**

5. **Correspondence**

6. **Adjournment**

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

Meeting adjourned at 9:45 pm

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

Minutes approved by:



Date: 2/29/24