



Date: April 27, 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**), Gil Medeiros (**GM**), and Alternate, John Schillizzi (**JS**)

PB Members Present via Zoom: Don Egan (**DE**) & Lou Masiello (**LM**)

PB Members Absent: None

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

JMD brought the meeting to order at 7:05 p.m. remotely via zoom. Announced, per opening meeting law, that the meeting was being recorded.

1. **New Business – 7:00 pm**

a. Review of the Maximum Housing Contribution Payment for the Inclusionary Zoning Bylaw (Cont. 3-9-22, 3-23-22, 4-13-22)

- **Danny Ruiz** stated he had provided the Board with a review of the percent changes and caps used dating back to 2016. How this number was calculated was using the median sale price of a single-family home in Salisbury.
- **Lisa Pearson** stated there is a zoning amendment going to Town Meeting. She stated that either way, the Board would be safe adopting the higher amount or staying the same. She stated that this number will be retroactive to March 1st.
- **LM** suggested that if they are allowed to remove the cap, they [the Board] should do it. He asked **Lisa Pearson** if there is a need to ask Town Counsel if they can do that.
- **Lisa** stated the amendment going to Town Meeting is doing that. It is removing the cap.
- **DE** stated he agrees that the Planning Board should vote to update the maximum amount to the \$28,384.00.
- **GM** asked how will we know what number to use if we get rid of the cap.
 - **Danny Ruiz** stated in the bylaw it talks about the housing adjustment rate, there is a formula to follow.
 - **DE** stated if we remove the cap the rate becomes 3.5% of the sales price of the house. There is no cap, there is no adjustment. He stated he would like to talk about that when it comes time to discuss the zoning amendment. What is going on now is correcting the errors from past years.
 - **Danny Ruiz** stated that’s incorrect. There is a cap, it will be the number that is voted on today. That number will be adjusted every year, up or down, by the planning board.
 - **DE** stated that the cap is only affecting housing sales for higher than \$800,000.00

- Lisa Pearson stated this should all be discussed when we get to the public hearing.
 - **JMD** suggested tabling this discussion.
- b. Request for Certificate of Completion for **10 Fanaras Drive** (Map 18, Lot 211). Applicant: Coastal Infusions, LLC c/o Christopher Edwards.
- *item moved to after public hearings*

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, 4-13-22)
- Chris York, Millennium Engineering, spoke on behalf of the project.
 - **JMD** stated at the last meeting it was understood that the applicant and the abutters would have a discussion and try to resolve some of the issues.
 - Chris York stated there are changes to the proposed plan, Brad Kutcher [the Applicant] agreed to put in a fence, a berm along the property line the fence along the driveway will be expanded. He stated the house will be put on a slab instead of the crawl space. The applicant has agreed to put in a dry well to take on some of the roof runoff. The proposed driveway was narrowed to 14 feet and moved to the south. There is a 2-foot buffer between the two driveways. The de-watering area was moved away from the neighbors.
 - Danny Ruiz asked if there was an agreeance on the size of the arborvitaes.
 - Chris York said he is not sure.
 - Lisa Pearson stated they would need a planting plan with the sizes.
 - An unnamed abutter gave public comment with concerns about the project.

GM motioned to close the Public Hearing for 41 Gardner Street. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- **JMD** stated the applicant has requested a waiver from § 300-82.18 A(1), the front façade of the building must face the street. He stated the applicant has adjusted the design to include a wrap around porch and fenestration that would make it appear as it is the front of the building.

LM motioned to grant the waiver from section § 300-82.18 A(1). DE seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- Danny Ruiz confirmed that the additional conditions for the decision are:
 - The finalized landscaping plan approved by the Planning Department.
 - The dark sky compliant lighting in the condo documents.
 - The finalization of the fence placement.
 - The final sign off from the DPW for the catch basin.

GM motioned to approve the Special Permit for 41 Gardner Street. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- b. 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.
 - He stated the surveyor, Jeff Hofmann updated the plans based on the last meeting. They updated notes on the plan in regards to the accesses. They updated the turn around.
- Danny Ruiz stated that the turn around is only 8.5 feet away from the existing structure.
 - Chris York stated that there is a note stating that the building will be removed at time of proposed roadway construction.
 - Lisa Pearson stated that the Building Inspector had left for the day when they noticed this, but they cannot create a non-conforming plan. She stated they need to confirm this with the Building Inspector. This can be a condition that it needs to be clarified or it will need a variance.
 - Danny Ruiz suggested the language to state the existing structure is to be razed at time of proposed roadway construction.

DR motioned to close the Public Hearing for the Definitive Subdivision at 115 & 121 Lafayette Road. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

DR motioned to approve the Definitive Subdivision at 115 & 121 Lafayette Road with the caveat, the language for the existing building be adjusted to razed. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- c. 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.**

- Douglas Deschenes, Law Firm of Finneran & Nicholson, spoke on behalf of the applicant.
 - Douglas Deschenes stated the applicant has received a special permit through the Planning Board as well as a notice of intent from the Conservation Commission.
 - He stated there were questions raised at the last meeting about the right of way which the Board requested to have staff speak with Town Counsel.
- Lisa Pearson stated that the lot is not currently as it is portrayed in the Site Plan. The applicant has an ANR on the lot creating three parcels, A, B and C. Due to the subdivision that was filed in 1996 the question was weather or not the applicant needed to rescind the previous subdivision. Town Counsel believes it can be done either way. The subdivision can either be rescinded or another ANR can be proposed

removing the lot lines. The decision can be conditioned to get rid of the lot lines through a recorded ANR prior to site work or building permits. This would bring the plans up to date with what the Site Plan shows currently.

- **DR** stated, during the FRD conversations, the Board talked about a pocket park. She asked if they would update the Board on that, where it is on the plan.
 - TJ Melvin, Millennium Engineering, responded stated the pocket park is near Beach road within the green hatched area on the site plan.
 - **DR** asked is that whole area maintained by the condo association.
 - Douglas Deschenes confirmed, yes.
 - Lisa Pearson stated that she doesn't believe the homeowners are going to want the public walking through their properties.
 - Nick Cracknell, stated his understanding about the pocket park was that are was going to be an easement from the association from the town. There is no opposition on their side this.
 - Lisa Pearson stated she believes that there needs to be a recreational easement for insurance purposes. This will be a condition clarifying the access easement area for the pocket park.
 - **LM** asked if the public access is for just the bench area or the whole open space.
 - Nick Cracknell stated the split rail fence will delineate the public access area around the flag and bench area from the rest of the open space that will be for the condo association.

GM motioned to close the Public Hearing for the Site Plan Approval for 46 Beach Road/2 Gravel Way. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- Lisa Pearson stated there can't be any occupancy permit until at least a certificate of partial completion has been filed. She stated she does not remember any conversation during site plan review of issuing an occupancy permit for the single family already built. She suggested reopening the public hearing in order to discuss the note on the front sheet of the plans stating the house at 2 gravel way shall be allowed for occupancy.
- Ben Legare stated the reason that note was put on the plans is because the owner of the house had a move in date a long time ago. He stated that house was already existing.
 - **DR** stated the concern is there is additional information being presented after the public hearing has been closed.
 - **GM** asked if that note was on the first site plan turned into the Board.
 - Danny Ruiz replied, yes it is.
 - TJ Melvin stated is was on the Site Plan Review plans but not the Flexible Residential Development plans.

GM motioned to re-open the Public Hearing for the Sire plan Approval at 46 Beach Road/2 Gravel Way. DE seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- **DR** opened the floor to discussion of the existing home and the occupancy permit.

- Lisa Pearson stated the note referring to occupancy permit was added to the plans on March 16th as response to Town Comments.
 - Ben Legare stated that house is new and they are about halfway through with sign offs. He stated they have a partial completion from the Conservation Commission on that house specifically. He stated since that is an existing house and built to it's original permit, they believed it could be an existing house and the rest of the development would be conditioned in regards to their certificate of occupancies.
- DE stated he is curious as to if they could bond one of the other units so they could be eligible for a partial certificate of completion.
 - Danny Ruiz stated there has been no work completed yet meaning there is nothing to bond.
- Lisa Pearson stated if this house and occupancy permit are part of the decision then the applicant will need to wait for the approval of the decision, the 20-day appeal period then the certificate of partial completion.
 - DE stated he thought the bond would be on the completion of the ANR.
 - Lisa Pearson explained that the ANR would be required before site work. As it stands now this existing house has frontage on gravel way, however once the ANR is filed the house will not have any frontage. She thinks they should take the note off the plan and approve the plan to allow the time frame to start. If the note is removed from the plans then the existing house will not be a part of the decision. She suggested speaking with the Building Inspector in the meantime.

GM motioned to close the Public Hearing for the Site Plan Approval for 46 Beach Road/2 Gravel Way. LM seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

LM motioned to approve the Site Plan Approval for 46 Beach Road/2 Gravel Way with the additional conditions of obtaining and recording an ANR to remove the existing lot lines prior to site work; to create a recreational easement for the pocket park portion of open space prior to occupancy permit, the note for unit #2 be removed from the plan and final approval from the DPW. DE seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed

1. New Business – 7:00 pm (continued)

- b. Request for Certificate of Completion for **10 Fanaras Drive** (Map 18, Lot 211).
Applicant: Coastal Infusions, LLC c/o Christopher Edwards. (moved from earlier in the meeting)
 - Chris York, Millennium Engineering spoke on behalf of the applicant.
 - He stated that after the as-built plan had been submitted, the applicant wanted to install a concrete pad on the easterly side of the building. So, this was added.
 - He stated that the only comment from the Town Engineer was to make sure the landscape plan was completed as approved.

- There were no questions from the Board members.
- Lisa Pearson asked when the plantings were planted and if there needs to be a bond for them.
 - Chris Edwards, the applicant, stated the plantings were planted in the fall before first frost.
 - Lisa Pearson confirmed they were purchased on October 25, 2021.
 - Lisa Pearson stated if the Board would like to take a small bon to ensure the trees grow through the next growing season. There were some issues with plantings in the past.
 - **DR, GM and JS** stated they do not see the need for a bond.
 - **DE** stated that the applicant will need to come back before the board for a renewal of their special permit and through that process the landscaping can be addressed if need be at that time.
 - **LM** stated he does not see the need for a bond.

DE motioned to approve the Certificate of Completion for 10 Fanaras Drive noting the when the Special Permit application renewal comes before the Board, they will receive update on the landscaping. GM seconded this motion. Roll call was taken, all members voted in favor. Motion passed.

- d. Zoning Amendment Proposals for the Planning Board to consider recommending for Town Meeting: (continued from earlier in the meeting)
 - a. Modifying the Salisbury Zoning Bylaw, Article XIII Inclusionary Housing Requirements, §300-79(B): Housing Contribution Payments In lieu of On-site Units, or take any other action relative thereto.
 - **DE** stated his opinion is to amend this bylaw to adjust to 3.5% of the selling price to be the contribution across the board. He noted that the redlined sentence shouldn't be taken out but amended to say, "... provided that the housing contribution payment for any market rate housing unit shall not exceed a maximum established by the Planning Board based on this formula". He said there is no starting point for the maximum that would get altered every year. He stated the calculations behind the maximum are not specified in the bylaw.
 - **LM** stated he believes the proposed language meets the goal by taking out the maximum in the bylaw so it can be changed with the data every year.
 - Danny Ruiz stated that each year the maximum contribution will be adjusted and there is no cap on how high that number can be. As the bylaw is right now, there is a cap on the maximum the Planning Board can adjust to.
 - **DE** noted he would like to state his disagreement that the bylaw establishes a cap as noted by Danny Ruiz. He stated they had not received an opinion from either Town Counsel or Town Manager on the interpretation of the meaning.
 - Lisa Pearson stated that it has come up adjusting the number for rental housing as well. It would allow for the Town to do that the way the amendment is written as presented tonight. Currently there have not been rental units that opt into the payment in lieu of affordable units, but that is changing. Staff can look into other communities and reach out to consultants in order to see their housing contribution payments. These results can be presented as an amendment at town meeting if the Board would like.

- The Board agrees on putting the number as \$20,000 for rentals while Staff does research and provide backup for Town Meeting.
- **DE** stated he thinks there is confusion of where the initial maximum is coming from even though the Planning Board will be establishing it annually.
 - Lisa Pearson stated it has been established for years.
 - **DR** stated as long as the formula doesn't require the original cap she believes they should be fine.
 - Lisa Pearson stated the formula requires the cap from the year prior.
- **DE** suggested altering the line, "The maximum per-unit housing contribution payment amount shall be adjusted annually by the Planning Board as set forth herein.." to "The maximum per-unit housing contribution payment amount as established by the Planning Board shall be adjusted annually by the Planning Board as set forth herein."
 - The Board members agreed to this alteration.

LM motioned to recommend "Salisbury Zoning Bylaw, Article XIII Inclusionary Housing Requirements, §300-79(B): Housing Contribution Payments In lieu of On-site Units, or take any other action relative thereto" to Town Meeting as amended during this hearing. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- b. Modifying the Salisbury Zoning Bylaw, Article II Zoning Districts, §300-7 (300 Attachment 4), Zoning Map, expanding the Commercial District in the area of Elm Street as shown on the map entitled "Town of Salisbury Commercial 1" dated 3/29/2022, a copy of which is on file with the Town Clerk and is hereby declared to be part of the Zoning Bylaw; or take any other action relative thereto.
- Lisa Pearson explained that the lots were essentially severed by the rail trail having commercial zoning 400 ft from the road way back, leaving the lots behind the commercial lots in medium density residential, meaning they can only have a single family on one acre. This would legally allow the commercial district to extend to these lots. There were questions about how this would affect abutters but the large parcels separating the lots from the residential lots near it are donated land and a solar park giving a buffer to the abutters.

DR motioned to recommend "Modifying the Salisbury Zoning Bylaw, Article II Zoning Districts, §300-7 (300 Attachment 4), Zoning Map, expanding the Commercial District in the area of Elm Street as shown on the map entitled "Town of Salisbury Commercial 1" dated 3/29/2022" to Town meeting as presented. DE seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

- c. Modifying the Salisbury Zoning Bylaw, Article XVIII Site Plan Review, §300-111.B(1)(b), Reviewing authority; major and minor projects; determination of applicability; or take any action relative thereto.
- Lisa Pearson stated that this recently came up to the Building Inspector when someone had a parcel of land with an ANR for many lots and tried to pull a building permit for just one single family home. She said she believes the idea behind this attempt was to forgo site plan review. The Building Inspector caught this and sent it to the Zoning

Board of Appeals who upheld the Building Inspectors interpretation. The idea behind this amendment was suggested by Town Counsel in order to prevent an applicant from receiving an ANR for many lots and avoiding Site Plan Review so the town can monitor things like stormwater, sidewalks and connectivity and those types of things that would protect abutters. The Town and Building Inspector already believe the language is in here, as well as the ZBA decision agreeing with this. This is clarifying language to affirm what both the Building Inspector and Zoning Board of Appeals interpreted as well as using definitions already defined in the Zoning Bylaws.

- DE asked what if someone did this [an ANR] and went to build years later how would that be caught. Also, what if the owner sold off the individual lots.
 - Lisa Pearson said she believes there was a time frame clause in the definition of lot. She suggested continuing so research can be done and answers provided to the board.

LM motioned to continue “Modifying the Salisbury Zoning Bylaw, Article XVIII Site Plan Review, §300-111.B(1)(b), Reviewing authority; major and minor projects; determination of applicability; or take any action relative thereto.” to the next Planning Board meeting on May 11, 2022. DE seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

DE motioned to continue “Review of the Maximum Housing Contribution Payment for the Inclusionary Zoning Bylaw (Cont. 3-9-22, 3-23-22, 4-13-22, 4-27-22)” to the next Planning Board meeting on May 11, 2022. DR seconded this motion. Roll call was taken, all members (5) voted in favor. Motion passed.

2. Other Business

a. Minutes

- None at this time

b. 158 Beach Rd. aka 1 Washington St. – Bond Expires on April 29th, 2022

- Danny Ruiz stated that letters have gone out to condo owners in order to get a meeting with them to discuss how they would like to handle this. The other plan is seeing how to pull the bond and use it to do the landscaping ourselves, it's a matter of if that is legal or not and how to do it.

c. Master Plan

- Danny Ruiz stated there is a workshop coming up with the community.
- DR noted that public should look forward to the community survey and urged them to participate in both or at least one of the surveys or community meetings.

d. Lafayette & Main Zoning

- Danny Ruiz said they are working on compiling the information gathered so far and are working towards a visual survey.

e. Rules & Regulations – Discuss updated Planning Board applications and updated fees

- **JMD** stated that he commends Danny Ruiz for looking into the application process and making it so it is more streamlined and that the fees are more comparable to neighboring communities.
- Lisa Pearson stated that the fees would be voted on by the Planning Board to recommend to the Board of Selectmen to implement.
- Lisa Pearson stated that the forms are all being updated and looked over for accuracy so they can be moved over to Citizen Serve which is the online process.

GM motioned to recommend the updated fees to the Board of Selectmen. DR seconded this motion. Roll call was taken, all member (5) voted in favor. Motion passed.

f. Stormwater Regulation

- Lisa Pearson stated that they are working with MVPC on updating a stormwater bylaw.

3. Old Business

4. Correspondence

5. Adjournment

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

Meeting adjourned at 9:35 pm

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

Minutes approved by: _____

Date: _____

4/11/24