

Salisbury Planning Board Meeting Minutes

Date: Wednesday, December 11, 2019

Place: Colchester Auditorium, Salisbury Town Hall, 5 Beach Road

Time: 7:10 p.m.

PB Members Present: Chair Don Egan (DE), Clerk, Gil Medeiros (GM), John “Marty” Doggett (JMD), Louis Masiello (LM) and Deb Rider (DR).

PB Members Absent: None

Also Present: Assistant Planner Bart McDonough (BMD) and Planning Board Secretary Sue Johnson (SJ).

DE brought the meeting to order at **7:10 p.m.** in the Colchester Auditorium, Salisbury Town Hall. Announced, per opening meeting law, that the meeting was being recorded.

1. New Business

a. **Signing of plans & permits** – Nothing to be signed

b. **Approval of 202 Planning Board Meeting schedule**

There was a brief discussion about the dates in November and BMD stated that he would update the calendar to remove November 11 & November 25, 2020 and add November 12, 2020.

LM motioned to approve the schedule.

JMD seconded.

Vote: 5-0, motion passed.

c. **Minor site plan modification and bond reduction** – 2-10 Sycamore Lane, formerly 20 Ferry Road, (Assessor’s Map 3, Lot 95A-E) – Request made by Bradly Kutcher (BK)

DE stated that a site visit was done on November 25th at 5:30pm and there were four issues that need to be addressed. BK stated that the first issue was dark sky compliant lighting. BK stated that they did change the light fixtures on the front of the homes, the back of the homes and the lamp post to dark sky compliant lights. BK went on to state that there are still two spotlights in the back of 2 Sycamore that need to be replaced with dark sky compliant lighting. BK stated that he brought in a dark sky compliant replacement fixture for BMD to see which the spotlights will be replaced with. DE stated that the lighting plan that was submitted shows no lumens in the backyard and went on to state that in order to vary from that BK would need to submit a site plan modification with a new lighting plan. After a brief discussion BK stated that he would provide a new lighting plan. BK stated that the second issue was the fence on the south side of the property was encroaching onto the abutter’s property which has been corrected and is reflected on the as built plan. DE asked if the Town Engineer (TE) has had a chance to review the as built plan. BMD replied that the TE has not responded the plans were just received on Monday. DE stated the Board will need confirmation from the TE that this issue has been resolved. BK stated that the next issue was the berm. DE asked if there was a definitive plan to do it or not do it. BK replied no. LM stated that it was decided to wait until the spring to make a decision on the berm. DE stated that when it comes to the issue of the bond the potential berm or no berm will need to be addressed. DE stated that an abutter did not believe that the right of way was properly shown on the plans and asked if this has been resolved. BMD stated that it had not been resolved and was being researched. BMD stated that he will meet with the abutter to gather her documents to help get this resolved. DE asked BMD to put a letter together to the abutter regarding this issue. BMD pointed out to the Board that there were 2 emails in their packets, one from an abutter and one from a homeowner stating their concerns. The homeowners email was about the sump pump that was installed but not

activated. BK stated that if it needs to be activated it will pump into a drywell and the sump pump that was installed at unit 2 now pumps into a drywell. BMD stated that the letter from the abutter is regarding light at the back of the homes. The board discussed reduction of the bond. BMD stated that the current bond is \$98,335.00 and DE suggested reducing the bond by half. BK stated that he needs this money to pay bills and referred to the TE's letter suggesting that the bond be reduced to \$5,000.00. GM asked DE to review the outstanding issues. DE replied a solution to the lighting issue, the berm behind # 10, the easement issue and dead vegetation. DE stated that he did not think that a \$5,000.00 bond would be enough and suggested \$25,000.00. BK asked if it could be reduced to \$20,000.00.

LM motioned to reduce the bond to \$20,000.00.

GM seconded.

Vote: 5-0, motion passed.

d. Certificate of completion and bond release – 233Beach Road (Assessor's Map 33, Lot 4) – Request made by 233 Beach Road, LLC

Stephen Paquette (SP) discussed the TE's letter and drainage. SP stated that the remediation that was done is not in compliant with the site plan but fixed the ponding issue which the residents are happy with but the TE states that it was not built per plan. SP stated that this puts him in a quandary and is asking for the Board's guidance on how to proceed. DE stated that SP could do a minor site plan modification to make the as-builts match the approved site plan. Paula Olivera (PO) stated that she was president of the association and what was done is better but does not know if it will last or work. PO stated that she is uncomfortable with the Board approving this until Conservation is ok with it. DE stated that the TE stated that it complies with everything that was supposed to be done except that what is built is not exactly what was approved but was required to further address the flooding. DE stated that he thinks it is adequate. Paul Nolan (PN) stated that he was also on the Board of Trustees at South Beach Landing. PN stated that the drainage with the present swale is significantly improved from where it was this past spring. DE asked BMD what the bond was needed for. BMD replied that it was for the work that needed to be done and the maintenance plan. SP stated that there is no closed drainage on this site and the only maintenance would be in the back corner. SP stated that he can get his engineer to write a letter for the record as to how this will be maintained. DE stated that theoretically this is the only outstanding issue. BMD replied that based on the TE's letter it is just the swale and operation and maintenance plan.

LM motioned to accept the plan as submitted tonight and issue a Certificate of Completion contingent on the submission of an operation and maintenance letter to be reviewed by the TE.

GM seconded.

DE stated that the motion needs to be amended to accept this plan as a minor site plan modification.

LM motioned to amend his motion to accept this plan as a minor site plan modification contingent on the submission of an operation and maintenance letter to be reviewed by the TE.

JMD seconded.

Vote: 5-0, motion passed.

GM motioned to release the \$30,000.00 bond.

DR seconded.

Vote: 5-0, motion passed.

e. Certificate of completion – 1 Washington Street, formerly 158 Beach Road (Assessor's Map 27, Lot 23) – Request made by Coastal Realty, LLC

Eric Botterman (EB) stated that he was representing the client and gave a brief description of the project and stated that the visitor parking location has changed. DE stated that they would need to do a site plan

modification to show the new location of the visitor parking. EB stated that they could do that. EB stated that they have just recently sold 2 of the units.

Public Hearings—7:10 pm

- a. **Modification to a definitive subdivision plan**—28 Rabbit Road (Assessor Map 10, Lot(s) 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 105, 106, 107, 108, 111 112, 113, 114, 115, 116, 117, 123,124, 126, 127, 128, 129, 130, 131, &132—Request made by ZAP Development, LLC
GM recused himself.
Eric Botterman (**EB**) of Millennium Engineering stated that he was representing ZAP Development. **EB** stated that they would like to request a continuance.
JMD motioned to continue until 1/8/2020 at 7:10pm.
DR seconded.
Vote: 4-0, motion passed.
- b. **Special Permit and major site plan review**—238 Lafayette Road (Assessor Map 23, Lot 17)—Request made by Ganesh Wellness, LLC
EB stated that the propose project for this site is to take the old Stella's restaurant and make it into a marijuana facility. **EB** stated that they are proposing to rehab/refurbish the existing building which is a little over 2,000sf on a lot approximately ½ acre. **EB** stated that Lafayette Road is controlled by MassDOT. **EB** stated that he had spoken to MassDOT design people a couple months ago to ensure that what they came up with for driveway accesses was not incompatible with the project that they have on Lafayette Road. **EB** went on to state that MassDOT has plans reconstruct Lafayette Road and add a sidewalk. **EB** stated that they have received plans from the Town Engineer but are not prepared to respond at this point. **DE** stated to the Board that this project is in the Lafayette and Main Commercial District which has its own zoning requirements and the special permit is under the Recreational Marijuana Overlay District bylaw. **EB** stated that they are proposing to have 31 parking spaces and parking is not allowed in front of the structure in the LMC District. **EB** stated that there is the ability for them to ask for a waiver for up to 15% of the required parking. **EB** stated that they spoke with the Building Inspector and he determined this to be a retail facility and 7 parking spaces would be needed. **EB** stated that the flow of traffic would be entering on the southern end of the property to access the parking on that side of the building or drive in front of the building to access parking on the northern side of the building and then all vehicles would exit out of the northern side onto Lafayette. **EB** stated that sewer will begin to be installed on Lafayette Road in the spring. **EB** stated the site has a failed septic system and they are proposing to do a tight tank. **EB** stated that there should only be 6 to 7 employees on site at any one time so there will not be a huge waste flow. **EB** stated that this would be an interim solution until they could hook up to the sewer. **EB** stated that they believe the parking is adequate and do not have additional offsite parking at this time. **EB** stated that generally when these types of facilities open they schedule appointments. **DE** stated that the applicant is looking for guidance on a few key points such as the number of parking spaces, the location of parking spaces, the driveway in the front and the architectural drawings. **GM** stated that he agreed with the applicant that there should not be parking behind the building. **DR** asked what the required number of parking spaces was. **DE** stated using the formula they have in place now calculates the required number is 7 spaces. **DE** stated that if you compare it to the Elm Street property 7 parking spaces wouldn't cut it. **EB** stated that he had spoken to the owners of the Elm St. store and they were surprised how many customers this location was taking away from their Salem, MA store. **LM** stated that the Elm St. location has satellite parking at the Sylvan Street Grille and may be something that you would want to look into for this site. **DR** asked if a customer is pulling in to the parking lot on the right and finds that there is no parking is there space to turn around. **EB** said no they would need to back out. **GM** stated that he feels that customers would be able to see if there were open spaces in that

parking lot because there aren't that many. **LM** stated that if there was a driveway in the back as the Town Engineer had suggested it would eliminate this problem. **EB** stated that he didn't feel that this is a significant issue for the customer to have to back up and went on to state that with this kind of facility having anything behind the building is not a good idea. **GM** agreed that there should not be access to the back of the building. Anand Patel (**AP**) stated that the neighbors directly behind them had concerns so to be good neighbors they propose to put up a fence and keep all activity to the front of the building. **AP** stated that they have gone door to door speaking with the neighbors to introduce themselves and ask about any concerns that they have. **JMD** asked if the fire department had any concerns about access to the site. **EB** replied that they have not heard back from them and went on to state that they will be hearing back from all of the department heads regarding the special permit. **DE** stated in regards to parking will the applicant be scheduling appointments with customers. **AP** stated that they are working closely with the police chief with their traffic plan and if the police chief thinks that appointments are needed they will do so. **DE** stated that the Board may need to incorporate this as a condition and at some point the applicant can come back to request a non-appointment system. **DE** stated that from his perspective there is not enough parking at the site. **JMD** asked how they would handle deliveries. **EB** stated that deliveries will be made off hours in a secured fenced in area. **AP** stated that deliveries would be made by an unmarked commercial van at random times not to create a pattern. **AP** stated that there would be 2 people in the van and one would remain at all times. **BMD** stated that there will be 6-7 employees which will reduce the number of parking spaces. **DE** asked if the driveway in front would it create any hazards for people entering and exiting the store. **EB** stated that he did not believe so. **EB** stated that the driveway is a one way loop and went on to state that MassDOT would not give them in and out access at each lot. **DE** discussed possibly having a right turn only leaving the parking lot. **LM** asked about signage. **EB** stated that they would have one sign near the entrance but do not have a design yet but it will meet the zoning regulations. **DE** asked if there was any opportunity to tear the building down and relocate a new building on one side of the lot. **EB** replied no, economically it is not feasible. **DE** discussed the architectural drawings and stated that they may be mislabeled and suggested that they discuss at another meeting. **EB** agreed and stated that they could have the architect there to address the Board's questions. **JMD** asked if **EB** could check with the architect about the purpose of the decks in the back. **AP** stated that they were there when they bought the property and they are not sure if they will keep them or not.

GM motioned to continue the hearing until 12/11/2019 at 7:10pm.

LM seconded.

Vote: 5-0, motion passed.

- c. **Minor site plan review: 139 Elm Street (Assessor Map 9, Lot 18)**—Request made by Li Realty Trust
EB stated that in the spring they did a survey to do a Certificate of Compliance with the Conservation Commission and found out that there were things that were not built as they were supposed to be. **EB** stated that their plan is to get permission to fill some of the wetlands in the back of the property which would give them an additional 20 parking spaces. **EB** stated that for them to do this they would need Conservation Commission approval. **EB** stated that at this point they are not ready to move forward and is requesting a continuance until the Conservation Commission makes a decision on their plan. **EB** asked for a continuance until 12/11/2019 at 7:10pm. **BMD** asked **EB** to submit the request for a time extension in writing.

LM motioned to continue the hearing until 12/11/2019 at 7:10pm.

JMD seconded.

Vote: 5-0, motion passed.

2. New Business

- a. **Signing of plans & permits** - Nothing to be signed.

- b. **Certificate of completion and bond release**—208 Elm Street—Request made by 208 Old Elm Street Salisbury, LLC

BMD explained that a \$7,500.00 bond was retained for the applicant to complete the bus stop shelter. **BMD** showed the Board pictures of the bus stop shelter. **GM** stated that he drove by and it looks nice. **BMD** stated that their developer's escrow has a negative balance of \$150.00 and suggested to condition to have that paid prior to releasing the bond. **DE** asked if it was a cash bond and **BMD** replied that it was.

GM motioned to grant the final Certificate of Completion and bond release subject to payment of the outstanding \$150.00 review fee.

DR seconded.

Vote: 5-0, motion passed.

- c. **Certificate of completion and bond release**—20 Ferry Road (2-10 Sycamore Ln.)—Request made by Bradley Kutcher

BMD stated that the applicant has submitted as-builts to Joe Serwatka (**JS**) and the Board for review. **BMD** explained that **JS** has questions for the applicant that they have not yet replied to. **BMD** went on to state that some of the concerns are lighting and landscaping and **BMD** suggested to the Board to do a site visit. **DE** stated that at the last meeting there were several abutters with concerns and one of them was flooding and the installation of spotlights that were installed by the homeowners. **BMD** stated that there have been site walks done by the Planning Department, **JS** and the residents. **BMD** went on to state that the main issue is the lighting not being dark sky compliant. **BMD** stated that it was stressed to the homeowners that dark sky lighting is a condition that they must adhere to. **DE** asked **BMD** to coordinate with the developer to meet on Monday, 11/25/2019 after dusk with all exterior lights on. **BMD** stated that he would arrange a time frame and advise the Board.

LM motioned to do a site walk and continue until December 11, 2019.

DR seconded.

Vote: 5-0, motion passed.

3. Other Business

- a. None

4. Correspondence

- a. **Minutes:** March 27, 2019

LM motioned to approve.

DR seconded.

Vote: 5-0, motion passed.

- b. **Minutes:** August 28, 2019

JMD motioned to approve.

GM seconded.

Vote: 5-0, motion passed.

- c. **Minutes:** September 11, 2019

DR motioned to approve.

JMD seconded.

Vote: 4-0, motion passed (LM abstained; he was not at meeting).

d. **Minutes:** October 9, 2019

GM motioned to approve.

JMD seconded.

Vote: 4-0, motion passed (LM abstained; he was not at meeting).

5. **Adjournment**

GM motioned to adjourn.

JMD seconded.

Vote: 5-0, motion passed.

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

Minutes approved by: _____



Date: _____

