

Salisbury Planning Board

Meeting Minutes

Date: Wednesday, February 28, 2018

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

Time: 7:00 p.m.

PB Members Present: Chair Helen “Trudi” Holder (TH), Vice Chair Gina Park (GP), Don Egan (DE), John “Marty” Doggett (JMD), and Gil Medeiros (GM).

PB Members Absent: Louis Masiello (LM)

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

Chair Trudi Holder brought the meeting to order at 7:00 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 Not Required – 71-75 North End Blvd – Tom Patenaude Homes, Inc.

Tom Patenaude (TP) stated that he was the owner of the properties. **BMD** stated that this is for a lot line adjustment in the beach commercial zone. **TP** explained that there are three separate lots and would like to change the lot lines to allow for an access and utility easement (driveway) to get to the back lot. Each lot will have one building. Two of the buildings will have 3 units and the third lot will have two units. **DE** asked if the utility easement was a street. **TP** stated that it was a driveway. **DE** stated that he drove by and noticed that construction had already started. **TP** stated he had a permit to build the foundations. **DE** questioned why this did not go through site plan review and asked if it was one condo association. **TP** explained that it is 3 separate lots and is 3 separate condo associations. **BMD** explained that it didn't go through site plan review because there was three existing houses and he is adding 2 more units to each lot which didn't trigger a site plan review. **DE** would like to get additional clarification from the building inspector. **GM** asked Bart if this went through the office. **BMD** explained that it went through the building inspector who determined that it did not need to go through site plan review. **TH** made a recommendation for the board to endorse the ANR. **GP** didn't feel comfortable recommending approval when a board member still had questions. **DE** believes it is a zoning violation and would like clarification from the building inspector. **DE** asked about parking on lot 1. **TP** explained that parking is underneath the unit and further explained that there are 2 spaces underneath each unit. **GP** asked if all 3 condo associations are sharing the driveway who is responsible for plowing. **TP** said that possibly a separate condo association could be set up for plowing and went on to say that he was going to meet and discuss with the assessor. **BMD** asked Tom to clarify what lot the easement belonged to. **TP** stated that lot 2 would be granting the easement to lot 1 & 3 to access their garage under. **DE** stated that it appears to him that using an easement for a driveway is being employed

to avoid site plan review. **TP** was very shocked by the resistance he is receiving regarding moving a lot line and feel he took all the right steps to get to this point. **DE** read from the rules and regulations about denying the endorsement and made a motion to deny the endorsement. **GP** seconded. **JMD** asked if we do not endorse what is the remedy for the applicant. **BMD** stated that the applicant can appeal. **GM** stated that it is wrong to put **TP** in the middle of an argument that the board is having with a decision made by the building inspector. **GP** stated that there should be an option to extend. **BMD** suggested to continue to a non-planning board day before the time line expires. **JMD** liked the idea of continuing to get a better understanding. **BMD** suggested setting up a date and reconsideration the motion. He also recommended 3/12/2018 for a new hearing. **TP** asked if the Board needed more time to decide whether the lot lines should be moved. **DE** said it boils down to the easement to access the condo units. **TP** stated that he would not be doing a lot line change if he went with a smaller building and feels what the board is doing to him is wrong. He asked the Board to clarify their reason to continue so he could discuss with engineers and lawyers. **DE** stated that he thought they needed clarification from the building inspector in terms of whether or not the existence of the easement to access the unit in the back qualifies for an ANR. **TP** stated that if there was an issue he would not have gotten a building permit from the building inspector. **DE** stated that he would like to withdraw his motion and that the Planning Board draft a letter to the Building Inspector stating that they believe this should have subject for site plan review and is part of inclusionary housing provision. **TP** gave a hypothetical situation example. **DE** stated that we are not dealing with hypotheticals. And that he has a building permit for 8 units not 3. **TP** stated that the hypothetical is that **DE** thinks that this is all one condo project. **TH** interjected and stated the issue is the lot line not what is going on the lot. **DE** motions to endorse the ANR with a provision that a letter be drafted to the Building Inspector explaining that the easement creates a de facto 8 unit condo that this should have been subject to site plan review. **GP** seconded **TH** would like to amend the motion to just include the ANR and possibly set up another motion regarding the letter. **DE** motioned to endorse the ANR. **GP** seconded. **Vote: 4-0, unanimous. Motion carried.**

DE motioned that the planning board draft a letter to the building inspector indicating that they disagree with his decision not to send this to site plan review and furthermore we believe that this is subject to inclusionary housing provisions based on the fact that the easement creates a de facto 8 unit condo. **GP** seconded. **Vote: 5-0, unanimous. Motion carried.**

c. Certificate of Partial Completion – 9 Fanaras Drive, Salisbury, MA 01952 – Andover Healthcare, Inc.

Anthony Ruiz (AR) stated that they are seeking a certificate of completion for the 2017 expansions at 9 Fanaras which included Building 1 and 2 tunnels. He also stated their intentions to complete open action items related to a 2008 project which will be complete weather permitting. **BMD** stated in regards to the 2017 project they still need to remove the gravel road and replace with turf. **BMD** stated that this is for the minor site plan review. **DE** motioned to grant a certificate of partial completion. **JMD** seconded. **Vote: 5-0, unanimous. Motion carried.**

2. Public Hearing 7:50 pm

- a. **Cont. Public Hearing:** A major site plan filing by Merrimack Valley Habitat for Humanity, Inc. for the property at 22 Old County Road, Salisbury, MA. Proposed work is to construct 1 single and 3 duplex residential units.

Ken Staffer (KS) with VHB, the civil engineers for the project. Since the continuance from October 2017 the engineers had a chance to iron out a couple of items: offsite utilities, preparation of preliminary architectural plans and a general landscape plan.

KS discussed water service to the development stating that they are required to provide a water loop from the east end of Old County Road to Michaels Drive. VHB is still working with the DPW to work out some details in order to get final approval.

KS stated that they are working on preliminary architectural plans for the units. One of the conditions that was included in the draft conditions was to bring the final designs prior to getting a building permit and present them to the board.

KS discussed the lighting and how it would meet Dark Sky compliance.

TH reviewed a list of waivers to be granted. **DE** stated that he would like “that all of the lighting for the project be Dark Sky compliant” added to the condition. **BMD** stated that it would be added. **DE** stated as long as it does get added he supports approving the waivers. **DE** moves to approve the waivers as requested. **GM** seconded. **Vote: 5-0, unanimous. Motion carried.**

GP motioned to approve the site plan. **JMD** seconded. **Vote: 5-0, unanimous. Motion carried.**

- b. **Cont. Public Hearing:** Big Block Development Group for properties located on 8, 16 & 18 Broadway and 6-28 Ocean Front South. Proposed work is to construct a mixed use redevelopment comprising of 240 residential units, 6,500 square feet of commercial space and a large parking lot.

TH discussed the workshop held at Town Hall with the applicant, the Town and PPS on 2/26/2018. **JMD** explained that the town officials and the applicant talked about three major issues. The intersection of public, private and commercial space. The decision between the town and the applicant was to sit down and continue to discuss more ways to incorporate public and commercial interaction. **TH** stated that there was also a decision to continue to work on the vision of Ocean Front S.

Steve Parquette (SP) stated that attending the workshop was helpful and that the problem still is the regulatory aspects of raising the building at least 2’ above the VE Zone. He showed a rendering of potential stadium stairway in front of the retail concourse on Broadway which PPS viewed as an improvement. **Dale Gienapp (DG)** discussed the possibility of expanding the stadium stairway down to Happy’s. **DG** discussed the public entrance on Ocean Front S which would allow access to the commercial area and to the first 2 residential units. **SP** showed a plan for the commercial space and discussed the possibility that first two residential units could be converted to commercial. **Tom Hughes (HEC)** of Hughes Environmental Consulting discussed

that the project needs to meet the following standards: FEMA, Wetland Protection Act and Building Codes which all state that the building needs to be elevated to allow for movement of sand and flood waters. **GP** asked if the lattice skirting would that be allowed. **HEC** explained that it is not allowed and that piles need to be exposed. **DE** asked **HEC** to review the minimum height requirements on Broadway. **HEC** explained that the VE zone on Ocean Front S needs to be elevated to 17' and grade approaches elevation 17 and explained that the structure would need to be 2' above grade in that area for the movement of sand. The structure under the building code needs to be 2' above elevation 17 to the bottom side of any horizontal structural beam which would need to be carried throughout the whole building. Also stated that they are looking for the DEP to be flexible given that dune not functioning as a traditional dune and pushing to have skirting. **DE** stated that he liked the idea of the stadium stairway on the corner of Broadway & Ocean Front S. **DE** asked what the bottom height of the grade of the beam on Ocean Front S. **HEC** stated that it was at 20'. **HEC** stated that before they applied for their environmental permit they met with DEP and they asked them to maximize freeboard space, which plans for sea level rise and catastrophic events. **HEC** stated that they included 1' of freeboard which helps to lower the rate of flood insurance. **DE** asked if they looked into having a separate building where the elevation is different so that it wouldn't have to conform to the VE Zone. **HEC** stated if it was just the AO zone you would need to find the highest point and still build 2' above that which may allow you to be more flexible. **DE** asked about building around the existing structures on Broadway and Ocean Front S. **HEC** replied that if you put more than 50% of the value into the structure they can't exist anymore and would need to be rebuilt on piles.

SP stated that approximately 25% of Broadway's commercial space is occupied year round and that the Town zoning consultant acknowledged that for the foreseeable future there is no commercial market for Ocean Front S. **DE** asked what percentage was occupied in the summer. **TP** stated they did not analyze that number and did not have an answer. **DE** stated that he didn't think anyone thought the commercial would be year round. **GP** stated that the way the beach is now no one would want to open a business there and that once the beach is revitalized it would become a destination location and a great selling point for the residences to have goods and services within a walking distance. **SP** stated that it took 40-50 years for the beach to get to the condition it is on now and agreed on **GP's** vision but stated that it would take time to bring it to that level. **SP** stated that it will happen as the Town brings in new projects and as the market reestablishes itself it will come. **SP** stated that it is not feasible for the Town to ask the developers to build storefronts to remain vacant until a time when it can become absorbed by the market. **GP** stated that her concern is that if you make it residential and sell it as residential that you have lost all chances of converting to commercial in the future. **GM** stated that it will be a lot harder to change from residential to commercial in the future. **SP** stated that there are lending restrictions about how to apportion residential and commercial from legal lending and Fannie Mae as to how units can be convertible. **SP** discussed changing the 2 residential units on Ocean Front S to be adaptable to commercial space for an earlier opportunity because they will already be set up for that. **GM** asked if the stairs come down to Town property. **SP** stated that they are on Town property. **TH** asked if there were any studies done to stating what commercial threshold the property could be support. **SP** stated that the population in this area could not support a lot of retail. A study was done from a residential standpoint looking at residential and commercial mix but it falls outside of whether it is viable in and of itself based on just population. **GM** asked if they were going to market the bottom level as commercial. **SP** stated that zoning requires at least 15% to be commercial. **Raymond Champagne (RC)**, 28 Commonwealth, he stated that he believes that the town needs to encourage the Big Block Development and believes that the

Planning Board needs to move in a more positive direction. **RC** stated that this project would generate much needed taxes for the town. **DE** thanked Mr. Champagne for his input and stated that the Planning Board should give the developer more guidance and exactly what it is that we believe the applicant needs to do to meet the requirements of the bylaw, the spirit of the bylaw and the needs of the town. **DE** stated that the proposal in its current form destroys the character of Broadway and would like to see the spirit of the beach and the commercial activity perpetuated. **DE** believes that the project as submitted does not comply with the zoning bylaw. **GM** stated that he doesn't want the board to tie everything down and prolong things for some things that we can't control. **GM** stated that it is a good idea to get a list together, sit down with the applicant and hash it out. **DE** stated that if he were the applicant he would feel that he is negotiating with myself or against myself and feels that the board is not giving them proper guidance. **Lisa Pearson (LP)** stated that she thought it is pretty clear what the board wants. **DE** stated that he thinks the board needs to be more specific in what we are looking for. **LP** stated that the Planning Board has consultant information from multiple sources and suggested that going through those things and decide if the Board supports them. **DE** liked the suggestion. **LP** stated that one of the things suggested in the Staff Report was that the vision for Ocean Front S has changed since they first had a vision and currently there is not a vision. **LP** stated that there was a concern over commercial vs. residential and suggested that commercial development could be somewhere else in the district. **LP** also discussed that some of the suggestions from the developer would be on Town property instead of their own and that the Planning Board would not have the authority to approve. **LP** discussed the process that would need to be followed before anything could happen on Town property. **LP** suggested that they have a town meeting with the Staff, Town Manager and Selectmen that have the authority to move that forward with the developer to talk about a potential vision that we could come to with the developer for Ocean Front S and potentially Broadway. **LP** stated that the Planning Board should have a list of outstanding items and move forward with what you are comfortable with and things you may have an issue with and that a list will be put together. **Paul Dakota (PD)**, Central Ave, stated that the amount of commercial space should be limited to 5-10% due to changes in retail trends. **TH** asked Bart to put together a detailed list of open items. **GP** motioned to continue the public hearing to March 14, 2018 at 7:10pm. **DE** seconded. **Vote: 5-0, unanimous. Motion carried.**

Other Business:

1. The following bylaw amendments will be going to Town Meeting

- A. Recreational Marijuana Overlay Zone

Review the draft language that was provided by Town Counsel and submit comment to **BMD**.

Workshop date will be on Tuesday March 13, 2018 at 7:30pm in the Senior Center.

- B. Tree Bylaw Committee

Tree Bylaw committee is currently drafting bylaw language which will be provided to the Board.

Workshop date will be on Wednesday March 14, 2018 at 6:00pm in the Colchester Room.

C. Zoning Map

Update the map to reflect current zoning

2. The following bylaw changes are still being considered to go to Town Meeting

D. Trailer Bylaw

There are concerns regarding storage trailers in town and staff is working on a proposal.

E. Parking

F. Medical Marijuana

G. Changing Zoning of the Memorial School to Village Commercial

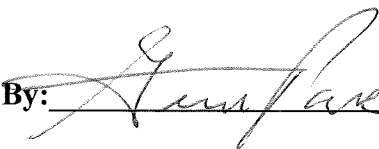
6. Adjournment

GM motion to adjourn the meeting at 9:25pm, GP seconded

Vote: 5-0, unanimous. Motion carried.

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

Minutes Approved By:



Date:

5-9-2018