

**Salisbury Planning Board
Meeting Minutes**

Date: Wednesday, December 12, 2018

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

Time: 7:00 p.m.

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

PB Members Absent: None

Also Present: Director of Planning and Community Development Lisa Pearson (**LP**), Planning Board secretary Sue Johnson (**SJ**). Bart McDonough (**BMD**) was absent.

Don Egan 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 - None

b. Approval of the 2019 Planning Board Meeting Schedule

GP motioned to approve the 2019 Planning Board Meeting Schedule.

JMD seconded.

Vote: 5-0 motion passed.

c. Request for Certificate of Partial Completion—107 Elm Street, Alternative Therapies Group, Inc.

Matt Steinel (**MS**) from Millennium Engineering provided photos taken earlier today and stated that the property was a little further along from when the Town Engineer did his last review. **MS** stated that they agree with most of Joe Serwatka’s comments about several issues that are still outstanding and need to be finished. **MS** stated that the applicant is asking for a partial certificate of completion which would leave the special permit open on the property and allow them to obtain a certificate of occupancy so the applicant can open the business and start operating with full understanding that some of the remaining issues that cannot be completed now due to the drop in temperature will be completed in the spring. **DE** asked how this would impact the parking lot for opening day. **MS** stated that the parking lot is striped and available for use but the crosswalk is not yet striped. **DE** asked **MS** if they had a chance to respond to the Town Engineers review comments dated 12/11/18. **MS** replied no but they acknowledge that there are a list of items that need to be finished but due to the weather many cannot be finished at this time. **JMD** asked if the granite curbing would have to wait until the spring to be installed after the top coat is done. **MS** stated that the granite curbing is on pallets on the site but would need to wait until the spring to be installed. **LP** asked what they plan to complete prior to opening day. Chris Edwards (**CE**) of Alternative Therapies Group stated that they

did not have an itemized list of things that they would expect to be completed but believes the striping is being held up due to the weather. **LM** asked what is striped and what is not striped. **MS** stated that the new parking lot has been striped but the crosswalk coming from the new lot to the old lot and the eight parking spaces in the back of the building for the employees and the other tenants. **GP** asked if cars would be driving over the crosswalk. **MS** replied yes. **GP** asked if there could be a temporary sign, cones or temporary speed bumps that could be placed at the crosswalk to keep people safe. **MS** stated that the temporary sign option would be the best option. **LP** suggested that the Town could go to the site to see the temporary pedestrian crossing sign to make sure that it is safe. **LP** asked when opening day would be. **CE** stated that they do not have a definitive date but are hoping to open sometime in January but they are waiting on the availability of the BMP inspectors. **LP** stated that it is typical with a Certificate of Partial Completion that the next step would be to discuss the bond amount for both sites; the original site plan (107 Elm) and the new parking lot (111 Elm). **LP** stated that the Town engineer has suggested the following bond amounts \$5,000.00 for 107 Elm and \$35,000.00 for 111 Elm. **DE** asked the applicant if they were ok with this request. **CE** stated that they are amenable if it can be a surety bond as opposed to a cash bond. **DE** stated that the Town accepts both types of bonds. **LP** told the applicant to come into Town Hall the next day and that she could help get the process to get started and that the Town has approved forms that Town Council have already reviewed.

GM motioned to grant the partial certificate of completion for both sites, 107 and 111 Elm Street, with the following contingencies: that the bond is received and a safety inspection be completed prior to opening.

JMD Seconded.

Vote: 5-0, motion passed.

- d. Request for Certificate of Partial Completion—107—111 Elm Street, Alternative Therapies Group, Inc.**

See motion above.

- e. Request for Certificate of Partial Completion—233 Beach Road, Steve Paquette, 233 Beach Road, LLC**

Steve Paquette (**SP**) stated that the six units in buildings B, C, and D are complete. **SP** stated that Joe Serwatka had some comments regarding status on the site. **SP** stated that they decided not to do the top coat of pavement this fall due to the weather and will be done during the springtime in 2019. **SP** stated that there are some minor drainage adjustments that will need to be made with a shovel and rake as the grading on site is so critical with a minimal pitch to the drainage areas and wetland. **SP** stated that the as-built is complete other than the final additions that will be made with spot grades once the top course of pavement is done in the spring. **SP** stated that he has a paving proposal of \$10,500.00 to complete the paving in the spring and the Town Engineer suggested a bond amount of \$20,000.00 and went on to state that he would like to see the bond amount around \$15,000.00 which would be more than enough to finish the paving. **DE** asked **SP** to address the Town

Engineers comments regarding the swale. **SP** replied that the as-built that exists today that the swale is 2/10 to 3/10 of a foot higher which will be corrected with a shovel and rake. **SP** stated that the grading pitch on the site is very minimal. **SP** stated that there is water that ponds in the driveway area which has been demarcated with spray paint and will be eliminated when the final paving happens. **SP** stated that the area behind the paving where the dumpster is his contractor will set up a laser and do any final adjusting in that area as well. **LP** suggested that the Board request the \$20,000.00 bond because there was another project in Town where the pavement was not completed as promised in the spring and is still not complete after 5 years. **DE** stated that the Town Engineer is also recommending \$20,000.00. **SP** stated that there have been couple of site meetings and the last one included the Town Engineer, the site contractor and the Conservation Commission and a few of the Board members that are here tonight and walked the property. **SP** stated that everything that can be done with these final adjustments with the grading will be done. **GP** asked if there was going to be a final as-built that accurately included the utilities. **SP** stated that the South Beach Landing as-built was done in two phases, one for the original 16 unit building and the second was done for the 6 additional units by Jones and Beach Engineers. **SP** stated that he would need to merge the two documents into one document and went on to state that all of the utilities have been field located and the only thing that has not been done are the final spot grades on the driveway. **LM** asked who would be responsible for the BMP inspections. **SP** replied that he received this information late this afternoon and emailed Jones and Beach Engineers for an answer but have not yet received a reply. **SP** stated that the Town Engineer was there at every instance when all of the utilities were installed and inspected everything and went on to state that he would coordinate that with his engineer and site contractor. Paul Nolan (**PN**) stated that he was the owner of Unit A4 and served on the Board of Trustees at South Beach Landing. **PN** stated that he had a good working relationship with **SP** for the 3 years he served on the ad hock committee. **PN** stated that as a member of the condo board they are very concerned whether 1" or a 1 1/2" will address the drainage issues that they have. **PN** went on to state that they have real concerns with the swale and how that will be addressed and they also have concerns with the ongoing drainage issues. **PN** asked the Planning Board to make sure that the drainage is proper when all is said and done because they do not want to inherit a mess and asked that there is enough of an bond to cover any additional concerns in regards to this permit and stated that he speaks for the President and the Treasurer of the Board of Trustees. **DE** asked if there were two separate condo associations. **PN** stated that it was just one. **DE** asked **SP** if he spoke with his engineer about how to correct this problem. **SP** stated that there are two issues, the first is the driveway and there is no doubt that in a large rain event the water ponds in the driveway and has confidence that the final coat of paving will correct this other than when there are extreme weather events when the beach area is flooded. **SP** stated that the second is the standing water in the swale and they will do what they have to do to adjust it per plan and went on to state that there will be standing water in the swale from time to time and may be there longer than people would like. **SP** stated that the site grading will be done per plan. **DE** asked what assurance the Board has if the grading is done to plan and the problem is still not resolved are we sure that the terms of this bond are adequate to do additional work that might be determined necessary to eliminate that problem. **LP** stated that the

bond would be for adequate completion of the site plan and the site plan refers to the drainage. **SP** asked what if the site plan is not correct or good enough. **LP** stated that it is the applicant's responsibility for storm water purposes to make the drainage work and more wording could be put in there to make it work. **DE** suggested coming up with some language. **LP** stated that she is not sure that the solution will cost more than \$20,000.00. **SP** stated that most driveways are designed with a crown in the middle but the way this driveway was designed concave so that the water so that the water channels its way to the rear of the site where the dumpster is which is per the plan that was submitted and approved and inspected by the Town Engineer. **SP** stated that the back portion of the driveway will be shimmed and then the entire area of asphalt will be paved with a 1" or 1 ½" of pavement. **SP** stated that the drainage swale is at an elevation that is going to see standing water during rain events and wet parts of the year which is by design. **SP** stated that they are doing what they can per the approved plan to take care of that. **DE** asked **LP** if we could come up with some language that would address the residents' concerns. **LP** stated that we could add additional language. **SP** suggested adding "once the paving occurs there has to be some appreciable rain events to make sure that it is not ponding". **GM** stated that the Town Engineer said \$20,000.00 was enough to do the work. **LP** stated yes, but it was just to do this work but if this doesn't work it is still the applicant's responsibility to fix it. Al Olivera (**AO**), 233 Beach Road, showed the Board members a picture of the ponding in the driveway after a normal rainy day. Paula Olivera (**PO**), stated that she is the chair of the condo association. **PO** stated that she has had multiple conversations with **BMD** and **LP** and has also sent them pictures and stated that they have been dealing with the drainage issue for a long time. **PO** stated that the swale ends approximately ½ way across the property and water does build up by the dumpster and in the driveway. **PO** stated that she does not want to see this get extended is very disappointed that it didn't happen in August. **PO** would like a timeframe for the spring when things will be completed. **PO** stated that she would like to see the swale extended. **SP** stated that he wanted to make it clear that there are two separate issues. **SP** stated that the condo board was part of the decision to not pave this fall. **SP** stated per plan he believes that the paving is going to solve the puddling wherever there is asphalt. **SP** stated that they are going to make final adjustments to the swale per plan and once his engineer verifies that it is per plan and the Town Engineer verifies that it is per plan and is what was approved it is the best they can do. **SP** stated that the design of the swale is not to go from the furthest unit near 10's all the way out to the dumpster it is designed to hold water in that one spot and then overflow out to the marsh. **PN** stated that the condo board met with **SP** on August 20th and **SP** told them that the driveway would be done no later than the end of September. **JMD** stated that the Board should decide on a deadline to get the paving done. **PN** stated that the condo board does not want to hold up any sales and is ok with the Board issuing a partial certificate of completion with whatever the Planning Board wants to put in as conditions. **LP** stated that is a counter argument and went on to state that the only leverage that the Planning Board has is the Certificate of Partial Completion. **PN** reiterated that the condo board does not want to interfere with the pending sale of the last unit and are ok with whatever conditions the Board can place on the Certificate of Partial Completion so the their concerns can be addressed. **LP** stated that the bond would need to be increased. **DE** asked **LP** if she was suggesting to increase the bond to \$30,000.00. **LP** replied yes. **PO** stated

that from what the condo board knows is that this potential buyer has investigated everything and stated that this buyer is not going to accept a partial. **PO** stated that the condo board would like to make sure that there is leverage in place with timelines. **SP** stated that he does not think that the Board needs to know who the buyer is or what their concerns are but the buyer cannot purchase without a certificate of occupancy. **SP** stated that he is perfectly happy with the condition that he would have to pave by the end of May. **SP** stated that as far as the bond amount he has a \$10,000.00 contract to do the final paving and the proposed bond is \$20,000.00 and as far as increasing that he stated that he probably have built \$50 million dollars' worth of projects in this community over the last 20 years and stated that he is not going anywhere and stated that he would like to believe at the end of the day that there is some benefit of the doubt for the type of work we do and the ability to stand behind it and believes that the bond amount of \$20,000.00 is more than adequate. **LM** stated that the bond should be raised to \$30,000.00 and a deadline should be in place. **SP** stated that if the Board insists on a \$30,000.00 bond then so be it. **LM** stated that the reason he is suggesting a \$30,000.00 bond is the uncertainty of what is being proposed will work and more work may need to be done and nobody knows what that would cost.

LM motioned to grant the Partial Certificate of Completion subject that the remaining work be completed by June 1, 2019 and establish a \$30,000.00 bond. **LM** clarified that remaining work includes settling the ponding issue and the drainage issue.

GM Seconded.

Vote: 5-0, motion passed.

2. Public Hearings

- a. **None.**

3. Old Business

- a. **Cont. Minor Site Plan Review**—28 Rabbit Road, ZAP Development LLC
DE stated that the applicant has asked for a continuance until January 23, 2019.
LM motioned to continue.
JMD seconded.
Vote: 5-0, motion passed (DR voted).
GM did not vote because he recused himself from this hearing.

4. Other Business

- a. Discussion regarding potential zoning amendments.
LP would like to set aside time in January to discuss any changes that the Board may want presented at the spring Town Meeting. **DE** stated that a tentative workshop will be scheduled for 1/9/19 at 6pm.

5. Correspondence

- a. **Minutes:** October 24, 2018
GP motioned to approve the minutes.
GM seconded.
Vote: 5-0, motion passed.

- b. **Minutes:** November 14, 2018
GP motioned to approve the minutes.
JMD seconded.
Vote: 5-0, motion passed.

6. Executive Session

- a. Executive session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to litigation: Big Block Development Group v. Town of Salisbury Planning Board
GP motioned to go into executive session and adjourn thereafter and not come back to regular session.
GM seconded.
Roll call vote:
GM - Yes
JMD - Yes
GP - Yes
DE - Yes
LM - Yes

DE stated that all Board members here tonight, **LP** and **SJ** will be attending the executive session.

7. Adjournment

GM motioned to adjourn following the executive session.
GP seconded.
Roll call vote:
LM – Yes
JMD – Yes
DE – Yes
GM – Yes
GP - Yes
Motion passed.

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

Minutes approved by: _____

Date: _____