

**Salisbury Planning Board
Meeting Minutes**

Date: Wednesday, February 27, 2019

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**), Gil Medeiros (**GM**) and Alternate Deb Rider (**DR**).

PB Members Absent: Clerk John “Marty” Doggett (**JMD**) and Louis Masiello (**LM**)

Also Present: Director of Planning and Community Development Lisa Pearson (**LP**) and Planning Board secretary Sue Johnson (**SJ**).

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

1. Authorized Agents Signing for Approval Not Required

The following board members signed the ANR sheet from the State.

DE, GP & GM

2. Performance Agreement: 107-111 Elm Street—Alternative Therapies Group, Inc.

The following board members signed the Performance Agreement at the end of the meeting.

DE, GP, GM & DR

b. Approval Not Required—447-449 North End Boulevard—Elizabeth K. Sullivan 2014 Revocable Trust

Matt Steinel (**MS**) from Millennium Engineering explained to the Board the purpose of the ANR is to combine Map 35 Lot 150 with Map 35 Lot 151; demolish both houses and re-construct a single building.

GM motioned to endorse the ANR plan.

GP seconded.

Vote: 3-0, motion passed. (DR could not vote on the ANR)

The Mylar was signed by *DE, GP & GM*.

3 paper copies of the plans were also signed by **DE, GP & GM**.

2. Public Hearings

a. Cont. Major Site Plan Review—57 Railroad Avenue, The Daly Group, LLC

Adam Costa (**AC**) stated that he was from the law office Mead, Talermin & Costa. **AC** stated that since the last meeting on 2/13/2019 a draft site plan decision has been circulated with a series of proposed conditions and sign offs from the peer review comment. **AC** stated that snow storage was a concern from the last meeting and went on to state that they believe that there is adequate snow storage on site and if there is excessive snow fall which is more than the site could accommodate

the excess snow it would be trucked away. **AC** went on to state that there is another condition in the draft decision is condition # 18 which speaks about a \$15,000.00 contribution to the DPW Capital Improvement Plan for Railroad Ave. **AC** stated that there have been commitments from his client to perform those improvements which involve the extension of the sewer line and connection to the sewer line to adjacent properties. **AC** stated that it also includes repaving of the road and adding sidewalks along the frontage of the property which they are committing to make these improvements at the cost of the applicant and the expectation is this would be in lieu of submitting the \$15,000.00 to the Town. **DE** stated that he was not present for the last meeting and has reviewed the video and signed the Mullin's rule document. Katie Cruz (**KC**) stated that since they last presented they finalized the peer review comments and comments received from the DPW and stated that the project layout remains the same. **KC** stated that they are extending the sewer from the existing stub and will be connecting the adjacent buildings along that run. **KC** stated that they will also be reconnecting to the existing sewer to the south and also will provide a stub for future connections to the south. **KC** stated that they will be repaving the entire width of the street that will be disturbed from this work and new ADA compliant sidewalks will be put in along the frontage of the property. **KC** stated that there have been some minor modifications to the storm water drainage system to address the peer reviewers comments and state that the drywell structures will be moved to a place on site with a lower elevation. **KC** stated that they have done their best to address the peer review and DPW comments. **GP** asked if the snow would be plowed up the middle and put in the back. **KC** stated that they are showing snow storage in the back beyond the clam shell driveway. **GP** asked what happens to the clamshells during plowing. **GM** stated that it would make a mess. **LP** stated that clamshells are preferred by the conservation commission and went on to state that they pack better than gravel. **GP** asked if the snow storage shown on the side of the property would be snow blown. **KC** replied that it would be snow blown and went on to state that the developer understands that any snow not able to be stored on site would be removed from the site. **DE** asked how this would be handled once the control is transferred to the condo owners. **AC** stated that it would become the obligation of the condo owners and the Board could condition it to be part of the condo documents. **GP** stated that she did not see visitor parking on the site and asked if it was expected that visitors park on Railroad Ave. **KC** stated that the parking provided meets the zoning requirement and that visitors would need to park in the street or park tandem in the driveway. **AC** stated that parking recommendations that become part of bylaws state that 2 spaces should accommodate each unit or cumulatively within the development to accommodate visitors. **DE** asked if the spaces will be deeded to a specific unit and went on to state that it would be unusual to have a neighbor park under you unit. **AC** stated that Salisbury does not have a requirement of visitor parking spaces and that they would need to coordinate tandem parking. **DE** expressed his concern that the tandem parking cannot interfere with the driveway area which could interfere with emergency vehicle access. **DE** suggested that the Board may want to put a condition that tandem parking is not allowed or that any obstruction of the driveway area that would impede emergency vehicles is strictly prohibited. **GM** stated that if they could get two compact cars to park tandem underneath he did not see this as an issue. **LP** stated that the Fire Department has approved this plan and went on to state that if you can get two cars underneath and not block the travel way you can but you cannot park in the travel way which is there for emergency access. **DE** stated that they could remove the language regarding tandem parking and state that parking cannot obstruct the driveway. **GP** stated that the Board is constantly struggling with parking issues and that we keep repeating the mistakes of building too many units on too small a piece of property with not enough parking. **GP** suggested that the developer make 2 of the units smaller to allow for visitor parking. **GM** replied to **GP** stating that when people buy down at the beach area they need to understand that this is a situation that they will run into and they may need to park in the municipal lot and walk. **GP** stated that she does not feel that continuing to exacerbate the parking situation is a good strategy. **LP** stated that visitor parking could be discussed when reviewing the parking bylaw. **DE** stated that he agrees with **GM** statement about buyer beware and **GP's** statement that visitor parking should be included on site which **DE** believes a responsible development should do. **DE**

stated that there is a possibility that the Board could condition adding visitor parking spaces. **AC** stated that he appreciates the desire for more parking and stated that Ms. Pearson's point was well taken; which is that if there is a desire for more parking in multifamily developments that the appropriate place for this requirement to be is in the Towns zoning bylaw. **AC** stated that they meet the requirements of zoning. **DE** stated that it is the Board's responsibility to how the development will impact the neighborhood. **DE** read section 300-109 Intent "This bylaw recognizes that certain developments of land, though generally suitable for location in a particular zoning district, are, because of their nature, size, complexity or other reasons of probable impact, capable of affecting the stated purposes of this bylaw, unless careful consideration is given to certain critical design elements. It is the intent of this bylaw to provide a mechanism for the review of an applicant's attention to such critical design elements within developments that are subject to review." **DE** stated that Railroad Ave is on the south end of Salisbury Beach which is a summer resort community and is also home to a lot of year round residents. **DE** went on to state that what happens in the summer is that people who rent and live there have visitors which creates a huge problem with parking for the people that live there are trying to park on the street in spaces that are being taken by visitors because visitor parking has not been provided in the development. **DE** stated that this is a classic example where there are unique circumstances to development of multifamily residential at the beach where we need to evaluate its impact on the area and believes that the additional parking requirements that will be represented by this project is something that should be evaluated. **AC** stated that in the site plan review context there is no doubt that the Board has the ability to shape a project and appropriately condition a project to ensure that the public health, safety and welfare is well protected. **AC** stated that if the Board reviewed the few cases that make it into the court system for site plan review the courts have pretty consistently said what a board cannot do in site plan review is require satisfactions of conditions that exceed what the bylaw requires. **AC** stated that he has reviewed the draft decision and doesn't have an issue with any of the conditions except the monetary contribution and mandating parking that exceeds what the zoning bylaw requires. **DE** stated that there is an appeals court case where the court did find that the Planning Board during site plan review can impose a restriction which is greater than what is specified in the zoning bylaw and that is a standard that the court has used in other cases. **DE** asked if a certified landscape plan was submitted. **KC** replied that the site plan does show landscaping and they have called out specific native plant species on the plan. **DE** stated that he did see it depicted on the plan but the site plan submission standards do require a certified landscape plan and lighting plan which the Board did not receive. **DE** asked if one was submitted. **KC** stated that they didn't have a specific lighting plan but they submitted specific types of lights that will be used which are shown on the architectural plans. **LP** asked if they did a luminaire plan that shows the spillover to the other properties. **KC** replied that they did not but that is depicted on the architectural plans. **DE** replied that this is not a lighting plan and went on to state that a lighting plan should show the luminaires and demonstrate that there is no spillover onto any abutting property. **DE** stated that on the plans dated 1/31/19 it showed interior facing walls but it did not state that they were fire resistant. **AC** stated that it was his understanding that they are required to be but agreed that he did not see it specified on the plans. **AC** stated that obviously they would be required to submit construction level detail plans to the building inspector before receiving a building permit and believes it is a code requirement that they have to be fire resistant. **DE** stated that you are asking the Board to approve a plan that is going to be different than the one that you submit to the Building Inspector. **AC** replied that they always are and that the plan that gets submitted in the permitting stage is never a construction level detail plan so it is likely that the Building Inspector will require that they provide full building code compliant plans at the time of construction that will be far more extensive in terms of interior and exterior detail of the buildings and that it meets all requirements of the building code. **DE** stated that he wants to make sure that the applicant knows 100% ahead of time that these walls in the buildings that face one another where they are only separated by 6 feet need to be fire rated and believes this should be added as a condition. **DE** stated that the one of the areas for the proposed snow storage is directly on top of the proposed landscape area. **KC** replied

that they are proposing to put beach grass there which is a perennial that could be cut down in the winter for snow storage and it would grow back in the spring. **DE** asked why there are jersey barriers on the plan. **KC** stated that they were from the existing condition they and will be removed. Kevin Henderson (**KH**) from Atlantic Ave stated that he was just at home watching the meeting and asked **DE** to clarify something that he had said that as a Board member you have the authority to impose stricter regulations than what is in the bylaw. **DE** stated that the Board can impose conditions that are stricter than what is in the zoning bylaw in certain circumstances where the impact on the neighborhood justifies it. **LP** asked **KC** if they have had a chance to review the February 3rd letter from the Town Engineer and if the applicant is ok with the proposed conditions. **KC** replied that they were ok with them. **LP** asked **KC** if she had received a letter from Lisa DeMeo (**LD**) the DPW Director. **KC** stated that they had not received a letter but had met with **LD** and talked to the peer reviewer and **LD** sent an email that stated that as long as the peer reviewer's comments were addressed she was ok and **KC** stated that a copy of the email could be provided to the Board. **LP** asked **KC** where the water meter would be. **KC** replied that it would be in the utility chase. **DE** asked where the air conditioning compressors would be located. **KC** stated that they would be under the building. **AC** stated that he has an email from his client which states that the actual mechanical room containing the HVAC furnace will be located on the third floor, the mechanical chase which will contain the main, sewer, water and electrical lines going from the ground level into the house the water meter will be located on the house above the parking. **LP** asked **AC** if he could provide a copy of the email or the information that he just read to the Board. **AC** stated that he would. **DE** asked where the cement pads were on the plans. **KC** stated that they could be added to the plan but are not shown. **DE** asked **LP** if this would have to be approved by Conservation. **LP** stated that it would and asked **KC** if it was on the plans submitted to Conservation. **KC** stated that she was not sure that the plans that were presented to Conservation had this specific level of detail and stated that they could reach out to the Conservation Commission. **LP** stated to **DE** that the Planning Department could clarify. **KH** stated that they will probably put it on a platform that meets the FEMA regulations next to the house. **DE** stated that what the Board needs from the developer is for them to give the Board plans that match what is going to be built and went on to state that when the Board grants the certificate of completion the completed project needs to match the plans that were approved. **LP** referenced Hancock Associates response to the Town Engineers peer review comment # 16 comment regarding drywells and stated that the response states that the drywell system may have been revised and different groundwater conditions may be encountered and was suggested as a condition of the approval. **DE** stated that this brings him back to a question about snow storage, if the runoff from the property on Libby Street flows down into this lot in the location where they are going to be storing the snow how this will affect the drainage. **KC** stated that water should flow around the snowbanks. **LP** stated that the part of Libby Road behind the site is an unimproved road and is not utilized. **GP** asked if the abutters would experience flooding if the snow bank backing up the water. **KC** stated that in her opinion the water could flow around a snowbank and does not believe it would cause a drainage problem. **DE** asked **LP** what she believes the proposed condition should say. **LP** stated that she would suggest that if this were to occur then they would resolve it on site with the Town Engineers recommendations. **KC** stated that it is her understanding that they had done test pits on the site to determine the elevation of groundwater in November 2018 and will do additional test pits in the spring and adjust the drainage system as needed. **DE** stated that the condition should state that if the actual groundwater conditions are different than depicted on the plan the developer will work with the Town Engineer to revise the drainage plan and do additional test pits in the spring. **LP** suggested adding the condition that Lisa DeMeo would need to review and finalize the plans to update the utilities off site. **DE** stated that the Board should also condition that firewalls be depicted on the plan and that there should be no obstruction of the driveway and would like the plans to be revised to show that the driveway will be 27' wide. **LP** stated that the applicant is not asking for a waiver for a luminaire plan but has not provided one. **LP** asked the applicant what the proximity is to the closest house on either side of the lot abutting these back porches. **KC** replied 10-15'. **AC**

stated that they did not submit a waiver for this requirement and went on to state that he could submit a verbal request to waive this requirement now or are willing to prepare and submit a luminaire plan. **LP** stated that the Board could add a condition that prohibits any type of lighting or bulbs and went on to state that there is a dark sky compliant condition in the draft decision. **LP** stated that condition # 7 states that the Planning Board has been advised through Town staff that the utilities and the public works existing are adequate to serve the project which is not an accurate statement and suggesting changing it to say that the applicant has met with the Town Engineer and the DPW to address the inadequacies of the utilities off site and is addressing those as part of the development. **AC** asked if a letter from the DPW director confirming that the plans as they have been revised to show these improvements are satisfactory would remove the condition of having to pay \$15,000.00 towards the contribution to the DPW Capital Improvement Plan. **LP** replied yes and the construction of the utilities would need to be complete prior to getting a Certificate of Occupancy. **LP** asked how the trash would be handled and if there would be dumpsters. **KC** stated that trash bins will be stored under the building and rolled out weekly for pickup and then placed back under the buildings. **AC** stated that one of notes (#7) on the site plan states that trash cans will be stored under the proposed buildings. **LP** suggested adding a condition that if they wanted to put a dumpster on site in the future that they would need to come back in front of the Board. **DE** stated that the condition should be that the trash be individual receptacles as seen on condition # 7 on the plan. **DE** stated that the lack of a landscape and luminaire plans means that the applicant did not comply with the submittal requirements. **LP** stated that they did not ask for a waiver but could ask for one now. **DE** stated that he thought they were also missing architectural plans. **LP** asked if the applicant had the architectural renderings. **KC** presented a copy to the Board. **DE** stated that they do not comply with the submittal requirements. **LP** stated that the Board could ask the applicant to amend them. **AC** stated that he was not sure what is wrong with the architectural renderings that were submitted. **DE** stated it was the scale. **AC** expressed frustration that the landscape plan, luminaire plan and architectural renderings are an issue now after several meeting and going through the peer review process. **AC** went on to state that they would reluctantly grant an extension if the Board was not ready to make a decision tonight. **DE** stated that one of the guidelines of site plan review hearings is do not telegraph your vote and went on to state that he was not inclined to vote on this without a condition for visitor parking because adding an 8 unit development in this location without providing visitor spaces adversely impacts the neighborhood but will leave it up to the Board whether or not they want to move forward. **GM** stated that if the applicant complies with the zoning he does not feel that it is the Boards job to change that and went on to state that if he wants to change this it should be brought to Town Meeting. **DE** stated that one of the responsibilities of the Planning Board is to address the impact of development on a neighborhood. **GM** stated that there is a proper channel to make zoning channels and it is not the Boards job to do this. **DE** stated that he agrees that the Board should ask Town Meeting to change the zoning. **DE** went on to state that the Board is faced with a project today that will have a detrimental impact on the neighborhood. **GM** replied to **DE** that the applicant should not be punished for a zoning bylaw that was passed at Town Meeting. **GM** stated that when you buy at the beach you know what you are getting. **GM** went on to state that the Town has a public parking lot. **LP** stated that it is the Planning Boards job to shape these projects. **GM** does not believe that it is the Planning Boards job. **DE** stated that it is part of the nature of site plan review to evaluate buildings that are large. **DE** stated that it is very unusual to have such a dense development that is crammed in the way this one is and not try to mitigate it impact not only on the people that are going to live there but also on the neighborhood and that is exactly what site plan review is intended to do. **DE** stated that the Board needs to close the public hearing to make a decision on this. **DE** stated that he is not necessarily objecting to the lighting plan but is disappointed that the applicant did not comply with the submission requirements and did not ask for a waiver but it can probably be addressed with conditions and the same with the landscape plan. **AC** stated that the Board asked if we might be inclined to continue without closing the hearing and asked what the sentiment of the Board is because the applicant needs 3 out of 4 votes in favor of the project. **AC** stated if you close the

public hearing and opt not to vote then the applicant cannot make any additional submittals between now and when you would vote at a future meeting and that does not help the applicant of the Board. **AC** stated that he is concerned about the position relative to visitor parking because if the Board requires visitor parking then you are requiring a redesign of the site. **LP** asked if **LM** and **JMD** were present at the last meeting on January 9, 2013. **LM** and **JMD** were at the last meeting. **DE** stated that there was an administrative matter that needed to be taken care of and stated that 28 Rabbit Road which is next on the agenda has requested a continuation. **LP** recommended that the outstanding issues and update the draft decision and ask for a continuance from the applicant.

DE stated that he would entertain a motion to waive the landscape plan and on the luminaire plan entertain a motion to waive that as well provided that there is a condition that states that there is no light spillover onto any of the adjacent properties and that all lighting is Dark Sky Compliant.

GP - Motioned

GM – Seconded

Vote: 4-0, motion passed

DE requested updated architectural plans that are to scale for the next meeting. **AC** replied that they would provide them. **LP** asked **AC** if the applicant is willing to give an extension of time until March 18, 2019 in writing as the next meeting is March 13, 2019. **AC** stated that this would be fine.

GM motioned to continue until March 13, 2019 at 7:10pm

GP seconded

Vote: 4-0, motion passed

b. Cont. Minor Site Plan Review—28 Rabbit Road, ZAP Development LLC

GP motioned to continue 28 Rabbit Road until March 13, 2019 at 7:10pm

DR seconded

Vote: 4-0, motion passed

3. Other Business

a. Discussion regarding potential zoning amendments:

LP discussed zoning and asked the Board to set aside time at the next meeting to discuss.

4. Correspondence

a. Minutes: December 12, 2018

GM motioned to approve

GP seconded

Vote: 4-0, motion passed.

b. Minutes: January 9, 2019

GM motioned to approve

DR seconded

Vote: 4-0, motion passed.

5. **Executive Session**

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.

DE asked **GM** if he wanted to participate in the executive session. **GM** replied that he would not be able to tonight. **LP** suggested that we move the executive session until March 13, 2019 when **LM** and **JMD** will be in attendance.


6. **Adjournment**

GP motioned to adjourn

GM seconded

Vote: 4-0, motion passed

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

Minutes approved by: 

Date: 3/27/19