

**Salisbury Planning Board
Meeting Minutes**

Date: Wednesday, March 13, 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**), Clerk John “Marty” Doggett (**JMD**) and Louis Masiello (**LM**).

PB Members Absent: Alternate Deb Rider (**DR**)

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

BMD asked the Board members to sign.

b. Approval Not Required—11 True Road—Jeff Knowles

Brian Knowles (**BK**) stated that he was representing the applicant. **BK** stated that they are taking a 3 acre parcel and dividing it into 2 parcels and went on to state that they would both have 150’ of frontage. **DE** asked if the Assessor has seen the plan. **BMD** replied that she had. **DE** asked if the Assessor had any comments. **BMD** replied that the Assessor’s comment was proposed lot 64A will remain Map 17 Lot 164, 11 True Road and lot 64B will become Map 17 Lot 221, 7 True Road. **DE** stated that the proposed frontage is consistent with the zoning bylaw and the lots have access from the frontage. **LM** asked what the purpose of the easement was. **BK** replied that because there is no sewer on True Road they needed to find 2 areas suitable for a reserve area which will be where the easement is.

GP motioned to endorse the application for an Approval not Required under the Subdivision Control Law for 11 True Road.

GM seconded.

Vote: 5-0, motion passed.

2. Public Hearings

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

Lisa Mead (**ALM**) from Mead, Talerman and Costa, 30 Green St., Newburyport stated that she was representing the applicant. **ALM** asked if the Board had received today’s comments from the DPW Director and the Fire Department. **DE** confirmed the date and time of the DPW Director’s email and replied that the Board does have these comments both dated 3-13-19. Katherine Cruz (**KC**) stated that since the last meeting they had received comments from the DPW Director, Lisa DeMeo (**LD**)

which they have provided a response letter to and have updated the plans in response to her comments. **KC** stated that the majority of **LD**'s comments that required revisions to the plans were related to construction period erosion and sediment control. **KC** stated that they have added another sheet to their plan set which is the erosion and sediment control plan. **KC** stated that this plan includes straw wattles and silt fence barriers on the downhill sides of the property. **KC** stated that it also includes a stone construction entrance and temporary basins for dewatering. **KC** stated that **LD** did make a comment that the 2"-3" stone suggested for the construction entrance may not be big enough and if there was track out onto the street they would be required to use larger stone, **KC** stated that this note was added to the construction entrance detail. **DE** stated that **JMD** and **LM** each missed one meeting and have signed the Mullins Form and have reviewed the minutes and video and will be participating under the Mullin Rule. **ALM** stated that she believes they have satisfied the peer review comments and have satisfied **LD**'s comments and the Fire Chief has signed off on the plans. **ALM** stated in regards to parking they would like to propose that the parking will be assigned on site (2 spaces per unit) and went on to state that all of the parking under the bylaw is provided on site. **ALM** stated that they have proposed a condition regarding visitor parking and handed a copy to the Board. **ALM** stated that the condition reads that the applicant would include in the condominium documents a requirement that all visitors use the Municipal Lot for parking and notices of this would be posted at the driveway on Railroad Ave. A copy of the recorded condominium documents including this requirement would be provided to the Building Inspector prior to the issuance of the first certificate of occupancy. **DE** questioned the enforceability. **ALM** replied that it is most enforceable on the site and the condo owners could suggest to visitors to park in the Municipal Lot and not to park on the street but it is a public street which allows public parking. **GM** stated that he does not believe this condition is necessary and that the condo owners should be able to work it out amongst one another and went on to state that it should be ok for a condo owner to allow a visitor to park in their extra space. **DE** agreed with allowing an open parking space to be used by a visitor. **LM** suggested changing the wording to encourage and not require visitors to use the Municipal Lot. **ALM** stated that they could change the wording to encourage visitors to park in the Municipal Lot and add unless a resident spot of the visatee is open. **DE** asked if the applicant would be willing to purchase the lot that is for sale next door. **ALM** replied no. **DE** stated that there has been a sub-committee of the Board of Selectmen formed to look at the issue of implementing some sort of resident only parking in that area and also identify additional Town owned property in this neighborhood which could possibly be turned into parking for residents and asked if the applicant would be willing to help fund furtherance of this initiative. **ALM** replied not at this time and went on to state that Mr. Daly is running a new sewer main in the street to the north to the existing connection and connecting the laterals then he will grind and do a complete overlay of the road. **ALM** stated that in addition he is putting in sidewalks with granite curbing and the cost of these improvements is approximately \$40,000.00. **ALM** stated that they do not agree with the condition of paying \$15,000.00 to the DPW Capital Improvement Plan for Railroad Ave. **ALM** stated that the applicant also has an issue with payment into affordable housing and believes it does not apply to this by right project and in and of itself is an exaction and or illegal tax of the Commonwealth of Massachusetts Controlling Law and that of Takings Law of the United States Supreme Court. **DE** believes that the condition requiring the \$15,000.00 payment to the DPW Capital Improvement Plan can be removed. **DE** stated in regards to Inclusionary Housing all development in the Town is subject to the Inclusionary Housing Bylaw. **ALM** stated that the issue with the Inclusionary Zoning Bylaw they believe that the bylaw before it was changed in October and the October bylaw that was passed both say multi-family, residential development and they used the term residential development twice which she stated was odd because if you have residential development and residential development by special permit and the special permit refers back to everything it makes the language of residential development by special permit superfluous which you can't do. **ALM** went on to state that either it only applies to special permit or it applies to all residential development but that is not the way it is written. **ALM** read from the bylaw "Any residential development (*ALM stated that there should be a comma here*) multifamily or

mixed-use development in a single structure or multiple structures or any residential development requiring a special permit”, **ALM** asked what the difference was between any residential development and residential development requiring a special permit. **LM** stated that it probably should read multifamily residential development and went on to state that a typo does not change the intent of the law. **ALM** replied that if you have a by-right development and your law says I can develop 8 units on this property by-right (except for site plan review which is not a discretionary permit) then you can’t exact from the developer either property (i.e. a unit) or cash without something in return which is why it is ok to do with a special permit. **DE** stated that the Board relied on Town Counsel’s opinion when this was drafted and this is the language they wanted us to use. **DE** went on to state that there may be some typo’s but this applicable to all residential development which increases 3 or more units. David Daley (**DD**) from the Daly Group, LLC stated that it is unfortunate the way it is written that it is still understood by some members of the Board that it applies to this project unfortunately we have been in positions like this before where it specifically says that it is a special permit application and we are not under a special permit. **DD** stated that if the Board doesn’t want to agree with this we will probably have to take it up with legal counsel. **DE** stated that the Board spent quite a bit of time on this and it was never intended to apply to special permits only. **DD** stated that he interpreted it this way and stated that they will deal with it later and he respects the Boards position. Kevin Henderson (**KH**) stated that he didn’t know why there is such a big deal about residential and visitor parking because he lives at the beach and when they have visitors come he has a municipal lot pass and he parks his car there so his visitors can take his space. **KH** stated that he doesn’t think the Town needs to make parking arrangements for the beach residents. **KH** stated if the owner’s guests don’t park in the street then the day tripper pigs that come to the beach are going to park there, go to the beach, make a mess and throw their trash in the street then leave. **KH** looked at **GP** and asked why she was rolling hers eyes at him and asked if she had something to say. **DE** interjected and stated that he agrees with one thing **KH** said about buying a resident permit and using the municipal lot to park in which would leave their spaces open for guests. **DE** stated that there were a lot of residents in the south end of the beach that went to the Board of Selectmen (**BOS**) and said that this was a real issue for them and the BOS established a sub-committee to try to figure out how to address those residents’ concerns. **KH** stated that the only resolution is resident parking. **DE** stated that hopefully the parking sub-committee agrees with that position and that could be the solution that they will propose. **DE** stated that site plan review is a process of negotiation and iterations and thinks that the Board did their due diligence to try to address the visitor parking concerns of the neighbors. **DE** stated that the Board asked the applicant to provide visitor parking and they politely declined to do so. **DE** stated that he would have preferred to see a revised plan that did provide some visitor parking because it is definitely an issue there. **DE** stated that it is a beach community and people do come and visit and they can park at the Town parking lot and give the Town some more revenue.

GM motioned to close the public hearing.

JMD seconded.

Vote: 5-0, motion passed.

DE stated that the proposed condition from the applicant is to add to the condominium documents encouragement for all visitors to use the municipal lot unless a resident spot of the visatee is open and notice of the same shall be posted in the driveway on Railroad Ave. **DE** stated that a recorded copy of the condominium documents with this requirement shall be submitted prior to the issuance of certificate of occupancy. **DE** stated that the Board is also removing condition # 31.

LM motioned to approve the site plan as presented subject to the conditions in the draft site plan with the deletion of condition # 31 and adding the condition that was just discussed encouraging visitors to use the public lot.

GM seconded.

Discussion:

BMD stated that there may be some typo's in the decision that would need to be revised. **BMD** stated that the second sentence in condition 23 stating that the applicant shall return in front of the Planning Board for approval of the method for which the bylaws provision will be satisfied. **BMD** clarified that the applicant would either need to provide an affordable unit or pay into the fund.

Vote: 5-0, motion passed.

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

ALM stated that they were still working with the Conservation Commission and asked for a month continuation. **BMD** stated the first meeting in April is the 10th. **ALM** said this would be fine.

GP motioned to continue until April 10, 2019 at 7:10pm.

LM seconded.

Vote: 4-0, motion passed. GM abstained.

3. Other Business

a. Discussion regarding potential zoning amendments:

1. Lafayette-Main & Village Center District Table of Uses

BMD suggested adding the following uses:

Bus Terminal

Retail Store Regional

Retail Store Major/Minor

Brewery/Pub

BMD suggested changing storage facility from permitted use to special permit.

DE stated that the intent of tonight's exercise is to put this into a final draft form so that it can become the form of an article for Town Meeting. **BMD** suggested forming a sub-committee to have 2 members come in next week and work with the staff to make sure that this is exactly what the Board wants at this time. **LM** and **JMD** volunteered to meet with the Planning Department on Monday. **BMD** stated that he would follow up with **LM** and **JMD** the next day with a time. **BMD** suggested expanding the hospital use to these zones and went on to state that Urgent Care may be the best use. **DE** thought it would be great to attract the medical industry to Salisbury.

2. Parking bylaw

DE stated that the Board had looked at this in 2009 and one of the reasons that it is time to address this is that there is a lot of confusion for businesses looking to locate in Town as far as the number of spaces needed. **DE** stated that the current bylaws are extremely vague and are hoping to bring some clarity to that. **LM** suggested arranging another workshop to discuss parking. **DE** and **GP** agreed to work with **BMD** via email on the

parking bylaw. **LM** questioned why the applicability requirements for off street parking do not apply to the Village Center District Bylaw, Commercial Development in the Beach Commercial District, Salisbury Beach Overlay District Bylaw and Village Residential Overlay District. **DE** stated that he thinks the reason for excluding these 3 areas the Village Center District, Salisbury Beach Overlay District and the Village Residential Overlay District is that in these zones the original intent was to encourage greater density and there are parking incentives built into those bylaws. **DE** stated that if you made this applicable to the Salisbury Beach Overlay District now you would have to require 2 spaces even if it is a one bedroom which removes the incentive for the dense development. **LM** asked how to get visitor parking at the beach. **DE** replied that visitor parking would apply to the Beach Commercial District not the Overlay District. **GP** stated that she believes that visitor parking is also needed in the Village Center and **LM** agreed. **DE** suggested to **BMD** to add visitor parking to the Village Overlay District. The Board discussed different options regarding snow storage.

3. Other potential considerations

BMD suggested merging the Table of Uses for Lafayette and Main with the general Table of Uses

4. Correspondence

a. **Minutes:** February 27, 2019

Not completed will be ready for the next meeting on 3/27/19.

5. 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

GM motioned to go into Executive Session in Conference Room A and adjourn afterwards.

LM Seconded.

DE stated that the attendees of the Executive Session will be **GM, JMD, GP, DE, LM, BMD** and **SJ**.

Roll Call Vote:

GM – Yes

JMD – Yes

GP – Yes

DE – Yes

LM – Yes

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

Minutes approved by: 

Date: 4/10/19

