

**Salisbury Planning Board
Meeting Minutes**

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

PB Members Absent: None

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 – Nothing to be signed

b. Approval Not Required—345 North End Boulevard—D.E.C.M., LLC

Matt Steinel (MS) from Millennium stated that he was representing the applicant Buzz Couillard. MS stated that the applicant would like to subdivide the parcel for the lot at 345 North End Boulevard. MS stated that the parcel that is being shown comprises currently of lots 2, 3 and 4 which are owned by Mr. Couillard and he plans to subdivide the parcels with the minimum frontage requirement for lot 2 and the area requirement for the R3 district and lot 3 has approximately double the frontage necessary and meets the area requirement. MS stated that the remaining parcel, lot 4, is virtually unusable land and is considered an unbuildable lot for environmental permitting purposes. DE asked if the plans were submitted to the Assessor. MS plans were submitted to the Assessor’s office and the other departments and comments were received. MS stated that they also submitted to the Merrimack Valley Planning Commission and they stated that it met their requirements. BMD stated that the comments from the Assessor was about how they were going to be labeled with the new map and lot and address for 911 purposes. DE asked if it will affect the street numbering. LM stated that lot 3 will remain 345, lot 2 will be 347 and lot 4 will be 349. MS stated that there was originally a mobile home on lot 3 and lot 2 had a 2 family on it. DE asked if it is proposed to build single family homes on lots 2, 3 and 4. MS replied that lot 4 is unbuildable and it was originally proposed to put 3 units on lots 2 and 3 to replace the 3 that were removed and MS stated that is what he believes is permitted through Conservation. DE asked if the applicant had a zoning variance. MS stated that it meets zoning. MS stated that it wasn’t originally a lot line proposed here and it was 3 units on one lot and because there was 3 units there they had the right to put 3 units back. MS stated that the applicant is meeting the setback requirements between the two units and intends to subdivide off lot 2 which would have one unit on it and the other 2 units would remain on lot 3. DE stated that if they don’t have a variance they cannot rebuild 3 units, they would need to go to the Zoning Board for that and I do not want misstatements like that standing. MS stated that it wasn’t a misstatement and that he was just informing the Board that the applicant had 3 units and was putting them back. DE stated that MS said that they had the “right to” which is not correct. MS stated that it is their understanding. DE stated that is why he asked if they had a variance. MS stated that they were told that there was no need for a variance and there was no application for a variance at that time. LM asked if lot 2 would be 2 condominiums. MS replied that they were originally shown as 2 separate buildings which were 2 single family homes side by side

and the zoning requirement was if they were greater than 10' apart that they would not need fire rating and if they were less than 10' they would need fire rating but the zoning allowed them to be that close. LM asked if the plan was to put 2 separate buildings or one building with 2 units. MS stated that he does not know the final answer but what they had approved through Conservation was the 3 units but a new buyer purchased the lots and stated that he was not sure of the new buyer's intent with the new division of the lines is to scale this back. DE stated that the Board is only dealing with the ANR and since there are no structures on these lots today then the Board in and of itself by granting the ANR is not creating a zoning variance. BMD stated that there are notes on the plan stating that an approval does not mean that zoning has been met. LM stated that the concern that he has is that lot 4 has wet but not useful frontage and suggested putting a condition on the ANR that lot 4 is not buildable. MS stated that by endorsing the ANR the Board does not constitute an approval. MS stated that for the Planning Board to state that it is a non-buildable lot because it is wet is out of the purview of the Planning Board. DE stated that the 3 lots this ANR would create all meet the zoning requirements.

JMD motioned to endorse the application for an Approval not Required under the Subdivision Control Law for 345 North End Boulevard.

GM seconded.

Vote: 4-1, LM voted against.

c. Request for Certificate of Partial Completion and Site Performance Bond Reduction—2-10 Sycamore Lane (formally known as 20 Ferry Road)—Bradley Kutcher (BK)

BMD stated that it appears that the applicant is not here. DE asked if the applicant indicated if he wanted to move forward with the hearing and asked if BMD if the applicant communicated with him. BMD replied that the applicant was told to be here tonight but there was no response but we can move forward because there are abutters here. Lisa Leslie (LL), 18 Ferry Road, stated that she had submitted several photos regarding the lighting and flooding issues. BMD displayed the photos on the screen. LL stated that in January of 2016 she voiced her concerns about how these units would impact her property and had one major request at that time to have dark sky lighting installed. LL said fast forward to today she has had several contacts with BK some walking on this property where she voiced her concerns again. LL stated that the first unit built was # 2 and stated that she saw no dark sky lighting installed. LL went on to state that as other units (4 & 6) were built she noticed they also did not have dark sky lighting. LL stated that units 8 and 10 BK seemed to have addressed her requests. LL stated that the issue she has with unit 8 is that the lamppost shine directly into her bedroom and is not dark sky compliant. LL stated that she did not recall that there were going to be lit cupolas or an LED lit flagpole. LL stated that after unit 2 was purchased the owners installed 4 spotlights and the owner of unit 4 keeps their back light on constantly and it is not dark sky compliant. LL stated that back decks of units 2, 4 and 6 face her driveway. DE asked BMD for a copy of the site plan approval and thanked LL for her comments. DE stated that he recalls the hearing and the lengthy discussions about dark sky compliant lighting as well as spillover. DE stated that one of the requirements for site plan review was to submit a luminaire plan which demonstrates that any proposed lighting does not extend beyond the property line which is one of the things the Board evaluates during site plan review. DE stated that one of the conditions in the approval of this project states that prior to the issuance of any certificates of occupancy in item # 4 is site lighting. DE read that site lighting shall be shielded with cutoffs and dark sky compliant to prevent glare onto abutting properties in the night sky. Unit driveway lighting and the entrance sign lighting shall be turned on prior to the certificate of occupancy. DE stated that clearly from these pictures it doesn't appear to be shielded lighting or dark sky compliant. DE asked BMD

to arrange for the Town Engineer to do a nighttime inspection with all of the lights on the property turned on prior to consideration of the certificate of occupancy and provide the Board with a report that it is in compliance with the plans and the condition. GM asked DE if before being given the occupancy permit wouldn't the Building Inspector (BI) look into that. DE replied that the BI probably does not get involved. GM stated that he would like to hear from the developer if the lights that were purchased are dark sky compliant. BMD clarified that the units have been sold and occupancy permits have been issued and right now we are in violation of that condition. BMD stated the Board should ask the developer how he plans on rectifying the situation. GM asked how you can make a homeowner change out the lighting. DE replied that every homeowner is subject to the site plan approval. GM stated that he has no issue with the flag pole being lit up and asked if it was lit from the ground. LL replied that it is lit at the top of the pole. DE stated that flags must be illuminated at night but the lighting would still need to be dark sky compliant. GM asked LL if she was on her property when she took the pictures. LL replied that some of the pictures were taken from her property and some were taken from the cul-de-sac. DE suggested scheduling a night inspection. LL stated that her other concern was once these units are sold they can't change the lighting. DE stated that it was a condition for the developer to provide a copy of the homeowner's agreement which should state that in there. LL stated that the other issue she has is the flooding and showed pictures of flooding near her shed which she said it never flooded like this prior to this project. LL stated that the flooding is primarily coming from units 6 and 8 and went on to state that their downspouts face a hill coming down into her property. GP asked what year the pictures were taken. LL replied 2018. BMD stated that there are a couple of issues, the landscaping isn't done, and the pavement needs to be shimmed to go into the retention basin. DE stated now that the developer is here he asked BK to step up to the podium to respond to the issues. BK stated dark sky compliant lighting he realized the mistake after BMD notified him of a complaint and has since ordered dark sky compliant fixtures which will be installed in April. BK stated that he is aware that the flag needs to be lit and initially had a light at the bottom shining up but was told that it was too bright. BK stated that they removed the light at the bottom and installed a LED light at the top of the flag that shines down.

- 1) Applicant was granted approval for a Flexible Residential Development on September 28, 2016.
- 2) Applicant has sold all of the units and the inclusionary payments have been paid.
- 3) Applicant has a site performance bond in the amount of \$159,795.00
- 4) Applicant is requesting a reduction to \$61,450.
- 5) A large portion of the remaining working relates to the landscaping and road improvement, which appears to be one of the factors contributing to the stormwater issues on abutting properties.
- 6) There is also a dark sky lighting issue with this project, which has been documented by an abutter. (See photos)
 - a. According to the decision, the site lighting, "...shall be shielded with cut-offs and dark sky compliant to prevent glare to abutting properties and the night sky..."
 - b. Board should inquire what measures the Applicant plans to take to become compliant with this condition.

- 7) According to Mr. Serwatka's review letter, his cost estimate for the remaining work is \$45,000.
- 8) There are also outstanding questions in Mr. Serwatka's letter that the Applicant has yet to answer. Board should ask why this information was not provided.
- 9) Board needs to determine whether or not it wants to issue a partial certificate of completion and also the amount of the bond reduction.

d. Adjustment of the Maximum Inclusionary Housing Contribution Payment

1. According to 300-79, (D.) The Planning Board shall adjust the maximum housing contribution payment annually, effective March 1 of each year. The annual adjustment shall be equal to the percentage change in the median sale price of single-family homes in the Town of Salisbury during the previous calendar year, as reported by the Warren Group (or another independent reporting agency selected by the Planning Board if the Warren Group no longer reports such information), and rounded to the nearest tenth of a percent.)
2. Based on the Warren Group's statistics:
 - 1) 2017 median sales price of s/f homes in Salisbury: \$343,500
 - 2) 2018 median sales price of s/f homes in Salisbury: \$354,000
 - 3) Percent change = $(\$343,500 - \$304,450) / \$304,450 = 3.6 \%$
 - 4) 2018 Maximum Rate: \$20,754
 - 5) 2019 Maximum Rate: $(\$20,754 + \$635) = \mathbf{\$21,389}$
- e. According to §300-79 (B)..." provided that the housing contribution payment for any market-rate housing unit shall not exceed a maximum of \$21,000..." Pursuant to this section, the fee is capped at \$21,000.
- f. Recommended motion would be, **"I move to adjust the 2019 maximum housing contribution payment to \$21,000, in accordance with §300-79 (d) of the zoning bylaws of the Town of Salisbury."**

2. Public Hearings

- a. None.

3. Other Business

- a. **Discussion regarding potential zoning amendments:**

1. Lafayette-Main & Village Center District Bylaws
2. Table of Uses
3. Parking Regulation Bylaw

- 1) Need to establish another workshop prior to the public hearing, which is scheduled for April 10, 2019

- 2) Planning Board should announce that public input is welcomed and encouraged.
- 3) Board should remind the public that no abutter notices will be sent out for the zoning bylaw **(the only statutory requirements are to post the notice at Town Hall and in the paper at least two weeks prior to the meeting, and to notify abutting Town Planning Boards and various state agencies)** public hearings and announcing at this meeting is the only opportunity for the Planning Board to get the word out.
- 4) Please announce that the proposed zoning articles will be uploaded onto the Planning Board's webpage on the Town's website once they are finalized.

4. Correspondence

- a. Minutes: February 27, 2019

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.
 - 1) If the Planning Board wants to enter into executive session, a roll call vote must take place.
 - 2) When making a motion to enter into executive session, please make sure that the motion mentions that adjournment will occur after the executive session concludes and the Board will not come back into open session.

6. Adjournment

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

Minutes approved by: _____



Date: 11/13/19