

Salisbury Planning Board

Meeting Minutes

October 12, 2022

Date: Wednesday, October 12, 2022

Place: Salisbury Town Hall, 5 Beach Road & Remotely Via Zoom

Time: 7:00 pm

PB Members Present: Chairperson, John “Marty” Doggett (**JMD**), Clerk, John Schillizzi (**JS**), Gil Medeiros (**GM**), Louis Masiello (**LM**), and Alternate, Warren Worth (**WW**)

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

Also Present: Assistant Planner, Danny Ruiz and Planning Board Administrative Assistant, Ellie Cornoni

JMD brought the meeting to order at 7:01 p.m. remotely via zoom. Announced, per opening meeting law, that the meeting was being recorded.

1. New Business – 7:00 pm

a. 82 Lafayette Road (Map 22, Lot 15) – Certificate of Completion – A request for a Certificate of Completion to close out the Site Plan Approval on Phase 1. Phase 2 was never completed.

- **JMD** stated:
 - The applicant is looking for a certificate of completion on his project.
 - The applicant wants to amend Phase 2 of his project and make the building bigger. It would change from 4,000 SF to approximately 20,000 SF.
 - The Building inspector determined that the applicant should close out their Site Plan Approval and then submit for a new Site Plan Approval and Special Permit.
 - The applicant will be submitting for a new site plan approval and special permit for the Self-storage use since the use is now allowed by special permit. When the applicant received site plan approval, the use was allowed by-right under the old zoning before it was changed to the new Lafayette & Main Commercial Zoning.
 - There is a lighting concern from an abutter across the street. The abutter wants the 5 light poles in the parking lot to be shut off at a certain time. The applicant says they need the lighting for security lighting reasons.
- The applicant, Brendan Doherty, spoke on his project and the complaint about lighting from neighbors of the building:
 - He stated the site lighting is compliant in the parking lot. He gave a brief presentation on his lighting situation on his lot, comparing it during different times of day as well as comparing it to other facilities in neighboring towns.
 - He stated he has tried to work with the neighbor as best as he could.
- **GM** said to the applicant that the neighbor’s request does not seem unreasonable.
 - Brendan Doherty stated his insurance company won’t pay liability if someone was to get hurt because the lights were off.
 - **GM** asked if Brendan has written requirements from his insurance company to keep the lights on all night.

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- Brendan replied, no he does not.
- JS requested the applicant to present the board information from his insurance company stating he is required to keep the lights on all night.
- LM stated he sympathizes with the applicant regarding keeping himself safe from liability.
- WW asked if it would be possible to have the lights be on a motion sensor.
 - Brendan Doherty answered no, it would be more of an annoyance to have the lights continuously on and off.
- JMD stated he believes this is a situation where there can be a compromise. He stated it does not seem so difficult to have the lights rewired so there would only be 2 or 3 lights on all night, reducing the light pollution by 40%.
 - Brendan Doherty stated he does not like that idea.
- The board decided to table the discussion and do a site visit to witness what it looks like with the lights on and with the lights off to have every member be on the same page.

GM motioned to continue the Certificate of Completion for 82 Lafayette Road to the October 26, 2022 Planning Board meeting with the condition a *site visit* is conducted by the Planning Board to see the site's lighting at night. WW seconded this motion. Roll call was taken, all members present (5) voted in favor. Motion passed.

2. Public Hearing - 7:10 pm

- a. 163 Elm Street (Map 9, Lot 31) – Site Plan Review Application – Construct 2 commercial buildings with an associated gravel storage area. **Applicant:** F&D Realty LLC (continued from 7/13/22, 9/14/22, 9/28/22)
- **JMD** stated the applicant has requested a continuation to the October 26, 2022 Planning Board meeting.

GM motioned to continue the Site Plan Review for 163 Elm Street to the October 26, 2022 Planning Board meeting. LM seconded this motion. Roll call was taken, all members present (5) voted in favor. Motion passed.

- b. 100 Forest Road (Map 26, Lot 5 & 7) – Flexible Residential Development Special Permit – Construct a 7 Flexible Residential Development with an associated Open Space in the back of the project. **Applicant:** Old Silver Estuary On Little River LLC (continued from 8/24/22, 9/28/22)
- **JMD** stated the applicant has requested a continuation to the October 26, 2022 Planning Board Meeting.

LM motioned to continue the Flexible Residential Development Special Permit for 100 Forest Road to the October 26, 2022 Planning Board meeting. JS seconded this motion. Roll call was taken, all members present (5) voted in favor. Motion passed.

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- c. **100 Forest Road (Map 26, Lot 5 & 7)** – Definitive Subdivision Application – Proposed construction of a 710 FT, 26 FT wide roadway servicing a 6-lot subdivision. **Applicant:** Old Silver Estuary On Little River LLC (continued from 8/24/22, 9/28/22)

- **JMD** stated the applicant has requested a continuation to the October 26, 2022 Planning Board meeting.

WW motioned to continue the Definitive Subdivision Application for 100 Forest Road to the October 26, 2022 Planning Board Meeting. JS seconded this motion. Roll call was taken, all members present (5) voted in favor. Motion passed.

- d. **Master Plan Update** – The Planning Board will be reviewing and discussing the updated Master Plan document. The following sections are included in this updated document: Land Use, Climate Change, Economic Development, Transportation, and Community Health. The Planning Board will be making a determination whether or not to approve and accept the updated Master Plan. (continued from 9/28/22)

- **Danny Ruiz** updated the Board on the Master Plan:
 - There were a couple comments that were received and will be incorporated into the master plan.
 - Conservation Agent is mentioned multiple sections, this is going to be removed out of each of the “responsible party” sections, since they fall under the Planning Department.
 - SCTV will be added to the masterplan in order for the town to work with them to increase education to the public about various topics.
 - The harbor commission recommended working with surrounding communities regarding the current notification process to warn boaters regarding CSO’s (combined sewer overflow) upstream.
- **GM** stated he believes the Master Plan should be voted on after the presentation to the Town Meeting giving people a chance to add or comment.
- **Charles Takesian** – 9 16th Street West – gave public comment on his opposition to the conservation commission bylaw clause within the Master Plan.
- **Michael Colburn** – 5 Caitlin Circle – gave public comment stating his positive stance on the conservation commission bylaw clause within the Master Plan.

LM motioned to approve the Updated Master Plan. WW seconded this motion. Roll call was taken, four (4) members voted in favor, one (1) voted not in favor (GM). Motion passed.

- e. **66 Elm Street (Map 8, Lot 1)** – Site Plan Review Application - Proposal to raze the existing doggie daycare and reconstruct a new larger doggie day care building. **Applicant:** Carlyn Capolupo

- **JMD** stated the applicant has requested a continuance.

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GM motioned to continue the Site Plan Review for 66 Elm Street to the October 26, 2022 Planning Board meeting. LM seconded this motion. Roll call was taken, four (4) members voted in favor, one (1) abstained (JS). Motion passed.

- f. **9 Gerrish Road aka Winterberry Circle (Map 22, Lot 19)** – Special Permit Major Modification – The application is to request the Planning Board to allow the release of certificate of occupancy pending installation of permanent street lights.

- Attorney Lisa Mead of Mead, Talerman & Costa, LLC, spoke on behalf of the applicant:
 - She stated she is here because of a disagreement between [Planning Department] staff and applicant team.
 - The applicant put down a bond to secure the infrastructure, which included the lighting.
 - Building permits were issued, two certificates of occupancy were issued with temporary lighting making sure the site was safe temporarily.
 - When a third lot (lot 7) was requesting a certificate of occupancy, the Planning Department would not issue due to lack of permanent lighting.
 - She is requesting the release of the certificate of occupancy.
- Danny Ruiz responded to Lisa Mead's request:
 - He stated that it states in the decision that no certificates of occupancy until all light fixtures are in place.
 - Under section VI of the decision "Prior to the Issuance of Building Permit" they are not allowed to receive **building permit until all utilities are available to the lot** which is the subject of the building permit. The Planning department had been working with the applicant to allow them to receive building permits because they argued there were no people associated with the building permits and said they would not ask for occupancy permit until the lights were installed. Even with this agreement, after review we allowed occupancy for 1 Winterberry Circle back on March 25th, 2022, because there were lights on Gerrish Road and the corner of the site that would keep it safe and they had agreed to fence off the rest of the site. The delay in the lights was a DPW hold up. Then at the end of June, 8 Winterberry Circle was ready and we had multiple meetings with the contractor/homeowner on the Occupancy Permit. In the end, we agreed to allow this Occupancy Permit once temporary security lights were installed because there were supply chain issues and interest rates were increasing. But we were very clear on the terms that the permanent lights needed to be installed before the next Occupancy Permit. Within weeks we received 3 requests for meetings with the owner, attorney, and buyers. We found out that the lights had not even been ordered yet. We were told at the end of June that the lights were ordered but on July 18, 2022, when I requested proof that the light were ordered back in June the attorney sent us an executed submittal form for the light order which was signed and dated on July 18th, 2022. Then the electrical inspector went out to the site and determined that the temp lights were not installed with permit or to code so the inspector made them turn the temp lights off and re-install them properly. The permanent lights are now on site and installation has begun. Existing homeowners have concerns with the location so we

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requested that the street light locations be confirmed by survey. We are still waiting on survey confirmation.

- **JMD** asked if there is a time schedule for when National Grid will electrification of the site.
 - Lisa Mead stated no there is not. But there are temporary lights there now.
- The couple for lot 7 (names?) – gave public comment about their situation during this process.

GM motioned to approve a certificate of occupancy for 9 Gerrish Road aka Winterberry Circle's lot 7. JS seconded this motion. Roll call was taken, all members present (5) voted in favor. Motion passed.

GM motioned to continue the Special Permit Major Modification request of 9 Gerrish Road aka Winterberry Circle to the October 26, 2022 Planning Board meeting. LM seconded this motion. Roll call was taken, all members present (5) voted in favor. Motion passed.

g. Zoning Amendment Proposals for the Planning Board to consider recommending for the October 24th, 2022 Town Meeting:

1. To create Ground Mounted Solar Photovoltaic Installations Bylaw, or take any other action relative thereto.
 - **JMD** stated:
 - Town Counsel has reviewed the proposed zoning article and has noted that there are a lot of deficiencies with the proposal. The email from town counsel has been provided to the Board.
 - The proposed zoning article is labeled as Article XXIII which is actually the Medical Marijuana Bylaw.
 - It was his understanding that this bylaw would be workshopped and worked on with the community and in depth. Once it was worked on it would be presented to the Town Meeting in the Spring. There is one being worked on already.
 - Marc and Stacie Warcewicz – 35 Bayberry Lane -- gave a public comment about their disappointment with the bylaw taking so long to be presented to town meeting.
 - Charles Takesian- of 9 16th Street West– gave a public comment about the process of bringing this article as is to public meeting.
 - **JMD** replied saying the Board's options regarding the process of this bylaw article.
 - If this is recommended either negatively or positively it will go to Town Meeting. If there is no recommendation it will continue to the next Planning Board meeting.
 - Michael Colburn – 5 Caitlin Circle -- gave a public comment. He asked Danny Ruiz where the bylaw he is making is at.
 - Danny Ruiz responded saying his bylaw is being worked on with the board as well as council. The bylaw proposed by the citizen would repeal a current bylaw in use and make it non-conforming.
 - Director of Planning, Lisa Pearson, explained to Michael Colburn as well as the Warcewicz's that the way the bylaw from the citizen's petition has been written it

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will eliminate certain regulations already in place that are beneficial to the Town. She said everyone agrees there is the need for this bylaw, but it should be implemented properly with the right components and verbiage. She explained it would be beneficial to not have this go to Town meeting and for the couple to wait until next Town Meeting (in the Spring) for this to be on the agenda.

LM motioned for the Planning Board to send the *Ground Mounted Solar Photovoltaic Installations Bylaw* to the Town Meeting with no recommendation. WW seconded this motion. Roll call was taken, two (2) members voted in favor, three (3) voted not in favor (JMD, LM, JS). Motion failed.

LM motioned for the Planning Board to continue the *Ground Mounted Solar Photovoltaic Installations Bylaw* to the November 9, 2022 Planning Board Meeting. GM seconded this motion. Roll call was taken, two (2) members voted in favor, three (3) voted not in favor (GM, JS, WW). Motion failed.

LM motioned for the Planning Board to continue the *Ground Mounted Solar Photovoltaic Installations Bylaw* to the November 9, 2022 Planning Board Meeting. JS seconded this motion. Roll call was taken, four (4) members voted in favor, one (1) voted not in favor (GM). Motion passed.

2. Amend Article VII Zoning Board of Appeals, §300-30. Appointment, Terms of Office, or take any other action relative thereto.

- **JMD** stated:

- This proposes a change of appointing power from Town Manager to the Zoning Board of Appeals.
- The Charter gives the Town Manager the appointing power which supersedes the zoning bylaw.
- This proposal would not actually change the appointing power due to the town charter giving appointing power to the Town Manager. This bylaw would only cause confusion as the Town Charter and Zoning Bylaws would be in conflict possibly setting up the town for legal action.
- If this change happens, it should be after there is a vote for the Town Charter to be changed.

- Charles Takesian - 9 16th Street West – gave a public comment stating the Charter supersedes any Town bylaws.

LM motioned for the Planning Board to send the *Amendment of Article VII Zoning Board of Appeals, §300-30* to the Town Meeting with no recommendation stating, the change asking to be made must be made in the charter or there will be a direct conflict between charter and bylaw. JS seconded this motion. Roll call was taken, all members present (5) voted in favor. Motion passed.

3. Other Business

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- None at this time.

4. Old Business

- None at this time

5. Correspondence

- None at this time

6. Adjournment

GM motioned to adjourn. LM seconded this motion. Roll call was taken, all members present (5) voted in favor. Motion passed.

Meeting adjourned at 10:07 pm

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

Minutes approved by: _____

Date: _____

John M. Duggett

12/15/22