



TOWN OF SALISBURY
Zoning Board of Appeals Hearing
Colchester Room @ Town Hall, 5 Beach Rd

MEETING MINUTES- PUBLIC HEARING

Hearing Date: July 10, 2018 @ 7:00 pm

Members Present: Susan Pawlisheck (Chairperson), Derek DePetrillo (Secretary), Linda Tremblay, Joseph Stucker, Kevin Henderson

Additional Persons Present: Scott Vandewalle, Zoning Officer/Building (Inspector)

(Chair) person Pawlisheck called the meeting to order @ 7:05 pm.

(Chair) asks the Board to go out of order. She explains there are (2) 40B projects looking for a decision on whether the modification they are seeking is major or minor. A determination is needed to see if adding solar panels is a major or minor modification.

Mr. Stucker makes motion to hear the case for 29 Elm Street and 18 Maple Street to determine if major or minor. Mr. DePetrillo seconds. All vote in favor.

Mr. Nat Coughlin, major contractor for the projects at both 18 Maple Street and 29 Elm Street approaches the podium to ask permission to add a solar hot water system to both sites. Mr. Coughlin shows the panels will be on the roof and south face only for 29 Elm Street; cannot be seen from the front. They are visually pretty minimal and away from the street.

At 18 Maple Street, the Spalding School, the panels face south and would be at the end of the new addition, not on the historic structure; somewhat like a canopy.

(Ms. Tremblay) inquires if the neighbors have been notified about this.

(Chair) explains it is the Boards decision on whether it's major or minor. If it's major, there is a whole hearing and that would be when the abutters get notified. If it is minor then the Board feels that it's a small adjustment to what they're already doing. Once we make this decision they can move forward.

(Ms. Tremblay) discusses the physical appearance of the solar 'tube' vs a solar 'panel' and the visual impact to the appearance of the building. (Mr. Coughlin) shows some photos that this same solar company had done elsewhere

(Ms. Tremblay) states it has more of an impact on Maple St., not as much at 29 Elm Street.

(Mr. DePetrillo) states it will also reduce the operating costs for the building and hopefully for resident's utility costs. Also a lot of the cost of this project is offset by

rebates.

(Mr. Henderson) discusses the permitting process for a private home applying for a solar permit vs. this project. If a resident puts these on their home, it is just a regular standard building permit. The Town approves multiple solar permits per year.

Neighbors do not have a say in the appearance and there are no public hearings on it.

MOTION: Mr. Stucker motions this is a minor alteration. Mr. DePetrillo seconds the motion.

VOTES: Ms. Pawlisheck and Mr. Henderson vote in favor of the motion. Ms. Tremblay votes against the motion. All members express their vote verbally. (4-1)

(Ms. Tremblay) states her thoughts that on Elm Street it may be a minor modification but differs on Maple Street. She sites concerns for neighbors.

1. New Public Hearings

- A. Case No. 18-15 Petition for Relief – Finding by Special Permit:** regarding relief to enlarge an existing non-conforming structure (deck).

Address: 534 North End Blvd.

Map 36, Lot 123

Applicant: James B. Purtell

(Chair) asks for applicant to appear at podium; no one speaks up or comes forward.

There is no response or representation in the audience.

(Chair) announces the Board has the option to proceed as normal and take a vote or the case can be continued.

MOTION: Mr. DePetrillo makes a motion to continue Case Number 18-15 until the August 14, 2018 meeting. Ms. Tremblay seconds the motion.

VOTES: Ms. Pawlisheck, Mr. Stucker and Mr. Henderson vote in favor of the motion. All members express their vote verbally. (5-0)

(Inspector) requests Case 18-17 be taken first before Case 18-16 because 18-17 is the funding to allow this use. (Chair) approves the change in order.

- B. Case No. 18-17 Petition for Relief – Finding by Special Permit:** regarding the current 4-unit structure being razed and replaced with a 3-unit structure, set out of the right-of-way.

Address: 45 Old County Road

Map 28, Lot 41

Applicant: Michael Wolpert

Mr. Brian Knowles approaches the podium, representing Mr. Michael Wolpert and explains the current 4 unit residential structure which is actually in the right of way. The applicant wishes to raze the current structure and build a new structure with 3 units on pilings, or whatever Conservation requires. The applicant has paid (4) betterment fees when sewer went into neighborhood.

(Mr. Knowles) describes the new structure and presents the new plans showing the front of the building with a garage under, a deck in back. He explains this will be better for the neighborhood.

(Mr. DePetrillo) asks if these units will be condominiums. **(Mr. Knowles)** replies yes; there will be condo fees and an association will be formed.

(Chair) asks for Abutters in the audience.

Abutter/Resident #1: Cheryl Papandrea, 41 Old County Road.

(Ms. Papandrea) states she lives next door and states a non-conforming unit is being torn down and then another nonconforming entity is being built; is this possible with the zoning now in place.

(Ms. Papandrea) asks the plans for the square footage and usage? And if these are condos, are they rentals or will they be sold.

Abutter/Resident #2: Mr. Louie Papandrea, 41 Old County Road states current problems at this address mentioning number of police calls, activity etc.

Abutter #3: Ann Gagnon, represents the Mass Department of Fish and Game. The Department is a direct abutter to the rear and side of this property. She states she agrees with the previous comments from Abutter #1 concerning the existing nonconforming use, razing the building and then putting up another nonconforming structure. **(Ms. Gagnon)** also states that the entire lot is within the hundred year flood plan and the majority of the property is salt marsh. She wants to make sure there is no trespassing past boundaries and that the corners of the property are well-labeled in the field. She states a new structure should not be detrimental to the neighborhood.

(Mr. Knowles) states he is a licensed land surveyor and is confident that his surveying in the field matches what is on the plan. He did not set markers as did not want to go into the salt marsh. The applicant is trying to stay away from the wetland so that is why he's asking for setbacks.

(Mr. Knowles) confirms to Abutter #1 **(Ms. Papandrea)** that the new buildings will be residential condo units; not apartments. They will be sold and the applicant will be done with the property.

(Chair) again specifies that the applicant is looking for a special permit right now, not a variance.

(Ms. Gagnon) questions if the Conservation Board has approved the wetland boundary.

(Chair) states this board does not look at that.

(Mr. DePetrillo) inquires about additional parking for visitors. (Mr. Knowles) explains extra parking will be in front between the structure and travel lane.

(Mr. Henderson) inquires about if this land is under same regulations as at beach as the garage is enclosed here and not allowed at the beach. (Inspector) explains the difference and that this land is not in the beach district. There is no jurisdiction on sand movement in this neighborhood.

(Chair) verifies and summarizes the various conversations and confirms the duties of the Board such as looking at non-conformance, is the end result more harmful, is there an attempt to make it more conforming is it less detrimental. This is what the finding does.

MOTION: Mr. Stucker made a motion to approve the Relief by Finding for 45 Old County Road as it is not significantly detrimental to the neighborhood. Mr. DePetrillo seconds the motion.

VOTES: Ms. Pawlisheck, Mr. Henderson and Ms. Tremblay vote in favor of the motion. Motion passes unanimously. All members express their vote verbally. (5-0)

- C. **Case No. 18-16 Petition for Relief – Variance:** regarding a side yard variance and a front yard setback variance. The existing structure is to be razed; a new 3-unit dwelling is to be built.

Address: 45 Old County Road

Map 28, Lot 41

Applicant: Michael Wolpert

(Mr. Knowles), spokesman for the applicant, explains the Relief being applied for. A separation of 10 feet will be maintained. Relief is being sought for (2) setbacks. The side setback requirement is 20; proposed is 12 feet. The front yard setback requirement is 40; proposed is 10 feet.

(Chair) inquires what the hardship is? (Mr. Knowles) responds the 20 feet to 12 feet for the side setback. Hardship is the wetland line on the southerly side.

Any abutters or comments? None

MOTION: Mr. Stucker made a motion to grant the finding by variance for 45 Old County Road due to the hardship of topography due to the wetland delineation and lot shape. Mr. DePetrillo seconds the motion.

VOTES: Ms. Pawlisheck, Mr. Henderson and Ms. Tremblay vote in favor of the motion. Motion passes unanimously. All members express their vote verbally. (5-0)

2. Continued Public Hearings

Case No. 18-14 Major Modification to a Comprehensive Permit (40B) originally granted to 54 Beach Road LLC in 2008.

Address: 54 Beach Road

Map 4, Lot 92

Applicant: 54 Beach Road LLC

(Chair) states that a decision needs to be made on the modifications for 54 Beach Road on whether it is major or minor. A motion needs to be made.

MOTION: Mr. DePetrillo makes a motion that this is a major change to the 40B project at 56-60 and 54 Beach Road. **Mr. Tucker** seconds the motion.

VOTES: Ms. Pawlisheck and Mr. Henderson vote in favor of the motion. Ms. Tremblay votes against the motion. All members express their vote verbally. (4-1)

(Chair) asks for an update since the last meeting.

(Mr. Paquette) approaches the podium and updates the Board. He states all department head comments were addressed and changes made. The changes more substantially comply with the original application. Based on comments from the Assessor and other department heads, the orientation of the proposed units was changed, thus being a substantial improvement. This will also save on water and sewer connections. A list of approved town street names was provided to Mr. Paquette and (2) were tentatively chosen; Mariner Way and Herron Way; confirmation will be made after discussion with the Fire and Police Departments.

(Mr. Paquette) stated a previous comment concerned curb appeal. After discussions and (3) sit downs with 3 of the abutters, they are far more satisfied with the new orientation. It seems pretty certain that all the trees in questions can remain; to further improve the curb appeal at the entrance.

(Mr. Paquette) states there will be a permanent project sign. Abutter (2) had asked about a fence to mitigate the headlights coming into the development. Agreement was made on landscaping instead of a fence.

(Mr. Paquette) met with Abutter (3) and walked the property line to Sawyer Farm. He will add some additional pines to the pretty substantial tree line currently there.

(Chair) asks if the letter from the Sawyer Farm Board of Trustees listed under 'correspondence' has been addressed under the meetings between Mr. Paquette and the residents at Sawyer Farm.

(Chair) – asks if the developer for Sawyer Farms was responsible? (Mr. Paquette) states he is happy to do it. He will add new trees and replace dead ones.

(Mr. Paquette) discusses the development in general. He states there will be five new visitor parking spaces. Three of the new units will be affordable housing units; all three will be (3) bedroom units. He would like to remove the (3) lot lines; 54 Beach Road will be one lot.

(Mr. Paquette) states the recreational fee will be waived as the Town will receive an approximate 28 acre tract of land. He would like to do the foundations and pavements before the frost.

(Chair) states Mr. Paquette is working so well with the abutters and the impact to neighborhood.

(Chair) states the Board should give the (Inspector) the authority and ownership to answer all questions and issues relating to this project. That would include all department head comments, etc. (Inspector) states the vast majority of issues have been discussed. The Board should try to close this up.

(Chair) states that all the Town Boards are involved in the project, have made their comments and they are being addressed. Does this board want to add anything?

(Ms. Tremblay) questions width of streets. (Chair) explains the waiver was granted in the first bid. (Inspector) explains this is a somewhat extension of the existing project; it is not considered a new project. He also states Town Counsel has no need to get involved as they were the first time.

(Mr. DePetrillo) states some of the units are near a sewer pumping station? (Mr. Paquette) responds that this fact is disclosed to potential buyers.

(Chair) would like to authorize the Inspector and the Town Manager to act on behalf of the Board to review all the technical aspects of this project and come back to the Board to review and either approve or disapprove.

(Inspector) explains that under Zoning, the Board cannot make an open-ended decision predicated on further decisions to be made.

(Mr. Paquette) requests that a decision be drafted for the 7/24/2018 meeting.

(Mr. Stucker) questions why a decision is not being made tonight? What is gained by putting it off? (Chair) explains that there is not a decision to sign. The Building Inspector/Zoning Officer needs to write it. It is not done the same way as usual – written by the Board Secretary

(Mr. Paquette) questions if at the next meeting if it is a (4) member board, if only (3) members can approve it. The inspector will check the 40(B) voting language concerning 'super majority'.

MOTION: Mr. Henderson made a motion to continue this case to July 24, 2018 and that Mr. Vandewalle will have a decision ready to sign. Mr. DePetrillo seconds the motion.

VOTES: Ms. Pawlisheck, Mr. Stucker and Ms. Tremblay vote in favor of the motion. Motion passes unanimously. All members express their vote verbally. (5-0)

(Inspector) requests discussion on vacations impacting future Board meetings.

Mr. Stucker will not attend on July 24, 2018. Chair (Mrs. Pawlisheck) will not attend the August 14, 2018 meeting.

A. Minutes

May 22, 2018 meeting minutes need to be approved and signed by the (Chair).

Mr. DePetrillo makes a motion to accept the minutes, Mr. Henderson seconds. Minutes approved by all Board Members.

June 12, 2018 meeting minutes need to be approved and signed by the (Chair).

Mr. Stucker makes a motion to accept the minutes, Mr. DePetrillo seconds. Minutes approved by all Board Members.

B. Correspondence and Other Board Business

L & M Properties, Inc./Board of Trustees, the Village at Sawyer Farm Condominium Trust

(Chair) states that the contents of the letter pertains to the original developers;

(Inspector) responds yes and current developers are the original.

C. Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting

None

D. Adjournment

Motion for adjournment was made by Mr. DePetrillo and approved by a 5-0 vote. Meeting is adjourned at 8:34 pm.

- The Board reserves the right to consider items on the agenda out of order. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Next Scheduled Public Hearing: July 24, 2018

Respectfully submitted by Teresa Mahoney, Board Secretary and accepted at the September 11, 2018, meeting of the Zoning Board of Appeals.

Accepted as Presented;

A handwritten signature in cursive script, reading "Susan M. Pawlischeck".

Chairperson Susan Pawlischeck

Cc: Town Clerk