



CITY OF SALEM CONSERVATION COMMISSION

NOTICE OF MEETING

Notice is hereby given that a meeting of the Salem Conservation Commission will be held on **Tuesday, April 19, 2022 at 6:30 p.m. via remote participation, in accordance with Chapter 20 of the Acts of 2021 and as amended by Chapter 22 of the Acts of 2022.**

DRAFT MEETING MINUTES

Greg St. Louis opens the meeting at 6:35 pm

I. ROLL CALL

Present: Greg St. Louis, Tyler Glode, Judith Kohn, Bart Hoskins, Dan Ricciarelli, Tom Campbell (6)

Absent: (0)

Also in attendance: Kate Kennedy (1)

Kate Kennedy: Tom Philben has been approved by City Council for participation as a newly appointed commission member pending oath and paperwork finalization.

I. REGULAR AGENDA

A. Salem Conservation Commission – Adoption of Wetlands Protection Regulations– Public Hearing - The City of Salem Conservation Commission will hold a public hearing regarding the adoption of regulations, per Section 50-13, under the newly amended Wetlands Protection and Conservation ordinance Ch.50, Sections 50-1 through 50-18.

Tom Devine:

- Confirmation that this should be posted as a public hearing.
- Back with revisions from previous feedback including custodial, administrative, and clarification of language for waiver review.
- The wetland replication ratio to make it less than 2:1 has not been changed.

Greg St. Louis: Replication ratio has previously been done on a case-by-case basis based on wetland values in the area, other hydraulics, geographical location, etc.

- Tyler Glode: Following the 2:1 ratio might be more of a hindrance to development that could overburden applicants. I am okay with a case-by-case basis for smaller projects. Less so for commercial projects.
- Judith Kohn: Can the 2:1 requirement be addressed in the waiver request? It could then be waived in certain circumstances.

- Greg St. Louis: Yes, specific consideration can be given by the Commission on a case-by-case basis.

Kate Kennedy shares an email from Linda Faresso, member of the public:

- It does not seem that there is enough to streamline the process and the City has an obligation to address the floodplains, which are an accident waiting to happen. Due to the holidays and length of the document there has not been enough time to review.

Kate Kennedy: A great discussion has happened about discussing floodplain overlay and there will be additional time for public input.

- Greg St Louis: I think our regulations do encourage others to look at their building and where it sits.

Bart Hoskins: When there is a building with first floor parking, the drains have the potential to overwhelm our sewage treatment system. Does this fall as a plumbing code or the wetland ordinance?

- Greg St Louis: It will be connected to the sewer. There will be a valve so that there is opportunity to shut the valve off.
- Tyler Glode: This can be requested to be included in the operation and maintenance plan.
- Tom Devine: The City is also considering amending the flood hazard overlay district special zoning ordinance, which would also address this.

A motion to close the public hearing is made by Glode, seconded by Hoskins, and passes 6-0.

A motion to adopt the draft regulations as written is made by Hoskins, seconded by Glode, and passes 6-0.

B. 9 Franklin Street – DEP# 64-729 –Public Hearing *Continuation* – to consider a Notice of Intent for Patrick Shea, 11 Franklin LLC, for the property located at 9 Franklin Street, Salem, MA. The purpose of the hearing is to discuss the proposed twelve (12) unit multi-family development and associated site work within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

A motion to continue the public hearing to May 17, 2022 is made by Hoskins, seconded by Kohn, and passes 6-0.

C. 21 Hemenway Road – DEP# 64-750 – Public Hearing – to consider a Notice of Intent for Ana and Sean M. Monahan for property located at 21 Hemenway Road, Salem, MA. The purpose of the hearing is to discuss the proposed construction of a new pier, gangway, floating dock and site work/landscaping, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Scott Pattowickz, representing Ana and Sean M. Monahan, shares presentation. Highlights include:

- Far from eelgrass location, however close to oyster and soft-shell clam beds.
- The pier will be suspended and about 52’ long.
- Designed to have only one pile located in the salt marsh.
- The float at the end of the pier will stop to keep recommended distance from the bottom.
- Gangway can be picked up by a motor when needed, such as in large storms.
- Mass DEP sign for Chapter 91 will be mounted.
- Scott M. Monahan will store his boat in Baert Marina in Middleton and will only dock it during high tide.

- Landside improvements being made will be a blue stone walkway where the pier starts and new stepping stones, in addition to a previously approved fire pit.

Judith Kohn: What has the response of the harbor master been about the docks in such close proximity?

- Dan Ricciarelli: He has chimed in on one, however, he has not commented on this one and they are not going out further in length than the others. They are isolated on piles and far enough away that it is fairly well anchored.

Greg St. Louis: The Commission should be mindful that some docks that are not on fixed piles have floated away and disrupted other habitats but a pile system like this is more secure.

Greg St. Louis: What is the impact of the piles?

- Scott Pattowickz: There will be a vibratory driver and slow start. They will be placed with the crane on the landward side as well.

Public Comment:

- Steve Manning, 17 Fairview: I am the abutter with the float seen in the presentation. We know there is ledge on these properties and from experience there is a layer of clay not too deep in the beds. In past experience, the desired length of pilings was unable to be achieved with no ability to get them down further. In order to avoid an impact on the project, grasses and beds, are they going to do test flooring to ensure they can achieve the minimum depths they are looking for? Can you also talk about the vibratory driving and the impact of these? Are there concerns being abutters?
 - Scott Pattowickz: Yes, test pilings will be required. Absolutely. I will defer to my structural engineer for the impacts, but the nearest pile is about 35' away from the seawall, which is a fair distance. A better expert will be needed to find the exact impact. The pile locations also have a fair amount of flexibility.
 - Greg St. Louis: Studies have been on perceived impacts of vibratory driving on foundations for roadwork and the impact has been negligible. I would recommend a condition that preconstruction photographic survey be provided for everyone's benefit.
- Bill McHugh, Salem Harbormaster: I wanted to address if I had any concerns since it was asked. For the most part I remain silent unless there is an issue of navigation. As weather patterns change, I do have concerns about docks that are supported by piles, which are not always as resilient as people think. Last year there were several vessels breaking free on the Marblehead side and found ourselves trying to retrieve these to not damage docks. I want to commend this application, but going forward applications like this will become more and more difficult to do.

Dan Ricciarelli: Does the Commission want to see any vibratory response?

- Tyler Glode: Vibrations can be bigger in water, so it might be nice to have it as a form of curtesy. I think it is amenable to the applicant to provide it.
- Scott Pattowickz: Yes, we can do that as a curtesy.

A motion to close the public hearing is made by Hoskins, seconded by Campbell, and passes 6-0.

A motion to issue the order of condition subject to special conditions as discussed of preconstruction photographic survey of adjacent seawalls is made by Glode, seconded by Hoskins, and passes 6-0.

D. 60 Grove Street -Community Life Building – DEP# 64-### - Public Hearing -to consider a Notice of Intent application for 116 Bennington Street Realty Trust, for project located at 60 Grove Street (Map 16, Lot 237), Salem, MA. The purpose of the hearing is to discuss the proposed construction of a community building with an associated patio, parking lot, walkways, utilities, and landscaping, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Bob Griffin, on behalf of the applicant, shares presentation. Highlights include:

- In 2015 the Commission approved an order on conditions for redevelopment of 60 and 64 Grove Street. There was an appeal of the order of conditions and DEP put in place a superseding order of conditions. It was extended once and we have requested another extension.
- Existing conditions include the bank and canal, with neither being altered in this plan.
- Exempt from riverfront land regulations due to Chapter 91.
- The 100-year flood elevation is 10.8 with most of the land currently at 9.5 to 10.5 elevation. Due to the removal of buildings, there will be an increase in flood storage capacity.
- Proposed plan will be to repave the parking lot, pull work away from the canal wall, landscaping, ramps for access.
- The building and parking lot will be pushed back 25’ from the canal wall. 50’ mitigation runs through the middle of the building and a 100’ buffer zone.
- Front parking lot will go through a first defense treatment device and discharge to Grove Street.
- Significant reduction in impervious surfaces associated with the site due to reduction of parking lot size and removal of old buildings.
- The floor will be at an elevation of 12, with a significant increase in flood storage capacity.
- Approximately 25 trees, 75 shrubs, and countless perennials, all native to the area will be included in the landscaping.

Greg St. Louis: The triangular area is not subject to a superseding order?

- Bob Griffin: It is, we want to dispense the superseding order from the DEP as it relates to this property.

Greg St. Louis: Did any previous LFP activities occur on site already from previous approvals?

- Bob Griffin: Yes, there has been activity over the past 20 years. When this project is completed there will be an activity and use limitation over this entire parcel.

Bob Griffin: I want to point out that we are showing a basketball court and fitness facility, but we have planned changes to the approved plan that we are not yet ready to present and will be back for approval for those.

- Greg St. Louis: This is in lieu of the pile remaining on site?
- Bob Griffin: Yes, it has been removed and the cell in the basketball area is not required anymore as a result of that.

Judith Kohn: I think it is a great improvement. I appreciate the effort that is going into the landscape treatments here.

Judith Kohn: I don’t think we have a DEP number.

- Kate: I just checked. It is 064-0751

A motion to close the public hearing is made by Ricciarelli, seconded by Campbell, and passes 6-0.

A motion to issue the order of condition subject to special conditions allowing the applicant to work on revisions to roof drainage as is appropriate is made by Ricciarelli, seconded by Glode, and passes 6-0.

E. 51 Winter Island Road – DEP# 64-### - Public Hearing - to consider a Notice of Intent application for City of Salem Harbormaster, for project located at 51 Winter Island Road, Salem, MA. The purpose of the hearing is to discuss the proposed relocation of the Harbormaster shed on the concrete pier at Winter Island, to an upland area at the top of the pier within an area subject to the Wetlands Protection Act MGL c131§40 and Salem’s Wetlands Protection & Conservation Ordinance.

Curtis Chamey, representing the Salem Harbormaster, shares presentation. Highlights include:

- Request to relocate shed in a more resilient and functional location.
- Bottom main supports are only at elevation of 9.5.
- The proposed location would be at 16.5 elevation.
- Driven steel pipes would be placed in as supports.
- Condition for erosion control to have a debris boom for the overwater and erosion control measures for the upper area is requested.
- A 25’ and 50’ buffer can be placed on the plan.

Tom Campbell: What is the use of the building?

- Curtis Chamey: It is a satellite office facility.
- Tom Campbell: Are there bathrooms?
- Curtis Chamey: No, there is an electric line and a water line for the sink in it.

Greg St. Louis: When you have structures below the velocity is this recognition that it is not habitable.

- Curtis Chamey: We have not spoken to the building department about this yet. We are approaching this as a resiliency.

Judith Kohn: You mentioned the flood elevation is 21, most in Salem are 10 to 11 so I don’t understand how that could be.

- Tom Campbell: I am talking about the velocity elevation, not the flood elevation.

Bill McHugh: The thought is that during the storms when there is a surge the ocean water is close and touching the beams. We are trying to move it to a higher elevation with proximity to the boats. We want to protect it from falling into the sea and it is impossible to maintain as it is. It is just a watch structure and not a shelter.

Judith Kohn: I do think we need to continue, in case DEP has a reason for not providing the file number. If we do not acquire it by next month someone needs to reach out to DEP to see if there is a reason, we do not have one.

- Dan Ricciarelli: Is this needing to be done before the season?
- Bob McHugh: No, though we ideally would like it done by October.

A motion to continue the public hearing to May 17, 2022 is made by Hoskins, seconded by Campbell, and passes 6-0.

F. 56 Jefferson Avenue – Public Hearing to consider a Request for Determination of Applicability for

Know your rights under the Open Meeting Law M.G.L. c. 30A § 18-25 and City Ordinance § 2-2028 through § 2-2033.

CSI Home Improvement, 216R Lowell Street, Peabody MA. The purpose of the hearing is to discuss the proposed reconstruction of an existing multi-family residence located at 56 Jefferson Avenue, with associated off-street parking, utilities, and landscape improvements, within an area subject to the Wetlands Protection Act MGL c131§40 and Salem's Wetlands Protection & Conservation Ordinance.

Bob Griffin, on behalf of the applicant, shares a presentation. Highlights include:

- To mitigate for flood storage volume being occupied by a retaining wall we are excavating along the side to the same elevation as the sidewalk.
- Roof infiltration and gravel will be added, allowing much more recharge than currently in place.

Judith Kohen: You didn't mention the utility work being proposed?

- Bob Griffin: We will bring in a water line, gas line, and then reusing a sewer line.
- Judith Kohen: I think they are minimal impacts, but I am not sure if an RDA is the correct way to go. It is part of the Wetland Protection Act. Why did you think an RDA was the way to go?
- Bob Griffin: It seems like there is no potential harm to the wetland as the only wetland resource impact is the bordering land and flooding, which we have addressed.

Dan Ricciarelli: Is the retaining wall required? Can it not be a raised porch?

- Bob Griffin: He came to me with the request to install in this manner, so I didn't question if there was another way.
- Dan Ricciarelli: I see it as minimal impact.

Tom Campbell: Do you anticipate any dewatering and do you have any information about the water tabling at this point?

- Bob McHugh: We do. We have poor soil conditions here so we are not installing a basement and are lifting this up because of the shallow ground water table. We have an existing grade in the back and lifted that up a bit to accommodate the infiltration fill. We might have to do a little dewatering but that might not be necessary.

A motion to close the public hearing is made by Campbell, seconded by Ricciarelli, and passes 6-0.

A motion to issue a -2 -6 is made by Glode, seconded by Ricciarelli, and passes 6-0.

G. 485 Lafayette Street –Lead Mills Plantings – Public Hearing – to consider a Request for Determination of Applicability for the Marblehead Conservancy, Inc., 19 Wyman Rd, Marblehead MA. The purpose of hearing is to discuss the extension of a planting berm and associated activities at the Lead Mills Conservation Area (485 Lafayette St, Salem) within an area subject to the Wetlands Protection Act MGL c131§40 and Salem Wetlands Protection & Conservation Ordinance.

Don Morgan, 19 Wyman Road, Marblehead, share a presentation. Highlights include:

- The area is partly in Marblehead and Salem, but the work will be taking place on the Salem side.
- Seeking to extend planting of native wild flowers that attract different sets of pollinators.
- 9 yards of soil with the deepest part being approximately 3".

Tom Campbell: Was the original one permitted?

- Kate Kennedy: Yes, in 2016. The determination was a -2 and -6. This would be an extension of that.

Don Morgan: As part of this project, we also ask to dig up a cedar, located about 60' from the river. We would replant it.

- Greg St. Louis: If you are excavating a tree, please be aware of the Mass Contingency Guidelines.

Dan Ricciarelli: Can we donate to this as a commission?

- Judith Kohn: We can add our labor.
- Greg St. Louis: Would you like the commission to vote on \$500 in wetland or pollinator plantings to the area?
- Tyler Glode: I am comfortable with that.

A motion to close the public hearing is made by Hoskins, seconded by Kohn, and passes 6-0.

A motion to issue a -2 -6 is made by Ricciarelli, seconded by Hoskins, and passes 6-0.

A motion to authorize the Salem Conservation Commission to extend up to \$500 towards pollinator planting at the Lead Mills sight to be coordinated through the Conservation Agents is made by Glode, seconded by Ricciarelli, and passes 6-0.

II. OLD | NEW BUSINESS

A. Request for Certificate of Compliance - 132-144 Canal Street - DEP# 64-644

Kate Kennedy: The applicant has requested to be heard at the May 17th meeting.

- Greg St. Louis: Okay, no action required as this is not a public hearing.

B. Request for Certificate of Compliance - Witch Hill Subdivision - DEP# 64-391

Mary Rimmer shares a presentation. Highlights include:

- This is a request for a certificate of compliance for order of conditions issued in 2005 for the Witch Hill Subdivision 10 lots at the end of Nurse Way.
- The roadway to require some wetland was done with the first crossing in 2005 and the replication in 2020. Some of the shrubs have not survived since 2020.

Greg St Louis: Were we withholding a COC for one of the lots?

- Kate Kennedy: We were, but since this is just for the road when we close for that lot we have some suggestions the commission could make on one of the sloped sides.
- Dan Ricciarelli: Nothing impacts the road, correct?
- Kate Kennedy: Yes.

Judith Kohn: Was there a certificate of compliance for the wetland plants that were separate?

- Mary Rimmer: The road and wetland plants were part of this project. Highbush blueberry was not thriving, however other plants were doing fine but overall, the replication was successful.
- Kate Kennedy: Yes, overall the replication was successful but this is the first time I have seen a replication like this, so I don't have much to compare to. I don't know if the commission would want to see if other plants could be planted to replace the bushes.
- Mary Rimmer: I can certainly add a plant that will like the wetness of the area more. We can let you know when they are in and then release the certificate at that point.

A motion to issue a certificate of compliance is made by Ricciarelli, seconded by Hoskins, passes 6-0.

C. Extension Permit – 74 Bay View Ave – DEP# 64-676

Susanne Saint Pierre, 74 Bay View Avenue: I received an order of conditions to install a patio and raise the height of the seawall in 2019. All the work has been done except the raising of the seawall and I am asking for an extension of the condition for 3 years.

A motion to extend the order of conditions for another three years is made by Hoskins, seconded by Kohn, passes 6-0.

D. Draft Fee Schedule

Kate Kennedy: A lot of Massachusetts City and towns have additional fee schedules. Right now, Salem has a \$25 permitting fee. Abutting towns and cities have additional fees for the permits and applications we receive so we would be looking at what other towns do. Now that we have the new ordinance we do not have the \$25 fee. If the commission would like to see what they think for increasing or not increasing and what is appropriate.

- Dan Ricciarelli: Would there be a discretionary fee? If we can get extra money to help people clean up the area, I think it is good to have.
- Greg St Louis: I think the fee structure is on par with other communities.
- Tyler Glode: We could go by use based on single family homes vs. commercial fees.

IV. APPROVAL of MINUTES

A. March 15, 2022 Meeting Minutes

A motion to approve March 15, 2022 minutes is made by Kohn, seconded by Ricciarelli, and passes 6-0.

III. ADJOURNMENT

A motion to adjourn is made by Ricciarelli, seconded by Campbell, and passes 6-0.

The meeting adjourned at 9:15 pm.