



CITY OF SALEM CONSERVATION COMMISSION

NOTICE OF MEETING

Notice is hereby given that a meeting of the Salem Conservation Commission will be held on June 18, 2024, at 6:30 p.m. **via remote participation in accordance with Chapter 107 of the Act of 2023.**

DRAFT MEETING MINUTES

Bart Hoskins opened the meeting at 6:30 pm

I. ROLL CALL

In attendance: Bart Hoskins, Lucia DelNegro, William Jacob, Dan Ricciarelli, Justin Bates

For the City: Tom Devine, Senior Planner; Matthew Cote, Beals & Thomas

II. REGULAR AGENDA

- A. 57 Wharf/201 Derby Street – Public Hearing – Request for Determination of Applicability for Pickering Wharf LLC** for demolition and construction of existing condominium structure located at 87 Wharf Street and 201 Derby Street (Map 34, Lot 408) within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.
Applicant requests to continue to the July 16, 2024 meeting.

A motion to continue the public hearing to the July 16th meeting was made by Dan Ricciarelli, seconded by William Jacob, and passes 5-0.

- B. 16 Amanda Way – Public Hearing – Request for Determination of Applicability for Timothy Lunt** for the installation of a 16' by 32' in-ground backyard pool at 16 Amanda Way (Map 9, Lot 320) within or partially within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

The applicant, Tim Lunt, was present to discuss the project. Mr. Devine noted that this project was flagged in the building permit portal as possibly being within the wetland buffer zone.

- Matt Cote, from Beals and Thomas, determined that the project line fell right on the wetland buffer line.
- Mr. Hunt believes the pool project is three feet from the wetland buffer line, and shared a drawing illustrating such.
- It was recommended that a hay bale line be used during construction to protect the buffer.

- The roof recharge shown on the plan was abandoned. Concern was expressed that the roof recharge area could be damaged as part of the construction. The recharge area was required as part of the subdivision construction.
- Ms. DelNegro noted that the pool should probably be shown on a surveyed plan, and expressed similar concern about the roof recharge area. She added that the pool could have an apron around it which would fall within their jurisdiction, and expressed concern about where the water would go during a drawdown.
- It was suggested that the Building Department may require a survey plan.
- Discharge would have to occur away from the wetland and would need to follow best practices.
- Mr. Hunt said that his narrative described no impact, including an apron, of pool construction project.
- The Commission could issue a negative RDA, but ask that a plan be submitted to confirm.
- A plan should be submitted to the Building Department and the Conservation Commission showing all building conditions. BMPs should include a 10-day period of no chemicals and discharge away from the buffer. Erosion controls should be in place looping towards the wetlands and neighbors, and no trees being cut.

There were no comments from the public.

A motion to close the public hearing was made by Dan Ricciarelli, seconded by William Jacob, and passes 5-0.

Dan Ricciarelli made a motion, seconded by Justin Bates, to issue a determination of -2 and -6, with the conditions that a plan be submitted, best practices include a 10-day period of no chemicals and discharge away from the buffer, towards the nearest drainage basin, erosion controls in place looping towards the wetlands and neighbors, and no trees being cut, passes 5-0.

C. 36 Clark Street – Public Hearing – Request for Determination of Applicability for Bayron Almanzar for the installation of a fence, playground, and above-ground pool with the addition of dirt at 36 Clark Street (Map7, Lot 5) within an area subject to protection under the Wetlands Protection Act MGL c. 131§40 and Salem Wetlands Protection & Conservation Ordinance.

- Mr. Cote provided an update on this project. He reported that on May 7th he visited the site, and saw the steep slope down to the wetland area. The applicant did install erosion controls, but the work is within the buffer zone. A complaint was made, and the applicant did stop work.
- They are proposing to level off the land to improve safety of the in-home daycare.
- Mr. Almanzar said the focus of the project was for a playground. He was working to mimic the slope that his neighbors already have. The RDA would be for both the fence and the filling.
- Mr. Almanzar said that no trees are being removed for the project, but that bushes were removed. All work is within the buffer, not the wetland.
- Ms. DelNegro inquired as what the complaint was, and what the limit of the work was.
- The wetland line was flagged, and Mr. Cote paced off to the line of disturbance, estimating 30 feet from the wetland.
- Mr. Bates suggested that the Conservation Commission start to compile a list of a contractors who seem to knowingly violate wetland regulations. Mr. Devine reported that they usually work to hold the landowner responsible. Ms. DelNegro suggested that the Conservation Agent reach out to the contractor and let them know that this action violated wetland regulations.

There were no comments from the public.

- Ms. DelNegro inquired about what the applicant wants to do with the area; loam and seed, fencing, etc. and whether that would be in the buffer zone. Mr. Almanzar reported that he would like to put down mulch to create a safer playground. There would be a slide and swings.
- Mr. Almanzar reported that the pool would be a long-term plan after several members expressed concern about its impact and safety.
- Mr. Hoskins said he would like to see the fence moved in closer to the house as much as possible and the site stabilized. Anything more than that would require a full filing and a real plan.
- Fencing can only be eight feet high in Salem. It is unclear as to where the fence is going.
- Mr. Almanzar reported that dirt needs to be brought in to cover a large rock that is in the middle of the property.
- Mr. Ricciarelli asked if the contractor could come in to discuss the project at the next meeting.
- The Commission noted that they would be happy to work with the contractor to clarify the information that is needed. Mr. Cote agreed that there is a lack of detail on this project.
- Ms. DelNegro recommended that wetland flags be shown on a plan with distances illustrated to the fence and structures. She added that it would be very helpful in the future. Mr. Hoskins concurred and suggested a surveyor come out and create a plan showing all the wetland plan.
- Norse Environmental flagged the wetlands, but did not provide a plan. Norse should be able to provide plan.
- The addition of more soil adds complexity to the review of the project.
- Mr. Almanzar's contractor was able to join the meeting. He reported that he knew the wetland was there, so they put down the erosion controls. He reported that there was previously a foundation there of a shed. He said they scraped the soil. Mr. Almanzar said that he took down the shed.
- Mr. Hoskins recommended that the proposal be continued to the July meeting and a plan be submitted showing the work, including the fence. Ms. DelNegro also flagged the issue that they did not want to see grass and leaf clippings dumped on the other side of the fence. She said the wetland line and the 50-foot setback should be shown on the plan, along with the 100-foot buffer.

There were no comments from the public.

Lucia DelNegro made a motion, seconded by William Jacob, to continue the Public Hearing and asked that Mr. Almanzar bring a surveyor to that meeting, passes 5-0.

III. OLD | NEW BUSINESS

1. Gateway Center #64-498 - Request to Extend Amended Order of Conditions

- William Bergeron was present to discuss the project. Mr. Sweetser is the developer.
- Mr. Bergeron reported that they are continuing to have issues with the site due to the AUL's issued to the previous landowner.
- Last year they requested a one-year extension.
- Mr. Bergeron reported that they currently have a contract with Lynch Construction. A plan was provided. They hope to complete the infrastructure for the drainage. All the mitigating drainage was installed with a partial Certificate of Compliance. All that is remaining is the drainage for the parking lot and additional building. There is a 50-foot water main line to a hydrant, a conduit for

lighting in the parking lot islands, grading, and paving of the parking lot. Loam and seed is going to be used until they are ready to implement the landscaping plan. There is no runoff from the site; it is self-contained and has been lying dormant for some time. GZA filed an updated land plan and is reporting to DEP.

- Mr. Bergeron is requesting a two-year extension. There are no changes to the plan.
- Mr. Bates inquired as to whether they needed to follow old regulations if an extension is granted.
- Mr. Cote added that it was requested at the time of the last extension if the project was reviewed to see if it complied with current regulations.
- Mr. Bergeron reported that it had not. He understood that it was still under coastal zone flooding. The stormwater work they did was under Phase I of the project. Mr. Bergeron said he's gone through the MEPA and Chapter 91 process for this project. He said that this portion of Salem flood zones has not changed.
- Mr. Hoskins concurred that he doesn't believe anything has changed and that they were not close to where things would be impacted with sea level rise at this time.
- Mr. Bates wanted to ensure that the systems that are in place now reflect what is understood to be needed today, and if there is precedent to allow projects to continue based on old regulations.
- Ms. DelNegro inquired as to how long the project has been under construction and what percentage of the project is complete.
- There is no building yet, only infrastructure. The project is going on eight years.
- Mr. Bergeron reported that the site had environmental issues and needed cleaning. He said that there was a deed restriction that that prevented residential use. The owner is working to remove that restriction.
- The project would connect to City-owned infrastructure.
- Mr. Cote said he couldn't speak to the legalities but agreed with Mr. Hoskins nothing has changed.
- Mr. Bergeron reported that a landscaping plan was submitted as part of the Site Plan Review. That will happen at a later date so that the work is not disturbed. They do not want people walking through the site.
- Mr. Bergeron said all the reports, MEPA filing, etc. is already available to the Commission.
- The Order expires on July 22, 2024.
- It was discussed that the Commission have the time to review the filings to ensure in

Dan Ricciarelli made a motion, seconded by to issue an extension to the Order of Conditions to July 16, 2026.

Justin Bates made a motion, seconded by Mr. Ricciarelli, to table the request to the next Commission meeting on July 16th.

- Mr. Bergeron noted that a continuance will delay the work under contract. Mr. Devine noted that the project is already permitted so work can continue until July 22nd.
- Mr. Ricciarelli appreciated Ms. DelNegro's suggestion of either allowing a six-month or one-year continuance.
- Mr. Hoskins expressed a preference for seeing a shorter extension, rather than a denial.

Justin Bates made a motion, seconded by Dan Ricciarelli, to extend the Order of Conditions for one year, to July 16, 2025, and passes 5-0.

2. 21 Hemenway - #64-723 and #64-750 - Request for Certificates of Compliance

- Mr. Patrowicz was present to discuss this project. The site was inspected with Mr. Cote. Both projects were built as approved.
- Mr. Cote reported that the project was built substantially as what was proposed.
- It was requested that as an-built plan be provided for the Commission's records.

Dan Ricciarelli made a motion, seconded by William Jacob, to issue a Certificate of Compliance for the seawall #64-723, with the condition that the as-built be provided, and passes 5-0.

Dan Ricciarelli made a motion, seconded by William Jacob, to issue a Certificate of Compliance for the pier #64-750, with the condition that the as-built be provided, and passes 5-0.

Mr. Devine will hold the Certificates until he receives the as-built plans.

3. 0 Story Street #64-727 – Request for Minor Change to Barn Location

- Mr. Devine provided an update on this project. Mr. Lovely requested that the barn be moved further back from the wetlands. Mr. Devine noted that the approval wasn't clear at the 2021 meeting.
- Mr. Devine noted that the Commission expressed support at that meeting, but the conversation didn't reach full resolution. Mr. Devine shared the plan that was approved with an Order of Conditions in May 2022.
- The barn would be moved 40 feet. There should be no net gain in building area.
- Mr. Bates asked if there is any consideration of what is stored in the barn. Mr. Hoskins said that wasn't a consideration at the time.

Dan Ricciarelli made a motion, seconded by William Jacob, to approve the minor modification that the barn be moved 40 feet as shown on the on-site plan with the condition that the space vacated not be built upon, and passes 4-0. Ms. DelNegro voted present.

4. Updated Request for Funding for On-Call Conservation Agent Services

- Mr. Devine reported that Mr. Cote and his colleagues at Beals and Thomas have provided very important support to the Conservation Commission during the staff vacancy.
- The Commission has previously approved \$20,000 on top of the Planning Departments \$12,000 to cover the costs associated with this work during the transition period.
- Mr. Devine discussed the request by the Commission to be cost-conscious and he believes Beals and Thomas has follow that that request. He added that they continue to monitor with the costs. To date, approximately \$14,000 has been spent by Beals and Thomas.
- Mr. Devine reported that a conservation agent has been hired, Rachel Vresilovic, and will begin July 1st.
- Mr. Devine wanted to make sure they had enough funds to carry the Commission forward until then, and then provide some minimal overlap for when Ms. Vresilovic starts.
- Mr. Hoskins previously expressed concern about spending with no end in sight, but he is feeling more comfortable now that an agent is starting.
- Mr. Devine believes some phone calls with Beals & Thomas regarding ongoing projects during the beginning to the new agent's time will be sufficient support to help orient the new agent. He requests an additional \$10,000 in case it is needed, but hopes to not spend it.
- Mr. Ricciarelli and Mr. Jacob expressed support for Mr. Devine's proposed approach.

Mr. Jacob made a motion, seconded by Mr. Ricciarelli, to provide an additional \$10,000.00 to fund Beals and Thomas in assisting until and with the transition to the new conservation agent is complete, and passed 5-0.

V. APPROVAL of MINUTES

- A. Draft April 16, 2024 Minutes
- B. Draft May 21, 2024 Minutes

- Mr. Devine reported that the City Council advised that members do not need to be present to approve the minutes.

Mr. Ricciarelli made a motion, seconded by Mr. Jacob, to approve the April 16 and May 21, 2024 meeting minutes, and it passed 4-0. DelNegro voted present.

VI. ADJOURNMENT

A motion was made by Dan Ricciarelli, seconded by Justin Bates, to adjourn the meeting at 9:20pm and passes 5-0.