

**Salem Conservation Commission
Minutes of Meeting**

Date and Time: Thursday, May 9, 2019, 6:30 p.m.
Meeting Location: Large Conference Room, City Hall Annex, 98 Washington Street
Members Present: Chair Gregory St. Louis, Tyler Glode, Tom Campbell, Dan Ricciarelli, Scott Sheehan, Vice Chair Bart Hoskins
Members Absent:
Others Present: Darya Mattes, Conservation Agent
Recorder: Stacy Kilb

Chair St. Louis calls the meeting to order at 6:32PM.

I. ROLL CALL

II. REGULAR AGENDA

- A. 74 Bay View Avenue (DEP #64-676) -- Public Hearing -- Notice of Intent for Susan St. Pierre, 74 Bay View Avenue, Salem, MA. Purpose of hearing is to discuss the proposed reconstruction and expansion of a patio, associated landscaping and grading, and replacement of rocks topping a seawall with granite block at 74 Bay View Avenue (Map 44, Lot 0141) within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.**

Ms. St. Pierre describes the project, which is in the buffer zone but not in any resource areas. The lawn area will be regraded and the patio extended by 6'. The sloping garden will be eliminated, and a retaining wall added, fronting the garden. The seawall was damaged in the March 2017 storm; soldier stones will be removed, and the area graded. Comments were posted today on the DEP website regarding the delineation of coastal bank. A transect has been provided and is detailed. Another of their suggestions was to consider a nonstructural protection of the seawall, but with a small yard, this is not desirable. This property is not in the Velocity Zone.

Scott Sheehan asks if storm surge up to the level of the patio has been experienced; it has not. Wave action is described. The granite added to the seawall will be 8" high; it was suggested to drill holes and pin it in. Tyler Glode thinks the granite is 16x8.'

Many abutters are present and many also want to raise their seawalls to protect their property. Chair St. Louis requests that Ms. St. Pierre put mirafi fabric behind the wall prior to backfilling, to prevent the soil from washing out. Granite blocks will be pinned, and an epoxy used. Scott Sheehan asks about existing and proposed elevations; these are clarified.

Four or five houses are lower, and the height of those walls has been increased. Bart Hoskins asks about wave action, and water draining from the wall if it is overtopped. Grading will go to the height of the granite. She is unsure where the property line of the neighbor to the east, but they have spoken and may want to join the walls.

Chair St. Louis opens to public comment.

Stephanie O'Sullivan owns the property at 78 Bayview Ave to the east, and is concerned about pooling. She has a sinkhole issue on her property but cannot currently address it. She would also like to eventually raise her seawall, and wonders if today's project would set a precedent for approval.

Chair St. Louis comments that the seawall is higher than the yard, and that the grade pitches out from the center. He notes that he treats each site on its own merits without setting a standard as individual factors can vary.

Pinning granite to an existing wall is minor. He has no concerns about this project. Ms. St. Pierre comments that she did an NOI, due to the patio, but some neighbors could do an RDA if they just want to do the sea wall, as it in buffer the zone only; however, Chair St. Louis comments that some properties may be in the flood zone.

Dave Fellows of 72 Bayview, an abutter, is concerned about the fill behind the seawall extension. He asks about drainage through the curbstones to allow the water to escape rather than ponding, concerned about further damage to wall. He notes that historically there has been a right of way, and he does not want a hump in the middle of it. There is a strip around Juniper Point that is a right of way, though it is not on everyone's deed. Since "everyone" is not ready to raise their seawalls and fill behind it, he sees this as a lump of backfill behind curbstones. Ricciarelli asks about pressure relief of the wall; stones could be dry set. Chair St. Louis suggests 2" crushed stone 2' across and down behind the wall for a free draining layer. This would mimic an underdrain; ponding will weep out if there is no mortaring.

Ms. St. Pierre has heard of the right of way but is not in her deed, and notes that some yards have fences, and the right of way only goes over four lawns, not others. This question is not under the purview of this Board.

Dan Lang of 82 Bayview Ave., four houses down, is also concerned about his seawall, and will be raising it in a similar fashion in the future. Chair St. Louis comments that as long as resources and the effect on the environment are identified, the Commission can work with Applicants.

Ms. O'Sullivan asks if the property must be surveyed; a topographical survey was performed, and the applicant is using the current assessor's map. A property survey is not required under the NOI filing. Ms. St. Pierre comments that she is well away from what is believed to be the neighbor's property line.

Robert and Christine King of 86 Bayview Ave. submitted a letter, which is read into the record. Their concerns

- Reduction in width and increase in height of right of way
- Raising the seawall on one property will not be helpful, and everyone should work together for storm protection, so they oppose the project

Chair St. Louis comments that in court cases regarding filled tideland and homeowners' ability to protect their property, it has been found that owners are allowed to protect their property as long as they are not creating a new hazard

Scott Sheehan asks about the right of way. Mr. Fellows notes that there are access points for members of the public to sit behind the private homes in question. Scott Sheehan cites a case in Scituate, where the State wanted to spend \$12 million in a project to shore up an area, but homeowners would have had to allow access to the area behind their properties, as a public benefit had to be demonstrated. 25% of homeowners did not agree, so the project fell through. Scott Sheehan suggests that neighbors desiring a comprehensive solution should petition the City or Coastal Zone Management (CZM) to discuss what they would give in exchange for the state to solve the problem. Mr. Fellows notes that it is difficult to get neighbors together to spend money.

Jan Fellows of 72 Bayview is concerned about drainage behind the wall, as well as pinning the rock to an unsteady base. She notes that there are steps behind her house going down to the water, which will create a gap in any seawall.

Mr. Fellows notes that steps are common, and kids use them. Chair St. Louis comments that many walls are built with tie backs, and a structural engineer would have to determine if it was stable. The Building Dept. would address this issue, as it is not under Commission jurisdiction.

A motion to close the public hearing is made by Sheehan, seconded by Hoskins, and passes with all in favor.

Options for drainage are discussed and ultimately the Commission decides to allow for flexibility.

Mr. Fellows is still concerned about drainage onto neighboring properties, but the public hearing has been closed.

Tyler Glode notes the property line swales proposed (one natural) on either side.

Ms. St. Pierre is also requesting permission to maintain the sea wall.

A motion to issue an Order of Conditions with standard and special conditions below is made by Glode, seconded by Hoskins, and passes 6-0.

Special Conditions:

- 2" crushed stone or perforated pipe for drainage behind sea wall (provide drainage calculation that does use mirafi fabric in the 180n or 200 range) to provide weepage from the wall
- Dry set w/option of pinning to existing or other structural security

B. 21 Hemenway Road – Public Hearing -- Request for Determination of Applicability for Sean and Ana Monahan, 21 Hemenway Road, Salem, MA. Purpose of hearing is to discuss proposed installation of a stone foundation to support a proposed jacuzzi, spiral staircase from existing deck, and stone firepit surrounded by stone pavers at 21 Hemenway Road, within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Matthew Lahey of Lahey Landscaping presents the project. Work had been performed in addition to a deck; the Commission approved the previous project and said they could request an RDA for this. They will pull back 15' from the resource area. Fire pit construction is described. Mulch will be removed. It will be replaced by washed stone on the slope. The jacuzzi and staircase are described; there will be little to no impact and existing impact to the resource area will be reduced. Sheehan asks about the neighbors' extended yards; it is unknown when these were constructed. No grades will be changed. Chair St. Louis comments that the foundation for the spiral staircase should be 4' deep; the Applicant agrees. There are no public comments.

Hoskins motions, and Campbell seconds to close public hearing; the motion carries.

A motion to issue a Negative 3 and Negative 6 Determination is made by Ricciarelli, seconded by Campbell, and passes 6 -0.

C. 24 Willow Ave (Willow Beach) – Public Hearing -- Request for Determination of Applicability for the City of Salem, 98 Washington Street, Salem, MA. Purpose of hearing is to discuss proposed exploratory ledge probes and/or excavations along the beach at 24 Willow Avenue within an area subject to protection under the Wetlands Protection Act MGL c.131§40 and Salem Wetlands Protection & Conservation Ordinance.

Bill Ross of New England Civil Engineering represents the City. Fred Atkins is the property owner, and also owns Dions Yacht Yard. The project is described as old cast iron pipe on pilings; a trestle from Ocean Ave. to Glover St. conveys flow from 600 homes. A 20" cast iron pipe joins an 8" pipe and 24" pipe, replaced in 1933, and the pilings are from then. Spot repairs have been made but the pipeline is due for replacement. An MDP grant was received for hazard mitigation/exploration of options. Including a siphon, inland routes, or other. The most attractive option is the green line (Proposed Route A) on the illustration, and while it requires property easements, the grades will work. It is very expensive, estimated at \$5-\$10 million.

Fred Atkins is concerned about this route, and asked about Route B, which would run outside of his existing

warehouse. The City would need to probe for ledge in the beach to see if Route B is even possible; it would normally be exempt but as it is a beach, they came in. Equipment to be used is described. There will be no permanent disturbance. Ledge on Option A has been found from 11-12' to as shallow as 10' deep. Some ledge is exposed on Option B.

Chair St. Louis asks if the Commission approved improvements to this Marina, and if there was a walkway. It is uncertain.

Ricciarelli asks about what is received by this pipeline; it services a large area. Work will take place over the next couple of weeks at low tide. If this does not pan out, they will repair it as is; this is an exempt though not minor activity. They would use a flat barge beyond the mud flats, cut out the old piles and drive new ones. Chair St. Louis asks about materials to be used in case of repair; pilings are all that would be replaced and the pipe would be inspected, cleaned, and have a cure-in-place liner installed. A sewer bypass would be set up on the beach in the meantime.

24 Willow is one parcel of beach, privately owned. Fred Atkins, Owner says project would be “fantastic” as it is an environmental disaster waiting to happen. However, Option A devalues the property it would bisect, as it could not be developed if it was later sold.

Meg McMann, of 23 Willow Ave., asks about Option B. In this case the pipe would be partially exposed only if laid without being encased in concrete; it would be buried to the east, visible in two corners. Drawings will be provided later, provided that ledge is not found and the project moves forward.

Chair St. Louis opens to public comment after the fact. Mr. McMann of 23 Willow Ave. comments that his family home borders the property, and that the pipes are an eyesore and are an issue in storms (boats could hit them). He is more in favor of Option A, as Option B would be 6' away from sea wall, right at a regular high tide. He is in favor of allowing drilling to be done.

Chair St. Louis comments that the Commission did allow a pipeline from Marblehead to have blast rock over it to shield it. Materials are described. Repair option would have piles go higher than the pipe on the outward side so boats would hit the piles, not the pipe. The intent way back when was to “put the pipe out there, because we’re going to fill the harbor anyway.”

Public utility work is exempt. A letter would be provided to inform the DEP and this Commission of that work.

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

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

III. OLD/NEW BUSINESS

A. 106/108 Leach Street (DEP #64-648) – request for Certificate of Compliance

Curtis Cheney, of Collins Engineers, requests the Certificate for a replacement in kind of seawall. The project is described. A continuous concrete deadman system supported the tiebacks, but the contractor used a different system. This did not impact the project. The elevation of 11 on existing seawall was matched. The 8' sea wall, and the 3' splash wall, mean now it is all one façade.

A motion to issue the Certificate of Compliance is made by Sheehan, seconded by Hoskins, and passes 6-0.

B. 10, 12, 14, 16 Nurse Way (DEP #64-617, 64-615, 64-613, 64-611) – request for Extensions of Orders of Conditions

Jamie Steadman was here but had to leave, and did submit a brief written request; they are just not finished with the project.

A motion to issue an extension to the Order Of Conditions for three years is made by Sheehan, seconded by Campbell, and passes 6-0.

C. Forest River Park Pool – discussion with designers

Presenting are:

Brittany Dolan, Sustainability and Resiliency Coordinator for the City of Salem

Clara Castro, Project Designer, BH +A (Bargmann Hendrie + Archetype, Inc.)

Tom Beddall, Senior Associate, BH +A

Mr. Beddall describes the project; they will be raising the pool by 6', moving it back, and restoring a tidal area on the seaward side. 19th century maps show an open cove with a dock and wharf. 1912 shows an open flat at low tide. Forest River Park was incorporated in 1907 and was more formally organized for swimming, eventually becoming the pool layout currently there. Installed in the 1950's, the pool was renovated in 1971, and changed from saltwater to freshwater in 1999. Storms in Jan. and Mar. 2018 flooded the pool and infiltration building, so the pool is not usable.

The deck area will be raised by 5'. The large, deep pool was not as user friendly as a shallow entry pool, so the proposed pool will be smaller, allowing for the re-creation of part of the open cove. This will provide further public access and make it a pathway as part of park path. Shoreline access will be via steps down. A splash pad for children is also proposed. The entrance to bath house cannot be reoriented and it will be reconfigured.

The pool was originally saltwater in the 1920's because there were outdoor showers, but those were abandoned so they are looking to reuse the two sides and reorient so the entrance is visible. A Community room overlooks the harbor. There will be two zero entry points to pools. Swimming lanes are 75' (25 yards).

Sheehan asks if there are only 4 lanes. This is confirmed; there is no deck area for bathers currently, so the pool was made smaller to accommodate that. The kiddie pool will also have shading structure. Four lanes are not adequate for swim teams, but more lanes were not possible, plus pool not usable for most of year (weather). Those issues were discussed. This is intended to be more of a family recreational pool. The square footage of pool is being reduced by about 50%. This is the type of facility being built today. The splash pad will be recirculating chlorinated water and could be operated in spring/fall separate from pool. Other splash pads in the City connected to the sewer since water, once used, is considered graywater. However, if tied into pool filtration, it could be re-circulated. This is what will be done in this case.

The current pool could not be pumped out in winter as it would simply fill at the next high tide. The new pools would be drained and covered in the winter. The deck would be pitched toward the pool, but close to level. Water pumped out of the pool seasonally goes to the sewer system.

Permitting in the shoreline area is up for discussion, and feedback is desired as this is a major conservation aspect. Some is in Chapter 91 jurisdiction, some in the park. Is this dredging an area previously filled? They will be placing fill below a line, so an Army Corps permit will be required. Permitting is very complicated. They want to do work all at once, but are trying to figure out the sequencing of building the little cove.

Chair St. Louis asks about maintaining the current configuration, rather than re-constructing the coastal beach environment. Public comments and discussion with the recreation group indicated that there was an interest in having cove reconstructed. It could be used almost as a regular beach, as they are stepping level stone areas, so people could walk down and sit on the rocks.

Chair St. Louis asks about youth groups, tents, and summer camp set up; the pavement and tennis courts will be removed. There is no pavilion or gazebo planned as the budget will not allow, however there is space for a tent or temporary shelter, or a permanent structure in the future. The deck system is described as a concrete surface.

D. Discussion and vote on board positions (Chair and Vice Chair)

Greg. St. Louis is happy to continue as Chair. There is some discussion of changing the time to 7PM, but that is not an issue. The process for changing the day of the meeting is discussed. Bart Hoskins is currently vice chair and is also happy to continue.

A motion to “re-elect” Gregory St. Louis as Chair is made by Glode, seconded by Hoskins, and passes with all in favor.

A motion to “re-elect” Bart Hoskins as Vice Chair is made by Ricciarelli, seconded by Sheehan, and passes with all in favor.

E. Update on funding for possible revisions to local wetlands ordinance

Darya Mattes notes that a different MVP application was submitted instead, so this one did not get done. However, another funding round is coming up in the summer and this request will be submitted then.

F. Update on filling the vacancy on the Commission

There are still no suitable candidates, so Darya Mattes will go back to potential sources. Suggestions are welcome. Residency in Salem is a requirement. Possibilities are discussed.

IV. APPROVAL OF MINUTES: April 11, 2019

A motion to approve the minutes is made by Glode, seconded by Campbell, and passes 6-0.

V. ADJOURNMENT

A motion to adjourn is made by Ricciarelli, seconded by Glode, and passes unanimously.

The meeting ends at 8:00 PM.

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

Respectfully submitted,
Stacy Kilb
Clerk, Salem Conservation Commission