

**BOARD OF APPEALS
REGULAR MEETING MINUTES
APRIL 21, 2010**

Members Present: Clayton M. Harrison, Chairman
Gerald Coutinho, Vice Chairman
Donna Lambert, Clerk
Christopher J. Graham
Kendal Tripp
Kimberley A. Fernandes, Alternate
William Wyatt, Alternate

Chairman Harrison called the Zoning Board of Appeals meeting to order at 7:00 PM in the Westport Town Hall, 816 Main Road, Westport, MA 02790.

P & E Forge Road Enterprises – RE: Public Hearing on an application request of Paul Martins and Eduino Alves (owners) of P & E Forge Road Enterprises for a Special Permit pursuant to Article 8.3.3 of the Westport Zoning Bylaws. The application request is to construct a contractor storage facility within the Aquifer Protection District. The location of the property is 0 Forge Road – Assessor's Map 28, Lot 11-B.

Chairman Harrison called the Zoning Board of Appeals public hearing to order at 7:00 P.M. with the reading of the Public Hearing Notice. Members hearing the petition: Clayton Harrison, Gerald Coutinho, Kimberley Fernandes, Kendal Tripp and Christopher Graham. Other members present but not sitting on the petition: Donna Lambert and William Wyatt. *Note: Ms. Lambert arrived at 7:10 PM.

Applicants present: Paul Martins and Eduino Alves. Also present was John Keegan, SITEC Engineering, representing the applicants.

Mr. Keegan presented the proposed project to the Board members. Mr. Keegan stated this parcel is a little over one acre. All erosion controls are or will be in place for this project. There are three proposed buildings connected with a roadway system. The paved areas are porous pavement. All reports show no increase of drainage from the site. The porous design meets all state regulations. The road is crushed stone and egg-crate plastic, which water will be able to infiltrate. There are also large grassy areas. The Aquifer Protection District runs on a small portion of this property, equal to about 20% of the property, which is demonstrated by a yellow-highlighted line through the property. This project is located in the business district. There will be no sanitary waste facility needed; there is no septic onsite. There is no office space in this project. The Planning Board has given their approval of this project. All control plans for construction and development are in place. After reviewing the material, this project meets all the Special Permit requirements.

Mr. Coutinho questioned who sets the rule that no sanitary facility is required.

Mr. Keegan stated he thought it was under the plumbing code or Title V, which would require no bathroom. Mr. Coutinho asked to see the ruling in writing. Mr. Keegan stated the Planning Board did not address this. Mr. Martins stated other storage facilities in Town do not have a bathroom but he can attest to the fact that at least one has a port-o-john. As a rule of thumb, the rules of Title V are followed in this situation.

Mr. Coutinho asked where the contractors who use this storage facility would go to the bathroom, if they needed to go but in the same argument, there is no office, so there is no need for a bathroom.

Mr. Coutinho then asked if this was a gated project. Mr. Keegan stated no gates; it would be an open entrance. There will be no parking on the grassy areas and parking will be in front of the units only and all storage onsite will be inside of the units.

Mr. Martins stated there would be no permanent onsite personnel but maybe later on a trailer may be placed onsite to be used as an office. Mr. Martins stated that he would be meeting interested customers by appointment.

At this time, Mr. Coutinho stated that there is a terminology issue happening here. Under the Zoning Bylaws, Article 8, Section 8.4 site plan submission requirements. Mr. Coutinho stated he believed that this site plan is being confused with the Planning Board's site plan review. They are two separate site plan reviews by two separate boards; under Article 8.4, there are additional items of information and detail that is required by the Special Permit Granting Authority, which is the Zoning Board. Mr. Coutinho stated that this bylaw was in place back in 1998 before the Planning Board's Site Plan review, which was just created recently. Mr. Coutinho stated the Board was looking specifically at "Aquifer" issues and asked Mr. Keegan if he was prepared to present the material according to the Zoning Bylaw because the Board needed everything that Article 8 called for. Mr. Keegan stated he was prepared to go forward and was given a copy of the Zoning Bylaw – Article 8.

Under Article 8.4 – B, C and D requirements were reviewed and complied with by the applicant, if applicable.

It was established that at this time, there is no onsite well, no sprinkler system is required and electric heat will be provided for a unit if requested by the customer. Mr. Martins stated that at this time how many contractors sign up would determine the number of physical units. The units maybe divided into smaller units for the general public if there is not enough contractor interest. This is going to be a storage facility similar to Storage 56. There are no plans for any easements or rights-of-way at this time. If there were to be an office, a trailer would be located behind the last building, but that has yet to be determined. It was noted that the last building in the back of the property had only front access.

Mr. Coutinho stated to the applicant to pay particular attention to Article 8.3.2 – K & L, which states the quantities for storage of liquid hazardous materials or liquid petroleum products. Mr. Martins noted that there are no floor drains in the units and he will be monitoring this situation.

Mr. Martins also stated to the Board that the Police Chief's concern was unfair and he tried several time to contact the Chief but his calls were never returned. This is a 24/7 facility, there are no gates and there is usually no stopping vandalism if someone wanted to commit a crime. This is a unique type of facility that is being proposed and there will be monitoring of the facility by camera.

Mr. Coutinho stated that his concern is still the lack of a bathroom facility and would like to see in writing the exception that allows a facility no bathroom. Mr. Martins stated that there was an old Town statute that dealt with fruit stands and such that as long as a written agreement existed with a neighbor within 300 ft. use of their facility was allowed. Mr. Martin stated that if it pleased the Board, he would be willing to have a port-o-john onsite, along side trash receptacles. Mr. Martins also noted for the Board, that he lives in Westport and has another business on the same street; he does not want any problems and he certainly does not want any contamination. Mr. Martins stated that he has a lot of money invested and wants to make this a feasible business for he and his partner and for the Town to get income also.

Mr. Harrison noted that no abutters were present and it was noted for the record, the receipt of a letter of concern received from the Police Chief, a copy of a letter received by the Planning Board from an abutter (George Thibault, 131 Forge Road) and a copy of the Planning Board's response to Mr. Thibault.

After thorough review of the requirements and information, comment and input from the applicants and their representative, and seeing no further input, the Board voted to close the hearing.

Motion made by Mr. Coutinho to close the hearing at 8:40 PM. Second by Mr. Tripp.
The Board voted unanimously in favor.

Discussion

Mr. Harrison stated that the application has been reviewed, including the regulations requirements and each were discussed to determine if the general, legal and physical requirements were met. Mr. Coutinho agreed that each item was reviewed and discussed for requirement. Mr. Coutinho stated that there were two questions, which would not be resolved tonight and they were the toilet facilities and the use of a trailer as an office, which was not presented on the plan nor brought up at Site Plan Review by the Planning Board. Mr. Coutinho stated this was not a direct issue regarding Aquifer, his concern was of a general matter. This matter will have to be addressed with the Board of Health or the Building Department or any other department, whose rules must be complied with. Seeing no more discussion by the Board, Mr. Harrison called for a motion.

Motion made by Mr. Coutinho to grant the Special Permit based on the Board finding that the proposed use does not pose an actual or potential threat of material damage to groundwater quality, and that all adverse impacts to groundwater and disturbance of natural vegetation have been avoided or minimized to the maximum extent reasonably practicable, giving due regard to the economic scope of the project, and the public benefits to be secured from the project. For the record, all maps, plans and reports on Stormwater Management and the Drainage Report are to be considered as a permanent part of the record. The Board also determines that the only portion of the property and proposed use that falls within the Board's jurisdiction is the portion of the property that falls within the Aquifer Protection District. The applicant is required to comply with all other Town, State and Federal Rules and Regulations as required by the Aquifer Protection and the applicant is required to provide monthly inspections and maintenance records as required by the Stormwater Plan, as shown in Operations/Maintenance Plan

for Stormwater Maintenance System, shown on sheet 6 of the stamped and signed submitted plans by SITEC Engineering. Second by Ms. Fernandes. The Board voted unanimously in favor.

*Note: Ms. Lambert left the meeting at 8:40 PM.

Consider

1. The Board reviewed the submissions from the Planning Board regarding comment on Whaling City Transit Parking Lot on Route 6 and Stagecoach Road's OSRD Subdivision Plan and submitted no comment.

Correspondence

1. The Board reviewed and took no action regarding a memo received from the Board of Health regarding the proper name use of the Transfer Station. This was informational only.

Motion made by Mr. Graham to adjourn the Zoning Board of Appeals meeting at 9:10 PM. Second by Ms. Fernandes. The Board voted 4 in favor, 1 absent (Lambert).

Adjournment.

Respectfully submitted,



Diane Pelland, Principal Clerk
To the Zoning Board of Appeals

APPROVED: 
Donna Lambert, Clerk