

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
SEPTEMBER 28, 2011**

Members Present: Clayton M. Harrison, Chairman
Christopher Graham, Vice Chairman
Donna Lambert, Clerk
Gerald Coutinho
Heather Salva
Gary Simmons

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.

Americo Padinha / P&E Forge Road Enterprises - RE: A public hearing on the an application seeking a Special Permit pursuant to Zoning Bylaw Article 8, Section 8.3.3 for the development of lot with a warehouse building, associated parking, landscaping and stormwater management system. A portion of the site development falls within the boundary of the Aquifer Protection District, which requires a Special Permit. The property is located at 0 Forge Road and also known on Assessor's Map-28, Lot-11B.

Sitting on petition: Harrison, Coutinho, Graham, Lambert and Salva
Attending were: Americo Padinha, owner/applicant
John Keegan, SITEC Engineering representing the applicant
Ralph Souza, Building Inspector / Zoning Enforcement Officer
Abutters present: Gary & Donna Smeaton, 117 Forge Road

Mr. Keegan stated the project is calling for a proposed 7,000 sq.ft. building, with an office area and a designated area to receive deliveries. The project being proposed will have less impact on the neighborhood than the prior proposal of a storage facility due to the fact that there will be one building instead of multiples. Mr. Keegan stated his client has already completed the site plan review process with the Planning Board and the plan has been approved. The building will be used for the storage of flooring materials with no manufacturing taking place. This is for storage only. The Fire Department has been to the site and approved all fire lanes and accesses. A storm-water system has been designed to meet the Board of Health regulations; this area is located in the Aquifer area. With this system, the storm-water will be less quantity, more quality. There will be a significantly less amount of water leaving the site due to more infiltration than the lot had in its natural state. The use of this site is allowed in the underlying Business District. The previous owners of the lot had a plan which was more intrusive with a lot of buildings and more pervious areas; this is a much better plan. The building has been pushed 4 ft. away from the property line and has more added landscaping and better specifications for lighting; also, there is less of the project area that will be located in the Aquifer area.

Mr. Harrison noted the Planning Board has not sent out any notice of their decision yet, which is part of their site plan process but a revised set of plans have been presented to the ZBA and the changes have been before the Planning Board and their consultant also. Mr. Coutinho asked if the Planning Board changed any of the proposal. Mr. Keegan stated yes, there is less area being used and more grassy area on site; the Planning Board approved this project as 30% development of the site with 3% being located in Aquifer Protection area.

Mr. Graham asked what the parking area would be comprised of. Mr. Keegan stated it would be bituminous concrete (asphalt).

Ms. Salva asked if the building will house trucks. Mr. Keegan stated only a forklift will be in the building and that will be fueled by propane. There will be no retail sales out of the building.

Mr. Simmons asked if a plan was in place for containment in the event of a spill. Mr. Padinha stated all materials are semi-solid, latex based filling compounds and all are petroleum based products. If there is a spill, it meets LEED certification. Mr. Padinha stated there will be storing of flooring materials only; no storing of hazardous materials. Mr. Harrison asked about the lighting on the property. Mr. Keegan stated it was TAC lighting on the walls; there will be no lights at night except for low-voltage security and that is a shielded lighting which the Planning Board is satisfied with. As for signage, there is none on the building only one free standing sign, which the Planning Board has no problem with.

Mr. Coutinho stated the ZBA's concern is the impact on the Aquifer area; all the rest is under the site plan review by the Planning Board.

At this time, Mr. Graham opened the hearing to abutters input.

Donna Smeaton asked if the pond was opened. Mr. Keegan stated the infiltration area only and it will only contain water when it rains, then it will drain into the ground. There will not be constant standing water.

Gary Smeaton asked about the electric service in regards to an easement on the deed. Mr. Padinha stated that is up to NStar Electric. There has to be a mutual decision to file a single application after the Planning Board's approval. The proposal is to move the pole onto my property but it is not my call. Mr. Padinha stated this is because the Smeatons have a subdivision proposal on file now and NStar will only do one application.

Mr. Graham noted there was only one item of correspondence received from George Thibault, 131 Forge Road and his concern was the location of the project near his well and the contamination of it. Mr. Thibault was not present. After reviewing the maps, it was determined that Mr. Thibault's well was not within 150 ft. of the site.

Mr. Coutinho asked if there were any requests from the applicant from any normal procedures such as distances from abutters, their wells or systems, etc. Mr. Keegan stated all aspects of the project have met the required regulations, there is no exceptions being sought.

Donna Smeaton asked if there was a fence around the infiltration pond. Mr. Keegan stated no, there is no fencing because the pond drains within 72 hours and that is after a really big, intense storm; during such storm the height of the water will be a max of 3 ft. There will be slight berm around the infiltration pond and there is an emergency overflow but that is meant for a 100-year storm. There is a 3 to 1 slope in this area.

Motion made by Mr. Harrison to close the hearing at 7:35 PM. Second by Ms. Lambert. The Board voted unanimously in favor.

Discussion

Mr. Harrison stated there is a benefit tonight and that is to have the closest abutter attending tonight to clarify items. Mr. Harrison stated there was a hearing for a Special Permit at this location prior to tonight but that decision was never recorded at the Registry of Deeds and so it was never acted upon. This hearing tonight will be for a new Special Permit. Mr. Coutinho stated the prior application also had no septic system but the current plan meets all requirements and the impact on the area is minimal.

It was clarified that there would only be 4-6 employees once the business is actually established; for now, there will be 1-3 employees working.

It was clarified that P&E Forge Road Enterprises, Inc. was the owner of record when the application was filed with the Town Clerk on August 26, 2011. The property has since been sold and closed on with the new owner of record being Americo Padinha as of September 16, 2011.

Vote Taken

Motion made by Mr. Harrison 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 submitted by applicant 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 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 submitted plans by SITEC Engineering dated May 27, 2011. It is noted that the plan does include the well and septic system on the property per Town/State regulations without any deviations. A condition of granting this Special Permit is the applicant will provide proof of ownership of the property for inclusion in the permanent file such as a copy of the deed. Second by Ms. Lambert. The Board voted unanimously in favor.

Correspondence

1. The Board requested that a response be forwarded to Attorney Swaye with a copy of the letter of appeal and explaining the process for filing.

Approval of Minutes

None.

Other Issues

Motion made by Ms. Lambert to adjourn the Board of Appeals Meeting at 8:05 PM.
Second by Ms. Salva. The Board voted unanimously in favor.

Adjournment

Respectfully submitted,

Diane Pelland

Diane Pelland, Principal Clerk
to the Zoning Board of Appeals

APPROVED: _____

Clayton M. Harrison

Clayton M. Harrison, Chairman