

PEPPERELL CONSERVATION COMMISSION

Minutes – June 16, 2009

The Pepperell Conservation Commission (PCC) held a regularly scheduled meeting under the Massachusetts Wetlands Protection Act, MGL Ch. 131, §40 and the Pepperell Wetlands Protection By-Law. The meeting was held in the Town Hall at 7:30 p.m.

Members present: Elliott presiding, Moody, Rand, Rice, Sauer, and Steeves; member absent: Tzanoudakis.

7:30 p.m. Discussion with George Russell, Northern Middlesex Council of Governments, re 43D permitting procedures

Russell reviewed the 43D procedures for expedited permitting with the Commissioners. He said that 43D requires that each Town board or commission must issue a decision within 180 days of receiving a complete application, or the application would be tacitly approved. He said that the decision need not be an approval, however. He said that 43D only applies to one priority development site, the paper mill property, at this time. Any other sites which might be added to the 43D list would have to be approved by Town Meeting.

Russell said that much of the 43D process would be the responsibility of staff members, but that with the submission of an application, the Conservation Commission would be legally required to make a finding of its completeness. A “complete” application would be defined as the minimal submission to begin the hearing process. The Commission could subsequently ask for additional information, and if the Commission had not received the required information, it could deny the project for lack of information. Rice asked if the 180 day limit applied to state agencies as well. Russell said that it only somewhat did, but that local boards and commissions still had to meet the 180-day deadline. Sauer said that occasionally the Commission could need additional information from a state agency. Russell said that that could still justify a denial for lack of information.

Steeves asked why the Commission needed to approve these procedures now. Russell said that the Town had received a grant for \$50,000 to help with master planning, and in order to receive the money, these procedures need to be approved by the end of June. On a motion from Elliott, seconded by Rice, all

VOTED: to approve the draft policy.

On a motion from Elliott, seconded by Rand, all

VOTED: to authorize Fisher to write a letter reporting the Commission’s vote on the 43D policy to Town Administrator Bob Hanson with copies to Bob Lee and Russell.

On a motion from Elliott, seconded by Rand, all

VOTED: to reappoint Fisher as Conservation Administrator for FY10.

On a motion from Elliott, seconded by Sauer, with Rand and Moody abstaining, all

VOTED: to approve the minutes for June 2, 2009 as amended.

7:45 p.m. Public Hearing re Notice of Intent filed by Tracie G. Ezzio of Pepperell Pharmacy, Inc. for expansion of existing building and parking area at 74 Main Street

Tracie Ezzio, Dick Egan, and Jack Visniewski attended the hearing to discuss the project. Under the Pepperell Wetlands Protection Bylaw, the Commission determined that the project area involves BVW, and the proposed activity must meet the 50' setback requirement to the fullest extent possible as a lot created before May 6, 2002. Ezzio submitted a check for the legal notice. Visniewski reviewed the existing conditions. He said that Ezzio would like to expand the existing building while maintaining the distinctive architecture and also would need to expand the parking. Visniewski showed the proposed plan, saying that he was not sure that the parking, as shown, would be the final alternative, based on comments from Bob Lee and discussions he had had with Fisher.

Fisher had prepared a summary of comments from Joe Bellino of DEP about the requirements for a Riverfront Redevelopment project per 310 CMR 10.58(5). Bellino had said that this project could be considered redevelopment. He also had offered clarification for “degraded area,” “restoration,” and “mitigation.” Bellino had agreed that the following formula was consistent with the redevelopment regs: Existing degraded area ***should be greater than or equal to*** new total impervious area – (restoration + ½ mitigation).

Visniewski said that there were no environmental controls, including any stormwater treatment, on the existing lot. He said that his plan was to improve the stormwater treatment on the entire site, providing treatment for all the new impervious areas and much of the existing. He pointed out 2 proposed basins, one for infiltration and one for detention, and drip trenches along the back of the building and a yard drain in the front to handle additional roof drainage. He also said that he had included pervious pavement for the new parking area.

Visniewski discussed alternatives he had considered for the footprint of the proposed addition to the building and the location of the new parking areas. Bob Lee’s comments had suggested expanding the head-in parking off Carter Street rather than creating a new driveway with off-street parking. Fisher had also suggested that this alternative would create less new impervious area and would be farther away from the stream. Visniewski said that he wanted to see the Planning Board’s reaction, but that he could revise the plan if they agree to this idea. Lee had also commented that he had serious doubts about porous paving in New England.

Moody asked how much area was going to be added to the existing building. Egan said that the addition would be 910 sq. ft. Moody asked if there would be footing drains. Visniewski said there were none now, but that he had specified lining the drip trenches with fabric to keep water away from the foundation.

Elliott asked if the total existing area that was considered degraded had been calculated. Visniewski said yes, that it was all existing impervious surfaces and areas without topsoil. Moody said that she would encourage the use of pervious pavement and that she did not agree with Bob Lee about it. Elliott said that he did not see how the calculations could work. Visniewski said that he needed to do the revisions to demonstrate it. Rice said that during the informal discussion about this site (the discussion was with Stan Dillis, not Visniewski) she thought that some of the street drainage was going to be treated. Visniewski said that he had only recently discovered that Carter Street is a public way, not owned by Ezzio.

An abutter, Costa Bozicas, said that he was concerned about the natural barrier between the pharmacy and his land along the RR right of way. Visniewski said that the pharmacy lot does not include the RR land, and that his firm would be doing an accurate survey of the lot lines. The Commission suggested that Bozicas take his concerns re screening and lighting to the Planning Board.

Egan said that he was concerned about snowplowing on porous paving and that he hoped that the revised plan makes porous paving unnecessary. The hearing was continued until July 21, 2009 at 7:10 p.m.

8:00 p.m. Public Hearing re Notice of Intent filed by Louis Berube of Shattuck Oil Company for replacement of fuel storage and containment structures and parking areas at 16 Groton Street

Louis Berube, Bruce Nickelsen (an LSP), and Jack Visniewski attended the hearing to discuss the project. Under the Pepperell Wetlands Protection Bylaw, the Commission determined that the project area involves BVW; a portion of the proposed activity is a Limited Project under 310 CMR 10.53(3)(q), and the remaining activities must meet the 50' setback requirement to the fullest extent possible as a lot created before May 6, 2002. Visniewski described the existing conditions on site including the lower parking area used by fishermen and trucks stocking fish in the river. He mentioned the contamination of an area of soil on the lower area and introduced Nickelsen, the LSP who has been working on assessment and remediation plans for the contaminated area since 2003.

Visniewski described the proposed plan for the reconstruction of the oil storage facilities. He said that the steep slope on site was going to be replaced with a large block concrete retaining wall; the parking on the lower level would be reduced, and no oil trucks would need to drive down there. He pointed out a stormwater collection system including a swale and retaining basin which would treat runoff from existing driveways and parking. The new paved parking on the upper level would be drained into an underground stormceptor and chamber drainage system with an emergency overflow to the basin on the lower level.

Visniewski said that this lot is located in Estimated Habitat (and the letter from NHESP had not yet been received), ACEC, and an Outstanding Resource Water. Elliott added the Squannacook and Nissitissit Rivers Sanctuary. Visniewski said that he had done a SWPPP, even though it was not required. He described the erosion control plan, which included a haybale/silt fence barrier and silt socks around the stormwater inlets. Visniewski said that Bob Colucci of Webb

Engineering was designing the new containment structure for the new oil tanks. Rice asked what would happen to the existing tanks. Visniewski said that they would be removed and replaced. Steeves said that he wanted to hear more about the contamination.

Nickelsen explained that the contamination is #2 fuel oil, which has been in place for a long time. He pointed out the outline of the most contaminated soils, labeled “Remedial Excavation Boundary” on the Existing Conditions Plan. Nickelsen said that the plan was to remove and replace the most contaminated soil, a zone about 5 feet thick under the surface. Steeves asked if the contamination has been leaching into the river. Nickelsen said no, although there did seem to be some contaminated sediment. He said that aside from digging out and replacing the soil, other options include injecting oxygen or peroxide to speed up bacterial consumption of the oil, but these treatments are more risky for the river. Nickelsen said that he did not want to break through the river bank, cut the trees along it, or disturb the channel. Steeves asked if DEP was involved. Nickelsen said that DEP monitors the project and audit the progress, but that it does not approve or disapprove of proposed actions.

Rice asked what kind of replacement soils would be used. Nickelsen said that it would be clean fill. Rice asked if it would be geologically similar or if consideration would be given to the fact that the area is floodplain. Nickelsen said that he was not sure how the fill that would be used would relate to the new design since the area of remediation is slated to be a retention basin. He described the excavation process in which soil in one area is removed and then replaced before moving on to the next area. Steeves said that the project seemed quite complex and asked if surface water modeling would be needed. Nickelsen said no.

Fisher said that she recommended that the Commission hire a consultant, possibly an independent LSP, to review this NOI, especially the Alternatives Analysis, and to do construction supervision since this was such a complex project. Elliott said that he disagreed. Berube also objected, saying that under his LSP license, Nickelsen was responsible to DEP as well as to him. Berube said that he knew that there had been concern about his oil trucks loading in the floodplain. With his new plan he said that the trucks would no longer be doing that, plus his operation would have a smaller footprint. Steeves said that the location of endangered mussels in this stretch of river probably indicated there are few problems with the site.

Berube said that the best time of year to do the remediation is during low water at the end of the summer. He also said that he believes that the replacement soil should be gravel. Reporter Paul MacDonald asked the volume of soil to be removed. Nickelsen said about 800 cubic yards.

Elliott asked Visniewski if he would submit a revised plan. Visniewski said yes. Elliott said that he would want to see the construction sequence also. Elliott noted that the gravel parking lot on the upper level would be paved under the proposed plan. Visniewski said yes, that he designed it that way to better control the runoff. Berube said that DEP would like to see it paved also. Elliott asked if there was a need for such a large parking area on the lower level. Visniewski said that it is proposed to be smaller than the existing. Elliott asked if flooding would damage the basin and berms that are proposed. Moody asked if the paved area in front of the office building could be removed. Berube said that that was the main customer parking area. Rand asked what the pavement was. Berube said it was concrete.

Rice asked how the area around the new containment structure would be finished. Visniewski said it would be grass, but could be more natural than a lawn. Rice asked how high the retaining wall would be and whether the base of the wall would be damaged by flooding. Rand asked how deep the wall would be buried at the base. Visniewski said it would be buried 1½ blocks. Berube said that floods have not damaged the area to date. Rand asked how far it was to the Nissitissit's confluence with the Nashua River. He said that if it was close to the Nashua, the flood water could be a backup from the Nashua, rather than excess flow down the Nissitissit. Steeves estimated it to be about ¼ mile.

Bob Colucci of Webb Engineering arrived at the meeting to answer questions about the containment structure. He called it a concrete containment dike with a canopy cover. The dike would have a capacity to hold the entire volume of the largest tank, plus a 25-year storm. He said that all stormwater was to be directed away from it. He said that the new tanks would have high-level alarms to prevent overfilling and would be approved by the state fire marshall. Rice asked if there would be trees around the containment area. Colucci said no since they didn't want leaves to get into it and create a fire hazard. Rice asked how high the walls would be. Colucci said they would be 6 feet high from the inside, but only about 1½ feet of a reveal on the outside. Rice asked if all the oil drips coming from the oil trucks and other vehicles using the paved area would be collected. Visniewski said that the stormceptor would have an oil separator.

Visniewski was asked if the site really needed the amount of parking shown on the upper level. He said he would be reassessing that. Moody pointed out that the oil trucks park in the garage when they are on site. MacDonald asked the capacity of the tanks that will be removed. Berube said 160,000 gallons. Berube said the large new tank would hold 140,000 gallons, but was unsure of the capacity of the smaller tanks. The hearing was continued until July 7, 2009 at 7:10 p.m.

Other Business

The Commissioners approved vacation days for Fisher on June 22 and 23.

The Commissioners agreed that the tree cutting proposed around the municipal well facilities on Bemis Road would be classified as normal maintenance activity since the cutting was to prevent storm damage in future ice storms, and they were not planning to remove stumps or any of the smaller trees. Therefore, the Water Department would not need to file a NOI.

The Commissioners asked Fisher to continue seeking quotes for herbicide treatment of the woody invasives in the new field at the Heald Street Orchard, authorizing her to approve the best quote as soon as possible.

The meeting adjourned at 9:30 p.m.

Respectfully submitted,

Ellen L. Fisher