

BOARD OF HEALTH MINUTES
Health Department Office – Town Building
April 22, 2019

The meeting was called to order at 7:05 p.m. Present were John Schuler, M.D. (JS), Susan Green (SG), and Robert Defrancesco, D.M.D. (RD). Also present were Julia Junghanns,(JJ) Director of Public Health and Patti White, Department Assistant.

7:00 p.m. Public Comment- there were none

7:05 p.m. 490 Boston Post Road, Alta at River's Edge Development Project- Variance requests from Local Septic System Regulations and Small Wastewater Treatment Facility Regulations, guests attending: Dave Formato, (DF) P I. President on Onsite Engineering, Town Engineer Paul Brinkman (PB) and Mark Seck from Wood Partners (Applicant)

Julia has been in touch with Mass DEP, there was a conference call with Paul Brinkman, Julia Junghanns, Dave Formato, Louise Miller, Town Administrator and staff LSP from Beta Company.

JS: There are other 40B project's that may want to install a Wastewater Treatment plant and if they do we have to hold them to the same requirements and allow the same waivers we are discussing tonight for the River's Edge project. We need to be consistent with how we review these projects and any waivers we allow depending on the sites being considered and related environmental factors. We need to protect public health and we take these Regulations very seriously, our consideration for the waivers should not be taken lightly. In addition, we want to be sure you have a full compliance with the State Regulations. DF: The design will meet the state standards, we will not be requesting any waivers from the state. Meeting these regulations will provide equal environmental protection. SG: There were 2 variances that PB and JJ had concerns about. DF: Yes, they were pretty straight forward on the two waivers. SG: let's discuss those tonight and see if we can't work them out.

JJ: As we discussed at our last BoH meeting when this project was also on the agenda; our Local WWTF Regulations are very old, and we really need to make some decisions about these regulations and either redact them or give them an overhaul. In general, we had a discussion about the regulations being excessive in areas that appear to be put in place to restrict development instead of protecting public health. The MassDep has regulations that are updated more regularly and they have a whole staff of people who review and oversee permitting for WWTF's as well as their own hydrogeologists. Locally we do not see WWTF applications for new facilities that often and it's not our area of expertise so it makes sense to rely heavily on the state input and their regulations. We do, however, take these waiver requests seriously. We are planning to review the Wastewater Treatment plant regulations and get them updated very soon while they are fresh on our mind.

Section 1 General Requirements

SECTION I: Article 3: Soil Testing Dates/Times

Requesting a waiver to allow the soil testing done in January 2019 to be used in the design (a very wet month) which was witnessed by office staff and Mass DEP. There will be additional soil testing done in May (during high groundwater season-as per BoH Regulation). The project is still in the data collection phase, no design plans have been done yet.

SECTION II: Article C-1 GPD/Bedroom Flow

Requesting a waiver from the Wayland septic design of 165 g.p.d. per bedroom, looking to design on state criteria of 110 g.p.d. Having a separate age restricted building and using the state's lower flow design number

(150 g.p.d. per unit) for age restricted buildings, JJ and PB are both comfortable with using the state numbers of 110 g.p.d. per bedroom.

Section 1:30 – Service Area Limitations

This section is relevant to single family residences tied to a WWTF. With two separate buildings, there is no application for this as both buildings will generate over 10,000 g.p.d. requiring a WWTF and permit from MassDep. The language in the regulation as written would site a leaching field for a backup system, which would be a lower level of treatment and would not be not allowed as per MassDep Regulation. JJ and PB both agree; this is not applicable to this development.

Section 2.10 Applications, Reports, Plans, Data and Documents

Onsite Engineering is requesting that the Town allow concurrent permitting with the state as the applicant begins the 2 step state process which could take up to 6 months. Staff agree to this request and feel that it makes sense.

Hydrogeological Investigations-

4.30 Hydrogeo will be an additional discussion

DF was referencing the conference call that was held today and additional research; as read from Wayland Regulations; Looking to achieve determination of contaminant levels and extent of wastewater discharge plume. The MassDep will require groundwater quality standards for discharge into the leaching area; there will not be a contaminated plume created by this development. The regulation references pre-existing plumes; what impact will the discharge have to current plumes if they exist?

Anything that would have an impact on the existing groundwater should be part of the 21E/MCP investigation and process. If the mapping of a plume needs to be done, it will be done as part of that process. He does not feel it should be part of the groundwater discharge permitting and is looking for clarity regarding requirements for the groundwater discharge permit.

SG: If mapping of prior plumes and the effect of the groundwater is planned, when will that work be done? DF: That is part of the due diligence phase. SG: If DEP has the authority, we also want to be involved in the results. DF: The site assessment process is well documented along with DEP responsibilities and the public comment period. The town still owns the property so there will be opportunities for the town to comment; it will be available for review and comment by town consultants. JJ: Will the BOH be copied on reports and documents? DF: We can write that up as a condition on waivers. JS: What about contaminants found? DF: Yes, BoH will be provided with these reports once they are available. To date they have found arsenic, lead and manganese. The P & S agreement is written up with preliminary data collection. Nothing unexpected has been found and in review of the previous work by Tighe and Bond, the findings are consistent, with the exception of possible petroleum. There was petroleum odor noticed when the borings were done. SG: One of the issues is regarding turnaround time; and will there be sufficient notice to BoH of comment periods. JJ: Is there an official comment period for site assessment work? PB: Only if there is work to be done. Demo of the treatment plant will need to go through a permitting process with the town and will require BoH approval. DF: Upon speaking to the LSP for the project, we are looking at assessing the impacts on wastewater or storm water impacts on plumes. If there are contaminant concerns identified in the Phase II site assessment, then they will write a RAM plan for abatement work to be done (how to deal with potential impacts). This is part of the Phase II site assessment report. JJ: Will a Ram plan be done? DF: only if there is a need/finding that requires it. JJ: What about providing us with details on the phase II assessment report? DF: once these reports are available they will be provided to the BoH. DF: this is a fairly detailed process with MassDep. JJ: How long has the DEP process for 21E sites been in place? PB: 30 years? SG: I believe it was in place in the 1990's. DF: yes, I do agree. JJ: Were our local WWTF

Regulations enacted before the 21E process was in place? PB: I believe when they enacted these local regulations they were anticipating wastewater that was not clean, anywhere near private or public wells. Their concerns were how is it moving and where is it going. JJ: In thinking this through, potentially at that time there was not a formal organized process at DEP for contaminated properties and cleanups? DF: Wayland Regs were trying to be sure there was proper investigation. JJ: Why were we advised by LSP of Beta Consulting Company to require the fate and transport analysis? They recommended that we require this. DF: There were a number of things they looked at the total project, pulling in site assessment and LSP. PB: After the project is completed, if there is a concern with a change in a boundary conditions how will that be addressed? Dealing with it after the fact would not be easy, we should have figured this out beforehand. How do we gather a deeper understanding of what is going on underground. DF: I reread the Wayland regulations, regarding Beta's approach, looking at treatment discharge will be groundwater quality standard on wastewater. On the LSP side, there may or may not be conditions that may cause environmental concern, but that would be reported in a RAM plan. He does not believe the effort should be part of the hydrogeo for the WWTF, as it is being done through the 21E/MCP process. JS: Who will be checking the performance of the WWTF? DF: there will be an Operation and Maintenance contract, someone will be there daily checking levels and testing. JS: What will happen if there is an arsenic vein that is not seen and it is now getting flushed by wastewater? DF: The monitoring wells will be placed to look for those issues. If the LSP finds arsenic during the Phase II site assessment, we can add a requirement to have monthly arsenic testing, at staff level. JS: Will the state want to be part of this testing? DF: Yes, they will be involved in the LSP process. For any site being developed, you must show you are not increasing the volume of wastewater and anything found during assessment must show mitigation. SG: The source of contamination is part of the western side by the landfill, should it be broader than just the site? DF: They look at failed residential properties to see if there is nitrogen runoff to a neighbor, conditions coming into the site, on the site and leaving site. They will also be looking at conditions up-gradient of the site. JJ: DEP had a meeting to discuss the project. JJ spoke with Joe Ceruti of MassDep and discussed the project with him, and asked if the landfill MassDep group was able to opine. MassDep has not made their decision yet as to what they will require for the Scope of Work (SOW) for the hydrogeo study, as well as our comments that were provided on the SOW. It is still under their review. DF: I believe that the state has started a formalized site assessment.

Section 4.40 – Wetlands and Floodplains & Section 4.51 – Distances

4.40, 4.50 and 4.51 wetlands and flood plains – Designing on the Local Regulation wetland setbacks would render the project unviable. The project can be fully constructed to meet the state setbacks and possibly greater distances than the minimum requirements, but still would not be able to meet the local requirements.

4.51 list on page 3. 50' to tanks,

The effluent disposal system is over 200' from the wetlands, which is a good distance. JJ: the tanks are closer to the wetlands, which would be less critical unless a tank is leaking. Assurances can be made to prevent leaking tanks.

Section 4.70 Treatment Plant Reliability

4.70 Treatment plant reliability; requesting relief from the letter of the law in our local regulation requiring a "full redundant system". There are parts of this project that redundancy is critical for, and other parts can be eliminated. Onsite is asking for a waiver to allow them to work with staff in a collaborative approach for the best possible design with the appropriate safeguards (of redundancy) in place. JS: This will be up to PB and JJ to go through the design with Onsite Engineering and make decisions as to what the best design is and identify any appropriate safeguards that make sense for a good design. PB: I am comfortable to discuss this and comfortable to ask for redundancy. The final permit is issued by BOH; Onsite understands that if we do not comply, the permit cannot be issued by staff.

Section 5.10 – Groundwater

State standard is a 4' offset and they are looking for relief from our offset of 5 feet. The effluent from the WWTF will already have a high level of treatment so the leaching through the soil is not critical for treatment of the effluent.

Section 7.10 Monitoring Well Installation

7.10 monitoring wells; They will be working with state to come up with the appropriate number of wells and to identify the best locations for the wells. They are planning for the monitoring wells to be accessible (not under parking lot), and are looking to install 1 deeper well with variable screens to allow for multiple readings. Mass Dep usually has several 3-4 down gradient wells and 1-3 up gradient wells. SG: will there be a cluster of 3? Will they be located in discrete places? DF: We plan for the location/depth of the wells to ensure we will always get groundwater samples. The high water wells; will not be reported outside of high water season. If there is nothing in the well then it can't/won't be tested. They are looking for a waiver from the local regulation. Monthly testing will be done (specific conductance, sodium, ph).

There will be monthly data collection from the wells. SG: will there be different types of wells? DF, just to catch ground water year round. JJ: The High School WWTF did not meet our local regulation, but was approved by the state and met their requirements. I do recall corresponding with Kevin Brander on this section of our regulations for the High School. He did not think our regulation requiring the clusters of wells was necessary, they look at the hydrogeology very closely and make a determination. PB: I have experience with the state model for monitoring wells. Using the different wells, you can find out which well shows the effluent from the plant and use that data.

Section 8.10 – Wastewater

8.10 wastewater- data and intermediate testing; with today's technology they have more modern testing equipment, did not have to send out to labs. The state is streamlining the process. They do require flow and PH on a daily basis, local regulations require multiple weekly testing. They will be in compliance with state but not with local. JJ/PB: I think the state requirements are ok with the new technology.

Section 9.30 Operational Guarantee

When the Wayland WWTP regulations were written wastewater treatment plants were new, the state now has detailed required escrow programs that should cover the costs (25%). The funds are in reserve for problems with the system.

PB: For the hydrogeo we still need to discuss this; from section 4.3 they should do flow directions but not do contaminant levels and discharge plume. PB: We should be looking at what is happening with groundwater. DF: We will be making sure there is no breakout condition onsite or offsite. The report will have plans showing contour maps and a profile. PB: They should provide existing conditions plans and show wastewater discharge with contour overlay and then stormwater over that. DF: they will do a cumulative mounding analysis. JJ: We still have no information on what they plan on for stormwater or where the infiltration areas will be located, we want to ensure it is not near the old drainage bed from the WWTF. DF: Stormwater has separate regulations, they have to follow the state regulations and go through conservation. We want to be sure they will not surcharge their systems. PB: will they re-contour? DF: Planning and conservation will review the stormwater system and BoH will have an opportunity to provide comment then. JJ: we will still need to see the combined plan with both stormwater and wastewater. JS: what is the size of site? DF: less than 10 acres. JS: Much of the property is covered by building footprint and pavement. PB: the soils there are good; there should be no problem with the ground absorbing the stormwater. No refusal/ledge has been encountered on the site with the soil testing so far. Deep sands and gravels have been documented. JS: Will the garage be below grade? DF: We are looking at groundwater levels post discharge, and will make sure the building design will avoid flooding.

In summary; the Town of Wayland is proposing a development project at 490 Boston Post Road and plans have been provided by Onsite Engineering where variances are being requested from Wayland Small Wastewater Treatment Plant Regulations and the Wayland Subsurface Septic Regulations.

Motion by JS:

After a long review of the proposal; the Board has approved the requests of Onsite Engineering and WP East Acquisition, to provide relief from the Town Regulations as requested in a letter dated March 29, 2019 and in the Local upgrade approval form dated March 25, 2019; waiver requests as follows;

Wayland Regulations for On-Site Subsurface Sewage Disposal Systems:

Section I; Article 3: Soil Testing Dates/Times & Section II; Article C-1: GPD/Bedroom Flow And:

Wayland Regulations for the Design, Operation, and Maintenance of Small Wastewater Treatment Facilities:

Section 1.30-Service Area Limitations, Section 2.10-Applications, Reports, Plans, Data, Documents,

Section 4.30-Hydrogeological Investigation, Section 4.40-Wetlands and Floodplains, Section 4.51-Distances,

Section 4.70-Treatment Plant Reliability, Section 5.10-Groundwater, Section 7.10-Monitoring Well

Installation, Section 8.10-Wastewater, Section 9.30-Operational Guarantee

The approval for variances from Town Regulations does not relieve the responsibility of their obligation to meet the State Regulations of which they stated they are not requesting any waivers from.

As a condition of the waiver from section 4.30 of the regulations we will be anticipating hydrogeology evaluations (excluding contaminant level mapping/analysis and extent of discharge plume) that will be reviewed once they are received. We are also requesting copies of the Phase 2 Environmental Site Assessment Report to be provided in a timely manner and if necessary the RAM plan.

Second SG Vote 3-0 all in favor.

8:15 p.m. 8 Hill Street- update on litigation and correspondence

JJ: The case went before a federal judge, Linda from Conservation, the Town Administrator and I attended in Boston. The judge spent a lot of time reviewing and listening to the case, we were there from 3pm to 5pm before the judge. The owner of this property is suing the town for what they claim is unfair treatment by the Conservation Commission. The judge spent a lot of time trying to understand how town government works with Title 5, septic permitting processes and Conservation, involving the Wetlands Protection Act and Local Bylaws. He asked for information and larger plans to review and a combined timeline of town issued approvals/action. A lot of time went in to providing the paperwork and creating the timeline. I am unsure of what the next steps will be but the town lawyer will be in touch to let us know after the judge reviews the information.

8:25 p.m. General Business

Approve bills, review draft minutes: April 8, 2019

The bills were approved for payment; minutes are still being worked on but there are no minutes for approval yet.

8:30 p.m. JS: motion to adjourn- Seconded Meeting adjourned

Respectfully Submitted

Patti White

Department Assistant

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APPROVED 061019