

Minutes Meeting of February 4, 2005 – Oak Ridge Draft Discussion

Members Present: Chase Duffy, Mark Mulligan, Stuart Schulman, Shaun Sullivan

Atty. Deschenes said that the biggest issues are related: density and the septic system reserve location. He said that they are trying to find a way to separate the systems. He said that there is a failed test that didn't meet the requirements so they need a 25 ft. circle related to system location. He said that if one central building of four is removed then the reserve system can be spotted in the center of the loop road. He said that then the primary system will be moved away from abutters and be approximately 45 ft. from the property line. He said that there would be no retaining walls and the system could be graded down. He said that 25 feet of the buffer will be used for grading and that leaves 25 ft. of undisturbed buffer. He said that the primary system conforms to all local regs.

Discussion ensued regarding who signs off on the septic system.

Atty. Deschenes said that he doesn't want an outside board to review, and only wants local and Nashoba review. He said that by moving the reserve system, they don't have a perc test of over 14 in that area and thus will need some waivers for the reserve system. He said that they would need a retaining wall and cannot meet the 150% size of reserve requirement. He said that the secondary system can meet the Title V 4 foot requirement but can't meet the local of 5 feet of natural impervious cover. He said that the reserve area will be same size as the primary.

Discussion ensued regarding whether the primary system should actually be the secondary because of better soil conditions.

Atty. Deschenes said that they need waivers for the secondary and not for the primary, even if it is technically a better site for handling wastewater. He said that by reducing the size of the project the system is reduced by eight trenches. He noted that he wants to be held to the 25% requirement of affordable units, which would equal 9 of the 36.

The Chairman asked whether moving the system is more expensive.

Atty. Deschenes said that the loss of 4 units reduces profits but otherwise the system is slightly less in size.

Atty. Bobrowski said that Mr. Jacobs has figured about 13.5% profit at 36 and 9.

Atty. Deschens said that when a failure of the septic system occurs, it is most common to replace the primary rather than leave the failed primary and move to the secondary. Reserve system is just identified area and not constructed until needed.

Mr. Slager, Land Tech, said that they typically just replace soil, gravel, etc. at the primary site.

Ben Cutone, Nashoba Boards of Health, said that the nature of the failure depends on how the site is replaced. He said that they don't want workers to have to work in raw sewage, and want to keep the system working as much as possible. He said that it is typically preferred to go to the new area if the system fails, although he personally hasn't seen a secondary site used since Title V, which is relatively new (1995).

Mr. Slager said that most failures are with pre 1987 regulation systems. He said that this site is very high above groundwater and noted that there is much more annual testing because these are condominiums.

Dr. Horowitz said that she wants Mr. Cutone to address the mounding calculation tests.

Mr. Cutone said that with the larger systems installed in town, (the Gibbet Hill Grill), they have an outside person do mounding calculations. He said that in some calculations have raised the groundwater at Gibbet Hill Grill by 1.5 feet.

Discussion ensued regarding the difference between local vs. Title V requirements.

Atty. Deschenes said that they are meeting local rules that are more stringent than Title V and they are not using a recirculating system.

Mr. Cutone said that he is using best engineering practices to ask for this.

Atty. Bobrowski asked if the cost of mounding testing runs about \$25 grand.

Mr. Cutone said that that is a high figure, noting that Beals Assoc. outsourced the test for Gibbet Hill Grill.

Discussion ensued regarding when it is reasonable to stop asking for more testing, etc.

Atty. Deschenes said that they are meeting local regs. and they are more stringent, and now the BOH is asking for another \$20 grand study. He said that that is not fair.

The chairman noted that the test might be less than that.

Mr. Slager said that it is unlikely to be less and one can get varying calculations that aren't necessary truly representative. He said that it can be expensive and time consuming to get drill rigs, etc. out to the site.

Dr. Horowitz said that they are looking at wetlands, abutters, etc. here and asked why not prevent a

problem before it exists. She asked whether town counsel reviews the draft and whether this decision would come before the 40B work session.

Atty. Bobrowski said that he sends Town Counsel a courtesy copy.

Atty. Deschenes said that the primary system meets all local requirements and said that this has to stop somewhere.

The Chairman asked what if the tests fail.

Atty. Deschenes said that they could have to raise the system (the Gibbet Hill Grill system was raised 1.7 ft. after the test), but stressed that the test won't show that the system couldn't be built.

Mr. Slager said that the way the local regs are written, the system is raised up one foot in anticipation.

Dr. Horowitz asked whether if the tests are worse than for the Gibbet Hill Grill would waivers be needed for the primary.

Mr. Slager said that he is working on a system with much worse soil conditions and much more significant mounding calculations and the system only had a mound of 2.3 ft. He said that he could not imagine the ground mound being that significant here. He said that that would be more in play with a wastewater treatment plant and one is not being built here. He said that the majority of treatment occurs at a biomat area. He said that there is a higher permeability after biomat treatment and the water is only a couple of inches deep.

Discussion ensued regarding what a bio mat system is. (bio material)

The Chairman asked whether it would be correct to say that with the local by-laws a one-foot mound is built into the system.

Mr. Cutone said that that was put into effect because most soils are sandy in Groton and have less than 2 minutes per inch perc. He said that he doesn't believe that there are percs like that here.

Atty. Deschenes said that the locals do add one foot above Title V.

Discussion ensued regarding what a simple calculation would be vs. at least 3 wells drilled.

The Chairman said that he doesn't think drilling wells is appropriate here but if they can get simple calculations then it may be worth it.

Mrs. Duffy said that they are removing a building to give a reserve area to protect residents.

Mr. Slager said that the system is designed under a 20 minutes perc rate using 110 gallons per bedroom.

Atty. Bobrowski said that 55+ calculations are less than regular calcs.

Mr. Slager said that they are not using those figures so the system is more conservative in design.

Mr. Mulligan said that he thought the mounding testing is required for a different type of system.

Mr. Slager said that that is correct and noted that they are not building a recirculating system.

Dr. Horowitz asked about the failed perc test.

Mr. Slager said that it did not fail but was just slower.

Atty. Bobrowski said that the Board needs to confront the 36 and 9 issue.

Mrs. Duffy asked whether 36 and 10 was doable.

Atty. Deschenes said that it was not and noted that they are presenting their best and final offer today. He said that they have spent hours since the first meeting and looked at Mr. Jacobs' figures and figured other mitigations in and stressed that this is how they can make the project work. He said that they could not have extensive hydrogeological testing and noted that adding one more affordable unit costs between 100 to 150 grand in profits and they still don't know about unforeseen costs. He said that the Board has heard everything re: economic feasibility.

Mr. Sullivan asked why they didn't look at the Littleton site for septic location.

Mr. Slager said that the dwelling units are in Groton.

Mr. Sullivan said that it is not against the law to build the septic system in another town.

Mr. Slager said that it makes the permitting process more complicated. He said that after much testing, they determined this site to be the best location for the septic system. He said that the collection location is best at the lowest part of the site.

Atty. Deschenes said that they would technically need a comprehensive permit from Littleton, which could then be denied and this would create many other problems.

The Chairman said that now that the separation of the systems has been addressed, the Board couldn't keep the Littleton site option open.

Atty. Bobrowski said that if the Board is satisfied with 36 and 9, then he will make a list of costs for the extras.

Mr. Sullivan said that if the mounding test is for a system that they aren't even using, why require it.

Mr. Cutone said that it is not a direct requirement but is being used for any system over 2000 gal/day as a best engineering practice.

The Chairman said that he doesn't want a bad system.

Mr. Slager said that he doesn't either, since his stamp is on the plan.

Mr. Mulligan said that he doesn't think it necessary.

Mrs. Collette asked whether the three-unit would be sprinklered.

Atty. Deschenes said that yes, they would be.

The Chairman said that he wants Mr. Cutone to come up with cheap alternative mounding testing.

Mr. Sullivan asked what would be a worse nightmare scenario if the mounding testing was not done.

Mr. Cutone said that if the system leaches so much that it drowns and has a blow out.

Of note: the Board wants Mr. Jacobs to figure profit with 10 affordable units.

Discussion ensued regarding BOH waivers: the retaining wall won't be built unless there is a need to build a reserve system.

Atty. Deschenes said that there will be a wooded area unless it is needed. He said that Title V is met for the primary and secondary systems and only local reg. waivers are needed for the secondary. He said that there needs to be no outside review.

Mr. Sullivan said that he is fine with all three waiver requests.

The Chairman said that he, too, is fine with the waiver requests.

The Board moved to grant a waiver from the retaining wall prohibition, the five feet to pervious material, the 150% size requirement for the secondary septic system, and outside third party review.

The motion was seconded and passed unanimously.

Atty. Bobrowski said that he would put in a condition that the applicant get a review from Nashoba Boards of Health.

Atty. Deschenes went over the Con. Comm. waivers without discussing the road access changes, noting that they need waivers from 4 areas because there would be disturbance within the 100 ft. buffer zone. He said that they comply with State regulations and noted that the retention basin at the front of the site is at the 50 ft. mark. He said that they have talked about moving the basin and said that it is as far south as it can be. He said that there is a shed, etc. there now that encroaches on the wetlands. He said that this project has a pretty small ration of encroachment and noted that the total disturbance is 15,000 sq. ft. vs. a 12 or 14 acre wetland. He said that most of the disturbance is just grading and said that some disturbance is temporary in a way. He said that the other major area is the retention basin at the far end of the site (and the one at the front of the site). He said that the system couldn't just be moved because it has to be 100 ft from the septic system, including the reserve.

Atty. Bobrowski read Mr. Hebert's recommendations regarding improving the road for safety vehicles, which suggested a clear zone be created and maintained. Of note: this would create a slightly greater encroachment (one foot) on the north side.

Atty. Deschenes said that they have four feet of grass and five feet of sidewalk for a total of nine feet. He said that Mr. Hebert wants one foot of grass area added for a total of 10 feet. He said that this would be 96 feet from the wetland in that spot and some areas of sidewalk would be slightly in further as well.

Atty. Bobrowski said that the Board needs to decide whether to grant a waiver for road as suggested by Mr. Hebert.

Mr. Clemens, Con. Comm., said that his Board prefers to have no encroachments at all.

Discussion ensued regarding whether the applicant could reduce the size of retention basin.

Mr. Slager said that it would not be worthwhile to redesign the system because they would not save much.

Mr. Clemens said that he feels that Mr. Heberts' suggestion is makeshift and asked about low salt.

Atty. Bobrowski said that it is a condition but subject to the approval of emergency personnel.

Mr. Clemens asked about possible blasting.

Atty. Deschenes said that there may need to be some blasting and noted that the decision has some standards regarding blasting.

Mr. Clemens reiterated that the position of the Con. Comm. remains the same: no disturbance.

Mr. Almon asked about the limit of disturbance.

Atty. Bobrowski said that there would be no surprises if they follow the erosion control guidelines.

Mr. Slager noted that the ground goes up and then down to the wetland.

Mr. Almon said that the tree canopy is very important to the vernal pool to keep it temperative.

Mr. Slager said that there would be no disturbance of the tree canopy near the vernal pool.

Mr. Clemens asked about reducing the size of the retention basin.

Mr. Slager reiterated that it would be a minimal reduction in size and not worth it. He noted that the paved surface except for the removed driveways would be the same.

Mr. Clemens said that he wants the retention basin pulled back if possible so that it is further than 50 feet from the wetlands.

Mr. Sullivan asked about snow removal.

Atty. Bobrowski said that enforcement is carried out by the building enforcement officer. He said that non-compliance could have a criminal penalty.

Mr. Sullivan suggested stone instead of grass to facilitate snow removal.

Atty. Bobrowski said that if the Board agrees with Mr. Hebert in principal, enforcement could be worked out.

Mrs. Collette suggested consulting with the Fire Chief because he has worked with the Groton School to provide emergency vehicle access. She said that there is a product to keep grass snow free.

Atty. Deschenes said that the Town has enforcement rights and the condo association must comply.

Atty. Bobrowski said that he would like a plan colored like the Con. Comm. plan.

Atty. Deschenes said that ultimately there will be a more detailed plan, showing the hay bale silt line, etc.

Of note: no building permit will be issued without a full set of final plans.

Atty. Deschenes said that the applicant has to go to the Con. Comm. and DEP regarding the one ft. change for the safety vehicle access.

Discussion ensued regarding Con. Comm. waiver requests.

The Board moved to grant waivers consistent with the plan as shown and marked by the Con. Comm. to allow encroachment within the 100 ft. buffer zone but not to encroach within 50 ft. and including the recommendations of Gary Hebert regarding safety vehicle access.

The motion was seconded and passed unanimously.

Atty. Bobrowski said that he will begin the discussion on Wed. with Mr. Hebert's recommendations, starting with condition #38 to the end.

The meeting adjourned at 10 pm.