

Minutes Meeting of June 1, 2005 – Sellars, Moseley, Squannacook, McElroy

Members Present: Stuart Schulman (All), Jay Prager (S, SH, Mc), Bob Cadle (All), Mark Mulligan (Sellars), Chase Duffy (All), Megan Mahony-Wickham (M-K), Cindy Maxwell (M-K, SH, Mc)

The Chair reconvened the Sellars hearing.

Mr. Cadle spoke of the site walk, noting that he took pictures but hasn't developed them. He said that he felt that it looked like a porch and shouldn't be enclosed.

Mr. Prager said that he saw it as a substantial space and an increase in the area of house such that it could be more living space. He said that it needs to be modified in a way that creates a porch environment rather than a room with thermapane windows.

The Chair said that he was worried because this is not the only case that the Board has had.

Discussion ensued regarding what would make the BI satisfied.

The Chairman read a memo from the BI into the record.

Discussion ensued what would be a reasonable compromise that the BI could live with. Mr. Prager suggested a half wall with an open area, ie the porch remains a porch.

The Chairman said that it sounds like the variance as requested will not be approved.

Mrs. Duffy said that she feels some compromise is workable.

The applicant said that he wants screens instead of windows.

Mr. Prager said that it is not workable just with screens.

The hearing was continued to 7/13/05 at 8:15 pm to get feedback from the BI.

The Moseley hearing was continued to 6/15/05 at 7:45 pm, at the request of the applicant.

The Chair convened the Squannacook Hills 40B and read a memo from the BOH to the PB into record.

Atty. Deschenes said that it is on the table again whether there would be an impact on wells from West Groton Water and JNEI. He read the West Groton memo into the record and said that under standard regulations he would need a special permit but said that the ZBA can grant a permit for the 40B. He said that the project meets DEP stormwater guidelines, all Title V requirements and

most BOH local regulations, including separate primary and reserve systems.

The Chairman said that he feels that what has come up are slightly different issues, regarding Title V sites within nitrogen sensitive areas, not allowing more than 19 bedrooms.

Atty. Deschenes said that it is not within a DEP wellhead protection area. He said that it is in Zone 3 and is not a sensitive zone and that the PB has decided this without any data. He said that the Water Department says it is not an issue and said that the rules can't be changed at the 11th hour.

Mr. Cadle said that just because the project is in Zone 3 doesn't mean it is not in a nitrogen sensitive area.

Mr. Kelly said that there is an entire public process needed to declare a nitrogen sensitive zone.

Mrs. Collette prefaced by stating that we are dealing with two separate rules and regulations and gave some history of other sensitive areas. She said that the PB based its vote on a memo received on May 4th.

Discussion ensued regarding the status of the area and whether it is nitrogen sensitive.

Mrs. Collette said that ENF indicated that a negative impact on the Squannacook River will have a negative on the drinking water. She said that calculations are done on a 5 day pump test and it is very scientific. She this project is exceeding the allowable density by 3 times in a Zone 3. She said that she wants a reduction in density to protect the river and public drinking water.

The Chairman asked Atty. Bobrowski about the regulations.

Atty. Bobrowski said that this is a waiver request re: density requirements.

Atty. Deschenes said that the by-law doesn't prohibit over 110,000 gallons per day but a special permit is required. He said that he thinks the Special Permit could become part of the Comprehensive Permit and stressed that he is not asking to waive the drinking water standards.

Atty. Bobrowski said that he wants to channel this through Mr.Schmid and said that the project can meet minimum standards and asked whether the Board wants the applicant to be held to a higher standard.

Mrs. Duffy said that JNEI noted that the project was okay prior to knowledge of the new well, but noted that now it is not okay.

John Strauss, abutter uphill and down wind, noted that the PB and BOH are concerned if the septic system doesn't work, not if it does. He said that there is water everywhere on the site.

Atty. Bobrowski said that the ZBA could issue a special permit if the applicant proves that it is safe.

Discussion ensued regarding the difference between nitrogen sensitive and wellhead protection areas.

Mrs. Collette told one anecdotal story because the Town has been interested in ground water protection since the 1970's. She said that the Water Department ran into problems with the Turkey farm, which had a chicken coop. She said that the owner spread chicken manure onto his field and the State had to take legal action because the drinking water was so affected by the level of nitrates. She said that this is a very serious problem with pollution and noted that West Groton Water is meeting with the BOS because a town meeting vote is required. She said that serious money has been spent to develop the well fields and the Town doesn't know yet where Zone 2 is. She stressed that this is not speculation but in the serious workings and that the river itself provides a direct conduit.

Discussion ensued regarding how much falls to the ZBA and how much to the BOH regarding Title V issues.

Atty. Deschenes said that he needs to show that the project is not detrimental to public water supplies and said that they will show that they comply with Title V and DEP drinking water standards. He said that West Groton Water says that the project is okay and no answer was received from Groton Water.

The Chairman said that things are in flux here because of changes, and noted that there is going to be a well.

Atty. Bobrowski said that things can change with Title V.

Mr. Prager said that there is no hard evidence that anything coming out of this will affect well. He said that he wishes there was.

Atty. Deschenes said that the system they are proposing is at 6 parts discharging and the State says they could have up to 10 parts.

Atty. Bobrowski said that DEP needs to determine what zone the project is in.

Atty. Deschenes said that DEP needs to determine this through an intensive public hearing process. He said that it is up to JNEI to prove that the project is detrimental.

JNEI said that he wants some additional calculations so he could do some refiguring.

Discussion ensued regarding the BOH memo indicating that there could be 19 bedrooms max.

Mr. Kelly said that more expensive systems could be designed.

The Chairman said that they need to look at more expensive systems because although it is not the fault of anyone that zones have not been designated, the Board needs to safeguard the area for town.

Mrs. Duffy asked about how a steep wet site could be controlled.

Atty. Deschenes said that the Board is arguing about BOH and PB issues. He said that he will provide the ZBA with an analysis that shows that the septic system is below federal drinking water standards.

Atty. Bobrowski suggested going one technological level up with a better septic system.

The Chairman also suggested a lower number of units.

Atty. Deschenes said that it is inherently wrong that the PB is voting to treat this area differently than West Groton Water and DEP do.

Mrs. Collette said that this issue did not come up tonight. She said that in comparing to the Shaws and other sites, they were required to do background testing and monitoring. She said that the ZBA held Shaws to a very high standard to maintain safe drinking water standards. She said that there are no background results regarding current drinking water standards for this project. She also noted that there are many septic system failures in the West Groton area because the geology in area doesn't accommodate systems well. She said that the alternative if system fails is eviction and suggested a better way is to reduce density so the system is better in compliance with Title V, etc.

Atty. Deschenes asked about the other projects mentioned.

Mrs. Collette said that they were all in Zone 3.

The Chairman said the question hinges on who oversees and how changes could affect the potential water supply.

Atty. Bobrowski said that it is ultimately a town meeting vote, based on the information provided.

Atty. Deschenes said that they are changing the rules at the 11th hour.

Atty. Bobrowski said that there is a troubling paragraph in Mr. Cutone's memo, noting that 137.5

gallons per day in a nitrogen sensitive area is the max allowed. He said that it seems that the project is capped out at 19 bedrooms with the proposed special treatment plan.

Mr. Prager said that even if the project is in Zone 3, in the absence of a new well there seems to be no issue of nitrogen sensitivity. He asked what the best opinion is.

Atty. Bobrowski said that it will be played out with the BOH and Title V and asked how the ZBA wants this to play out.

Dr. Horowitz said that the two systems were to be placed in different geological zones and one is in bad soil. She said that if the system fails, it doesn't matter because all zones go to the river. She asked if this is thrown at the BOH and the Zone 2 delineation is determined by DEP, does the BOH have any say to reduce density.

Atty. Bobrowski said that the project is not grandfathered under State regulations if these regulations change. He suggested that the BOH talk to town counsel for guidance if this happens.

Mrs. Collette said that scientific evidence won't be available until the wells are developed, noting that delineation is an expensive process. She said that she is asking that no risk be taken until everything is definitive.

Atty. Bobrowski asked why interim wellhead protection couldn't be figured.

Mr. Page asked why, if West Groton Water was concerned, it was not noted in their memo.

Atty. Bobrowski suggested that Mr. Schmid of JNEI ask Dufrene Henry about the wellhead protection area.

The Board agreed with that.

Mrs. Collette said that the Town Forest well plan has been submitted to MEPA and the Blood plan is following.

The Board requested another meeting.

Atty. Deschenes said that this is the second or third meeting where the PB brings up major issues and he only receives them the day of the hearing.

The hearing was continued to July 6th at 8Pm. The motion was seconded and passed unanimously.

The McElroy hearing convened with the Chairman reading the legal notice.

Atty. Orsi, representing the McElroys and Stan Dillis, engineer, were present. He noted that his client received a variance that was withdrawn because of one condition imposed.

Mr. Dillis said that the lot is 53,000 sq. ft., and has the required frontage plus. He said that they want to raze the existing dwelling and replace it with a house that is similar in size and footprint, but not exact. He said that the new dwelling will be more in keeping with modern construction and said that they could work with the BI and renovate, but stressed that this makes more sense for neighborhood disturbance, etc. He said that the existing dwelling is in disrepair.

Atty. Orsi said that his client didn't want a 3 bedroom limit.

Mr. Dillis said that the permit should only be limited to what the Sewer Commission would allow in the case of an addition. He said that the existing house has three bedrooms and sewer capacity currently allows for three bedrooms.

The Chairman asked about the other the other McElroys owning properties surrounding.

Discussion ensued regarding the location of the lot on the street.

The Board moved to grant variance as was worded in the 2004 decision, except that the condition for three bedrooms be removed.

The motion was seconded and passed unanimously.

The meeting adjourned at 10:00 pm.