

TOWN OF GEORGETOWN
Georgetown Zoning Board of Appeals
Memorial Town Hall ♦ One Library Street ♦ Georgetown, MA 01833
Phone (978) 352-5742 ♦ Fax (978) 352-5725

Zoning Decision on G. Mello Disposal Corp.
Assessors Map 15, Lot 46, Carleton Drive
April 4, 2023
ZBA File # 19-07

The Georgetown Zoning Board of Appeals held a public hearing on the application filed by:
Applicant: G. Mello Disposal Corp., c/o Jason Mello, 95 Tenney Street, Georgetown MA 01833;
Owner: East West Mirra Realty, LLC, 6 Norino Way, Georgetown, MA 01833, requesting a
Water Resource District Special Permit for the property located on Carleton Drive, Georgetown,
MA, Assessor's Map 15, Lot 46, located in the Commercial C District (the "Property").

The Applicant requests a Water Resource District Special Permit pursuant to Georgetown
Zoning Bylaw § 165-29 et seq. for the operation of a solid waste transfer station (the "Project")
at the Property.

Notice of public hearing on this application was:

1. Published in the Georgetown Record on March 8, 2019 and March 15, 2019;
2. Posted on a bulletin board in a conspicuous place in the Georgetown Town Hall on
February 27, 2019; and
3. Made by first class mail postage prepaid to all parties in interest under G.L. c. 40A, § 11,
on March 4, 2019.

Procedural History

Public hearing on the Application opened on April 2, 2019. At the April 2, 2019 hearing, the
Board heard from the Applicant on a related special permit application to allow the Project as
either a Light Industry Use, or as a use not specifically listed in the Schedule of Uses. No
evidence and no substantive hearing on the Water Resource District special permit application
was taken at the April 2, 2019 hearing, which was continued to May 7, 2019.

At the May 7, 2019 hearing, the Board voted to grant the use special permit authorizing and
allowing the Project as a use similar to Light Industry, but not specifically listed in the Schedule
of Uses. That decision was filed with the Town Clerk on May 21, 2019. No appeal was taken by
any party, and a copy of the decision was recorded with the Essex County (South) Registry of
Deeds at Book 37962, Page 247. Again, no evidence was taken May 7, 2019 on the Water

Resource District special permit application, and hearing on that application was continued to June 4, 2019.

On June 4, 2019, hearing on the Water Resource District special permit was continued to September 10, 2019, then to November 5, 2019, to December 3, 2019, to January 7, 2020, to March 10, 2020, to May 12, 2020, to December 8, 2020, to March 2, 2021, to May 4, 2021, to July 13, 2021, to October 5, 2021, and then to December 7, 2021, all without taking evidence or engaging in substantive hearing except to approve a further continuance.

On or about September 8, 2021, the Planning Board filed a written decision with the Town Clerk that purported to deny the Applicant's request for site plan approval of the Project. The Applicant filed an appeal of that decision in the Land Court (Case No. 21 MISC 000513 KTS).

At the December 7, 2021 hearing on the Water Resource District Special Permit, the Board determined that it was unable to proceed with the taking of evidence or a substantive hearing regarding the requested Water Resource District Special Permit because, the Board reasoned, a provision in the Georgetown Zoning Bylaw made site plan approval by the Planning Board a prerequisite to the Zoning Board's ability to hear and decide an application for a Water Resource District Special Permit. The Applicant filed an action with the Land Court to seek a judicial determination whether a site plan approval was a prerequisite to Board action on a Water Resource District Special Permit (Case No. 22 MISC 000015 KTS).

While the question was pending in the Land Court, the Board and the Applicant continued the hearings from December 7, 2021 to March 1, 2022, to June 7, 2022, to September 6, 2022, to November 1, 2022, and then to January 10, 2023, all without taking evidence or engaging in substantive hearing except to approve a further continuance.

On or about December 1, 2022, the Land Court (Smith, J.) issued a Decision and Judgment in Land Court Case No. 21 MISC 000513 KTS, which ruled that, under a zoning exemption for solid waste facilities in the final paragraph of G.L. c. 40A, § 9, the Applicant is not required to seek site plan approval from the Planning Board.

Also on or about December 1, 2022, the Land Court (Smith, J.) issued a Decision and Judgment in Land Court Case No. 22 MISC 000015 KTS, which ruled that the Board must proceed to consider the Water Resource District Special Permit application without regard to the site plan review proceedings. Following the rulings from the Land Court, the Application was scheduled for a public hearing on January 10, 2023. No evidence was taken on January 10, 2023, and the public hearing was continued to February 7, 2023.

On February 7, 2023, the Board for the first time heard a substantive presentation on the Application. Zoning Board Chair Thomas Mulligan, Board Members Jay Odgen, Jon Pingree, and Associate Member Tracey Hartford were present. On behalf of the Applicant, the Board heard from Attorney Shawn M. McCormack of Davis Malm & D'Agostine P.C., the project engineer, Scott Cameron of the Morin-Cameron Group, Inc., and Jason Mello, the President and Director of Operations at G. Mello Disposal Corp. The Applicant's representatives described the Project and certain design and operational features that would prevent the degradation or the

potential degradation of any ground and of any surface water resources related to the Property or the Project and thus groundwater resources providing water supply for the Town, including other Towns. No member of the public spoke in opposition to the Project. The public hearing was scheduled to be continued on March 14, 2023, but due to a snow storm the hearing was postponed to April 4, 2023.

On April 4, 2023, the Board reopened the public hearing. Zoning Board Chair Thomas Mulligan, Board Members Jay Odgen, Jon Pingree and Leo Ryan, and Associate Member Tracey Hartford were present. Leo Ryan, who was absent from the February 7, 2023, hearing, certified in writing pursuant to G.L. c. 39, § 23D that he has examined all evidence received at the February 7, 2023 hearing and watched the video recording of that hearing. The Applicant submitted materials responsive to Board members' questions regarding the design of the stormwater management system for the Project. The Chair closed the public hearing and the Board deliberated. Following deliberations, _____ made a motion to _____, which was seconded by _____. The Chair took a roll call vote, and the motion carried.

Standard

Under Section 165-35 of the Georgetown Zoning Bylaw, the Board must make the following finding: That the proposed use will not result in the degradation or the potential degradation of any ground and of any surface water resources provided water supply to the Town as defined above, including potential water supply to the Town or any other Town. In addition, there is a companion finding that must be made as set forth in Section 165-29 as follows: The purpose of the Water Resource Districts are to protect the public health by preventing contamination and degradation of surface water and groundwater resources providing water supply for the Town, including other Towns which exchange water with this Town or may do so, namely Groveland, Newbury and Rowley.

Exhibits

The following documents were received by the Board and are incorporated into this Decision:

1. Plans titled "Site Plan of Land in Georgetown, Massachusetts, 20 Carleton Drive (Assessor's Map 15, Lot 46) Prepared for: G. Mello Disposal Corp." dated January 31, 2023, by the Morin-Cameron Group, Inc., and comprising ten (10) sheets: C-1, C-2, C-3, C-4, C-5, C-6, D-1, D-2, D-3, and D-4.
2. Massachusetts Department of Environmental Protection, *Positive Determination of Suitability, and Report on Site Suitability for New Assignment* (March 1, 2022).
3. Georgetown Board of Health, *Notice of Decision, Site Assignment Amendment Under 310 C.M.R. 16.00* (May 12, 2022).
4. The Morin-Cameron Group, Inc., *Memorandum re: Civil Engineering Project Summary, Carleton Drive Solid Waste Transfer Station Water Resource District Application* (December 7, 2021).

5. The Morin-Cameron Group, Inc., *Stormwater Management Report, Proposed Transfer Station Land off Carleton Drive* (January 31, 2023)
6. Letter from Shawn McCormack, Esq., dated February 28, 2023.
7. Weston & Sampson, *Memorandum re: Peer Review: G. Mello Transfer Station Stormwater Report, 46 Carleton Drive, Georgetown Massachusetts* (April 12, 2022).
8. The Morin-Cameron Group, Inc., *Letter re: Peer Review: G. Mello Transfer Station Stormwater Report, 46 Carleton Drive, Georgetown Massachusetts* (April 22, 2022).

Findings

The Board makes the following findings of fact in support of this decision:

Environmental

1. The project site (the "Site") is not located within a MassDEP Groundwater Protection Zone I, Zone II, or Interim Wellhead Protection Area.
2. The Site is not located within a MassDEP surface water supply Zone A.
3. There are no private drinking water wells within 500 feet downgradient of the waste handling area.
4. The Site is currently blighted, with areas of compact fill that restricts vegetative growth and extensive debris and trash from prior construction activities.
5. There are currently no stormwater controls on the site.
6. The proposed Project will restore the bifurcated wetland to a contiguous wetland. This includes removal of a culvert restriction.
7. The proposed Project will restore over 81,000 square feet of blighted wetland buffer zone. This is a ratio of 3:1 of altered buffer zone to restored buffer zone.
8. The majority of the restored buffer zone occurs within the rear portion of the property, surrounding wetlands and vernal pools within the water resource district.
9. Impacted wetland will be replicated at a ratio greater than 2:1.
10. There is no wetland alteration proposed within the water resource district.

Stormwater and Drainage

11. The Project meets and exceeds the 10 standards of the MassDEP Stormwater Management Handbook.

12. Stormwater design was reviewed by the Town's engineering consultant, Weston & Sampson, and subsequently updated to meet the new stormwater standards adopted by the Town on or about June 23, 2021. These updates include:
 - a. the stormwater management systems on site were updated to retain 2 inches of stormwater runoff multiplied by the impervious area on site contributing to that part of the system,
 - b. the calculations for total suspended solids ("TSS") removal were updated to show that the stormwater management system will achieve a minimum TSS removal of 90 percent, and
 - c. the rainfall intensities used for analysis were updated to reflect current Extreme Precipitation values published by the Northeast Regional Climate Center (NRCC).
13. The project will seek a Stormwater Management Permit from the Planning Board pursuant to Georgetown Bylaw Chapter 57 and the June 23, 2021 Erosion and Stormwater Control Regulations, which will entail further and additional review of stormwater calculations.
14. All paved areas of the project will pass through the stormwater management system receiving full treatment to the higher 1" water quality standard.
15. All stormwater recharge systems receive pretreatment with a hydrodynamic oil and sediment removal system preceded by deep-sump and hooded catch basins.
16. The design incorporates both structural and low-impact stormwater management techniques.
17. The low-impact stormwater management techniques were implemented near the entrance to the site and residential drop off area. They are situated outside the water resource district and provide treatment for the driveway.
18. Untreated stormwater runoff from a portion of the abutting industrial parking lot will also receive treatment by this project.
19. The permit documents include a comprehensive, long term operation and maintenance plan for the stormwater management system.

Site and Building Design and Safeguards

20. All residential drop-off occurs at the outer edge of the water resource district and includes the following:
 - a. The residential drop-off compactors will be fully enclosed so that high moisture waste will not leak, and so that waste will not come into contact with precipitation that might lead it into the groundwater.

- b. Residential drop-off area consists of bituminous and concrete impervious surfaces that are curbed to manage all stormwater runoff.
 - c. Stormwater runoff from the residential drop-off area will be managed with best practices and a low-impact retention basin situated outside the water resource district.
 - d. Stormwater runoff from the compactors will be directed to a hydrodynamic oil and sediment treatment unit and the subsurface retention systems.
- 21. All commercial drop-off, including the unloading of waste material, and the processing and loading of transfer trailers for removal of waste, occur within a fully enclosed building.
 - 22. The tipping floor and truck well floor will be constructed of reinforced concrete, which acts as a containment barrier preventing liquid from infiltrating into the ground and from exiting the building.
 - 23. Floor drains located within the building and truck loading well discharge to a double-walled, industrial wastewater holding tank that will be pumped and wastewater hauled away from the site to a certified disposal site.
 - 24. All trailers exiting the building must be tarped to prevent waste from escaping.
 - 25. The wastewater disposal system will fully comply with Title 5 and Georgetown Regulations.
 - 26. All snow storage areas are situated to melt directly back into the stormwater management system.
 - 27. The plans included an emergency "hot load" handling area, requested by the Town's consulting engineer H.L. Graham Associates.
 - 28. Finished floor elevations for the tipping floor and truck well greater than 8 feet above existing groundwater, which creates greater separation from groundwater.
 - 29. Low-impact retention basins for stormwater management are located outside the water resources district.

Operation of the Proposed Use

- 30. The proposed transfer station use has been previously approved on this site.
- 31. No hazardous waste or "special wastes" under 310 CMR 19.061 will be accepted on the site.
- 32. No liquid wastes accepted at the site.

33. No "banned waste" accepted at the site.

34. The operator is required to have safeguards in place for the detection and exclusion of unauthorized wastes, which include:

- a. Annual waste ban training.
- b. Written waste ban compliance plan.
- c. Visual inspection of waste streams at drop-off site, and during materials handling, trailer loading.
- d. Random incoming load inspections – 16 per month.
- e. Emergency Response Plan, which includes detailed procedures to contain, report, and clean up any accidental discharges.
- f. Unannounced third-party inspections, reports to DEP.

Special Permit – Granted

The facts above show, and the Board makes the finding required by Bylaw § 165-35 and § 165-29 that: (1) the proposed use will not result in the degradation or the potential degradation of any ground water and of any surface water resources that provide water supply to the Town as defined above, including potential water supply to the Town or any other Town, and (2) the Project satisfies the purpose of the Water Resource District, which is to protect the public health by preventing contamination and degradation of surface water and groundwater resources providing water supply for the Town, including other Towns which exchange water with this Town or may do so, namely Groveland, Newbury and Rowley.

Additionally, the facts above demonstrate conformance with the design standards in the Bylaw § 165-34 (A) – (D), and in particular that: safeguards are provided to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through such measures as spill control provisions; that stormwater management components and residential drop-off areas have been located outside the district to the extent feasible; that all runoff from impervious surfaces shall be recharged on the site, diverted towards areas covered with vegetation for surface infiltration to the extent possible; and that toxic or hazardous wastes are not expected to be on the premises, safeguards are in place for the detection and exclusion of unauthorized substances, and policies are in place to ensure that any toxic or hazardous wastes discovered on site will be contained and disposed of in conformance with chapter 21C of the General Laws.

Accordingly, having determined that the applicant has satisfied the criteria under the Bylaw for issuance of a Water Resource District Special Permit, the Special Permit is hereby granted.

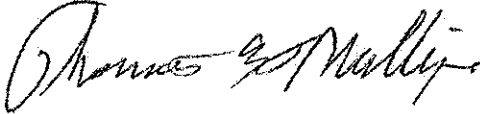
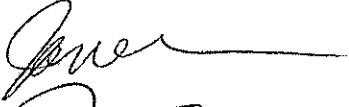
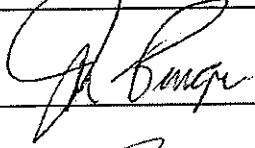

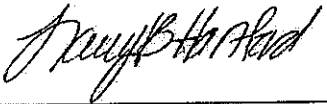
Conditions

The Special Permit is subject to the following conditions:

1. To minimize dust generation, all discharging, sorting and handling of material will be performed within the building. GMD will also dispatch a street sweeper for the regular cleaning of paved travel ways as needed. The facility shall be operated so as not to release dust or odors resulting in a nuisance condition and/or a condition of air pollution as defined at 310 CMR 7.00.
2. Applicant shall keep all entry and exit doors to the facility closed except when trucks are entering and exiting.
3. Applicant shall install a six (6) foot high fence around the perimeter of the facility in such a manner as to prevent windblown litter from exiting the facility grounds.
4. Applicant shall limit and phase in the maximum daily tonnage accepted at the facility during years 1 to 5 of initial operation as follows:
 - Years 1 and 2 — 150 tons per day
 - Year 3 — 350 tons per day
 - Year 4 — 450 tons per day
 - Year 5 — 550 tons per day

See next page for Signatures

**Map 15 Lot 46 Carleton Drive
G.Mello Disposal Corp
Special Permit – Water Resource (only)**

Name	Signature	Vote	Date
Tom Mulligan, Chairman		Y	4-4-23
Jay Ogden		Yes	4-4-23
Jon Pingree		Yes	4/4/23
Leo Ryan		YES	4/4/23
Tracey Hartford		Y	4/4/23

20 Day Appeal

This decision is on file with the Town Clerk and Planning Board. Any appeal of this decision shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, within 20 days after the date the notice of decision was filed with the Town Clerk. An applicant may file this decision before the 20 days, but does so at their own risk.

Lapse of Special Permit - Per M.G.L. 40A §9, Special Permits granted shall lapse within a specified period of time, not more than 3 years, which shall not include such time required to pursue or await the determination of an appeal referred to in Section 17, if a substantial use thereof or construction has not commenced, unless upon timely application this Board finds good cause to extend such period.

Recording: Any applicant who receives a special permit or variance is required by Massachusetts General Law 40A to have the decision recorded/ registered at the Essex South District Registry of Deeds after the 20-day appeal period. A copy of the recorded document shall be forwarded to the Georgetown Zoning Board of Appeals Office.