



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

MINUTES OF A PUBLIC HEARING
203 East Main Street, Georgetown MA
Applicant: G. Mello Disposal Corp
Owner: Town of Georgetown
ZBA File #18-02
November 7, 2017

Board Members Present: Jeff Moore Chairman, regular member
Paul Shilhan, regular member
Dave Kapnis, regular member
Shawn Deane, regular member
Gina Thibeault, regular member - Absent
Sharon Freeman, associate member
David Twiss, associate member - Voting

Applicant present – Jason Mello, VP of Operations
Engineer – Richard Barthelmes of Lynnfield Engineering Inc., 2 Electronics Ave, Suite 41
Danvers, MA 01923
Les Godin – Building Inspector
Attorney: Nancy McCann of McCann & McCann, 89 Newbury St, Danvers, MA 01923

**Note Board Members are referred to by their Initials*

Chairman JM opened the Hearing at 7:30pm. JM introduced the Board members.

S. Deane read legal ad; A Public Hearing will be held on **November 7, 2017 at 7:30pm**, at the Georgetown Town Hall 3rd Fl. Meeting Room, for Application's filed by the Applicant/Lessee; Mr. Jason Mello, VP of Operations/ G. Mello Disposal Corp, 95 Tenney St., Georgetown MA 01833, and Owner, Town of Georgetown, 1 Library St., Georgetown, MA 01833 for the property located at 203 East Main Street, Assessor's Map 10, Lot 45 in the RC District.

The Applicant requires a Special Permit for construction of an additional building (more than one building on a lot), a Special Permit for the expansion or alteration of a pre-existing nonconforming use, a Special Permit for Construction in the Water Resource District, and a Special Permit for construction within the Floodplain District, all pursuant to M.G. L. Chapter 40A, § 6 & 9, and the Georgetown Zoning Bylaws Chapter 165 Sections, 8-11, 20-28, 29-38, 74-79, 81, and 94. ZBA file # 18-02.

Applicants Presentation:

Attorney McCann gave a general presentation and Rick (engineer can review plans) stating they are seeking 4 special permits, an alteration of a non-conforming use, the Building Inspector has determined that this site is a pre-existing nonconforming use., the site was a landfill for many years, it has now been capped and closed and it is a transfer station that Mello leases from the Town of Georgetown, the property itself is owned by the Town.

The applicant has been there for approx. 40 years, the existing transfer station facility the existing station is currently operating under a ATO authorization from DEP in 2008, it governs the existing facility and existing operation, the ATO is valid for 10 years, so it expires in April of 2018, about 1 year ½ ago they starting the process to renew the license.

They went to DEP, with changes from 2008 to now on regulations, and it was made clear there would need to be improvements, and existing structure would have to been enclosed, upgrading and continuation of recycling, and they took steps to make the facility better to improve operations and proposing a new building. He has met with the Board of Health, Selectmen and building Inspector.

The existing use as a transfer station is a pre-existing nonconforming use as determined by the Georgetown Building Inspector (letter dated 8/10/17), listing the special permits we would need, he issued a supplemental letter, in October, that dealt with the floodplain issue , we submit the proposed alteration and expansion of the existing nonconforming use of the existing transfer station use will not be more substantially more detrimental to the neighborhood than the existing transfer station use.

Currently we has a covered waste and tipping area now, we have a trailer loading area, a scale, scale office, drop off area, with at 50 ton license, with at max of 60 tons per day and do 50 tons per day. The proposal replaces the existing covered building, with a new building (enclosed), and proposing to increase the tonnage from 50 tons to 300 tons per day maximum. The new structure will consist of an approximate 7,050 sq. ft. engineered metal building enclosing a reinforced concrete tipping floor area and truck loading well. The new structure will be located in the northwestern most portion of the site-assigned area within the current residential drop off area, during construction period the existing structure will be utilized, at such time that the transfer station building is completed, the current transfer operation will be relocated to within the new structure. The existing residential drop off area will be relocated to the north of the site assigned area to the existing land cap area. It meets the setbacks in the RC district.

There is a traffic analysis prepared by Bayside engineering.

The principal consideration related to such a tonnage increase is the impact on local traffic conditions. Our traffic study concluded that the proposed increase will meet public safety standards and have a minimal impact on the existing traffic conditions or roadway capacity.

McCann stated we are proposing one new employee, the hours of operation will remain the same in the lease, we did also receive approval for the Board of Health voted in August. That is an overview, of what we are proposing to do, to improve it as well as bring up to state guidelines and address internal circulations issues.

Richard Barthelmes of Lynnfield Engineering – The existing site is approx. 30 acres, Mello leases approx. 2 acres, which are site assigned for a solid waste transfer station from the Board of Health in 1981. He shows the buildings on the plans, and show the site assigned area.

The new structure will be utilized for solid waste handling activity at the site. Existing structure will be utilized for handling of source-separated recyclable material, residential drop off area to be relocated to new drop-off area constructed on a portion of the previously capped and closed landfill facility.

The existing structure is about 2,000 sq. ft. and covered, 3 sided with a roof.

We looked at putting the transfer station at the location of the existing building, and it is heavily used by the town, so instead of shutting that, we looked at building a new structure on the North side of the site assigned area, and moving the residential drop off. There are compactors and containers for disposal of MSW. Commercial vehicles will continue to pass over the scale will back completely inside the building and the waste will be loaded to the tipping floor in the building, we are proposing to retain the existing structure, we recycle some plastics and will use the existing for the recycling only.

SF – So the new building will only be commercial vehicles only for recycle.

DK asked how many commercial vehicles, drop of recyclables.

J. Mello – A couple of vehicles a day. SF – where would refrigerators and such go.
J. Mello stated in the existing building.

JM – In your plan it was not showing, or don't see the residential new drop off site.

Nancy McCann – It is on C-3 Site plan, it says proposed compactors to the right, it is not in bold, it's hard to see it's not bolded.

DT – While this construction is going on, will you maintain the current amount of tonnage 50 tons, 60 max?

Rick B. – Yes, we also need other local permits from conservation, planning, building and state permits, a post closure reuse permit to construct the new transfer building and the residential drop off facility, and then once that is constructed, then we need to file a permit to operate, until it is all approved built and inspected, we will use the current facility.

JM – That permit is DEP. Rick B – Yes

JM – Is that for recyclable also and does it include recyclables? - RB – The recycle part has a limit, and not part of the increase of tonnage, that is for solid waste.

SF – How do you get to the proposed 300 in tonnage?

RB – Well DEP wants us in an enclosed facility, sprinkler systems etc.... to accommodate all of that there an expense.

SF – So your tonnage is really to cover your cost.

RB (engineer) – We don't think we will reach the increase tonnage now, it will be gradual over time, we also did a traffic study.

SF – Where are you at today? Jason Mello state we average just under 50 tons a day.

McCann – I think we have given you the over plan and the layout, and how it operates, In the project descriptions goes thru all of the mitigation measures, in the application, the first is the alteration of the non-conforming use, and we think is not substantially more detrimental. And the other special permit for more than one building on a lot.

McCann next is Floodplain – we need discussion, the building inspector did a supplemental letter in October, the floodplain zone was found by the inspector from 1980, it shows the May 1, 1980 map the site is not in the floodplain, so I don't think we need a floodplain permit.

JM – Reading from Building Insp supplemental letter from Les (building insp.) from October, one of the findings this board would need to make sure it is not subject to flooding, Jeff reads the floodplain section. I think determining that it in fact is not subject to flooding is a condition or Finding we need to make to grant that special permit, that is not subject to flooding.

McCann disagreed – We can demonstrate based on FEMA is 82, we are not doing work on 82. And a portions may be at elevation 90.

DT – asked which corner, Les – Southeast corner, Engineer points out on plans.

Les - The first determination, was based on the current MVPC zoning map, I did some research and I came upon that 1980 map, they needed it and under the current map, it is in the floodplain, then the 1980 map shows it not, so we have a discrepancy, my first inclination is that is for the ZBA to determine.

Les – Secondly the 165-28 states unless the applicant furnishes a plan prepared by a registered professional engineer or registered land surveyor showing the elevation in two-foot contours or otherwise demonstrates to the satisfaction of the Building Inspector, or other person or Board from whom the permit is sought, the relationship of the land to the Floodplain District.

Les the plan they prepared, the plan shows 90 Ft. contour going into the building it clips a piece of the building, on the good side, they are able to demonstrate based on the FEMA flood data shows it an elevation of 82, I think our map is a conservative number at 90.

JM – If you had originally found that map that you found would you require it in your original denial?

Les, I would have because there are 2 different maps I disagreement, which is something would go to ZBA I can't just determine that as building inspector. There is a discrepancy in our zoning, between maps and the language, secondly, they have demonstrated that the elevation 90 does go into the building, so that is actually elevation contours from a surveyor.

JM – So we can argue that it's not required, or not subject to flooding.

McCann- Also the building and work is not habitable space and that is in the bylaw also. So given the discrepancy we can demonstrate to you that the floodplain in this area is on the floodplain map is 82 and we are not doing any work below 82, we are doing a small portion of a corner of a non-habitable building, is at elevation 90, so you can say the 1980 plan is controlling and we don't need the special permit, or we have supplied enough evidence to support the issuance of a special permit if you decided we need one.

RB shows the board the elevations on the maps.

JM – The other finding relative to floodplain if the board makes the determination that it is required, we have to find that the proposed use is not contrary to the purpose of the district, which in my opinion, synonymous with the expansion of the use piece anyway. We should look at the use first.

The use comes into the play with floodplain as well.

Jason – We have not had any flooding ever.

JM – I think we should discuss the Use piece first. WE need to read in new correspondence.

NEW CORRESPONDENCE – Read into record

PS read; *Letter received 9/18/17 from Mr. Philip Ogren of 223 E. Main St. voicing concerns of adverse effects of his property values, and asked about restrictions on operating hours, heard trucks at 6:30am.

SD read *Letter received 9/7/17 from Mr. Don Soini of 123 E. Main St. voiced concerns about odor, noise, trucks, traffic, and not in favor of expanding the existing transfer station.

JM read *Letter from Board of Health dated 10/10/17 regarding BOH hearing for transfer station minor site modification Decision, approved with the conditions of ventilation in the building, odor control and policing the area for trash debris.

JM read *Letter from Water Dept., dated 11/1/17 in regard to adding a hydrant at site near northwest corner of existing building, which would be handled during site plan approval with Planning Board.

PS read *Letter from Fire Chief, Fred Mitchell, dated 10/31/17 – in support as long as meets with all Mass Dep regulations etc. for any hazardous materials, storage, all MGL fire codes. (see file).

SD read * Letter from Planning, dated 11/1/17 advising applicant will need Site Plan Approval

JM read * Email from Conservation Agent with and update and comment on the project at 203 East Main Street, plan dated 10/6/2017. He states the plan details, including limit of work, are lacking. This makes it very difficult to accurately assess the activities as they relate to the Georgetown Wetland Regulations. It appears that the paved area where the dumpsters are located are within an area where they are not allowed. The plans will need to be cleaned up and made more clear at some point in order to complete my assessment.

The applicant has also filed an ANRAD with the ConCom. As they have missed the review window for the season, the project will get continued to May 2018, when the season opens up again. This means that the ConCom will not be able to verify the accuracy of the resources on property till that the spring in May 2018.

JM – You did meet with con com?

McCann - Conservation they did extend the time, but there was some delay in the processing of the paperwork in getting the board review person on board, as a result, so the delineation does not open until spring, but it is not required, for the application with you.

J. Mello – My lease was to expire last year, he spoke with Selectmen, he expressed the board would like a new building put up.

JM - But you have not presented this plan or gotten a letter of support or anything like that.

J. Mello – No. My lease was to expire last year and the Town Administrator expressed the Selectmen board would like to have a new building up. And Dep is requiring that as well.

We talked about extending the lease and gave us an extension on lease 10 year. DEP lease is 10 years.

DK – When you met with town administrator, so said the selectmen said they are requiring you to put up a new building?

J. Mello – They expressed they would like a new building.

DK – As an additional building or to replace the existing building.

J. Mello – I don't think we made that clear.

Audience

Don Soini, 123 E. Main St. – I don't have anything against the company, recycling part, I believe it's more than a couple times a day, there are so many recycling going on, BOH issue, I questioned their traffic study, the BOH didn't have an engineer and it was done in July 27 – Aug 2nd, when there was no school going on in the summer, I think that traffic study should be done again, there was not information in it that address what would happen with 300 tons. Concerns on Odor, Noise, and sometimes they start at 5:45am, and there is paper all over the road. I researched runoff from a transfer station is considered hazardous waste. It's a residential neighborhood. I believe it's bad for the community. He gave the board information from EPA, and this is worse place for a transfer station.

Peter Ogren of Haynes engineering and I represent Philip Ogren at 223 E. Main St., what evidence was submitted to the board that this is a pre-existing non-conforming use, I think I was a local dump- municipal use, and was privatized with a lease and now it's a large commercial situation. Is the reason for the building Huge concerns as to the intensity of the use, is the reason for the new building a mandate from DEP or is well we want to increase the usage size and also enclosed building, questions on hours of operation, what are they, the biggest if noise and the backup alarms, do they have a proposal to deal with that, what portion of the tonnage is the town of Georgetown, and what part is other communities, if they go to 300 tons. All the elevation are shown on one plan, Floodplain, there was confusion the old maps questions vs. zoning maps now. I believe it was stated there was an issue with delineation health issue. Is there one? What is the amount of increased area in the lease now? J. Mello stated – It was just the length of the lease right now. Your engineer stated there will be an increase of area.

McCann – If this is approved, there will be an increase in the area.

JM to Les Godin – The pre-existing nonconforming use, what is it based on.

Les - is based on lack of information, I assumed it was the town dump since before zoning, zoning if before 1954.

JM – When was the original lease signed?

Mello –1981, and my family managed the dump before that, but I don't know the timeframe.

RB – I believe the landfill was closed in the late 70's.

JM to Les Godin, did you do any specific research.

L. Godin – I pulled all files I had and there is a lack of information

McCann – To be preexisting non-conforming it would have to have been permitted prior to zoning, or prior to the use being not regulated, it was a municipal dump and then taken over by Mello. We can get that data.

JM – So we need the date of the residential zoning.

Peter Ogren – it is not subject to zoning, JM – Yes they are subject to zoning, because it predated the zoning code.

JM – This needs to be established as a pre-existing non-conforming use.

Philip Ogren, 223 E. Main St. – questioned the hours of operation?

JM - It's in the lease.

Audience Continued

Philip Ogren – I want to know when Mello started I believe, it was in the 1980's.

Lisa Bessoud, 144 E. Main St, - I have a couple of letters and a petition, the noise is already very loud, I am not a direct abutter, in the winter is an eyesore, the smell, and making it bigger would be worse, been there for 24 years, and it has gotten worse, it's a small town, it is the entrance to our town, and this expansion is not appropriate;

Lisa Bessoud, 144 E. Main reads Petition – Opposition to grant signed by 24 residents

PS – Asks has your business been expanding that these people are noticing the increase in noise, odor etc.

J. Mello – It has grown, but I haven't noticed, the backup alarms are by law.

PS – By how much have you grown, they are suggesting it's quantity of everything. J. Mello – No I don't' thing we have substantially increased.

JM – How do you know you have reached 50 tons?

J. Mello – The scales. Annual cap is based on 50 tons of day per operating days, not exceeded.

Mr. & Ms. Croce of 4 Reynard Lane – Lisa reads; (*see attached letter*) in opposition.

SD - Is Dep asking for 300 tons a day, or is that want you want per day?

J. Mello – No we are asking for 300 tons per day.

DK – Are you currently taking trash from out of Town?

J. Mello – Yes, residential and contractors

With expansion if granted at 300 tons, how will that grow your business, will other facilities do roll offs?

J. Mason – The majority is residential, it would be other roll offs (dumpsters).

DT asked where the road is coming in, I assume there are regular oak trees or something, I know Reynard Lane and Pillsbury Lane, are close what measures do you have in your plan, if any, to mitigate any of that noise with the leaves now off the trees? If you get approved how do you satisfy the residents?

J. Mello explains by fully enclosing the building it will be visually appealing, it's a pre-engineered steel building, there will be doors, not debris blowing around, we are putting an odor suppression system. Discussion follows on Odor.

Abutter - Dan Walsh, 202 E. Main St – There was a dump there when I moved in but the traffic is crazy the trucks cannot take the corner without using two lanes, I don't know how this can expand and not affect RT. 133. Is this the right thing for a small town? I was surprised that anyone from another town dump trash and pay the same rate. It is on the main road coming in town on Rt. 133 increasing the size, this is going to be the spot to come, because of the location increasing the capacity is the answer, cleaning it up and enclosing ok, but not the 300 tons in that location for a small town. This type of expansion does not belong off RT. 133.

John Burne, 6 Reynard Lane – The addition of the new building is in direct site of me, I want to express the noise, the rubber tire tractor beacon noise that comes out of there is terrible, anything that could help that, it goes on all day and it is extremely noisy and I have been there for 24 years, and it has gotten worse.

JM – Quite honestly, the focus is on the expansion of the use, and the pre-existing issue, I need to understand more of history of the floodplain, it makes sense to continue to talk about the use. We need additional information.

JM asked about the Board of Health, the counts from traffic study in January with Board of Health and they asked us to do it in July. That was done thru the Board of Health only.

RB the Engineer explains what's called site assignment, if you seek a tonnage increase it is a minor modification.

DK – How do they differ, how would they consider major modification.

Engineer – It is more acreage. Prior to BOH we also had to file with Energy and Environmental affairs, MEPA.

PS – Traffic study or not, there is clearing traffic backed up on 133, what if you don't expand how would you address to fix the traffic issue not.

J. Mello – I am not changing or increasing on weekends.

PS – What is Plan B, if you don't get approval, do you have to build a new building?

J. Mello – yes.

SF – How do you determine what is commercial on weekends as not, my pickup truck vs. his pickup truck.

J. Mello – I can limit who comes in on weekends. DK – Do you currently take roll offs from other companies.

J. Mello – yes.

DK – Do you know North Andover, is 15 tons.

DT – What can you do if anything to modify the way those trucks enter and exit?

J. Mello – There is no change to the entrance now. There has been 2 accidents in 10 years.

DT – How many cars are going thru on the weekends now, and how many more cars come off the road, with the loop?

Mr. Walsh – audience – and what volume for

J. Mello – 300 tons would increase by 62 vehicles a week.

JM – I get stuck on that road with the traffic, it's a mess. Why would the town want to increase this?

I can't get over the increase, why would the town want this to expand six-fold, that's why I asked you if the Selectmen support this, nothing against the company, but as far as the use expansion you guys are a long way from believing this is a good thing from the town, the expansion of this use, I am not seeing why this is good for the town, I have talked to the Town Administrator, the Selectmen, Planner, I just don't see the advantage.

J. Mello – It gives more room.

JM – there is a problem with the traffic now, and there is nothing on this plan or change that addresses the traffic on 133. Then more trucks could be from Rt.97 now, it going to happen, you can't change the road it's a state road.

SF – Maybe there are other ways

DT talks about less noise and less smell, but the traffic is the hard thing, roll offs. I want information on how many cars, and with the new loop.

SF – The traffic issue is town wide, and we need to acknowledge and fix that within the town.

DK voices his concerns on the roll offs pulling a 30, and tractor trailers.

JM – It's obvious that it's going to increase, your improvements have to be done regardless, but as a resident I don't understand why would we want this for the town why is this desirable? It's not an ideal location. I don't know why in the world the town would want this increase to the town, where are the selectman on this, how does it benefit the town, not just abutters everyone in town, so as far as the use expansion you are a long way from convincing me that this is good for the town. It would be great if there was another piece of land and move it all there and expand it.

SD – If you have never gone over your tonnage now in one day, help me get there, why you need 300, was it the study, or was it we need 300, or was it we want 300 from the traffic study. J. Mello – The study supported 500.

J. Mello – When you mention the financial part that would be done with the Selectmen.

JM - So if it goes from 40,000, to 60,000, is it worth it. Maybe in a different location, there are other pieces of land and maybe that 'something to think about.

Discussion follows on needing the tonnage increase to 300 tons per day.

McCann – The benefit to the town is increasing the circulation, is the answer 300. We can have a traffic study person come, and or we can send you the study we have.

Discussion on Traffic follows.

JM – Just for your information, Water Resource it states after you complete 165-83, the bylaw states you have to go to Planning Board first.

McCann we can do that after with planning and come back.

JM – We need to solve the pre-existing non-conforming issue.

The applicant will work with Building Inspector to research the pre-existing nonconforming use.
The applicant will send electronically the traffic study, report and MEPA information before next hearing.
PS I want to also clarify those Maps with the Building Inspector.

Motion to Continue

JM - We can continue to 12/5/17 meeting date, SF moved, DT second DK. All in favor.

Patty Pitari
Zoning Administrative Assistant

Approved at 12/5/17 Business Meeting