

TOWN OF LOUDON
ZONING BOARD OF ADJUSTMENT
MINUTES OF
APRIL 26, 2007

REGULAR HEARING

Chairman Dave Powelson called the Loudon Zoning Board of Adjustment meeting on April 26, 2007 to order at 7:30 PM at the Loudon Community Building.

ROLL CALL:

The following members were present: Dave Powelson, George Saunderson, Howard Pearl, Roy Merrill, and alternates Jon Huntington and Brenda Pearl.

I. ACCEPTANCE OF THE MARCH 22, 2007 MINUTES:

Roy Merrill said that Ned Lizotte read in septage amounts at the last meeting and Ned wants the details listed in the minutes. ***George Saunderson made a motion to accept the minutes as corrected; seconded by Howard Pearl. All were in favor.***

ACCEPTANCE OF MARCH 26, 2007 SITE WALK ON CLEARVIEW DRIVE MINUTES:

George Saunderson made a motion to accept the minutes as presented; seconded by Dave Powelson. All were in favor.

ACCEPTANCE OF MARCH 26, 2007 SITE WALK ON DUMP ROAD MINUTES:

Roy Merrill made a motion to accept the minutes as presented; seconded by George Saunderson. All were in favor.

ACCEPTANCE OF APRIL 24, 2007 SPECIAL MEETING MINUTES:

Howard Pearl made a motion to accept the minutes as presented; seconded by Dave Powelson. All were in favor.

II. PUBLIC HEARINGS:

Case # 07-02, Stephen Robinson – Special Exception for Reduced Setback, Map 31, Lot 18. Mr. Robinson had informed the Board that he could not be present at this meeting; however, he submitted two letters to the office with responses to matters discussed at the site walk of his property. There were no abutters present. Chairman Powelson asked if there was any discussion from the Board. Hearing none, he asked if there were any questions from the public. Hearing none, he reviewed the special exception for reduced setback as submitted by Mr. Robinson and closed the hearing with the application to be brought up under unfinished business.

Case # 07-03, Septic Disposal Solutions – Special Exception for Processing, Map 40, Lot 7.
Case # 07-05, Septic Disposal Solutions – Special Exception for Bulk Storage, Map 40, Lot 7. Howard Pearl and Brenda Pearl recused themselves from this case. Jonathan Huntington was appointed as a voting member. Brandon Giuda spoke on behalf of the applicants, Paul & Darlene Johnson and Bill Gosse. Also present were landowner David Moody, SDS employee Michael Enright, and DES representative Alexis Rastorguyeff. Chairman Powelson asked if the applicants were alright with four voting members. Mr. Giuda said they were.

Mr. Giuda reviewed the special exceptions that are being requested, noting the following: no injurious effect; would be a benefit to the town as the lagoon cannot handle the demand; having to truck out of town creates higher costs to residents when having their tank

pumped; reduce truck traffic in the solid waste facility; possibly set up an agreement with the track; zero output facility as all product comes in and goes back out; no monitoring of groundwater or air needed. Mr. Giuda said this is non-toxic product, the location is inconspicuous, and it is a state-of-the-art facility. Mr. Giuda read the following letter from the town of Pittsfield and submitted it for the record: "To Whom It May Concern: The Pittsfield Wastewater Treatment Facility started dewatering septage in April 2003 and has continued to dewater septage to date. During these four plus (4+) years the Pittsfield Wastewater Treatment Facility has NEVER received a noise or odor complaint. Sincerely, Ronald A Vien, Superintendent"

Mr. Giuda went through the different sections of Section 206 of the Zoning Ordinance. He discussed S206.4, noting that this facility meets the area coverage requirements. Referring to S206.6C, Mr. Giuda said this facility will help the surface and groundwater quality as it will take away from the effects of the lagoon. He said there will be no impact to the environment as there is no subsurface discharge. He explained the spill procedure as required by DES. Mr. Giuda referred to S206.6D, noting that this site is good for this type of project as it is shielded from the road and residential areas, is next to the town lagoon, is inside the groundwater monitoring zone of the solid waste facility, and all is under cover, enclosed, and the tanks are sealed. He said any odor or sound is contained inside the building. Mr. Giuda noted that this area is C/I zoned, shielded by buffers, and the nearest residence is more than 500' from the facility. Mr. Giuda referred to S206.6F, noting that this facility would be unlike other businesses whereas there will be no discharge of sewage. He referred to S206.6G, noting that this facility will improve the property value by adding new tax revenue with little impact to town services. He said there will be no hazardous material or chemicals at this facility. Mr. Giuda stated that the facility meets parking requirements (S500.1) and he explained the process of trucks unloading (S500.2). Referring to S501.1, Mr. Giuda stated that there will be a marker at the road and a small sign at the entrance of the facility.

Mr. Giuda said this facility will take the strain off the town lagoon and reduce the concentration of nitrates. He said there could be 8-10 trucks per day entering the facility, with some of those trucks being the owners so the net increase in traffic could be 6-8 trucks. He said there would be no impact on the natural environment other than the building itself. Mr. Giuda said DES approves, monitors, and inspects the facility. He said the tanks are secure and would also have a berm around them. Mr. Giuda said that he feels the applicants meet the special exception criteria on both applications. He said there may have been some earlier confusion in comparing this to ESML, nothing that this facility is nothing like that.

Chairman Powelson asked about a site plan. Mr. Giuda said the owner will do a major site plan with the Planning Board. He showed the area to be used for this facility, noting that there are multi uses on the property. He said other uses will be outside of the area used by SDS and the DES setbacks. George Saunderson asked to clarify that it was decided to go with a full site plan. Mr. Giuda said they were doing a full site plan, noting that the Planning Board said they could do a full site plan or a subdivision if they wanted to deal only with the five acres involving the facility. Mr. Saunderson asked to confirm that the application to Planning was not yet submitted and asked if the applicants would be averse to fencing the five acres. Mr. Giuda said they are not doing anything with the five acres. Mr. Saunderson asked if that was clearly a no, they would not do the fence. Mr. Giuda explained the Planning Board discussion. Darlene Johnson said that fencing had not come up and they would have to discuss it. Mr. Giuda said if there was some danger at the facility he could see it but does not feel there is any need. Mrs. Johnson said there is excavation still being done in the area so a fence may not be feasible. Mr. Giuda said he has advised the owner to move everything out of the area of the DES setbacks.

Roy Merrill asked if the applicants have made application to DES and if the town has a copy of the application. Mr. Rastorguyeff said SDS has submitted their application. He handed out a flow chart of how the DES permitting process works. George Saunderson asked how long

it takes to the point where the town gets an application complete letter. Mr. Rastorguyeff said that DES has a 90 day limit to either issue or deny the permit. He explained the steps involved. George Saunderson noted that local landowners may request a public hearing. Mr. Rastorguyeff said that is not a forum to try to defeat the process. He said it is to be sure nothing has been omitted or overlooked. He said as long as the application complies with the rules the law says the state must issue the permit. Mr. Saunderson asked if this is the first permit issued to private companies. Mr. Rastorguyeff said it is not, saying there are many lagoons, although less than before since many have been closed by the state, and there are other processing facilities. He said there is one in Lisbon that is similar to this one but is all out in the open and one is East Kingston. He explained the process used by those facilities. Roy Merrill asked how many acres the Lisbon facility sits on. Mr. Rastorguyeff said it is a 30-40 acre parcel and the facility sits on a small piece of the parcel and handles five million gallons a year. Mr. Merrill asked how DES determined the gallonage to be permitted. Mr. Rastorguyeff said a formula was designed many years ago when doing the groundwater discharge permit, calculating how much filtrate would absorb safely. Groundwater monitoring wells were installed. George Saunderson asked if the gallonage stands once established. Mr. Rastorguyeff said the number was established and monitored, proved to be alright so is still being used. Roy Merrill asked how gallons are calculated in this type of process. Mr. Rastorguyeff said it is based on the facility being mechanically enhanced with zero discharge and how much room there is for solids to be processed in a timely basis before being moved offsite. Mr. Merrill asked how they know what that is. Mr. Rastorguyeff said they used data from the Pittsfield Wastewater Treatment Facility. He explained the formula of the amount of solids generated by the number of gallons of septage and the number of days of composting, saying it was basic math. Jon Huntington asked the ratio of liquid and solids. Mr. Rastorguyeff said it is traditionally 3% solids but could be as low as ½% solids if a septic tank is pumped more often. He said it could be heavier if pumped less often. He said the average of 3% is used in calculations.

Roy Merrill referred to the second box of the flow chart where the DES application is now, noting that it will be known in 30 days if the application is complete. Mr. Rastorguyeff said DES only issues a letter to the municipality if the application is determined to be complete. He noted that a copy of the application has to be on file at the town offices. Mr. Merrill asked if the town has a copy. Mrs. Johnson said the town does not yet have a copy. George Saunderson noted that it could be mid-summer before being at that point if all went smoothly with the application. Mr. Rastorguyeff said it could be or it could be longer, noting that it depends on the need of information.

Dave Powelson asked if there is a groundwater discharge permit for the town lagoon. Mr. Rastorguyeff said there is a permit for the landfill and that the lagoon piggybacks on that permit. He said all groundwater monitoring is governed by the landfill's groundwater management plan. Mr. Powelson asked if the filtrate that leaves the facility would require a groundwater discharge permit. Mr. Rastorguyeff said there is no discharge at the site. He explained that the filtrate would have to be tested to go to a groundwater discharge site or it could go on lawns or used for sod irrigation. Mr. Powelson asked, if it passes the tests and is alright for irrigation, how that differs from groundwater discharge. Mr. Rastorguyeff explained that with a groundwater discharge permit they are monitoring pollutants because it is saying that what is going to be discharged is going to be some sort of a pollutant. He said if you get an exceptional quality (EQ) certification on the filtrate that means it would be as clean as possible and as it safely needs to be to be used on lawns or whatever else might have human contact but not potable. Dave Powelson asked if the compost has the same set of rules and can be placed on lawns. Mr. Rastorguyeff said as long as it meets certain criteria it can be used in public contact sites. Jon Huntington asked about the analysis of the end product. Mr. Rastorguyeff explained the analysis and said DES requirements are higher than the federal standards. He explained that the nutrient value varies based on the septage being processed.

Roy Merrill asked to clarify that the compost can go on lawns after being heated for fifteen days. Mr. Rastorguyeff said that was correct. He said after tests are done and it has been demonstrated that the process has done what it is supposed to do, they would have EQ certification. Jon Huntington asked if there was a demand for the material. Paul Johnson said they have people 'knocking at the door' for it. George Saunderson asked if it is kept longer if it does not meet the required standard. Mr. Rastorguyeff explained that that is part of the applicant's management plan. He said they have to show what the process would be in such an instance. He said the process commonly would be to reincorporate that batch into a fresh batch, a little at a time, until that particular compost windrow is used up through the process again. Roy Merrill said that would require more storage area. Mr. Rastorguyeff said it could mean that or the compost could go offsite, giving it to someone who is permitted to land apply, landfill, or further process the material. Mr. Merrill asked to clarify that there is a roof over the compost area but it is not enclosed. Paul Johnson said it is a covered area. Dave Powelson asked if there are two structures. Bill Gosse showed the plan, explaining that there is a 4800 SF wood structure with overhead doors for the processing facility and there is a commercial poly structure over the compost area. He said there will be two levels of 2' x 2' x 4' blocks with the tent structure. He explained that it is possible to enclose the ends of the tent structure but it heats up too much in high temperature weather so would be left open at those times. Jon Huntington asked the moisture content of the solids. Bill Gosse said it would be very dehydrated when the process is completed. He said there would be very little leachate and the area has been designed for that.

Roy Merrill asked how far this site is from the Filmore property. Darlene Johnson showed the location of the Filmore property on the site plan. Mr. Merrill asked how far the facility would be from the boundary. Dave Moody said it would be a couple hundred feet. Roy Merrill discussed the zoning of the property around this parcel, noting that the Filmore piece and a town parcel are not commercial. It was clarified that the Filmore property is commercially zoned. George Saunderson noted that the compost area is not completely enclosed and he asked if there would be a smell when the solids were dumped there. Bill Gosse said there is a musty odor where the solids are dumped at the Pittsfield facility, noting that that the solids there are dumped outside and are uncovered. He explained the differences in the facilities, noting that there will be pre-treatment of the solids, wood chips will be put down before it is dumped, and the product will instantly be mixed with material to begin the compost process. Dave Powelson asked if there is a way to define an odor since the discussion is at a point of mentioning odors. Brandon Giuda said they could define odor by the lagoons compared to no odor from this process because of treatment. He said the Board has been given a letter from the town of Pittsfield stating that there have been no odor complaints on the facility there. Roy Merrill submitted a letter that he got from an abutter to the Pittsfield Wastewater Treatment Facility. Mr. Merrill said the abutter notices offensive odors when the trucks are unloading at the Pittsfield facility. Mr. Giuda said no complaints have been filed and he has a problem with a letter being presented at the last minute. Dave Powelson asked if they can define an odor. Mr. Rastorguyeff said there is of course some odor since it is human waste that is being processed. He said odor is one of the hardest things to control and regulate, explaining that DES has to regulate nuisances. He said how it is controlled is to be managed to minimize nuisances to the greatest reasonable extent. He explained that is why setbacks are required and that this operation would be enclosed in a building so would be less likely to be offensive. Roy Merrill pointed out that the ordinance says that there cannot be an odor or the Board cannot allow it in the town. Mr. Rastorguyeff said that is up to the town to decide how they apply their own regulations, noting that he has the state rules to go by and enforce. Dave Powelson said that the state rules apparently deal with odor nuisances as well and he was hoping there was a way to define whether or not there is a nuisance odor. Mr. Rastorguyeff said there is a specific procedure in the rules used to handle any complaints. He explained that in the event that a complaint is lodged with DES or the operator, the operator is given the opportunity to correct the

problem. He said if it is something that happens one time that is to be expected. He said if it is continuous, DES would direct the operator to institute some sort of control measures to reduce the problem.

George Saunderson said this could be a great proposal and he feels the Board has been clear about taking the process slowly and methodically. He said the project does not have the Planning Board or DES on board yet. Brandon Giuda said the applicants are asking for special exceptions contingent on the approval of the Planning Board and DES. He said he feels the letter of complaint should have been presented ahead of time. Roy Merrill said Mr. Giuda should have put the letter from the town in earlier. Mr. Giuda stated that the town's letter was just received earlier in the day and is from town officials. He said his point was that he feels that a board member going to an abutter and asking them for a letter of complaint shows a bias. For a town to say that there have been no complaints is utterly proper. Mr. Giuda said the ZBA process should not take months. He said it is for a special exception yet the talk is of odors that may occur in an enclosed building in a very controlled facility with an open lagoon with raw septage a few hundred yards away. George Saunderson said the Board is processing this slowly and making sure they have as much information as possible. He said the application for storage tanks is a given if the Board goes with the first application. He said if the applicant pushes for a decision tonight, they will be disappointed. Mr. Giuda asked what more information they could want. Dave Powelson said they could define odor.

Roy Merrill said the Board asked to see the DES application but they still do not have it. Mr. Giuda said the application was just submitted to DES. George Saunderson said that special exceptions frequently come with conditions. He said the Board may take some time to decide what might be appropriate, saying this is a long term deal and they are not rushing. Brandon Giuda asked the Board to look at the special exceptions and see if they meet the criteria. Mr. Giuda said, in reference to Mr. Saunderson's comment of this taking a long time, that this is a public hearing tonight and they have to progress in discussion. Dave Powelson asked if the applicant has an issue with it being understood that they would be shut down because of odors on abutting properties. Mr. Giuda said that the applicants have done everything in their power to make this a state-of-the-art facility, noting there have been no complaints in Pittsfield which is a more rustic facility. Mr. Rastorguyeff said Pittsfield is the only other facility that is like this in some sort of a building, the other facilities are all outside and uncovered. Mr. Giuda said it has to be monitored and there is a procedure for that. He said the application process cannot go on for months if it is not getting somewhere. Roy Merrill said the applicants wanted this on a thirty acre parcel and there is already another business on the parcel that needs to apply for a special exception. He said they were told there was a complete site plan for the parcel on file and it is not complete. He said it was learned at the last Planning Board meeting that there is a septage tanker on the parcel but it is not on the plan. Darlene Johnson said the tanker is on Mr. Moody's site plan and it is storage only. Mr. Giuda pointed out that the other businesses on the parcel are storage. Mr. Merrill said that the saw mill is not permitted. Mr. Giuda said if it is not permitted, it should be taken care of by code enforcement, but it has nothing to do with the application at hand. Mr. Merrill said there was a cease and desist order on the property at one point. Mrs. Johnson said it has since been addressed and has a site plan accepted by the Planning Board. Mr. Giuda said he would like direction from the Board. Mr. Merrill asked how the Board could permit another special exception when there is not one for the saw mill. Mr. Giuda said that is not relative to the application.

Chairman Powelson asked if there were any abutters who would like to speak in favor of the application. Hearing none, he asked if there were any abutters who would like to speak against the application. There were none. He asked if there were any questions from the public. Roger Maxfield asked who tests the solids. Mr. Rastorguyeff said the operator would work with a state approved lab to do the tests. He explained the sampling process. Roy Merrill asked who oversees that. Mr. Rastorguyeff said that DES reviews the process and results. Mr. Merrill asked if anybody actually oversees the sampling. Mr. Rastorguyeff said there is a chain

of custody used from start to end of the process. He said there has to be some trust, noting that there are checks and balances and enough oversight to ensure that it has been done correctly. He said there are spot inspections and there are ways to tell if samples are 'fudged'. George Saunderson asked if the compost would be stored at this facility if the composting process needed more time. Bill Gosse explained that the design allows for longer treatment and there is sufficient room to reincorporate the compost if need be.

Dave Powelson asked if the tanks will be vented. Paul Johnson said there could be charcoal or bio filters. Darlene Johnson said they plan to put filters on the tanks. Mr. Rastorguyeff said filters are not required by DES but are standard technology that can be used. He said it is a matter of how much odor is being emitted and how far the facility is from a property line, noting that is the purpose of the DES setbacks. Mr. Powelson asked again about defining odors. Mr. Rastorguyeff said it would be characterizing odors. Mr. Powelson asked about the composting process generating odors. Mr. Rastorguyeff explained the process of composting and the breakdown of matter. George Saunderson asked about putting a charcoal filter in the composting tent. Mr. Rastorguyeff said an enclosed building that would have negative pressure in it and run through a filter could be designed but it would be extensive. He said it is a matter of being reasonable, and if the odor was not going to be noxious or offensive to the vast majority of the population and there are already some setbacks in place, and with the amount of odor, the volume of gas to be released being relatively low, there should be enough natural controls in the process to prevent nuisances. He said they are not supposed to prevent *any* discharge into the atmosphere to prevent nuisances. He said one person's definition of odor is another's nothing. He said there is no way to predict one's reaction as everyone is different. Mr. Powelson said the Board is defining odors in the building, in the plant, and on abutting properties or at the edge of setbacks. He asked where the boundary for the next lot is that they would be trying to define odor at. Mr. Giuda said it was at the edge of the thirty acres. Roy Merrill said it is 200' as heard earlier. Mr. Rastorguyeff said it is up to DES and if there is an odor complaint, it does not matter how far away it is. He said the closest property would be the town's transfer station which has its own odors.

Dennis Moore said he supports the project. He asked how far the lagoons are from the proposed site. Darlene Johnson said they are about 1000' away. Mr. Moore said it sounds like this facility will be controlled more than the lagoon. George Saunderson said that the facility will be receiving six times the sewage of the lagoon. Mrs. Johnson said the difference would be that what would come into the facility would be treated with lime and ferric chloride, not raw as is dumped into the lagoon. Bill Gosse said he has worked for five years on the rules with the state. He said probably one of the biggest issues has been trying to define odor. Mr. Gosse said that a huge amount of research has been done by SDS and said until given the opportunity to try their formula nobody will know the results. Dave Powelson said if the applicants are given a chance and it does not work, the Board wants a way to stop them. Mr. Gosse said there are provisions for such matters and would like the opportunity to work with the town, DES and other experts to allow the process to prove itself. Roy Merrill asked what would be done if there's an odor and they can't correct it. Mr. Rastorguyeff said a facility would not be shut down with the first complaint. He explained the order of precedence that DES goes through. He said if the operator has done everything they can do to minimize or reduce the nuisance and it has not worked, then they would be shut down. He said there is no recipe for determining how to deal with odors and it is something that has to be done on a case by case basis. He said it is in statute that DES has to prevent nuisances. Mr. Rastorguyeff said if it is a nuisance for an abutter, DES has to prevent it, and if all efforts to correct the nuisance fail, then DES has no option but to shut the facility down. Mr. Merrill said he doubted that a facility would be closed due to a complaint from one abutter. Mr. Rastorguyeff said if an abutter could medically show that the facility was the cause of their illness, the facility would be closed. It was asked if that has ever happened. Mr. Rastorguyeff said it has not.

Chairman Powelson noted the odor of the Concord treatment plant that has been running for approximately 25 years. Brandon Giuda asked Mr. Rastorguyeff if he anticipates an odor problem with this facility using this technology. Mr. Rastorguyeff said he does not, with the historical experience at the Pittsfield facility and with the design of this facility which is substantially more advanced than the one in Pittsfield where they have had no problem, the chance of odors is greatly reduced with the Loudon facility. He explained that the ferric chloride is used to prevent the solids from releasing odorous compounds. Roy Merrill said one of the closest neighbors to Pittsfield's facility has a problem with the odor there and he has no reason to lie. Mr. Rastorguyeff said he has been at the Pittsfield facility several times and has never had an offensive odor. Mr. Merrill said that the abutter he spoke with said there is an odor during the hot summer months when trucks are unloading. Mr. Rastorguyeff noted that the applicants have said the dewatering will be done inside and the trucks will be offloading inside as well whereas in Pittsfield the trucks offload outside and gases are vented from the tanks when doing so. Mr. Merrill asked if filters are used in Pittsfield. Darlene Johnson said they are not. Mr. Rastorguyeff said if it was found to be an odor in the building, they could run all of the venting through a bio-filter. He noted that the overall design and treatment avoids odors. Mr. Giuda asked if anyone on the Board had a problem with the odor when visiting the Pittsfield facility. None did. Roy Merrill said he could smell it today when driving down the road. He said the abutter said the hot months are unbearable and notices the odor during the operating hours. Bill Gosse cautioned the Board on judging the applicants based on that information. He reminded the Board that SDS manages the receiving only in Pittsfield, not the compost or water areas. He said SDS has talked with people in the area and have not found any problems. Mr. Gosse said they showed the Board the full operation in Pittsfield and had cautioned them at the time to keep in mind that SDS does not manage the full operation.

Roy Merrill said he questioned the abutter when the odor is most noticeable. He said he was told it is when the man sees trucks heading into the plant between 9:30 and 2:30. Mr. Merrill said if it was the solids causing the odor he feels it would be seven days a week. He said the abutter said there are no odors other than during the operating hours. Bill Gosse advised Mr. Merrill to have the abutter register a complaint. He said the odor could come from when the plant turns the compost pile with a loader during the day. Darlene Johnson reminded the Board that this facility has been designed for trucks to offload inside the building. Brandon Giuda said the Board seems to be moving toward putting conditions on the approval. He said if it is felt that odors can be dealt with by using filters, then they should require that as a condition. Dave Powelson said he was thinking more in the line of the town shutting them down if there is a complaint. George Saunderson said filters are a good way to go, along with a procedure to fix the problem. He said he would like to see the space around the facility clearly denoted, making it clear and simple. He said what the Planning Board accepts is fine and he feels they are making progress. Mr. Giuda said they have moved things from the area and what the Planning Board comes up with will be fairly comprehensive as far as delineating where these uses are. Mr. Giuda said the applicants have to get through the special exception in order to move on to the Planning Board or to move on in some fashion. Mr. Saunderson said that was not the case. He said the Planning Board can do their own conditioning but the ZBA is talking about a use.

Brandon Giuda said if the applicants do not get the special exceptions, they do not go on. He said they would like the special exceptions, contingent upon Planning Board approval and DES approval with a management plan. He said if there were complaints, they would have to be given a due process to correct the problem. He noted that the application process does not have to be complex and take months. Jon Huntington asked if there have been any complaints of the town's open lagoon smelling. Harold MacLauchlan stated that his home is in line with the lagoon and he has smelled it a few times but there was something worse north of his house. He said there are procedures in place to deal with such things.

Dave Powelson reviewed a list of notes he made from the applicant's testimony. He said he noted that they asserted that the facility is designed for 30,000 gallons a day; will meet

the town's compliance with 485-A:5-b; will designate a five acre footprint. Darlene Johnson said that last month the Planning Board asked them to delineate five acres and this month the Planning Board agreed to a full site plan rather than a subdivision of the five acres. Mr. Powelson continued, saying the applicants told the Board there would be a 4800 SF building and a 4000 SF composting tent. He said anything the Board does would be contingent of no offensive odors on abutting properties and the operation would stop until addressed. Paul Johnson said in order to adjust a problem they would have to be able to operate and find the problem. He said they could get DES to help deal with it and give SDS time to correct. George Saunderson said that was a good point, if they are shut down they can't figure out the problem. Mr. Powelson said the decision would be contingent upon DES approval and site plan approval with the Planning Board. Bill Gosse asked to address odors on abutting property, noting that the DES 1600 rules state 'occupied' properties. Brandon Giuda pointed out that town statutes say any abutting properties. He said he would not expect that the facility would be shut down with no investigation.

Roger Maxfield said the lagoon is a lot different than what is being proposed, especially when trucks are dumping into it and it gets stirred up. He said there have been a couple of complaints from properties west of Route 106 near the lagoon. Mr. Maxfield said there is bound to be an odor from an open septage lagoon and when there is, they put more lime on it. Jon Huntington said this facility is a necessary evil, is good for the town and a good location because it is not near too many homes. He said the town cannot rely on the state to provide disposal solutions. Roger Maxfield stated that there are eight test wells for the landfill and they are tested semi-annually. Paul Johnson said he lives in town and would not want to smell it either, noting that he does not want the Concord smell in town. He said they are not out to destroy the town and he feels the town would realize far more benefit than harm. Roy Merrill said the Board needs to see if DES has a completed application or if they want more information. Dave Powelson said the approval would be contingent on DES approval. Mr. Merrill said the Board does not know what DES has asked for. He asked if DES would make their decision by the next ZBA meeting. Mr. Rastorguyeff said within the next three weeks he will indicate to SDS if the application is complete or not, and if not complete, what SDS needs to do to complete the application. He said a copy of the application has to be on file with the town. He explained the process used in reviewing the DES application. DES has to have notice from ten landowners to hold a public hearing. He said written comment is always accepted but no public hearing is held in that kind of public forum.

Brandon Giuda stated that the special exception process can be done based upon receiving a completed application and DES approval. He said the Board could make it contingent since the applicant cannot do anything with the special exception unless the DES application is approved. He said delaying this application a month does not do anything to gain further information for the ZBA. George Saunderson said another month would allow the Board to put in any safeguards they feel necessary. He said he is convinced this is a good process but the town needs to be careful. Dave Powelson said once this is approved nobody else in town really has a chance to approve or deny. Mr. Giuda pointed out that no abutters have opposed this application, delaying drives up the costs, the application has been before the Board for two months, and there has been pretty comprehensive discussion of the applications and facility.

Roy Merrill asked if monitoring wells will be installed at this facility. Mr. Rastorguyeff said none per se like the lagoon as it is a zero discharge facility. He said there would be containment and leak detection for the underground tanks. Mr. Merrill said zoning could require them. Mr. Rastorguyeff said, based on DES rules, there is no need or requirement for them as the facility is designed as a zero discharge facility. Dave Powelson asked if the application for tanks specify that there is leak detection system. Darlene Johnson said it does not because they are proposing sealed tanks as used for cisterns and as they have discussed in meetings with DES. She said if DES requires them to install leak detection systems then they would have

to do that. Roy Merrill said it would be nice to know what was being presented to DES. Mrs. Johnson said it was felt that a completed application would be more advantageous to the ZBA than. Mr. Merrill said it would be beneficial to receive the DES application before the next ZBA meeting. It was agreed that the ZBA would have the DES application for review.

Brandon Giuda asked if the town requires the same thing when gas stations come in. Mr. Merrill said a gas station does not have to come to ZBA for a special exception for storage tanks because it is a permitted use. There was discussion of the town's tank requirements. Mr. Giuda said this is non-hazardous and if there are leaks there is less impact than that of the lagoon. He urged the Board to look at reasonable concerns, asked to move forward, and agreed that the applicants would provide a copy of the DES application for review before the next meeting. George Saunderson said he was with Mr. Giuda in his suggestions but cannot promise that the next meeting will be the final. Bill Gosse said they are working with DES on the application and they still have some pieces to finish. He reported that their engineer is on vacation and has a plan to draw upon her return. He said SDS would provide copies, noting that it is a very comprehensive document, and he explained the application process. Alex Rastorguyeff said the application is considered to be submitted and he has thirty days to respond. Mr. Gosse explained that they did not submit a copy of the DES application to the town as they wanted to have it complete before doing so. He asked if there was anything specific to tanks that the Board wanted. Dave Powelson said he would like information on spill control, detection, and sizes. Roy Merrill asked what the tanks are made of. Mr. Gosse said the underground tanks will be concrete and the aboveground tanks will be steel. Mr. Merrill asked if the concrete tanks would be like a water cistern. Mr. Gosse said they would be and they are sealed. Paul Johnson said the tanks are epoxied inside and out. Mr. Gosse explained that the tanks are 10,000 gallon configurations and can be made to what size is needed. Mr. Merrill asked if there would be six 10,000 gallon tanks. Mr. Gosse he was not going to guess at the numbers but they are on the plans. Mr. Merrill said he thought they were talking 60,000 gallons. Mr. Gosse said whatever is in the ground are concrete and delivered in 10,000 gallon sections and plumbed together. He said they would have 60,000 aboveground and he thought it was 40,000 inground but asked that the Board let SDS get them the plan and DES application for exact figures. Mr. Merrill said he thought it was 60,000 gallons of storage but it now sounds like 100,000. Mr. Gosse said the DES application would clarify all questions on the tanks.

George Saunderson made a motion to continue this hearing to May 24, 2007 at 7:30pm at the Community Building; seconded by Roy Merrill. All were in favor. There will be no further notification.

Howard Pearl and Brenda Pearl returned to the Board. Jon Huntington will remain a voting member for the balance of the meeting.

Case # 07-04, Malcolm & Julie Thompson – Special Exception for Reduced Setback, Map 44, Lot 16. Abutters have been notified; there were no abutters present. Mr. Thompson explained that he would like to construct a new garage within the side setback of his property and described the location of the property. Chairman Powelson asked Mr. Thompson to go through the points of the application. After Mr. Thompson read through the points of the application and his responses, the chairman asked if there were any questions from the Board. Jon Huntington asked about the distance between the house and proposed garage. Mr. Thompson said it would be 10' between the house and garage. Chairman Powelson said the Board has been in the habit of doing a site walk for such requests and asked the Board if they felt they should do a site review of this property. George Saunderson said the project looks good on the surface but feels they should look at it. Chairman Powelson asked Board members and Mr. Thompson if Saturday at 9am would work. It was agreed to do a site walk at Mr. Thompson's property on Saturday, April 28, 2007 at 9am. ***Howard Pearl made a motion to continue this hearing to***

May 24, 2007 at 7:30pm at the Community Building; seconded by George Saunderson. All were in favor. There will be no further notification.

III. UNFINISHED BUSINESS

Case # 07-02, Stephen Robinson – Special Exception for Reduced Setback, Map 31, Lot 18. Chairman Powelson addressed the letters received from the applicant. Howard Pearl said he was not able to make the site walk and asked if others felt that everything is in order with the request. The chairman asked if the Board was satisfied with the sixteen points of the application. Howard Pearl said if the issue with the propane tank was addressed and everyone was alright with the site walk then he was satisfied. **George Saunderson made a motion to approve the application; seconded by Howard Pearl.** There was no further discussion. **A roll vote was taken: Jon Huntington – Yes; Howard Pearl – Yes; Dave Powelson – Yes; George Saunderson – Yes; Roy Merrill – Yes. Unanimous-PASSED**

IV. APPEAL OF AN ADMINISTRATIVE DECISION

Michael Harris – Chairman Powelson stated that Mr. Harris filed for an appeal of an administrative decision based on a fine issued by code enforcement. Mr. Harris was notified after the March meeting that abutters must be notified of the hearing on the appeal. There has been no word from Mr. Harris since that letter was sent. The chairman read from RSA 676:7 IV, relative to the cost of notice. The RSA states that “failure to pay such costs shall constitute valid grounds for the board to terminate further consideration and to deny the appeal without public hearing.” **Howard Pearl made a motion to deny the appeal on the basis of RSA 676:7 IV as read by the chairman; seconded by George Saunderson.** There was no further discussion. **A roll vote was taken: Jon Huntington – Yes; Howard Pearl – Yes; Dave Powelson – Yes; George Saunderson – Yes; Roy Merrill – Yes. Unanimous-APPEAL DENIED**

V. DISCUSSION:

Chairman Powelson said there was another appeal of an administrative decision that had come in to the office. It was a similar situation where the resident had applied for a personal building permit but would be selling the house and was assessed a fine. The applicant was issued a notice by Chief Fiske, went to the selectmen, and then to ZBA; however, the appeal was filed 49 days from the date of decision, therefore did not meet the 45 day rule.

There was discussion of the Rules of Procedure to be established by the Board. It was suggested that the rule adopted in December about the 45 day limit for appealing an administrative decision be added to section 5 (Applications) as (d). Brenda Pearl noted that some of the Rules of Procedure were removed from the Zoning Ordinance in March but she feels that some of what was left in the Ordinance also belongs in the Rules. Donna will create a draft of the Rules and get it to Board members for review.

Chairman Powelson said it would be good if Board members got copies of Planning Board minutes and he asked that the minutes be emailed to members.

VII. ADJOURNMENT:

Howard Pearl made a motion to adjourn the meeting at 10:00pm, seconded by George Saunderson. All were in favor.

Respectfully submitted,

Donna White, Secretary