

**LISBON ZONING BOARD OF APPEALS**

**46 SCHOOL STREET**

**LISBON, NH 03585**

**MEETING MAY 20<sup>TH</sup>, 2015**

Present: Robert Clark (RC) Scott Champagne (SC) Jennifer Trelfa (JT) Stanley Sudol (SS)

and Sklyar Boutin (SB)

Secretary: Suze Tavernier

**REHEARING REQUEST REVIEW:**

RC We are here tonight for a meeting on the, can't even come up with the right word here

SC Rehearing

RC Rehearing, there we go, on an application for rehearing from the Ammonoosuc, want to get this right, Protectors of the Ammonoosuc Corridor and it is a meeting it is not a hearing so, being a meeting it is public but the only conversation is going to be right here, you can listen whatever but there won't be any dialog from the audience to us. So what we are here for is the two parts of the rehearing are article 5.09 for the height of the stack and article 5.07.3 for the excess of 500 gallons of volatile fuel storage. I do have a letter here from our attorney which is basically, in the, I am sure most of you people don't have this, this is the request for the rehearing and one of the article in it was there was an abutter that was not served with a certified letter and from our attorney I will read this for everybody. You have asked for our guidance for rehearing recently filed by various individuals identifying themselves as Protectors of the Ammonoosuc River Corridor. Specifically you have asked us to review the notice issue raised by PARC and its request for rehearing. This is alleged that abutters to the lot three were not notified of the variance hearing and it is my understanding that this allegations is factually accurate, however we do not believe that this lack of notice creates a defect in the relief that was granted a variance to the structure that exceed the 35 foot limit and special exception to that allows storage of fuel on site both of these activities 'were solely on lot four they will not occur on lot three nor is there any activity on lot three which relates to the zoning relief that was granted therefore we see no legal reason why abutters on lot three were required to be notified for this zoning board proceedings and that's from Walter Mitchell from the Mitchell Municipal Group so that explains our position on as far as, on that particular reference to RSA of 676.7 Now basically what we want to do is go over, everybody has a copy of the for the rehearing application. We can, I think what we need to do is, the only new evidence that could see through this was basically that part of the not getting the abutters, Michael and Christina Shores a certified and the way it looks, we did right, we're ok. Basically now what we've got to do is just go over the whole three meetings and decide whether are happy with what we have done or if there is any questions that we might raise amongst ourselves, talk them over and then when everything is exhausted as far as anything we have questions on amongst ourselves or whatever then we will, I stand

a motion to have a vote. So it's a matter of I think we can start and anybody that has anything particular as far as questions or statements

SC Well let me, I'll start so my understanding of this is and from the attorney, his opinion of it on R18 0004 which is where all the equipment and everything will be, there is nobody in particular list that is a true abutter according to the RSA's in New Hampshire

RC True I would say yes, even though there is no abutters we still are required to because of the aggrieved statement in the RSA's that we you know that we

SC It could be aggrieved

RC Right

SC And they have to show why they are aggrieved

RC You got me on that one, I don't know

SC That's the way I read it, they have to show why they are aggrieved. That's just my opinion that what it comes out, what it says

JT So we don't have to worry about the bit it says about the abutters for R18 3 didn't get notified because we are not considering anything in lot 3

RC Right that is correct

JT The whole plant is on 4

RC That's correct. So I think I don't, I understand what you are saying Scott and well I think some of these like the Salter's the site of the subject property, I guess these are some of the reason that they are aggrieved

SC Yeah, says they are within sight of the property

RC Right, then a 58 foot building would harm the scenic nature of the area thus their business and the value on their property. And let's see

SC I don't think they can see the property from there

RC Pardon

SC unless they are on top of the barn

RC No true, true, but if I understand it correctly I think we still got to go through this procedure, I understand where you're coming from

SC Oh I don't disagree with that I just saying

RC Right, so I think

SC The other thing we have to look for is any new information about it

RC Right and the only thing that I could see was, I guess you could call it new information but the question of the notice to all abutters and I think that's been taken care of because it is, this is solely on lot 4 there is no, in their motion on the rehearing they are talking about lot 3 and it's actually lot 4 is the one that has the whole plant and the tower, the oil tanks

SC so it's factually incorrect then, it that what you are saying

RC Right, right and I think what we

JT so do we need to just start going down through it

RC Well I think we go through, the new evidence and then basically we can do the variance which is the , we're doing both the variance and the special exception . We can start with the variance which is to do with the tower, or the smoke stack basically, that's the 58 feet

SC this is the confusing me then, because this is saying the height of the asphalt plant that's on their application. So are we talking about the stack or the plant, because what they have down is the variance for the height of the asphalt plant and it's supposed to be for the stack, that's what we gave the variance for

RC Yes, that's true, well I guess I would have to go and get the

JT You want the box

RC I don't know because the applicant

JT I thought it was the stack that was up to 58 foot, not the plant

SC That's correct and on this rehearing thing, their saying it's the asphalt plant, so we didn't even agree to the asphalt plant, because that was going to pollute

RC Where did you get this?

SC The first page, their saying the reason for the hearing it encompasses three different meetings, which we did have three long meetings to consider the application for special exception for the asphalt plant, a variance for the height of the asphalt plant, which is stack and a special exception for the asphalt plant fuel tanks, which is correct we did have a special exception for the fuel tanks

RC I would have to say probably that the stack I guess is part of the structure in other words it's a

JT It's connected

RC Pardon me

JT It's connected

RC I do notice, where did I see, where did I see

SC but to me that could be considered confusing because they are separate things we did the variance for the height of stack, not of the height of the plant

RC Yeah,

SC Well if we are trying to factual

RC no, no right I understand

SC Have they seen all the plans, have you guys seen the plans?

SB I have

SC Skylar you have seen them

RC I mean the article maximum height of any building shall not exceed 35 feet in all districts. I would say that's it does say building and basically the stack I guess is what is in contention in respect to, because of the height of it and that the, sorry it's hear somewhere

SC Well I'm just wondering, if they were confused and they thought the whole plant was going to be 58 feet up in the air

RC That's true, that's true too

SC Because that's the way it reads

RC I see what you are saying

SC You see what I am saying, now if the whole thing was 58 feet up in the air, yeah that could be by quite a ways

SS Could the plant be, I don't know if it can be redefined at this point, up to where the stack begins, so define what the plant is there is no ambiguity. I know that's not, published agreed upon that should be added

SC We can't add it, we can't add to their motion

JT I mean we were informed it was the stack

SC That is correct

RC I would say that is a bone of contention like you are saying, it says the asphalt plant of the 35 of the above 35 feet, basically it is the stack that is the bone of contention, that's the part that we had to approve, was the 58 feet height and I'm trying to, we don't have a copy of the application here do we? I can go

RC Left room to get box with all documents

RC no new information just going over...

RC looking through box

RC looking over application

RC Alright that's for special exception, variance. Well this doesn't really help me either , I thought this might help but I guess maybe it's not going to, I was just wondering how it was written in here, as far as how it was stated , but I don't see

JT application for the variance was for the stack

RC that's what I am trying

SC might be referred to as something different

RC that's what I am to find out here but I don't see that it says

JT It was my understanding it was the stack

RC Yeah,

SC (Showing picture of plant), see there is a tower, and there is a stack. This is the one that has to be up

RC 58 feet

SC Correct, there's two different things. So the plant and the stack

SS OK so what is it connected down below or something ?

RC Yeah, all it says here, all it does say in here

SS It's an optical illusion almost looks like they are almost equal

RC and they very well could be, depending on the location, the location where we are now is down

SS are we talking about distance of 23 feet

RC that's correct

SS and that has to be part of the design

RC DES they

SS Oh I see

RC they're the ones that issue the permits, to meet their requirements it had to be it has to be 58 feet tall, the stack does

SS So it's appearance..

JT left room to get water for SS

RC So I think basically what you are saying Scott I, I understand what you are saying, it a matter, it is not height of the structure its self it looks like it's all connected yet, this isn't 58 feet tall

SC That's correct

RC Its this piece here, don't know if you can see this Skylar, this is what they are talking about, this is what has to be 58 feet

SB Right (reviewing picture of plant)

RC In the air, not this and basically what they are saying

SC but we've been hammered and hammered of how inaccurate we are so just pointing that out so you guys are aware of it

RC Right

SC so you don't get stuck on it or you don't get hammered for it for not being correct

RC yeah, the ways it's written down here is does it doesn't specify one way or the other on the application but , the application isn't required to it just says , 58

SC and it should be noted those applications were part of something we just started a couple of years ago because we were having so many problems, things have to be updated we're trying to get forms updated first

SB OK

SC Because that's something the Selectmen can approve and start using those where we hadn't had those in the past, accept the last two years

RC So as far as the variance is concerned, you know the height of the plant, that's what their contention is and it's really not the plant itself it is

SS the appearance

RC The actual, the height of the stack

JT which is different

RC yeah , the plant isn't going to be anywhere near as big, You can see the difference when you look (pointing out on picture) if that was going to be 58 feet up in the air, compared to that, there is a considerable difference

SC And without the plant the stack produce any smoke

RC That's right

SC But one of their contentions is that will devalue property, one of them here (reading application for rehearing) they state that but they have other things as well, oh all petitioners will be harm from pollutants from the potential fuel based fire well if there was actually a fuel based fire, which that's why we denied the original things so, this right here doesn't exist without the plant, which was denied

RC True

SC So they are basing the stack is going to pollute on its own, as part of their bases their asking for a rehearing

RC Which

JT without the plant, there's nothing, no tanks, no stack

RC No

SC Correct , I mean he can still have the tanks if they're doing any type of crushing or anything like that in there, or something like that

RC as far as the Armstrong's with the river front opposing the fuel tank locations, I understand you know, I understand their concerns but EPA and DES basically, like we said in our hearings they're the ones that set the standards it's not something that we do or that Mr. Towle does or Mr. Presby it's the Federal Government comes in says if this is going to hold ten thousand gallons you have to containment that will hold ten thousand gallons

JT Didn't they say it's double, has to hold more than the actual

RC Yes, that's correct

SC More than the actual tank and those tanks can only be filled up to 80%

RC Right, they can't be filled

SC Because of expansion and those things. The same thing, that's like saying anything that is built in Littleton we can say, we down river from it, I mean

RC I understand

SC If you want to take that logic, which again doesn't make us abutters and we have fuel tanks that are right on the river, a lot closer than these are going to be, gas station in town is closer than that, the school is closer than that, we just put in, just got rid of a ten thousand gallon tank and put in a six thousand gallon tank in, every business has one well, DCI has one, wire mill has one

RC Two big ones buried underground but there again

SC I'd rather have them above ground than below ground, you can at least see them

RC True you can see whether you got a leak

SC I mean now, at the school we had to switch over, because you had to have double wall on everything including the piping going in and you have to have certain sensors on, but is there sensors that say the sensors go bad, I don't know

RC I think the wire mill had to do the same thing

SC right

JT he said his had to be double walled and had to have containment

SC yes, everything has to be double walled, and lines going in have to be certain specifications

RC Yes, and god forbid you take a tractor trailer coming down 302 and doesn't make the corner by Sklyar's folks house, I don't know but most of them hold 8 to 10 thousand gallons of whether gasoline, heating fuel, diesel fuel, chemicals whatever, there again EPA and all these people are going to be the ones that will come clean it up, not that we want a clean-up because we don't want any of these accidents at all

JT that's why have containments in place

RC Right, and if there was an actual fire in anyone of these you would have to have some sort of a leak to basically have a fire

SS suppression system?

RC Why I don't know to be honest with you I don't know, did Larry ever say they had anything for suppression system per say on the plant, or if was required? I don't remember anyone ever asking that question whether it be the public or us, to be honest with you. I know the public asked if we

SC I don't recall I know we checked with our fire department and stuff

JT It was

SS to get a permit you probably have to meet those requirements

SC Yes, if there was a requirement they would have to meet it

JT We checked with our fire department to see if capable of putting it out

RC yes, because they have the triple f foam and they can

SS like the Irving station, you can see all the pipes they have, suppression system in place

RC correct, most of that is all dry chemical, but there again you don't want the river to be polluted in any way shape or manner now that we have it cleaned up from what it used to be like back when I was a kid you, well I guess I won't go into specifics I guess but it's a lot different then, than it is now, we off the variance a little bit. I think we basically as far as the height of the stack if it was the whole building think it would have been probably our decisions , I say probably I don't know I can't speak for everybody else, but I guess I would have some second thoughts if the whole building, if the whole thing was 58 feet

SB Yeah 58 feet

RC but the stack and

SS How tall is the building?

RC the building itself, I don't know, I don't know is there any

SC there is paperwork on it; there was some paperwork on it

(RC looked over paperwork)

SS could it be camouflaged? They camouflage these cell towers, they look like trees I've been fooled several times, I think it's a tree and it's a cell tower. I mean could the stack be decorated or

RC yeah

SS Made to look like a big pine tree

SC and that's exactly what's in that area

SS So it would blend in

SC Bern in the front part is pretty good, it's right, fairly close to that

SS so it would blend in with the other tree tops

SC correct

(RC continued to look through paper work)

RC From 302 which is one of the things in here reading through it one of the contentions was we have a scenic highway on 117 and route 302 and there is a slight possibility of being able to see it from 117 but you won't see it from 302

SS So it will be set back far enough

SC We also asked that more vegetation be put on that particular side of 117

RC More or less, 302 you won't be able to see it

SB You won't see it from my house

RC Basically 302 up through there, there is enough foliage different times, we were up there in the, winter, no leaves

SS different in the winter

JT won't be running in the winter

RC Right , won't be anything coming out of the stack, won't be any steam or whatever that comes out of it is something that would be obvious like it could very well be in the summer time would be quite a bit different

JT that makes it immaterial because there will be nothing come out of it anyway

RC that's true, until if and when if ever there is a plant, then there will be something coming out of it but for the time being there is nothing coming out of it and there won't be so yes, like Stan was saying, I'm sure that if there was ever a situation where the plant was voted in or anything I'm sure we could put stipulations to that if there was something we could do, if this is up so that it can be seen it can be like you say camouflaged or whatever, that would be something to look into

SS Yes

RC Something to look into, no absolute guarantee on any of it but something to look into, because like you say they make cell towers, and cell towers are way taller than that. Let's see as far as being harmed by the pollutants stuff from potential fuel based fire again,

SC that didn't pass

RC Right, so it's a matter of I don't know the, as far as the site of the plant, I mean I guess the, there again if it was a 58 foot building altogether totally different but it's not it's

SS It's a stack, is it just a plain stack or does it contain there ionizers, or stuff that scrubs anything that comes out

SB I think it's a plain stack, he said it only lets out like a steam

RC If I understood it right most of the stuff, most of your, the cleaning of the of the exhaust or whatever was basically done in the bag house if I am not mistaken is that what he, that took care of

SS catalytic converters something like that

RC be honest with you I don't really know

JT He had some sort of equipment that he had to have

RC in this DES thing I know they had to have different measurements in different places and I know they were saying the bag house is one of them, one of the more important parts of it

SS Ok so that must collect whatever is going out

RC yeah I would say, I don't know the exactly what it catches

JT he said it burn number four heating oil, what he burns

RC Right, number two heating oil that's basically what everyone burns in their house

SS Most houses

RC as I say I can't tell you what the actual percentages or whatever and what was taken out but I remember

SC It is noted in different things we looked up and is part of the file, as far as how big the particles can be, what is limited what's not

RC Myra tech monitor which monitors the stack pressure, stack temperature and muffle with catalytic, the catalysis inside it, which is basically a catalytic converter, yeah so there is one of some sort exactly what I don't know but there again that is DES and the Federal Government they take care of that, that's not, a concern of our, well I guess that it is but it's a matter of their the ones that governor it we don't we can't say that you can't number two heating fuel if that's what it has to have, we don't have the right to say no, at least that is my understanding we don't have the authority to do that the DES can say yes, no and I'm sure EPA is the same way they say yes no you can do this can't do that or whatever and I know in Mr. Presby's and Mr. Towle's presentation that was one of the things they said as far as DES and EPA they've taken it off the pollutant list per say, not sure if I am saying this right, that they were saying that they were taken off, asphalt plant of this size was taken off the, what's the right word, can't say endangered list, that's not the right word

SS I understand

RC they were taken off a major pollutant list, minimal at best or whatever

SC they are considered a minor pollutant, they're not a major source that was taken off that paperwork is in there as well

RC I knew it was in there, because that was part of their presentation as well. So anything else that anybody got as far as the stack is concerned, basically it's the stack it's not the building. Any more comments Scott anything you have a question on, I mean I think that's what we've got to do question ourselves did we, did we get all the answers we wanted, I mean it's unfortunate when you're doing something like this, one group says one thing, one group says something else we have got to sit down and in our own mind weight everything out and do the best you can as far as figuring out which one, can't say ones a liar and not because I am sure they both, both outfits have

JT what would you say the height of the stack for DCI

SB I was wondering that

RC that's more than 58 feet

SS probably a hundred

RC I was going to say, it's got to be up there

SS Looking at the bigger picture in the health of the state would this actually create less pollution for the state? My reason for saying that is now the only other asphalt plant is down near Hanover, Lebanon in that area

RC got one there

SC/RC Waterford Vermont

RC and then you have another one in Gorham New Hampshire

SC Those are large plants

RC Those are Pike's Plants

SS Oh I thought we only had one down in Hanover, I thought maybe if this wasn't here then maybe you would have trucks going all the way down to Hanover

SC Well you could well I mean technically if he doesn't go anyway, I don't even know if we should be talking about this because technically we are here to re hear, but I see what you're saying and as well if

SS On a bigger picture

SC If they have to truck it further it's going to cost everyone more too

SS Cost everyone more and going to create more pollution

SC Correct

RC Trucks have to go further

SS two hours back and fourth

RC/SC that's correct

SC wear and tear on the trucks, more fuel it's

SS and more exhaust from diesel from trucks and like I said on a bigger picture, I know we are not here to discuss that but I just wanted to mention it

SC/RC Yeah

RC anybody have anything else as far as the variance is concerned on the stack

SC again most of it, what I was thinking about at the time was, and I'll just restate it because in most of the things around the state the heights been an issue for things of blocking somebody else's sunlight or something like that or it's going to be a hazard, towering over a lake or pond, something like that those type of things where if there were an incident would be more of a hazard to clean up and that's why I stated before and I'll state it again that in this particular location if it fell besides the tree or going back into the sandpit itself everything is pretty much contained in there, if there was an issue with that and it's not going to block anybody's sunlight or view. The size of it, we're talking about and in my opinion not at all and it's, except 117 where I think it could be seen depending on what the vegetation and that's why I wanted to put the vegetation on that particular side there that would even hid it more, no of the people if they want to consider themselves abutters or the true abutters would even see that for most of that property, so you know, yeah if you are in an airplane you are going to see it but

SS Don't want to be assessed a view tax or anything and effect

SC I don't think you are even going to see it , if you have been there and see where going to put the stack itself

RC and I mean one of the, their questions was across the river up on the hillside there is two or three houses up there but as far as residential development up there don't know if there is room for anything more up there as far as height is concerned, could go down further I guess, go down further on the side of that , but then you are going to dig out from underneath one of the houses that's up on the edge up there

SC I understand most of the height is in there for the state for those reasons and not for other things that have been brought up

JT they did explain the height of it, it doesn't just poof out the top it comes out at such a speed it goes

RC that was one of the concerns that was brought up in here, somewhere I remember seeing it that the pollutants come out , going to be at ground level but the way it was presented it comes out with some pretty good umph It isn't like it wood stove where it comes out

SC there was a lot of good information on inversions that they talked about but again what they failed to tell you is that about 90% of inversions around here occur during the winter months, he's not operating in the winter

SS Ok yeah of course

SC Does it happen absolutely there could be some days but

RC So anymore on that we go to the oil tanks and the oil tanks we discussed a little bit that's a special exception on the oil tanks and there again is stated a little earlier got off on track I guess , that it's mandated by State and Federal Government on what the containments are and I understand concerns of if something did happen and I guess it's no different there than it would be at New England or DCI or up to the school or anybody that, even a home owner you've got 275 gallons in some people have bigger tanks than that and they live right with in from here to the wall to the river things can happen there is no way to protect us from everything, it would be nice if you could but these, I mean a house doesn't have a containment you could have a dirt floor and or cement floor , most cement floors have a drain in them it can go out into the river or where ever anyway

JT and probably has done

RC oh yeah no doubt

JT it says we approved an unlimited number of gallons of unlimited fuel types, I thought it was the number two heating fuel and there were a certain number of gallons we didn't allow unspecified amounts of unspecified fuels

SC yeah has certain sized tanks already

JT so it was a set limit on how many gallons and what fuel types

SC If he adds another tank he has to come anyway and again if anything else is to be expanded he has to come back before the boards and again they are still using the above ground fuel tanks R18 003 which is in correct it is R18004 only there's no storage tanks or above ground fuel tanks on R19 003

JT unspecified fuels we what he was putting in and how much

RC your right number two heating fuel and liquid asphalt

SC which isn't made there

RC they don't make it

JT it's trucked in

RC and that was some of the contention early on in this process that was going to be made there, that's nasty stuff making it, once it's made it's everybody uses it , it a matter of trying to think of a good comparison

SS the stuff you used to seal your driveway

JT they've got a little fire a trailer with a fire so they can heat

RC yeah and that's asphalt and what you have to do is take the liquid asphalt and mix it with the sand and the gravel

SS to make the hot patch

RC to make the stuff, the making of that stuff if I understand some of the paperwork and whatever that is kind of nasty

SC it's done in an oil refinery basically what it is

RC what

SC it's part of an oil refinery, what it is

RC That part the part of making the liquid asphalt isn't the greatest stuff but once it's made then it's basically the chances of cancer and all this other stuff supposedly goes with liquid asphalt it's gone once the process is complete. Anything else as far as the oil tanks

SC again I'm looking at one of the other things we had to look at for , and that is property values . Again is not going to be seen, there's many other ones in town I saw nothing or heard nothing accept for speculation as the above ground storage fuel tanks if passed were going to affect property values

RC not going to see them

SC they talked about, it talks in this one several things that

SS that was just speculation, wasn't it I read it

SC Yeah

SS the assessment and the value, that was just and appraiser speculating it might

SC with the fuel storage?

SS No I mean with the property values

SC yeah but in regards to the fuel storage

SS what was written in here

SC Well what they talked about was trucking in residential area definitely could affect property values 10% – 15 % We said that, they said that. I don't think there is a speculation on that one that would happen in an area that is residential, But this we are just talking about the storage of fuel itself right now. Well unless you found something or came across something I didn't

SS No, No

JT I can't see any of it ever getting to the leaking the river unless there is a major catastrophe

RC that's a long ways

SB 1/8 of a mile

RC more than that, to the river

SC got to go through Sklyar's house first

RC so basically I guess if no one's got anything else we think we should hash over or whatever. You fellows are new you've gone over everything

SB I am good

RC ok then I guess I wait a motion unless someone has something else they want to talk about I think we gone over both of them

JT do you want them separately or together

RC I guess it's just , might say it has two parts no I can't say that, where did I see it here, the way it was written it was for both , reason for rehearing related to the asphalt plant proposed height variance and special exception for tanks, it's all there all in one

JT you want a motion?

RC yeah

JT I make a motion we deny the rehearing, nothing new

SB I second it

RC all those in favor of the denial special exception

SC you mean rehearing

RC I mean rehearing excuse me

SC, SS, JT, SB, RC eye, so voted all

RC the vote is unanimous we vote to no issue rehearing

