

MINUTES OF THE PUBLIC HEARING  
SUDBURY EARTH REMOVAL BOARD  
Monday, December 16, 2013

The Board consisted of:

Jonathan W. Patch, Chair; Jonathan G. Gossels, Acting Clerk; Benjamin D. Stevenson; Stephen A. Garanin; and Nicholas B. Palmer.

Notice was published in the Sudbury Town Crier on November 14 and November 21, 2013, posted, mailed and read at this hearing.

Applicant Shaun Briere, Attorney at Mawn and Mawn, P.C., was present along with Site Engineer Brian White, EBI Consulting, on behalf of the applicant, Northern Bank & Trust Company, to request an Earth Removal Permit to remove approximately 2,109 cubic yards of excess soil for construction of a new commercial building at 430 Boston Post Road where Colonial Auto currently stands. Several of the Board members were familiar with the project since Northern Bank & Trust Company had met with the Zoning Board of Appeals to obtain variances and special permits previously. Therefore Mr. Briere gave a brief history of the project. The project has received Site Plan Approval from the Sudbury Board of Selectmen, and an Order of Conditions from the Conservation Commission. Hearings are in progress for a Stormwater Permit and a Water Resource Special Permit from the Planning Board. The application has also been reviewed by a peer engineer for consistency with state and local bylaws.

ERB Chairman Jonathan Patch noted that the Board was in receipt of a memo from the Director of Planning and Community Development, Jody Kablack, with recommendations for discussion. Specifically Ms. Kablack suggested that the ERB discuss truck trips and routes, covering material for removal, construction access to minimize material being tracked onto surrounding roads, and street cleaning. She referenced the November 4, 2013 Construction Management Plan that was included in the application. She also recommended that the requirement for a performance guarantee be waived for this project because it has received Site Plan Approval from the Selectmen and prior to occupancy any unfulfilled conditions would be subject to a performance guarantee under those terms.

Mr. Briere said that there would be a dedicated construction access to limit offloading of material onto surrounding roadways. He anticipated no more than 100 truck trips with approximately 20 cubic yards of material per truck load. Material to be removed would be earth and demolition debris. He said that the truck route would most likely be Route 20 (Boston Post Road) to I-95.

Initially Mr. Briere had asked for construction hours of 7:00 a.m. to 7:00 p.m. Monday through Friday, and from 7:00 a.m. to 4:00 p.m. on Saturdays. There would be no construction work done on Sundays. Mr. Gossels questioned the early Saturday start and suggested instead a start time of 8:00 a.m. Mr. Briere was amenable to that change.

Mr. Stevenson asked why there would be 100 loads of earth removed. Mr. Fairbank said that the number was the worst-case scenario if the soil was found to be unsuitable for re-use.

Mr. Garanin asked whether the soil had been tested for contamination since he felt that any property that had underground storage tanks might have contamination. Mr. White said that a subsurface test done in 2011 showed no contamination.

Mr. Patch asked whether additional chemical testing would be done to determine proper disposal of the material. Mr. White said that it was not yet known which disposal site would be used but they would perform the required testing to meet Mass DEP and disposal facility requirements.

Mr. Patch then asked whether a representative of a Licensed Site Professional would be on site daily to assess the excavated soil for visual and/or olfactory evidence of contamination. Mr. White said that there would.

Mr. Palmer felt that the swell factor used in the estimated removal calculations was too low. Mr. White responded that the method used to determine the quantity of excess soil was conservative because it assumed that no soil would be reused on-site. Therefore, the swell factor may have been low, but the total quantity of soil to be removed will likely be a lot less than calculated.

Mr. Stevenson felt that the applicant has gone above and beyond throughout all of the various permitting so he felt a level of discretion should be given.

Mr. Patch asked about the location of construction access. Mr. Briere said that it would most likely be located on Union Avenue and access from Boston Post Road would be removed.

Prior to construction Mr. Palmer wanted a name and number of a contact person who would be available twenty-four hours a day, seven days a week, should problems arise at the site.

Mr. Briere said that the work would probably commence in the spring of 2014.

Mr. Patch asked whether the applicant was comfortable with the comments raised by Ms. Kablack. Mr. Briere said that he was. However, he suggested street sweeping as needed rather than daily. The Board agreed to that change provided that the adjacent roadways be kept free of construction materials.

The Board also agreed to waive the performance guarantee given that it is included in the Site Plan Approval.

An additional condition the Board discussed included that certification shall be provided to the Board that fill material imported to the site would be free of contamination. Mr. Palmer wanted a letter to be provided to the Board stating this to be the case.

There were no further comments from the Board or audience. The hearing was closed.

The following motion was made and seconded:

MOTION: "To grant Northern Bank & Trust Company, applicant, and Colonial Auto of Sudbury, owner, an Earth Removal Permit under the provisions of Article V(A) of the Town Bylaw, to allow removal of up to 2,109 cubic yards of existing soil for construction of a new commercial building, property located at 430 Boston Post Road, Business District #5, as follows:

1. Internal and external construction activities will be performed between the hours of 7 a.m. to 7 p.m. Monday through Friday and between 8:00 a.m. to 4:00 p.m. on Saturday. No work shall take place on Sunday.

2. The trucking route through Sudbury will be from Union Avenue/Route 20 (Boston Post Road) to I-95.
3. The Applicant shall utilize the best methods in order to reduce the overall amount of traffic generated during construction.
4. As stated in the Applicant's Construction Management Plan dated November 4, 2013 appropriate measures shall be taken to prevent the tracking of material onto any public way. Soil on outgoing trucks will be stabilized via the use of covers. Any construction debris in the surrounding areas associated with the project will be removed on a daily basis by the Contractor.
5. Street sweeping of the adjacent streets will be conducted as needed.
6. The construction site will be enclosed entirely with a high chain link fence with integrated fabric. Gated entrances to the site shall be for authorized personnel only. Signage will be placed at these access points to limit access to construction workers and deliveries.
7. General precautionary measures shall be taken to prevent erosion on the site into the wetland areas.
8. Any stockpiled soil must be covered and surrounded by siltation fencing to minimize sedimentation during construction.
9. New materials used at the site should be certified as clean to ensure that there is no contamination. A letter to the ERB stating that incoming fill meets Mass DEP standards should be provided.
10. Prior to commencing the work the ERB shall be given the name of a contact person who will be available at all times should problems arise at the construction site.
11. The requirement for a performance guarantee is waived given that the project has received Site Plan approval from the Sudbury Board of Selectmen and prior to occupancy any conditions unfulfilled will be subject to a performance guarantee.
12. This Earth Removal Permit will expire in one (1) year on December 16, 2014, and may be renewed at the Board's discretion provided application for an extension is made thirty (30) days prior to expiration."

VOTED: In favor: 5 (Unanimous)      Opposed: 0

EARTH REMOVAL BOARD

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Jonathan W. Patch, Chair

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Benjamin D. Stevenson

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Jonathan G. Gossels, Acting Clerk

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Nicholas B. Palmer

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Stephen A. Garanin

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