



NOTICE OF DECISION
AQUIFER PROTECTION OVERLAY DISTRICT
SPECIAL PERMIT

PROPERTY: 929-931 SALEM STREET
ASSESSORS MAP 49 PARCEL 04

PETITIONER:	ANFEH LLC. c/o Fadi Issa 4 Holly Lane Groveland, MA 01834	DATE:	September 7, 2021
ADDRESS:	929-931 Salem Street Groveland, MA 01834	MEETING:	May 18, 2021; June 15, 2021 July 20, 2021; August 3, 2021; August 17, 2021; September 7, 2021

TOWN OF GROVELAND
2021 SEP 21 AM 9:02
AQUIFER PROTECTION OVERLAY DISTRICT
SPECIAL PERMIT

YOU ARE HEREBY notified of the Decision of the Planning Board on the application made by ANFEH, LLC. (the "Applicant") for property located at 929-931 Salem Street Groveland Massachusetts, Assessor's Map 49 Parcel 04 in Groveland, MA, located in the Industrial (I) District (the "Property").

As set forth in the application filed with the Board and testimony, the Applicant sought Aquifer Protection Overlay Special Permit to construct a new 7,250 square foot building with convenience store and automotive repair shop, installation of four automobile dispensing pumps with canopies and two fuel storage tanks.

The application was filed on April 27, 2021. The hearing was advertised in the Lawrence Eagle-Tribune on May 3, 2021 and May 10, 2021. All abutters were notified via Certified Mail Return Receipt. The Groveland Planning Board held the public hearing remotely via Zoom video conference on Tuesday, May 18, 2021 at 7PM. Remote meetings were held due to Governor Baker's Executive Order of March 12, 2020, and current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus." In order to mitigate the transmission of the COVID-19 Virus, municipalities have been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. The public hearing was closed on September 7, 2021.

The following members were present: Brad Ligols, Walter Sorenson, Robert Danforth and John Stokes III.

HISTORY

The Applicant received Site Plan Approval in April of 2017. Recorded at the Southern Essex Registry of Deeds Book 38174 Page 263.

In May 2019, the Applicant appeared before the Planning Board to request an extension of the Site Plan Approval and then also to seek a minor modification with a couple of changes to the building size and site layout. But most notably, to move the fuel tanks underground and add a drive thru. The extension of the

Site Plan Approval was issued and the changes were deemed a minor modification. Recorded at the Southern Essex Registry of Deeds Book 38174 Page 263.

At the June 11, 2019 Planning Board meeting the Board voted to waive the Stormwater Management and Land Disturbance Permit for 929-931 Salem Street since an Order of Conditions was issued by the Conservation Commission and contained an approved Stormwater Pollution Prevention Plan.

The Applicant received approvals from the ZBA in 2017 (recorded at the Southern Essex Registry of Deeds Book 38174 Page 275 and Book 38174 Page 279) for a setback variance and use as a repair shop and in 2019 (recorded at the Southern Essex Registry of Deeds Book 38174 Page 271) for the drive-thru. The Applicant received an Order of Conditions from the Conservation Commission (recorded at the Southern Essex Registry of Deeds Book 36021 Page 514 and Book 36021 Page 523) and approval of the modification in 2019 (see letter dated April 11, 2019 and minutes of the April 10, 2019 Conservation Commission).

The Applicant applied and received a building permit on February 13, 2020.

The Applicant went before the Board of Selectmen on February 16, 2021 to seek a license for underground fuel storage. At this time, it was noted that the site was in the Aquifer Protection Overlay District Zone II and underground fuel storage tanks were prohibited under Section 50-6.2. G(3)(a).

Notice was provided on March 3, 2021 to the Applicant that an Aquifer Protection Overlay District special permit must be obtained and aboveground tanks are required.

The Building Commissioner ceased the job on April 5, 2021 per violation of Section 105.4 Validity of Permit as it fails to meet the requirements of Section 105.3.1 Action on Application which need to be satisfied before a permit is issued. The permit in question was issued in error as the project has not filed for or received the Special Permit as required for the Aquifer Protection Overlay District pursuant to the Town of Groveland's Zoning Bylaw § 50-6.2.

An application was submitted on April 27, 2021 and the Building Commissioner lifted the cease and allowed the owner to proceed with construction, at risk, on the building only. All site work, including site work associated with the fuel tank, was further ceased until a special permit is received.

In addition to the fuel storage, the proposed project will render the site 24% impervious. This exceeds the 15% threshold and therefore the use requires a special permit under Section 50-6.2. H. (3) of the Zoning Bylaw.

FINDINGS

The proposed Project will ensure adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town.

The proposed Project will preserve and protect existing and potential sources of drinking water supplies of the Town and surrounding communities.

The proposed Project will conserve the natural resources of the Town.

The proposed Project will prevent temporary and permanent contamination of the environment.

At the Public Hearing on May 18, 2021, the Applicant proposed a below grade Aboveground Storage Tank (AST) installation and argued the AST offers the safety of an underground storage tank and greater protection relative to the prevention of releases of petroleum to the environment. At subsequent hearings it was further argued that the Aquifer Protection District Overlay District zoning regulations do not specifically preclude the below grade installation of an AST at the subject property. (See letter prepared by New England Environmental Technologies Corporation, dated June 25, 2021.)

The Peer Review Engineer, TEC, reviewed the proposal and stated Section 50-6.2. G.(3)(a) states that within Zone II, “storage tanks or associated pipe systems for hazardous materials, including fuel oils for domestic use in direct contact with the ground” are prohibited. TEC’s interpretation is that this section of the Bylaw is not applicable to the project as proposed because although the tanks will be constructed below grade, the tanks will be within a water-tight concrete vault and the tanks will never be direct contact with the ground. (See letter from Peter Ellison, dated August 3, 2021.)

The State Fire Marshal’s Office and Groveland Fire Department were contacted for review. It was noted all tanks over 10,000 gallons in capacity shall be permitted by the State Fire Marshal’s Office Aboveground Storage Tank Program (See email dated July 29, 2021 from Matthew A. Murray.)

At the August 17, 2021 Planning Board hearing, the Applicant agreed they would file appropriate permits with the State Fire Marshal’s Office.

For the reasons set forth above, the Board finds that the project as proposed is in compliance with the Town of Groveland Zoning Bylaw.

DECISION

After the meeting on the above dates, and upon a motion by Walter Sorenson to approve the Aquifer Protection Overlay District application for 929-931 Salem Street and the drafted decision as amended. Robert Danforth seconded the motion. The vote was 4-0, unanimous in favor.

SPECIAL CONDITIONS

- 1) Final design of the concrete vault shall be designed and stamped by a registered Massachusetts Structural Engineer to support loading of fuel delivery trucks and backfill. The final design of vault shall be submitted to the Board for documentation and reviewed by TEC. The design will also be provided to the Building Commissioner.
- 2) The Applicant shall provide 10-day notice for the pouring of the concrete vault and TEC shall be present to witness. TEC will provide a written report to the Board.
- 3) The stamped concrete vault plan shall state that the tank is to be constructed water-tight. There shall be on-site testing of the tank (after initial placement/construction) to confirm the structure is water-tight. The results should be provided to the Board and reviewed by TEC. Results will also be provided to the Building Commissioner.
- 4) A permit is required from the State Fire Marshal for the construction of the ASTs. A copy of the final Permit shall be provided to the Board for documentation and review.

- 5) The Applicant shall provide the Operations & Maintenance Plan for the proposed ASTs. Future inspection reports shall be provided to the Board for review. Reports will also be provided to the Building Commissioner.
- 6) Quarterly inspections shall be conducted for the first year. After the first-year inspections shall be bi-annually indefinitely. Reports shall be provided to the Board for review. Reports will also be provided to the Building Commissioner.
- 7) The car repair shop includes a trench floor drain to be connected to a 2,000-gallon precast concrete tank via 4” cast iron pipe. An Operations & Maintenance Plan shall be provided to the Board for documentation. Future inspection reports and tank pumping/disposal receipts shall be provided to the Board for documentation
- 8) There shall be on-site testing of the 2,000-gallon precast concrete tank following initial installation. The results shall be provided to the Board.

PRIOR TO ANY SITE WORK

- 9) The Memorandum of Decision must be recorded at the Southern Essex Registry of Deeds. One (1) copy of the signed and recorded Memorandum of Decision must be delivered to the Planning Department.
- 10) A construction schedule shall be submitted to the Planning Department for the purposes of tracking the construction and informing the public of anticipated activities on-site.

DURING CONSTRUCTION

- 11) The construction contractor shall employ all available best-management-practices for the control of dust, including but not limited to watering, planting, stabilization, track-out shaker plates, and/or stockpile coverings.
- 12) Catch basins shall be adequately protected and maintained to prevent siltation into drainage structures.
- 13) Any laydown areas must be shown on a plan and reviewed by the Planning Department. Stockpiles must be appropriately stabilized and/or covered.
- 14) It shall be the responsibility of the Applicant to assure that no erosion from the construction site shall occur which will cause deposition of soil or sediment upon adjacent properties or public ways, except as normally ancillary to off-site construction. Discovery of off-site erosion will be a basis for the Planning Board to make a finding that the project is not in compliance with the approved Plans. In the event off-site erosion is discovered as a result of construction activity, the Planning Board shall give the applicant written notice of any such finding within 48 hours to provide evidence of corrective-action.

- 15) In an effort to reduce noise levels, the Applicant or contractor shall keep in optimum working order, through regular maintenance, any and all equipment that shall emanate sounds from the structures or site

GENERAL CONDITIONS

- 16) Subject to the Conditions contained herein, the Project shall be substantially constructed in accordance with the Record Plans, which are on file with the Planning Board.
- 17) Any action taken by a Town Board, Commission or Department which requires changes in the plan or design of the buildings, as presented to the Planning Board, may be subject to modification by the Planning Board.
- 18) If the Applicant wishes to modify the approved Record Plans, it shall submit proposed modifications to the Planning Board. Where such modification is deemed substantial, the same standards and procedures applicable to an original application for site plan approval, aquifer protection district special permit and stormwater management and land disturbance permit shall be required by the Planning Board; provided, however, that the Planning Board may determine that a proposed modification is insubstantial and approve the same without the need for any further Planning Board approval or hearing. Authorization to modify the Record Plans shall be obtained prior to any substantial modification in the field.
- 19) The contractor shall contact Dig Safe at least 72 hours prior to commencing any excavation.
- 20) Gas, telephone, cable and electric utilities shall be installed underground as specified by the respective utility companies.
- 21) The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area.
- 22) Exterior construction of the Project shall not commence on any weekday before 7:00AM and shall not continue beyond 6:00PM except for emergency repairs. Exterior construction shall not commence on Saturday before 8AM shall not continue beyond 5PM with the same exceptions. The Building Commissioner may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant except for emergency circumstances, where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of construction operation shall be enforced by the Building Commissioner.
- 23) This Special Permit shall be deemed to have lapsed after three years following the filing of the special permit approval exclusive of the time required to pursue or await determination of any appeals, unless substantial use or construction has commenced within said three-year period or for good cause as determined by the Planning Board.

24) The Applicant is hereby notified that should the Applicant disagree with this decision, the Applicant has the right under MGL c.40A Section 17, to appeal this decision within twenty days after the date this decision has been filed with the Town Clerk.

25) The following information shall be deemed part of the decision:

- **Site Layout Plan, prepared by Choubah Engineering Group, P.C., dated May 27, 2021**
- **Grading, Drainage & Utilities Plan, prepared by Choubah Engineering Group, P.C., dated May 27, 2021**
- **Above-Ground Storage Fuel Tanks Placed Below Grade Layout & Elevations Plan, prepared by Choubah Engineering Group, P.C., dated May 27, 2021**

The Planning Board APPROVES the application for Aquifer Protection Overlay District Special Permit

PLANNING BOARD



Brad Ligols, Chair



Walter Sorenson, Jr.



Jim Bogiages



Robert Danforth



John Stokes, III

cc:

Town Departments
Applicant
Abutters