



**BERWICK PLANNING BOARD  
MINUTES  
November 17, 2011**

**PRESENT:** Peter Perri, Judy Burgess, Kerry Ashburn, Paul Boisvert, Ron Morrell, Alan Shepard, Esquire (Town Attorney), Jim Webster (CEO), Joan Michaud (Planning Coordinator)

Public Audience: 75+ attendees

The meeting was called to order at 6:30 p.m.

**PUBLIC HEARING**

- **Berwick Iron & Metal Recycling, 106 Route 236 (Map 57, Lot 32)** - Reconsideration of a previously submitted Conditional Use / Site Plan Permit for a metal shredder.

Present: Tom Harmon, Jay Stephens and Mike Peverett from Civil Consultants, Matt Manahan, Esq., Dixon Pike, Esq. from Pierce Atwood, Jeff Harrington, AMAC, Robert O'Neil, Epsilon and BI&MR owners, Robert and Richard Brenna.

Tom Harmon gave an overview of the project which started in February 2010, a full application was submitted in September and the Brenna's were given approval by the Planning Board in March 2011 to operate the metal shredder. The decision was appealed by the abutters, it went to Court, and the Court remanded it back to the Planning Board for further consideration for procedural issues and air and noise concerns by the abutters. Tom presented a revised plan of the property and reviewed the process that the scrap metal goes through before it can be sold.

New plans were handed out which showed a new sorter on the conveyor that was added which didn't require a permit. In addition, fire fighting protection (water tower and water guns) were also added to the plan.

Rob O'Neil, Sound Expert with Epsilon Associates, reported on the live noise/sound test that was conducted at the site. A report was submitted to the Planning Board and a brief

summary was given to the ordinance. Four testing locations (at the boundary lines) were set up to obtain data. BI&MR fed metal into the shredder for a full hour. Mr. O'Neil stated that the sound levels were well below the 75 decibels required by the Ordinance in the Rural Commercial/Industrial Zone.

Tim Donnelly, McMillian & Donnelly stated he has been doing air licensing and permitting for 20 years. The Planning Board requested him to do a peer review of the two air quality analysis that was done by Woodard and Curran and AMAC Earth & Environmental. Mr. Donnelly presented his findings to the Board and audience. He stated that the software modeling that was used by the two firms is generally accepted methodology used for DEP air license applications. Mr. Donnelly asked Jeff Harrington specific questions on the analysis that he did for BI&MR and answered questions from the Board and audience.

Johna Mayo, Powerhouse Road, asked what the impact would be for the Hussey School. Tim replied that according to the modeling analysis that was done, there was very dense coverage around the school and there would be little, if any, impact on the school from the shredder.

Richard Lethem, 3 Mayberry Lane referenced the impact of coal burning plants in the Midwest affecting the New England. Asked why there was no mention of catalytic converters or scrubbers on the stacks? Tim responded that the hydrocarbons that would be emitted in one year are far below what would come out of the Midwest in one hour.

Christine Applybee asked if an actual air test had been done. Tim replied that emission factors and software modeling which uses topical and meteorological data with 5600 receptors is used instead. She also referenced a report from Ohio and California on pollutants given off by the shredder. Tim stated that no Mercury or Lead will be emitted and that based on the water spray and shroud they would not be traveling. Also he said that air bags are not hazardous material that is regulated by the DEP.

Paul Boisvert asked if there was any real life correlation, with the air modelings that are used, in the last 20 years? Tim said that over time, the data gets better and better but it would be cost prohibitive to do live studies.

Laurie Townsend asked about the truck traffic air emissions and Tim replied that truck traffic would not be modeled and is within DEP licensing. Those concerns should be addressed to the MDEP.

Eliot Lazenby, Tall Timbers Drive asked Tim Donnelly if he agreed with the report and he commented that he did agree with the AMEC report but he also agreed with, and some points he did not, in Woodard and Curran's report.

Tim Murphy, Attorney for residents Seivwright/Planche/Duffy/Provencher/Perrow, requested time to speak,

In attendance: Attorney Jeff Talbert, Environmental Law Expert; Glen Almqvist, Woodard and Curran; Peter Guildberg, Tech Environmental.

Beth O'Connor, 92 Sullivan Street, referred to a study she read about in California that had a shredder operation.

Peter Guildberg, Acoustic Consultant and President of Tech Environmental. He conducted a sound test alongside Rob O'Neil of Epsilon on November 1<sup>st</sup>. He reviewed the sound test that he took which included running it two minutes longer than Epsilon. He noted that during those two minutes, the noise level increased to above 60 decibels. Tom Harmon stated that when you are shutting the shredder down, when you completely empty it, there will be higher noise level but it is still within the Ordinance. Every day at the end of each day, the machine will be shut down for maintenance.

Residents asked if the sound was affected by leaves on the trees or if the sound would be higher in the summer? On the morning of November 1, the air was stable and it was a fair representation and best case scenario for the test. In the summer, the humidity would actually lower the noise.

Several abutting residents commented that they can't enjoy their property because of the smell, noise, vibrations and truck traffic coming from the facility. Also, the proximity of the Hussey School to the emissions from the business was a concern for the residents.

Bob Duffy has a concern about a fire, especially at night, on the property. Rob Brenna stated that there has only been one fire in the six years since he purchased the business and the cause of the fire was from welding and the use of a torch. There is a lock box at the entrance so that the Fire Department can get in at anytime in the event of a fire.

Representative Beth O'Connor expressed concern about the residue (waste product) from the shredder and having it sitting on site. She stated that the auto shredder residue is the waste product from the 'Cash for Clunkers' program. Rob Brenna stated that he has shipped the waste overseas but there is one company in the United States that takes the waste.

Tom Planche submitted a petition to the Board with 600 signatures from residents that don't want the shredder in their town.

Tim Murphy, attorney for the abutters, gave his closing arguments. A revised site plan was handed out at the meeting. Mr. Murphy felt that new equipment and structures that were added to the site are deceptive on the part on the applicants. He felt that what exists on the site is different than what the Board thought was there. Tim also felt that there are violations of the original Conditional Use for the property. He also stated that CMP is running a major power line through the town and the diesel motor should be replaced with an electric motor to get rid of the diesel noise and odor. Mr. Murphy also brought up concern of a fire and access by the Fire trucks on the property.

In rebuttal to Attorney Murphy's allegations of deception, Attorney Matt Manahan stated that there was no intended deception by the applicants. Revised site plans were not required because the structures that were added were all part of the shredder. The new plans were done at the request of Attorney Murphy.

The Planning Board unanimously agreed to hold the Public Hearing Open to allow time for all parties to review the revised site plan that was presented at the meeting. The Public Hearing will continue at the next Planning Board meeting on December 1<sup>st</sup>.

### **APPROVAL OF MINUTES**

- Minutes – November 3, 2011: Approved as Amended

### **COMMENTS/NON-AGENDA ITEM**

- Conservation Subdivision Design with Randall Arendt – a municipal planning workshop is being held on December 5th in Ogunquit. Joan Michaud asked the Board Members if they had any interested in attending as the Land Trust had reserved and paid for up to seven people attend the workshop.

### **OTHER**

- Ordinance voting results were discussed. A lot of work goes into changes in the Ordinance and the voters in Town are not ready for change. The Planning Board does not make changes to the Ordinance. They can only recommend them and the residents either accept or reject them on Election Day.

Meeting adjourned at 10: 04 p.m.

A handwritten signature in black ink, appearing to read 'Kerry Ashburn', written over a horizontal line.

Kerry Ashburn, Chair