

Devens Enterprise Commission (DEC)
In-Person/Remote Hybrid Public Hearing and Regular Meeting
Minutes October 24, 2023

Members Present (in person): Duncan Chapman, Melissa Fetterhoff, Robert Gardner, Christopher Lilly, William Marshall, Jim Pinard, Martin Poutry, Deb Seeley

Members (remote): Paul Routhier

Staff (in person): Neil Angus, Dawn Babcock

Staff (remote): Beth Suedmeyer

Guests (in person): Greg Sexton (President and CEO of Accumet Engineering), Van Easton (Devens Resident)

Guests (remote): Meg Delorier (VP MassDevelopment), Tim Kelly (Devens Public Safety and Fire), Carl Sciple (Harvard Resident), Irene Battaglia (Harvard Resident), Eric Ng (Devens Resident)

Members Absent: Debra Rivera

(6:45 PM) Chairman William Marshall called the meeting to order and did a roll call.

Mr. Marshall read that the Devens Enterprise Commission (DEC) Regular Meeting and Public Hearing is being held both remotely AND in-person in accordance with the supplemental budget bill signed into law by Governor Healey, further suspending certain open meeting law requirements to March 31, 2025. Interested individuals may attend in-person at this address or listen in and participate by phone and/or on-line by following the link and/or phone # at the top of the agenda. Persons with disabilities or requiring interpretation wishing to listen or participate should contact 978.772.8831 x3334. In accordance with the State's Open Meeting Law, the Chairman informed all attendees that this meeting is being recorded by the Devens Enterprise Commission. Persons with disabilities or requiring interpretation wishing to listen or participate should contact 978.772.8831 x3334.

(6:46 PM) Mr. Marshall reviewed the agenda of this evening's meeting.

(6:51 PM) Review Minutes:

- **September 26th Minutes** were discussed. There were no questions or concerns noted so Mr. Marshall asked for a motion to accept the minutes as submitted. **The motion was made by Mr. Gardner and seconded by Mr. Lilly. The minutes were approved unanimously by a roll call vote.**

(6:52 PM) Public Hearings:

- **Level 2 Unified Permit** application submitted by **Accumet Engineering**, on behalf of Lake George Realty, LLC. (Property owner) for a License to store flammables, combustibles, and explosives (propane) in accordance with 974 CMR 4.09(6). Property located at **41 Lake Geroge Street**, Devens (Parcel ID # 027.0-0017-0500.09-4-500) in the Innovation and Technology Business District. Mr. Angus recognized Mr. Sexton, President of Accumet Engineering, was in the audience. Mr. Angus noted that we had approved the building at this address about a year ago and that permit had proposed three (3) 1,000-gallon propane tanks should there be a need for them in the future. They are now up and running and are using two of the tanks but are in need of their 3rd propane tank to be filled. This license is required as this 3rd tank will bring them over the two-thousand-gallon limit requiring a license. Devens Fire has inspected the site and has issued their tank permits for all three tanks. Mr. Angus noted the applicant has been working with their supplier, DiLeo Gas, and have supplied all the necessary safety procedure documents. Mr. Angus did note that DEP does require a yearly tank registration. Mr. Lilly asked what happens if the request is received for over the two-thousand-gallon limit? Mr. Angus said that there are stricter requirements as the amount increases. Mr. Sexton added that they have added a makeup air heating system, and the propane requirement is to keep the facility warm and at constant air pressure. Mr. Marshall asked if there are any questions from the Public, none were asked. Mr. Angus noted that the legal notices have been sent out and the 30-day town comment period has expired. Mr. Angus also noted that the license runs with the address/land and not with the requesting company. Mr. Marshall asked if there were any other questions? None were asked

so he had asked for a motion to close the hearing. **The motion to close the hearing was made by Mr. Garnder and Seconded by Mr. Lilly The Motion to close the hearing was approved unanimously by a roll call vote.** Mr. Angus then went over the Draft Record of Decision he had prepared for 41 Lake George Street. The Unified permit is for a license to store flammables and combustibles of up to 3,000 gallons of Propane underground. All of the certified notices have been sent out to the abutters and towns, there have not been any comments submitted. There have been a couple of conditions/findings added to the standard list. One being that the Fire Department has reviewed the storage requirements and have issued permits for the tanks and a condition was added requiring the Applicant to file the yearly underground tank registration with the Massachusetts Department of Environmental Protection. Once the Appeal period has expired the applicant file the Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC. Applicant shall comply with all MassDEP requirements for underground storage tanks under 310 CMR 80.00. The current facility safety plan shall be updated to include the safe storage, handling, and emergency response procedures. The applicant is responsible for submitted annual registrations to the DEC to maintain this license. Mr. Marshall asked if there are any questions, with none asked he requested a motion to approve the application for underground Propane storage tanks at 41 Lake George Street with conditions as proposed in the Staff Report. **The motion was made by Ms. Seeley and seconded by Mr. Gardner. The motion to approve the application for a License to store flammables, combustibles, and explosives (propane) in accordance with 974 CMR 4.09(6).at 41 Lake George Steet was approved unanimously by a rollcall vote.**

Mr. Marshall asked if we would like to move the Old Business topic forward. Mr. Angus noted that Mr. Ashe hasn't arrived yet. Mr. Easton noted that he is representing Mr. Ashe and has a statement from him to read.

Old Business:

- **(7:04 PM) Historic District Roof Replacement Request from Ken Ashe - 34 Walnut Street.** Mr. Angus noted there have been a number of updates since the last meeting. Mr. Angus met with our historic consultant, Mass Historic, and our legal counsel and did prepare a staff report, which he went over. The Historic Consultant and Mass Historic have approved a third option (tar and gravel 1st, rubber membrane 2nd) which is a rolled asphalt roofing material. This rolled product appears similar to the rolled rubber roof which is on six of the ten ranch homes. Mass Historic determined that this material would be in keeping with the character of the historic buildings, and more in line with the original tar and gravel roofs. There are less seams with this treatment so less gaps for water and ice to penetrate in. Because of the consistency with the existing roofs and the color options of this material, Mass Historic has said that they see no adverse impact and would allow this material to be installed. If the Applicant proposed to install this material, the DEC would only require a Building Permit and Staff could issue it with Mass Historic approval. This will avoid the need of finding of a hardship and commission making a different determination than the previous 6 rubber roofs. This will be a second option across the board going forward for all residents in the ranch houses. Mr. Chapman noted that this is a rolled asphalt product so the cost should be closer to the standard asphalt roof. Mr. Angus did note that they have contacted a local roofer and they have used this material, so it is available locally. He also checked with the Building Commissioner, and he too has seen this product used on roofs with a slight pitch like the one at 34 Walnut. Mr. Marshall did recognize Mr. Easton and offered him an opportunity to speak about this. Mr. Easton noted that he does have a few comments on this but wanted to read a letter that Mr. Ashe had prepared. Mr. Easton read the letter to the Commission, Mr. Ashe isn't happy with the resolution the DEC and Mass Historic have come up with. He feels that his input and circumstances are not being taken into consideration. Mr. Easton then went on to share his comments and concerns with the rolled asphalt roofing product, he shared photos he took from NH of houses that have the rolled asphalt roofs and he noted that they are lifting. He also noted that Mr. Ashe has gotten an estimate for this type of roof, and it is an additional \$10K from the estimate he got for the shingle roof. Yes, it is less than the rubber membrane roof but still a hardship for Mr. Ashe, who also needs to replace his home heating system. Mr. Easton also noted that he too will be needing to replace his roof in short order and with him being on a fixed income as well it

will be a hardship for him to afford the rolled asphalt roof. Mr. Pinard asked if the homeowners are made known of the fact that the house, they are looking at is in the historic district and there are specific regulations that they will need to follow? Mr. Angus said that he believes they are in fact made aware of this as it is noted in the deeds for the properties. Mr. Easton did speak as a homeowner, there is a section in the P&S agreement noting this. Mr. Lilly asked what is being asked of the commission this evening. Mr. Angus noted that this compromise that has been agreed to by Mass Historic and our Historic Consultant after a number of meetings this past week has been shared with Mr. Ashe via emails and phone calls and Mr. Angus has not heard from Mr. Ashe. This letter that Mr. Easton just read is the first Mr. Angus has heard from Mr. Ashe. Mr. Lilly asked if Mr. Ashe's input had not been taken into consideration and Mr. Angus affirmed that this is not the case at all. As agreed, at the previous meeting that this issue was discussed, Mr. Angus is reporting back to the commissioners with the suitable compromise that they have come up with. Ms. Seeley asked if this would be setting a precedent and Mr. Angus noted that this would be setting a precedent going forward – it would be an additional option for all low pitch roofs in the Historic District that Mass Historic has agreed to. Mr. Chapman noted that Mr. Ashe should go get more than one quote that he has stated. Mr. Easton noted that his roof is getting to the point of replacement and at that time he will need to require a hardship case as well. Mr. Angus noted that at this point he would not recommend the Commission approve the asphalt shingle for the ranch homes as Mass Historic has stated it would have an adverse effect on the Historic District, and there are other alternatives that have been provided. Mr. Easton asked what the ramifications would be if we did approve the asphalt shingles as there is no signs noting that this is in fact a Historic district? Mr. Angus noted that towns do not need to post signs identifying the historic district and if we were to approve this it would be setting a negative precedent with the Mass Historic. Mr. Lilly noted that originally, he was not in agreement with the Mass Historic directing the installation of the rubber membrane as the only alternative to tar and gravel due to the high cost. In light of the work Mr. Angus has done to find another alternative Mr. Lilly feels that this goes a long way to making this much more palatable. Mr. Marshall then noted that the application was requesting the asphalt shingles as the roof of choice, we have gone over this at a number of meetings and asphalt shingles are not an acceptable product for the ranch houses per Mass Historic and we vote to ratify that. We directed Mr. Angus to go out and find alternatives to the rubber membrane which he has done and Mass Historic has approved this alternative. We now have two alternatives to tar and gravel. One being the rubber membrane and the other being this product the rolled asphalt material. The determination that will be voted on now is to not allow Mr. Ashe to have an asphalt shingle roof installed at 34 Walnut Street and to have him choose one of the two approved options. Mr. Marshall asked for a motion to be made to deny Mr. Ashe to have the asphalt shingles installed. **The motion was made by Mr. Gardner and seconded by Mr. Lilly.** Mr. Chapman asked to confirm a vote of yes will deny Mr. Ashe to install the shingles. Mr. Marshall noted that was correct. **The motion was approved by a roll call vote of 6 in favor and 2 opposed (Chapman and Pinard).** Mr. Easton then asked what are the requirements to a hardship case? Mr. Angus noted that Mr. Ashe had withdrawn his early hardship claim in favor of seeking an alternative solution so he will need to come to the table again with the claim and it would need to be brought before the Mass Historic for review.

New Business:

(7:37 PM) Read File: Mr. Angus noted the Devens Safety Building has broken ground at 270 Barnum Road; Harvard Post has an article of the Mass Development's Board of Directors Meeting and some comments from residents but Mr. Angus will go into more detail on that meeting during the next agenda topic. Mr. Marshall asked if there were any questions on the read file. Hearing none he moved on to the next topic.

(7:39 PM) MassDevelopment Board Meeting Recap: Mr. Marshall noted that he, Mr. Poutry and Ms. Fetterhoff attended the meeting. Ms. Fetterhoff made a presentation on behalf of the Chamber of Commerce and Mr. Angus made a presentation on behalf of the DEC. Mr. Marshall walked away feeling as if the board was impressed with the presentation Mr. Angus gave regarding the growth and the plans for more growth here in Devens. Mr. Marshall then handed the floor over to Mr. Angus who noted that the Devens Committee and the Devens Connect, which has formed with residents and businesses here in Devens, also did a presentation. Mr. John Katter presented the work Devens Connect has been doing getting residents informed and involved about all things Devens. Comments from

residents have been their request to be more informed of the goings on. Mr. Angus noted the initiatives that DEC takes to inform the public and extended invites to the residents and businesses to come to the DEC Meetings. They can also see what is going on via our website. He also told them that notifications for all projects are sent out to the surrounding towns as well as property abutters. Mr. Angus, also noted as being open and transparent, he will be going to the next Devens Committee meeting on November 1st presenting what is going on here in Devens. Mr. Angus did note that he will try to attend their meetings on a more frequent schedule to try to keep the communication lines open. There were some concerns expressed at the Board meeting about the Grant Road housing and the developer not following up on their punch lists. Mr. Angus has connected the residents with the developer as they are not building commissioner issues but are developer/builder issues. Emerson Green is a great story of a green and sustainable development. Mr. Angus also noted that the Army did a presentation to the Board about their engagement with the community and introduced their new commander, Commander Bloom, to the board. Mr. Angus spoke with the Deputy to the Commander after the meeting and had a good conversation about partnering with them and the prison to resurrect the Fort Devens Bushes along Jackson Road. The bushes are actually located on the prison property, and they were not letting the DPW on the property and the Military wasn't doing anything as they were on the prison property, so they had gone by the wayside. Now with the new Warden, Commander and DPW Director we are looking to bring them back as a team.

(7:46 PM) Old Business: Mr. Marshall asked if there are any additional old business: Mr. Angus noted that there is a Certificate of Appreciation that Mr. Marshall and Mr. Angus have signed on behalf of the Commission that is being presented to former DEC Commissioner Mr. McKinney for his birthday which is coming up. Mr. McKinney served as one of the DEC's first original commissioners from 1995-2005.

(7:48 PM) Public Comment: Mr. Marshall asked if there were any questions from the Public in the room or on Zoom. None were asked. Ms. Delorier did want to extend a thank you to the commissioners who attended the BOD meeting as well as thank Mr. Angus for giving an excellent presentation and they appreciated it. Mr. Suedmeyer also wanted to add two additional items 1) we have wrapped up the Farmers Market and she would like to thank everyone who took part in the market. There is one more opportunity to support Dicks Market Garden to preorder a thanksgiving bag or produce 2) We will be sharing an invitation with the commissioners once the date of the grand opening of the Nashua River Trail and pollinator meadow has been scheduled.

(7:50 PM) Next scheduled meetings: November 9th at 7:30 AM and November 28th at 6:45 PM Mr. Angus noted that currently there are no topics for the November 9th meeting so it may be canceled but will let the commissioners know later this week.

(7:55 PM) Mr. Marshall asked for a motion to adjourn. The motion was made by Mr. Gardner and seconded by Ms. Fetterhoff. The motion to adjourn was unanimously approved by a roll call vote.

List of Exhibits

- Agenda
- Draft Minutes – September 26th
- Staff Report for 41 Lake George Street Flammable License Request
- Draft Record of Decision for 41 Lake George Street
- Certificate of Appreciation for Mr. McKinney (1995 – 2005)
- Staff Report for 34 Walnut Street
- Virtual Read File
- Letter from Ken Ashe – 34 Walnut Street