

June 16, 2004

Office of the Board of Appeals
Hopkinton Town Hall
18 Main Street
Hopkinton MA 01748

Re: ELH Application for Special Permits

Dear Members:

I am writing to you in regards to the seven special permits requested by E.L. Harvey and Sons, Inc. The possibility that these permits may be issued is of great concern to me. These permits, if issued, will affect not only those residents in close proximity to the facility, but will in fact greatly affect two communities.

While the Hopkinton Board of Health did not review the Site Suitability Application under the current regulations, regulations which were changed to better protect the environment as well as the communities involved, I believe that it is important that the Zoning Board of Appeals consider the numerous reasons for the changes in the regulations. In April and May of 1999, the Massachusetts Department of Environmental Protection held public hearings and received written comments relative to the proposed changes. With regards to setback requirements DEP Responses to comments include:

"However, there are impacts from facilities that DEP believes are not adequately addressed by the current setbacks. For example, those groundwater sources that would be ideal for development as drinking water supplies in the future because they will be able to provide sufficient quantity and quality of water, but which are not used at this time, were not protected. Similarly, existing setbacks have not adequately addressed nuisance conditions such as odors, noise and dust emanating from landfills, large transfer stations and waste processing facilities located near residential areas. There is no question that larger buffers to address these types of nuisance conditions will reduce impacts from waste management facilities. For such reasons, DEP proposed revisions to the criteria." page 14

"Comment: Regarding specific setback distances, 500 feet is the minimum distance necessary to protect sensitive receptors from the multifarious impacts of transfer station. The case for even stronger protection is buttressed by citizen's complaints of foul odors from waste handling facilities at distances of 750 feet and even 1200 feet. Nevertheless, as long as the Dept adopts a strong provision considering community health status and impacts of other pollution sources, the regulation, as a whole, would adequately address the health risks at these further distances. However, if the Dept decides that it is not ready to consider cumulative impacts at this time, then public health demands a setback distance no less than 1000 feet from the facility." page 15

"It is recognized that increasing the setback for large facilities from 250 feet to 500 feet will present a problem for siting such facilities in urban areas, perhaps even in some properly zoned industrial areas.

However, the Dept believes that the nuisance conditions associated with larger facilities require a larger setback from sensitive receptors."
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A complete record of those comments relative to regulation changes can be found at <http://www.state.ma.us/dep/bwp/dswm/files/16resp.doc>
<<http://www.state.ma.us/dep/bwp/dswm/files/16resp.doc>>

Perhaps, not items of concern for the board, but items which I feel I would be remiss in not mentioning can also be found in the DEP Response package. These items include the discussion regarding citizen involvement and the fact that "The final regulation has been modified to clarify that persons may comment on matters of public health and safety and are not limited to commenting on "damage to the environment," as was always intended by the statute and regulations." During the Board of Health hearings, participants were dissuaded from discussing anything other than "damage to the environment".

My other major area of concern rests with "Best Management Practices". I have heard a lot of talk about Best Management Practices, and perhaps naively, I thought that BMPs were an evolving and improving science; as systems improved, technologies advanced, the industry matured so would the Best Management Practices. This is apparently not the case as is evidenced by the Department of Environmental Protection letter of May 24, 2004 addressed to James Harvey of E.L. Harvey & Sons Inc. which states in part that "The permits in question were generated during the period 1978 through 1997 and reflect regulations in place at the time of their issuance. However, the Best Management Practices (BMPs) and the long term monitoring plans (LTMP) detailed in the permits and noted during the inspection do not appear to be consistent with current regulations." The fact that the operation of the current facility has not evolved over the decades of operation is of great concern and one that I hope the Zoning Board of Appeals will consider very carefully.

Very Truly Yours,
Norma J. Levett
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(My address is Westboro but my house is in Hopkinton. It is very confusing at times.)