



TOWN OF HOPKINTON

OFFICE OF
BOARD OF APPEALS

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May 20, 2004

John H. Coolidge, Chairman
Planning Board
Town of Hopkinton
18 Main Street
Hopkinton, MA 01748

Re: E. L. Harvey & Sons, Inc.
Materials Recovery Recycling Facility (MRRF)
Applications for Special Permits
File No. 04-005

Dear Mr. Coolidge:

The Board of Appeals has commenced deliberations on the various issues on the above referenced matter. During our review last night, the Board discussed the following request that was contained within your correspondence to the Board of Appeals dated April 13, 2004¹:

“The traffic pattern within the site is of serious concern to the (Planning) Board. While this will be a topic of site plan review, the uses permitted by the Board of Appeals will affect the number of truck trips and the internal traffic pattern. The Board noted that there are several locations within the site where there will be conflicts between trucks going in different directions and to different areas. In many respects, the site layout presented is a result of the applicant attempting to locate several uses on a site that has many physical constraints. If the Board of Appeals issues special permits, the Planning Board recommends that the decision be written to allow for flexibility during site plan review, so that buildings, driveways, parking areas, etc. can be modified and moved if necessary.”

¹ Document # 136 on the Board of Appeals web site.

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The consensus of the Board of Appeals last night was that it was **NOT** inclined to allow liberal changes to the plan being approved by the Board of Appeals.² The Board's consultants have expended a significant amount of time and the Applicant's funds to study various issues relating to the site. If the Planning Board presently has "serious concerns" on "traffic patters" or any other issues relating to site plan review, then those concerns should be forthwith communicated to the Board of Appeals and its consultant Fay, Spofford & Thorndike, LLC ("FS&T").

The Applicant has been before the Board of Appeals in the public hearing process since August 2003, and has thus far expended thousands of dollars in consultant review fees for FS&T to review the plans on behalf of the Board of Appeals. The various town boards have a duty to applicants to mitigate review costs if at all possible. Whereas FS&T is also the review consultant for the Planning Board under site plan review, it would seem prudent for the Planning Board to communicate any and all relevant comments to FS&T at this time.³ David P. Glenn, Project Engineer for FS&T, has been instructed by this Board to attempt to secure all relevant input from the Planning Board. Your cooperation in this regard will be appreciated.

Notwithstanding the above, since the opening of the public hearings before the Board of Appeals, I have repeatedly made requests to the Applicant that it formerly file with the Planning Board under site plan review. I have warned and made it clear to the Applicant that failure to file for site plan review during the Board of Appeals public hearing process could result in an approval by the Planning Board of a plan different than that approved by the Board of Appeals. This unfortunate result could require the Applicant to return to the Board of Appeals for additional approvals to amend its Special Permit or Permits. This would undoubtedly lead to additional delays and potentially increase the costs significantly, including additional consultant review fees.⁴ The Board of Appeals acknowledges that the integrity of the site plan review process by the Planning Board must be maintained, and that **the Applicant has failed to heed these warnings at its own risk and peril.**

Very truly yours,

Wayne R. Davies,
Chairman

WRD/

cc: Stephen M. Richmond, Esq.
David P. Glenn, Project Engineer, FS&T

² Assuming Special Permits are eventually granted by the Board of Appeals.

³ It is readily acknowledged that since the Applicant has only had preliminary discussions with the Planning Board, the Planning Board may not be in receipt of all relevant knowledge necessary for site plan review approval.

⁴ Presumably, the Planning Board will request consultant review fees per MGL c. 44 s. 53G for FS&T to review the same plan approved by the Board of Appeals. If changes are made by the Planning Board during site plan review, upon the Applicant's return to the Board of Appeals, an additional consultant review fee may be requested by the Board of Appeals for FS&T to review the changes made by the Planning Board. Had the Applicant filed for site plan review during the Board of Appeals public hearing process as was strongly recommended, these consultant review fees may have been mitigated by a single comprehensive and concurrent review by FS&T for both boards.