

## PLYMOUTH PLANNING BOARD: Dry cask storage appeal moves forward

Planners fail to ratify building inspectors decision

By Frank Mand

**Wicked Local**

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What's this?

PLYMOUTH — To Planning Board member Tim Grandy it's a no-brainer. Entergy should be required to obtain a special permit from the town for the construction of multiple concrete spent fuel storage units – referred to as either dry cask storage or an Intermittent Spent Fuel Storage Installation (ISFSI) – for two reasons.

First, there's precedent. The plant only exists because it received a special permit in the first place, Grandy told the *Old Colony*.

And, second, Grandy said, the town needs to be sure that the storage units are constructed with safety as the number one consideration.

Right now, he said, all the town has is a big "trust me" from the plant's owner and the Nuclear Regulatory Commission. Entergy now has a green light to move forward on its plans to construct the ISFSI, though that light is flickering.

Director of Inspectional Services Paul McAuliffe made a determination that Entergy does not have to obtain a special permit. (He granted a building permit for the construction that was already underway.) But his decision has been appealed by EcoLaw, which is representing a group of 18 local residents.

When the Planning Board was asked to weigh in on the matter, it did not follow the recommendation of the town's professional staff to officially support McAuliffe's actions.

Grandy was one of two Planning Board members (the other was Malcolm MacGregor, who made the initial motion) who voted against upholding McAuliffe's decision.

With a fifth board member absent, the final vote ended in a 2-2 tie, so there will be no Planning Board recommendation on this issue when the Zoning Board of Appeals formally discusses the appeal June 12.

At the most recent Planning Board meeting, Attorney Jim Lampert, speaking for the group appealing McAuliffe's original decision, made a lengthy argument and offered a variety of documents in his effort to convince the Planning Board not to support McAuliffe or the recommendation of town staff.

"All we are asking the ZBA to do is require Entergy to obtain a special permit, for two principal reasons," Lampert explained. "First, the zoning bylaws require it. More important, as a practical matter, without a special permit there is no way that the town has a voice to protect its interests."

Lampert's arguments were bolstered by the fact that, when it offered the initial opinion on the appeal, Kopelman & Paige, the town's law firm, appeared to base that opinion on a faulty assumption.

"Both the existing power plant and the proposed spent fuel storage have the same zoning status," town counsel's original opinion read. "And since the plant itself was an allowed use (in that district), the proposed spent fuel storage is an allowed use also."

The problem with that argument, Lampert said, is that it's flat out wrong.

"As our appeal points out and I discussed with (Director of Planning and Development) Lee Hartmann on the morning of the Planning Board meeting," Lampert said, "the plant itself is not an 'allowed use.' It is there only by virtue of a special permit that was issued in 1967."

When Kopelman & Paige recognized that the basis of its original opinion was wrong, Lampert said, it issued a corrected opinion, dated May 20, the day of the Planning Board meeting.

"The first I knew of (this change) was when Mr. Hartmann gave me a copy at the beginning of the meeting," Lampert told the *Old Colony*.

"In one of its first briefs to this board," Lampert said, "(Pilgrim's former owner Boston Edison) admitted that the zoning bylaw 'requires issuance of a special permit, subject to environmental design conditions, for the operation of a power generating plant in an industrial zone,' and that the 'site is zoned industrial under section 401.14 of the [1972] bylaw, which authorizes the operation of a power generating plant by special permit.'"

Then in 1980 and 1983, when Boston Edison wanted to add to the site, it took the special permit route again.

Those are the appellants' legal arguments but it is also their assertion that a special permit process will allow the town to better protect its citizens.

"We certainly don't oppose getting spent fuel out of the spent fuel pool," Lampert added. "We expect that Plymouth will have to live with a spent-fuel dump for who knows how many years. But the town needs to require a special permit to be sure that its resulting expenses will be covered and both the town and its citizens need to make sure they get the best, and not the cheapest, long-term, dry

cask storage site.”

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