

Franklin Borough Zoning Board of Adjustment
Meeting Minutes for October 7, 2015

The meeting was called to order at 7:30 PM by Chairwoman, Mrs. Louise Murphy, who then led the assembly in the flag salute.

Mrs. Murphy read the Statement of Compliance pursuant to the "Open Public Meetings Act, Chapter 231, PL 1975."

ROLL CALL OF MEMBERS PRESENT: Mrs. Bonis, Mr. Estes, Mr. Kopcso,
Mr. Soules, Mrs. Murphy, Ms. Fantasia,
Mr. Suckey

ABSENT: Mr. Kell, Mr. Skellenger

ALSO PRESENT: Mr. Tom Knutelsky, Harold E. Pellow & Assoc.

APPROVAL OF MINUTES:

Mr. Estes made a motion to approve the **Franklin Borough Zoning Board of Adjustment Meeting Minutes for September 2, 2015**. Seconded by Ms. Fantasia.

Upon Roll Call Vote:

AYES: Bonis, Estes, Kopcso, Soules, Murphy, Fantasia, Suckey

NAYS: None ABSTENTIONS: None

APPROVAL OF RESOLUTIONS:

There were no resolutions to approve.

APPLICATIONS FOR COMPLETENESS:

There were no applications for completeness.

ADJOURNED CASES:

There were no adjourned cases.

APPLICATIONS TO BE HEARD:

ZB-07-15-1 Meenan Oil Co (Regions Energy), Preliminary Major and Final Site Plan, D Variances, Block 104 Lot 36.

Attorney, Mr. Lyn Aaroe announced he will be stepping in for Board Attorney, Mr. Dave Brady who is not able to attend tonight's meeting due to a conflict with Meenan Oil.

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Attorney, Karen E. Murphy from Bressler, Amery & Ross representing the applicant stepped forward. She said the applicant is seeking Preliminary and Final Site Plan approval with D Variance for the installation of 30,000 Gallon propane tank at their facility located at 460 Route 23. She indicated if the application is approved tonight the applicant would like permission to proceed with foundational construction of the footings and also waive formal approval of the resolution. She said this will allow the applicant to install the footage before the ground freezes and the remaining construction will occur after the appeal period expires.

Mr. Jeffrey Hamler manager of Regions Oil stepped forward and is sworn in. He provided his credentials to the Board and discussed Regions Energy business. He indicated Region Oil supplies heating oil, propane delivery's, service work. There is a 10,000 gallon diesel storage tank on the site. He said tractor trailers enter the site between the hours of 4:00am to 10:00pm and one of the reasons for the propane tank request is to better serve their customers especially during a catastrophe such as a hurricane. He discussed the products that are currently stored on the site. He indicated a 10,000 gallon diesel tank and discussed vehicles that are parked daily on the site. He said delivery trucks enter the site approximately twice a day and the bobtail trucks will deliver the propane deliveries.

Mr. Hamler discussed the buses parked on site. He indicated the buses have been parked there for the past thirty years. This is a bus operation that runs out of Sussex Wantage Township and serves the Walkkill Valley School District. Permission was given them to better service the Walkkill Valley School district. He said this was a hand shake deal to park four buses on the site and it occurred thirty years ago. He indicated Region does not receive any compensation for the service it's a courtesy to Dunn's bus service.

Mr. Aaroe pointed out to the Board the Borough Zoning Officer sent Regions a violation notice regarding the buses. Karen Murphy said Region would like to allow the buses to continue to park on the site and is aware of the violation notice that it is not a permitted use. She said the violation notice was forwarded to Dunn bus service and they are prepared to remove buses if approval is not granted and find an alternate location. She said the buses are parked outside of the fenced area and all storage of petroleum products are in a fenced area that is gated and locked.

Mr. Hamler discussed trucks delivering to the site. He indicated trucks that deliver the diesel to the above ground tank are 8,000 gallon trucks and the size of the truck that will deliver to the 30,000 gallon propane tank will be the same size. Diesel trucks will fill up in the winter month's once a week and summer months once a month. Mr. Hanler described how the trucks will enter and exit the site when refilling.

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Mr. Suckey commented on the number of buses and bobtails he has seen on the site. He referred to the applicant's site plan and wanted clarification on the distance from the main gate to the filling tank. Karen Murphy suggested the applicants engineer will be able to answer the technical questions better.

Mr. Soules questioned if the tanks are filled during business hours or after hours. Mr. Hamler responded only during business hours. Mr. Suckey commented on eighteen wheeler trucks pulling on the site and refilling. Mr. Hamler said you need to be a member and have an account with Region to refill. Mr. Suckey asked if there are certain standards for a self-pump station. Karen Murphy said it's a permanent facility and commented on the Resolution of 1993 that was approved by the Board. Mr. Hamler discussed Diesel Fuel Club. He said the Diesel Fuel Club permits holders of credit cards to obtain diesel fuel by self-service at the existing pumping stations.

Applicants Engineer, Mr. William Scott stepped forward and is sworn in. He provided his credentials to the Board. He gave a brief overview of the property site. The parking area is stoned and paved and enclosed with a security fence. He said the security fence is six foot in height and within the security fence there is an above ground diesel storage tank. He indicated there are three exits and entrances from Route 23. He is not proposing any alterations on the exits and entrances of the highway and permits from the DOT are not needed. He indicated all improvements will be behind the office building within the fenced area. He discussed the properties surrounding Meenan Oil. He said the tank design and approval were completed by Mr. Stocker who is an expert in propane engineer. He indicated at the request of the Boards Engineer a template was submitted showing how the transport truck can safely maneuver into the site. He discussed how the trucks will enter the site and arrive at the loading station. There will be no alterations to the fencing with the exception of the addition of the twenty foot wire gate. He said the proposed tank is located in an area that is partially paved and partially stoned and is not expecting any increase in the run off or change in the drain patterns.

Mr. Aaroe commented on the guide rail. Mr. Scott said the only ground disturbed will be from the footings and indicated the tank is raised and would be up above the guide rail. Mr. Knutelsky commented on relocating the guide rail. Mr. Scott said he would like Mr. Stocker to answer that since there are certain dimensional requirements.

Mr. Knutelsky asked Mr. Scott to describe the lighting on site. Mr. Scott indicated there are several pole area flood lights and building mounting lights. He said no lighting is proposed at the filling location and is not proposing any alterations to the existing lights. Mr. Suckey was concerned if there was an emergency in the middle of the night. Mr. Hamler feels there is sufficient lighting and described the lighting on site. Mr. Knutelsky said it's a very large tank with new electrical pumping and equipment and feels a light is needed at the filling location. He also commented on

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trucks entering the site and possibly blocking the lights. The Applicants Engineer said it is not required under the state code. Mr. Aaroe discussed the advantages of LED lighting.

Applicants Attorney, Karen Murphy called Mr. Gerard Stocker forward and stated Mr. Stocker will give more specific testimony on the tank and the engineering of the tank.

Mr. Gerard Stocker is sworn in and provided his credentials to the Board. He indicated he is a qualified expert on natural gas and discussed regulations, safety, state inspections, and talked about the liquid petroleum gas education. He said under the jurisdiction of the state the applicant is required to forward drawings to the state and receive state approval. The tank will be inspected and make sure it confirms to the drawings and the engineer will do a letter of certification to the state. He said the 30,000 gallon tank is nine foot in diameter by sixty-five feet long. He talked about why the tank cannot be moved further back to the rear of the property. He said the requirements are fifty feet from the property line and the building and the state agreed with the location when they reviewed the site. Mr. Stocker described the pumping procedure from storage tank into the bobtail vehicles. He discussed the lighting and indicated there is nothing in the code that requires additional illumination. He said the applicant will be running his business during daylight hours when filling up the bobtails and most of the time the transport truck will arrive between 7:00am and 5:00pm. He indicated the tank needs to be explosion proof and the state is not requiring additional lighting. Mr. Aaroe commented on emergency services having to enter the site at night. Mr. Stocker feels there would still be adequate lighting on site.

Mr. Stocker discussed the State of New Jersey regulations and codes. Mr. Suckey commented on the Fire Safety Analysis provided by Meenan Oil. Mr. Stocker said the analysis was not handed out by him and should not have been given to the Borough. He said part of the state code requires a Fire Safety Analysis to be done by a Professional Engineer with the local fire authority and then submitted to the DCA for approval. Mr. Suckey feels an updated Analysis should be submitted to the Board with current information. Mr. Stocker indicated the Fire Safety Analysis will be completed if the applicant proceeds. Karen Murphy indicated the FSA was provided to show good faith that the applicant has consulted with the fire department and emergency responders regarding their capability to respond to an incident if needed. She indicated it will be updated by Mr. Stocker and submitted to the state for approval before the facility becomes operational. Mr. Aaroe suggested the Board receive a more current document before a decision is made. Mr. Stocker said the state has approved the application for Public Health Safety and Welfare now and in the regulation it is required to submit document to the state for approval before the facility can be used. Mr. Stocker stated there is no requirement that the applicant needs to do a FSA before the application is approved. Mr. Aaroe discussed the Fire Safety Analysis with the Board.

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Mr. Stocker commented on a facility that was once located on Main Street. Mr. Stocker discussed regulations and State Laws. He indicated the applicant is licensed by the Department of Community Affairs. He talked about employee training and certifications. Mr. Stocker commented on the Construction approval permits and the states final inspections.

Mr. Suckey said thirteen year old information submitted and possible misinformation should be updated before a decision is made. Karen Murphy said she is not asking the Board to disregard the Analysis submitted to them but stated it will be finalized and certified by Mr. Stocker. She indicated the analysis is accurate with the capability of fire department and emergency responders. Mr. Suckey indicated the fire chief was not aware of the 30,000 gallon tank proposed. He commented on the fire hydrants on site and respond time from the fire department. Mr. Hamler discussed conversations he has had with the fire department to date for the project. He indicated he met with former chief and Jeff Smith and Troy Kays also attended the meeting. He indicated the Franklin Borough Water Department tested the pressure on the hydrants.

Mr. Hamler discussed propane training that was offered to the Franklin Fire Department.

Mr. Suckey indicated he has spoken with the Fire Chief and he has not seen the plans for the project. He commented on information provided in the Fire Safety Analysis and feels an updated version is needed. Mr. Aaroe suggested a meeting with the Fire Chief and Board Members before a decision is made. Mr. Knutelsky said as a condition of any approving resolution he suggested the Board require a safety meeting between the applicant, Franklin Borough OEM and Franklin Borough Fire Department to discuss any such emergencies onsite.

Karen Murphy indicated she met with emergency responders before and is willing to meet with them again. She said the applicant is in agreement for an approval to only proceed with construction of the foundational footings but her concern is the approval for the tank itself. She commented on the authority of the state and fire department and said the analysis of the FSA is required to look at the local respond requirements. Mr. Aareo advised the Board this is a major site plan for a non-permitted use and discussed the negative criteria. Karen Murphy feels based on the prior meetings with the Fire Department, they were aware of the project and commented on the lack of communication. Mr. Aareo suggested the applicant communicate with the Fire Chief and Fire Department to clear up any notification confusion. Louise Murphy said the fire department will not be making the decision on the application what the Board needs is more information. A discussion took place regarding the safety of the community and County emergency services input.

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In conclusion, Karen Murphy has agreed to meet with Borough Fire Official and obtain a written letter on the Borough's Fire and Safety capability. She requested the application continue on the next agenda for November 4, 2015.

Mr. Knutelsky asked if a revised fire safety analysis will be provided to the Board. Mr. Stocker said the Fire Safety Analysis presented for tonight's meeting is not a document that is required in the state of New Jersey. He discussed documents that will be signed by the Municipality Fire Official. He said the Fire Safety Analysis was given to the Board in error.

Karen Murphy requested testimony from Jessica Caldwell to be heard tonight.

Jessica Caldwell the planner for the applicant stepped forward and is sworn in. She gave her credentials to the Board. Her testimony focused on the zoning and the individual impact on the neighborhood. She discussed the pre-existing non-confirming use on the property. She said the applicant is proposing a 30,000 gallon propane tank which is considered an expansion of a non-confirming use. She discussed the positive and negative criteria and commented on variances. She talked about the setback proposed for the rear yard of the storage tank. She commented on the Bulk variance request. She said the property is located on the Highway Commercial Zone and discussed properties that surround the site. She said the proposed tank is set back from the road and is similar to other highway commercial uses. She discussed types of trucks visiting the site to refuel. She said the tank will not change the character of the site or impact the surrounding properties and the positive criteria is meeting the purpose of the municipal land use law. She indicated no negative impact to the neighborhood or the Master Plan. She explained the additional trucks that will be visiting the site and said traffic will be a minimum impact. She indicated the Fire Safety issues need to be worked out. She commented on the non-confirming rear yard setback and discussed the size and shape of the lot. She stated the lot depth is 188 feet with a pre-existing structure on the site. The tank needs to be 50 feet from the structure on site and also 50 feet from the rear line. In her opinion she feels we meet the hardship criteria for the C1 variance and also meets the D2 expansion of non-confirming use criteria.

Mr. Aaroe asked Jessica to give her opinion on the landscape around the tank. She indicated there is not a lot of places to add landscape around the tank. She said the main spot will be along Route 23 on the grass strip but is concerned with running into site issues. She feels landscape is not needed around the proposed tank. Mr. Knutelsky said in an area that requires security he thinks an openness would benefit the site and does not think landscape is required.

Ms. Fantasia asked if residents in the area have expressed any concerns. Ms. Caldwell confirmed notice has been sent to residents within 200 ft. and is not aware

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of any complaints. Mr. Knutelsky discussed landscape around the propane tank. He talked about the importance of safety and visibility on site. He is not concerned with the landscaping or screening the tank. Ms. Fantasia commented on the importance of safety around the tank. Mr. Suckey suggested a clear view of the tank from the street and would not recommend shrubbery around the tank.

Mr. Knutelsky commented on trucks and bobtail trucks circulating the area. Karen Murphy commented on the vacant area across the street from the site. Ms. Caldwell discussed the distance of the tank from the street and does not believe it will change the character of the site or visual impact. Mr. Knutelsky discussed the vacant property across the street. Ms. Caldwell does not think Region Oil is out of character with the type of uses on the Highway Commercial Zone. Mr. Suckey said the topography concerns him more because propane is heavier than air and it will sink and then follow the ground thru the lower areas. Ms. Caldwell indicated no signage on the tank.

Mr. John Finn, Field Operations Manager for Meenan Oil is sworn in and gave his credentials to the Board. He has been in the propane industry for 28 years and has a 30 year background in fire service. He discussed the Able Oil incident and commented on the legal safe operation that is proposed by Meenan Oil. He discussed company procedures that are in place to prevent a truck from pulling away if a hose is still connected.

He commented on odors from the tank and said there will be a small release of propane and it will not affect neighbors or safety. He discussed the excess flow valve and commented on methanol being added to the propane tank. He said there will be 55 gallon drums of methanol stored on the site 25 feet away from the point of transfer. He indicated storage of Methanol has not been determined yet but will be stored within a secure fencing area. A discussion took place regarding Methanol. Mr. Suckey pointed out the site plan is not showing location of methanol drums. The applicant indicated two or three drums of methanol and will show them on the site plan.

Mr. Finn discussed the propane odor. A discussion took place regarding the Franklin Fire Department propane training that was offered. Mr. Finn indicated training will be offered again in the fall and said employees are trained above what the New Jersey regulations require. He explained how to handle and approach a propane fire or leak that has been ignited. He commented on the conflicting stories regarding the Franklin Fire Department not being aware of the tank installation. He discussed Propane Training that is provided to the Franklin Fire Department. Mr. Finn commented on the Littell Plant that was once in business and pointed out it was protected by the Borough Fire Department for many years. He said an average propane tanker holds between nine to ten thousand gallons.

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Mr. Knutelsky asked how often the proposed tank and piping is inspected. Mr. Finn indicated company inspections are completed on a daily basis. He said the FSA is an annual inspection that gets reviewed and signed. He discussed other facilities in Sussex County that have 30,000 gallon propane tanks.

Mr. Knutelsky asked the applicant to explain why no barrier is required between the last bollard on each side of the tank and the existing guide rail. The applicant indicated half of the tank will be elevated and can extend the bollard to the guide rail. He said it is there to protect the piping at the truck station and indicated it has been submitted to the State and found to be adequate for safety. Mr. Knutelsky recommended four additional bollards to protect the west side of the tank.

Mr. Knutelsky commented on traffic circulation. Mr. Suckey commented on paving and the turns the eighteen wheelers will be making on the site. He indicated there should be more testimony on the pathway and the guide rail. The applicants engineer indicated paving is not required by the state. Mr. Knutelsky discussed paving and said a hard service asphalt could create runoff and is not opposed to having a gravel surface. Mr. Knutelsky said there is a very large area for trucks to make turns and from the circulation point there is adequate room for trucks to maneuver on the site. He commented on Storm Water Management. Mr. Suckey suggested new gravel be added to the site to give it a more define pathway. Mr. Knutelsky suggested to include that as a condition that the gravel surface will be inspected, resurfaced, and a site inspection from the Borough.

Karen Murphy discussed truck traffic that comes in and out of the gravel area every day. She commented on the guide rail and said it acts as a retaining wall. She said taking the guide rail away will change the elevation and the sloop on the North side of Route 23 and will cause a grading problem. Mr. Suckey suggested the applicants engineer give further testimony on the guide rail and paving. Mr. Knutelsky discussed removal of the guide rail and is not sure it is needed on the site. Karen Murphy indicated a further look will be taken and will be addressed at the next meeting. A discussion took place on a possible lightning strike to the tank and the grounding of the tank.

Mrs. Murphy announced the hearing for the applicant will continue on November 4, 2015. Mr. Aaroe indicated no further notice is required.

Mr. Estes made a motion to **Continue Hearing of Application ZB-07-15-1, Meenan Oil Co. Preliminary Major and Final Site Plan to November 4, 2015.** Seconded by Mrs. Bonis.

Upon Roll Call Vote:

AYES: Bonis, Estes, Kopcso, Soules, Murphy, Fantasia, Suckey

NAYS: None ABSTENTIONS: None

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OTHER BUSINESS:

There were no other business to discuss.

PAYMENT OF BILLS:

Mrs. Bonis made a motion to approve the **Franklin Borough Zoning Board Escrow Report for October 7, 2015**. Seconded by Mr. Estes. All were in favor.

DISCUSSION:

Chairwoman, Mrs. Louise Murphy had a discussion with Mr. Suckey regarding a meeting with the Franklin Fire Chief to discuss Meenan Oil application. It was decided Mr. Floy Estes, Mrs. Louise Murphy, and Mr. Wes Sucky will attend the meeting.

CORRESPONDENCE:

Mr. Knutelsky discussed application ZB-07-14-1, MRAN Franklin, (Taco Bell). He indicated field changes made to the site. He said the trees removed on site will be replaced with new trees. He discussed the walls located on the Walmart side and said the wall will match the stone of the building. He discussed issues with the sidewalk installation. He informed the applicant to apply to the Zoning Board for an amended site plan to have that condition on the resolution removed. He said the applicant will bond for the sidewalk and the wall and does not feel it will be a safety issue. He said a temporary CO can be issued without the sidewalk and the applicant will return to the Board with a revised plan showing the field changes. He discussed service lines on site.

Mr. Knutelsky updated the Board on the Walgreens application. He said a temporary CO will be signed. Ms. Fantasia commented on the hours Walgreens site work was taken place. She indicated hours of construction where starting before 7:00am.

OPEN PUBLIC SESSION:

Mr. Estes made a motion to **Open to the Public**. Seconded by Mr. Suckey. All were in favor.

No one from the public come forward.

Mrs. Bonis made a motion to **Close to the Public**. Seconded by Mr. Estes. All were in favor.

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ADJOURNMENT: There being no further business Mrs. Bonis made a motion to adjourn the meeting of the Franklin Borough Zoning Board of Adjustment. Seconded by Mr. Suckey. All were in favor. Meeting was adjourned at 10:12 PM.

Respectfully submitted,

Karen Osellame
Board Secretary