

# BOROUGH OF TOTOWA

PASSAIC COUNTY, NEW JERSEY

BOARD OF  
ADJUSTMENT



MUNICIPAL BUILDING  
537 TOTOWA ROAD  
TOTOWA, NJ 07512

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## BOARD OF ADJUSTMENT MINUTES OF NOVEMBER 8, 2017

The November 8, 2017 meeting of the Borough of Totowa Board of Adjustment was held at the Municipal Building. Chairman Fierro called the meeting to order at 7:36 p.m.; followed by the Flag Salute. Attorney Briigliodoro read the Open Public Meetings Act. The minutes from the October 11, 2017 meeting was approved by Commissioner Bavazzano and seconded by Commissioner Mancini.

1<sup>ST</sup> CASE: SOUTHPORT LLC (CARRY OVER)  
200 WEST END ROAD, BLOCK 170.02, LOT 2

Attorney Vogel would like to continue from the last meeting with the cross examination of Engineer Morris. Attorney Keough will continue his cross examine of Mr. Morris. Mr. Morris presents an updated storm management report. Mr. Keough asks if Mr. Morris prepared the site plan, Mr. Morris replies yes. Mr. Keough was not sure because he was unaware of certain items, such as the outdoor storage waiver, the road width, etc. Mr. Keough asks if you are comfortable with this site plan, Mr. Morris replies yes. Mr. Keough would like to know about the safety at the site and if Mr. Morris had not spoken with Mr. Meeker, Mr. Morris replies he had not spoken to Mr. Meeker. Mr. Keough would like to know if the access to the site on West End Road is about 15 feet, Mr. Morris replies yes. Mr. Keough would like to know if there has been contact with the Totowa Fire Department, Mr. Morris replies no. Mr. Keough asks how wide do the roads have to be to allow for a fire truck to exit the site, Mr. Morris replies Totowa's ordinance states 15 feet for one way access, there is a 15 foot ingress that splits to 3 driveways, on to the plant, one to the silo, and one for parking. Mr. Keough would like to know if Mr. Morris was present when Mr. Meeker gave his testimony, Mr. Morris replies he was, Mr. Keough also asks if he heard him say there could be a fire, Mr. Morris states yes, there can be a fire anywhere. Mr. Keough would like to know if the owner has a safety in place, Mr. Morris states yes. Do you have any explanation if there is a truck on the road how does a fire truck get by; Mr. Morris says the trucks would have to leave, only 2 to 3 trucks can cue from the plant. If there is a fire at the plant, either they back out or proceed through the fire? Mr. Morris replies the plant has a fork on the roadway which clears the entire plant by quite a bit and then comes back out to exit the property. Mr. Keough asks about the outdoor storage on site, Mr. Morris replies he does not agree with the waiver because Totowa's ordinance states if its properly screened, outdoor storage is permitted. Regarding the outdoor storage, do you know how much will be occupied, Mr. Morris assumes all of it. And how much are is there, Mr. Morris replies 1 ½ acres.

Would that be for storing the raw material and the graf material, Mr. Morris replies yes. The site is covered by gravel only and those materials would sit on the gravel? Mr. Morris replies yes to both.

Mr. Morris goes over the revised storm water report which was filed with the Board on October 27<sup>th</sup>, 2017. There are 7 copies and one copy to be submitted as an exhibit. Attorney Brigliadoro states the report was prepared by Boswell Engineering and marked as Exhibit A-4. Identify that document, revised site plan, consist of 8 pages and is dated October 28<sup>th</sup>, 2017 and marked as A-5. Attorney Vogel describes the changes of A4 and A5 to the Board. Mr. Morris explains A4 is totally new, it contains a narrative of what we proposed to do, there is a series of maps which shows the existing and proposed conditions and then a series of calculations to prove conformance and at the end contains a storm water management manual. The narrative describes how the plant is occupying the south westerly portion of the property and the storage area for the materials occupying the north westerly portion of the property identifies the classification of the soils as urban land booton complex, which is a hydraulic class C soil and goes onto describe requisite reduction in the 2010 and 100 years storms. A 50% reduction in the rate of run off in a 2 year storm, a 25% rate of reduction for a 10 year storm, and a 20% reduction in the 100 year storm. The south east and south west, the south west corner we enlarged an existing detention system similar on the south east corner we provided another detention system. Mr. Keough states the 21" concrete pipe that proceeds to the west end to the south and eventually runs into a ditch which proceeds into the township way, does that 21" concrete pipe exists currently? Mr. Morris replies yes. Is it servicing this property and other properties as well, Mr. Morris replies yes. Have you done the calculations that the run off from this site and the run off from the other site contribute to the 21" pipe are of a volume that the 21" pipe can handle, Mr. Morris replies yes. Attorney Vogel asks if this is a reduction of what currently exist, Mr. Morris replies yes. Attorney Vogel also asks as a function of the storm water plant, you had to reuse the site plan as well to incorporate that as well, Mr. Morris replies yes. Describe to the board, referring to A5 what those revisions to the site plan were. Mr. Morris states 2 detention ponds are on either side of the southerly portion of the site on the east side and west side, they act independently and they receive the run off from the site and they discharge into separate brick pipes which are joined and connect to the 21" pipe. Attorney Vogel would like to know what other revisions to the site plan are there. Engineer Murphy states number 12, a request for a van accessible handicap spot, which we now provide and number 14 is a series of notes to add to the plan with dimensions and details. Commissioner Patten asks each retention basin holding 50% or is one taking more. Mr. Morris replies the south easterly one will take slightly more than the south westerly. Commissioner Patten would also like to know what the percentage is, Mr. Morris replies about 60/40.

Attorney Donohou will cross examine the witness. He asks when referring to new storm water plan, can you show us where the retention basins are. Mr. Morris shows that one is on the south east and one is on the south west corners of the property. When talking about the entire site, that would all be gravel, Mr. Morris replies yes. The roadway which is impervious, would gravel be considered impervious as well, Mr. Morris replies it is

giving a semi-impervious value. What does that mean? Mr. Morris answers, it is not the same as grass lawn but it has a higher run off factor than grass or woods. So more water is going to run off this? Mr. Morris replies yes. Where is the water going to run, into the retention basins? Mr. Morris replies yes. Because of how the site is graded? Mr. Morris replies yes. Mr. Donohue would like Mr. Morris to show where the water will run from. Mr. Morris explains, there is an outlet structure on the southeast detention base on the west side of the south east structure which will exit into the existing drainage and at the southern end of the southwest detention there is another one that exits in the same existing drain. The RAP is known to have contaminants, is lead one of them? Mr. Morris replies, yes there is contaminants, if lead is on the road it could be in the RAP. Lead can cause cancer? Mr. Morris states he does not know. PAH causes cancer also, Mr. Morris replies if that is what you say. Any of those contaminants that are here, they are going out run down into the basins and all the way out to the brook. Mr. Morris replies that that is incorrect. Why? Mr. Morris answers; it is a known fact that contaminants does not migrate out of the RAP. So they just stay there? Mr. Morris replies yes. And even though it's on this semi-impervious gravel? Mr. Morris replies yes. Why? Mr. Morris states it does not migrate with water and has been proven by Bosewell Engineering and other studies. Your plan indicates nearly all the vegetation on this site is going to be removed, is that correct? Mr. Morris replies yes. And be placed at this gravel, in certain areas that crushed stone is going to fill in with fine particulate and matter-correct? Mr. Morris yes it will. So it's going to make it run off more? Mr. Morris replies that is correct, that's why you give it a higher run off factor. There will be trucks and vehicle's moving on that semi-impervious gravel? Mr. Morris replies the loader and an occasional truck will be on it. That will make soil compaction, correct? Mr. Morris replies yes. That will make it denser and more impervious? Mr. Morris replies, which is exactly why you use the higher run off. Petroleum products will be loaded and un-loaded and stored on this site? Mr. Morris replies yes. What preventions have you taken for ground water recharge? Mr. Morris states we are not prohibiting ground water recharge. Will there be any soil testing? Mr. Morris replies not at this time.

Attorney Testa starts his cross examination of the witness. On page 3 of your report, the 4<sup>th</sup> paragraph down talks about the modified rational method which you used to calculate the existing and proposed run off-why did you utilize that method? Mr. Morris replies it is the proper method to use in design of areas less than 20 acres, it is the accepted method.

These impervious surfaces that you are talking about, you list them on your exhibit? Mr. Morris replies that is correct. Are these dis-connected impervious surfaces? Mr. Morris states in the strict definition of the term, they are connected because they are longer; the travel area is longer than what the state allows for dis-connected areas. How many drainage areas are there? Mr. Morris replies 3. The ODA, is that for the entire site? Mr. Morris replies overall ODA drainage area. That calculation is in appendix D, is that the overall drainage? Mr. Morris replies yes. Has there been any demonstration with respect to the infiltration and there drainage, about how many hours before the drains will be completely dry? Mr. Morris replies yes, we did a storm water routing of the storms, located in the back appendixes and depending on the storms. An example typically with 120 minutes the basins would dry. Regarding the storm water, are there any natural

drainage features that are being protected on this project? Mr. Morris replies not sure if there are any on this project.

Attorney Rubright cross examines the witness. NJ storm water regulations, are you referring to the regulations a NJAC 7 column 8? Mr. Morris replies he is not sure. Did you review the regulations before you prepared your initial storm water report? Mr. Morris replies yes. And also before the revised report? Mr. Morris also replies yes. What was the most recent time that you reviewed these regulations? Mr. Morris replies, about a month ago. What topic did you review? Mr. Morris states, storm water rate reduction, different water quality management features for different project. How many storm water management systems did you design under these regulations? Mr. Morris replies probably over 100. Would you consider yourself an expert? Mr. Morris replies yes. There is a section called non-structural storm water management strategies, did you follow those regulations? Mr. Morris states he requested and exemption from these because that is a state requirement and we are not applying to the state, we are applying to the borough. Does the storm water plan comply with those regulations? Mr. Morris replies it complies with the boroughs ordinance. Have you designed other sites where you have asked for an exemption? Mr. Morris replies yes. Where? Mr. Morris replies, in front of DEP, there is a non-structure worksheet and you ask for exemptions from that work sheet. Why aren't you applying to the DEP? Mr. Morris replies that it is not required. Why isn't it required? Mr. Morris states it has to be part of a flood hazard area or wet lands or water quality application and this is not. Have you spoken to Engineer Murphy about the new plans? Mr. Morris replies not until this evening. Do you anticipate discussion with Engineer Murphy about this storm water plan before getting approval from the board? Mr. Morris replies yes. You testified to where the water comes out of the pipes and flows to the Preakness brook-are there any county drainage structures that are being affected by that drainage? Mr. Morris replies he does not know. Did you apply to the county? Mr. Morris replies no. Do you intent to apply to the county? Mr. Morris replies they will ask for an exemption from the county. On page 6 of appendix B, on the 2<sup>nd</sup> page after the appendix-what is that? Mr. Morris replies it is a chart that accomplishes the run off factor from the site. What is the C factor you used for pavement? Mr. Morris replies .90. And that pavement is an impervious service? Mr. Morris replies yes.

Attorney Brigliadoro would like to know what does the C stand for? Mr. Morris replies the C stands for the percentage of run off that will leave that surface.

Attorney Keough cross examines the witness. The RAP material, does it contain petroleum products? Mr. Morris replies it contain PAH which is actually part of the RAP itself, it's the old oil that was used on the RAP originally. Are you aware that there will be diesel trucks on the property and they use diesel fuel? Mr. Morris replies yes. And they omit diesel fumes? Mr. Morris replies yes. And occasionally even though these diesel trucks are covered when they are full of asphalt-particulates can escape. Mr. Morris replies yes, the RAP material do not leech numerous studies have been done.

Attorney Shaljian cross examines the witness. In your statement that Boswell uses the .90, what is the .99 standard? Mr. Morris replies the .90 is RSIS standards and the .99 standard is used on a steeply sloped parking lot or a roof. Would the use of a different decimal change the calculation of the storm water report? Mr. Morris states not the degree-that would not meet the requirements. Would it change? Mr. Morris replies yes. The previous photos of flooding that takes place outside the streets of the corporate residents of this industrial park, it show significant flooding and the storm date was August 2, 2017. Is it your testimony today that with the revised storm water plan, that it satisfies the ordinance and it satisfies the state requirements as well? Mr. Morris remembers seeing the photos and states correct to the question. Is it your testimony that the flooding shown in the photos is going to be elevated by the controls you are putting on this site? Mr. Morris replies no. Will it stay the same or get worse? Mr. Morris states it would probably stay the same since we have no effect on that flooding; it is upstream from the property site.

Attorney Vogel asks a few questions from Mr. Morris. Are the other uses on this property a concrete recycling plant, a transfer station, and a mulch facility? Mr. Morris replies yes, that is three of them. Are they all serviced by a drainage system that currently exist? Mr. Morris replies yes. Which includes that 21" pipe that eventually takes the water? Mr. Morris explains, that pipe takes the water from the concrete recycling facility and the mulch facility-but is not aware if it takes from any other facilities. The two detention basins you designed in order to meet the requirements, they detain the water? Mr. Morris replies yes. And that water goes into the 21" pipe? Mr. Morris replies yes. Does that 21" pipe discharge water that has any effect on West End Road or any of the plants that exist on West End Road? Mr. Morris Replies no. Engineer Murphy states he will be reviewing the detention design and will offer his comments. Alternate Korsakoff asks about the water solubility of the RAP, there are studies-do you have any official studies? Mr. Morris replies he will check to see if he can get any.

At 8:43 pm the Board takes a break.

Meeting is resumed at 8:56 pm and a roll call is taken.

At this time a motion was made by Commissioner Patten to open the meeting to the public and was seconded by Vice Chairman Krautheim.

Debra D'Agostino, was sworn in by Attorney Brigliadoro, resides at 70 Vreeland Avenue. Mrs. D'Agostino believes she is the closest resident to the proposed plant in Totowa. She states the brook that was spoken about earlier is not the Preakness Brook but is the Naachpunkt Brook. Mrs. D'Agostino addresses Mr. Morris with some questions. Did you have to notify the Morris Canal and Wayne Township? Mr. Morris replies yes. You are within 200 feet of wet land and you do require DEP approvals but not just DEP approvals by you are also required to apply to Hudson, Essex, and Passaic soil conservation because you are talking about moving soil. How often do you research RAP and studies that are done on it? Mr. Morris replies we have researched it for four different quarries and there are studies nationwide and throughout the state of NJ,

actually there is a study recently done through Rowen University which shows that RAP ingredients do not migrate. Mrs. D'Agostino has a study from the department of transportation; this was done in May 2017. Attorney Vogel suggest she just ask questions. Mrs. D'Agostino continues, they approach Universities for research to be done, this one was about RAP-the studies of recycle asphalt pavement RAP is obtained from milling and removal of pavement surfaces, not all of it can be recycled into new asphalt pavement, therefore that unused RAP materials have to be either stored on site for long periods of time or disposed of in waste landfills which is often costly. The RAP materials have been used as aggregate on unfound base materials, pot hole fillers materials, and roadway shoulder materials, however NJ RAP usage in these applications has been restricted due to environmental concerns from the possibility of potential toxic poolutants that might leech out of it. Mr. Morris disagrees with that study. What type of screening will be around the site and how high? Mr. Morris replies it will be a concrete wall and it will be about 6 to 8 feet high. How high are the piles? Mr. Morris replies upwards of 20 feet. How does a wall 6' block any debris from a 20' pile? Mr. Morris replies that the wall is protecting from the site. The wall is going around the whole site? Mr. Morris replies yes the whole perimeter. If there is a fire and everyone has to leave in a hurry, they have to stay on that one road? Mr. Morris explains that there are no that many people, just aggregate. Mrs. D'Agostino discusses an application of an asphalt plant in Galaway and there process-you don't believe you need any other DEP approvals considering all the materials and all the environmental concerns that comes out of the smoke stacks? Mr. Morris states we need an air handling permit .But you don't have that yet? Mr. Morris replies that we need approval from the town first. Are you going by parcel when figuring the 200' or address? Attorney Vogel states, under the municipal land use law we go by block and lot.

Ernest Byrne, was sworn in by Attorney Brigliadoro, resides at 20 Knox Terrace. Mr. Byrnes questions Mr. Morris. Would you build this factory next to your own home? Mr. Morris replies, no, provided that an asphalt plant is an inappropriate use in a residential area.

Joyce Tor, was sworn in by Attorney Brigliadoro, resides at 35 Craig Court. Mrs. Tor questions Mr. Morris. Are there any explosions that cause fire in the asphalt industry? Mr. Morris is not aware of any. What happens to the residents if there is an explosion? Mr. Morris cannot answer that since there would be no explosion.

Michelle Handal, was sworn in by Attorney Brigliadoro, resides at 15 Vita Road. Mrs. Handal questions Mr. Morris. Do you feel that residents' concerns are justified? Mr. Morris replies, anyone's concerns are justified, the questions asked tonight are unjustified because I felt I answered the questions regarding the safety issues, there is a plant closer to residents in Totowa that has been there for 40 years and hasn't had an explosion that I am aware of. But can you see our concern for not wanting another plant in town?

Mr. Byrne addresses the witness. You mentioned before that within 200' feet of the site, do you want to live in that residential area? Mr. Morris replies he would not mind living there.

Mrs. D'Agostino addresses the witness. You are familiar with the classification of asphalt? Mr. Morris questions what classification. They have a hazard class; do you know what that is? Mr. Morris replies no he only designs the site. Mr. Morris states if dirt is in the RAP, no plant would take it for recycle. Are you familiar with the 9 classes of hazardous materials? Mr. Morris replies no. Do you have any or do you plan to have anything around the asphalt plant to advertise that you have a flammable substance onsite? Mr. Morris states it is not his concern, but the operator can answer that question.

AnnMarie Kane, was sworn in by Attorney Brigliadoro, resides at 118 Winifred Drive. Mrs. Kane questions Mr. Morris. How long have you been an engineer? Mr. Morris replies 37 years. In that time have you ever designed a site plan for an asphalt plant? Mr. Morris replies yes. How many have you designs? Mr. Morris replies 2. Where they in NJ? Mr. Morris replies yes. Where they similar in size to the one? Mr. Morris replies yes. When did you prepare those site plans? Mr. Morris replies one was in 1995 and one was close to 2000. Have regulations regarding what is needed in a site plan for an asphalt plant changes? Mr. Morris replies not really. Any research been done on your part, since it has been about 17 years since you did an asphalt plant? Mr. Morris replies yes, the boro ordinance and other requirements that typically come into play when you design a site plan.

Annalise D'Agostino, sworn in by Attorney Brigliadoro, resides at 70 Vreeland Ave. Miss D'Agostino questions Mr. Morris. You work with the standards of the town? Mr. Morris replies yes. Yet you do not look at current research? Mr. Morris replies that is not his job. Do you accept other opinions? Mr. Morris replies yes. But you do not look at other research to improve the quality of your work? Mr. Morris states we always encourage up to date research. And this is the first asphalt plant you are designing in 17 years? Mr. Morris replies yes.

Mrs. Kane addresses the witness. I was given a transcript of testimony from last month's meeting. It says you would agree with me that these are stored on the grounds outside that rain or any precipitation that hit the piles would cause leeching of those contaminates into the soil-answer, not necessarily, question-ok, not necessarily means yes but not all the time, answer-well I'll give you an example, we don't do work for other quarries one of the things that I don't personally do but I am aware of it because our environmental department does it, they do it in conjunction with some of my stock, we have analyzed the ground under RAP piles once they are removed and mostly it has come out clean. Mr. Morris states, I answered this before, but will answer again; there was an incident that came out with a positive hit and that was because there was a piece of RAP in the sample.

At this point a motion was made by Commissioner Patten to close the public portion of the meeting and was seconded by Alternate Masi.

Attorney Donohoue asks the board to have Mr. Morris produce the studies that he is referring to. Attorney Vogel will look into it.

Attorney Briigliodoro adjourns the meeting tonight and advises it will start clean next month at the December 13<sup>th</sup>, 2017 meeting at 7:30 pm

At this time a motion was made to adjourn the meeting by Commissioner Patten and Commissioner Nash at 9:55 pm.

Respectfully submitted,  
Pam Steinhilber, Secretary