

# BOROUGH OF TOTOWA

PASSAIC COUNTY, NEW JERSEY



BOARD OF  
ADJUSTMENT

MUNICIPAL BUILDING  
537 TOTOWA ROAD  
TOTOWA, NJ 07512

Phone (973) 956-7929

## BOARD OF ADJUSTMENT MINUTES OF JULY 12, 2017

The July 12, 2017 meeting of the Borough of Totowa Board of Adjustment was held at the Municipal Building. Chairman Fierro called the meeting to order at 7:39 p.m.; followed by the Flag Salute. Attorney Brigliadoro read the Open Public Meetings Act. The minutes from the June 14th, 2017 meeting was approved by Vice Chairman Krautheim and seconded by Commissioner Bavazzano.

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

Jerome Vogel is the Attorney for the applicant. The Applicant seeks a variance for height, this property is owned by the Borough of Totowa and the Applicant will lease it from them. The property used to be a sewer treatment plant for the Borough in the I-3 zone. It is proposed to be used as an asphalt plant consistent with what is in the surrounding area. The nature of the height variance for 93' and is consistent with plants within the industry. Truck traffic will not be that great and will be explained later. This is a permitted use; the only variance is for the height, not the use. An approximation of the plant is four hundred thousand tons of asphalt a year, that's 1600 tons a day, each truck can take 26 tons and would equate to 50-60 trucks a day. Most paving is done at night. The Applicant is also requesting some design waivers such as landscaping, shade trees, height of the silo's, and signage. The reason for the height of the silos is for less on-site storage. The entrance into the plant is one way and the trucks would be exiting the opposite end of the driveway.

At this time Chairman Fierro opens the meeting to objector Attorney's and will be on record.

Attorney Dan Keough from Summit is representing RJ Realty which is located at 77 West End Road. Attorney Keough received notification in the mail a week ago Friday, but with the holiday has not had enough time to review. Attorney Keough feels the notice was deficient according to section 415-10 performance standards was not mentioned. His client is open to the application but does not know what an asphalt plant means; will there be odor and noise from it? Attorney Vogel is appealing statement and agrees they need to hear from the experts. Attorney Brigliadoro reviews issues of the notice; the notice states the date, time, place, and nature of the matters to be considered, identifies the property and the proposed street address and confirms the notice was

adequate. Attorney Brigliadoro also feels the applicant satisfies the municipal land use law. Attorney Vogel states this is a hearing that's predicated on the municipal land use law and offers the opportunity to meet any of the Attorney's outside the room to give them any info they need and questions to be answered.

Attorney Susan Rubright is representing Star Stainless Steel is questioning whether or not the land was out for bid for the lease. She also feels this application is not permitted use. Attorney Rubright's client did not get a notice on this because the company is not within the 200 feet required for notification. Attorney Brigliadoro assures her this is the proper Board to hear this case because we approve the D-6 variances. Attorney Rubright's experience with asphalt plants is usually in a quarry or mining zone and feels this does not seem to be the proper property for this use. Only a permitted use if it satisfies the performance standards. Attorney Vogel explains this is a permitted use, the ordinance states manufactured by processing, distillation, fabrication, assembly or other handling of products provided they meet the performance standards 415-105. Attorney Rubright says she read the ordinance and believed it can be an issue; Attorney Vogel states the ordinance is very clear and not sure what the issue is. Attorney Rubright states she has never been rude to Attorney Vogel and takes offense to him slandering her and wants an apology and feels he withdraw himself from the hearing.

Attorney John Testa is representing Spiral Binding (Maltese Realty LLC) and Moreng Metals both with are within the 200 feet. Attorney Testa also feels the notice was not adequate and would like the opportunity to cross examine the witnesses for the Applicant. Attorney Vogel feels that is a fair statement and he should have the opportunity to cross examine. Attorney Brigliadoro would like to inform the Board, Attorney's and public the question about the bid, the Borough did put this property out to bid.

Attorney Michael Bittone is representing Catholic Book Publishing Corp which is located at 77 West Side. Attorney Bittone feels Attorney Vogel has to prove that he understands the design codes. Attorney Brigliadoro would like to suggest the Board to commence the meeting tonight and carry to next month's meeting with all the witnesses. Attorney Vogel will have his witnesses come back next month to address the objector's witnesses.

Scott Braen, president and one of the owners of South Port LLC was sworn in by Attorney Brigliadoro. Mr. Braen plans to run the business under the LLC and confirms a copy of the lease. Exhibit A-1 is a copy of the proposed lease. South Port LLC is a family business for over 110 years. Mr. Braen is looking for approval for an asphalt plant on this property. They currently have 2 asphalt plants in Haledon New Jersey and Mr. Braen has been involved I the business for over 30 years. The location of this property is in relation to the highways and makes this location prime. Most of the business they get is from the New Jersey Department of Transportation, Turnpike Authority, Passaic, Bergen, Sussex counties and more. They needed a plant that they could do more night and weekend hours. Mr. Braen is aware he needed to apply for an application for a site plan and approval of the site plan. The asphalt plant takes aggregate from local highways they are working on and blends with quarry material and sand, this is then stored and heated up to 300 degrees to dry at this point tar is added. There is a blending tower

where it is stored and dropped into trucks or stored in the silos. There will be a control building next to the plant. There is a laboratory on site that is required by the DOD. Once the material is dried it goes into a mixture with the oil and dropped into truck or storage silo. This is all highly regulated with air, odor, and noise standards. The company will use natural gas and this is a state of the art plant, everything will comply. They are regulated by NJ DEP, Federal EPA, and the Passaic County Health Department. The existing asphalt plant in Totowa is about 50 years old, there is no comparison with this plant and the state of art equipment it will have. They are tested frequently for air quality, so no odors will be noticed. Attorney would like Mr. Braen to explain why they need 98' silos. Mr. Braen states one reason is the influx of traffic, another is the plant does not have to shut down due to no trucks to pick up; the product just gets put into the storage. The existing asphalt plant has approx. 75' high silos, but since that was built the storage units have gotten bigger to equip the demand. Mr. Braen states the plant can operate with 3 people but he would think there may be 6 there daily. The hours of operation would be two separate operations. Most of the government work is being done at night. The day operations start at 6 am and end around 2 pm, the night operations start between 9 and 10 pm and end around 3 am. Mr. Braen states the size of the silos is not for testing the material but for helping with the rushes of customers coming in for the materials. The 98' silos are consistent with what is being put up today.

The truck routes out of the plant will usually go right onto Route 48 and 80; entry into the plant would be on West End Road and leave on Maltese Dr. Chairman Fierro would like to know about deliveries for supplies. Mr. Braen explains the trucks that are delivering material come in with material they have dug up which is about 40% and another 5% delivered is oil, the rest comes from Mr. Braen's other sites. Vice Chairman Krautheim would like to know if the dump trucks are standard and how do they get loaded. Mr. Braen explains the product is dumped right into the trucks. This plant will be able to make many different mixtures quickly and once a mixture is made it gets stored in the silo. They can fill a truck in about a minute from the silos and less than 3 minutes from anywhere else. The hours of operation are 24 hours a day 7 days a week and usually end in December and starts back up in April. Engineer Murphy asked about the vehicles stacking in the driveway and that maybe the applicant's engineer can address this so no vehicles are stacked on West End Road.

Mr. Morris, professional engineer, was sworn in by Attorney Brigliadoro. Mr. Morris has been with Boswell Engineering for 37 years. The property is divided into 4 different pieces. Exhibit A-2 is a Google earth shot dated 7/12/17. The parcel is 3.6 acres; with the easement it totals 3.9 acres. Trucks will come in West End Ave and are directed to the proper areas and then exit through the easement, they make a right turn onto Maltese Drive. Site plan package, sheet 3 shows proposed improvements onto the site; it includes driveway, mixing hoppers, dryers, silos, heaters, and aggregate. Property is located in the I-3 zone with 45% cover; they have 13% coverage and comply with everything except the height. If the silos were smaller the applicant would need more of them and then would require more use of the property. There are 10 spaces in the parking lot and per Engineer Murphy; one would have to be assigned for handicap. Storm water management will be addressed. Engineer Murphy waives 1<sup>st</sup> section 415-99.c(2), landscaping and shade tree

should be 10% of the parking area, the applicant is asking for a waiver. Section 415-104, outside storage, the size of the silos will help with that. The other surrounding facilities have outside storage. The width of the driveway is 15' and is ok because it is one way, where under the batch plant is 10'. The applicant will comply with tree removal. In review of Engineer Murphy's report dated July 12, 2017, line 1 & 2 are informational, line 3 is for the planner to discuss, line 4 Mr. Braen gave most of the testimony regarding the plant on Riverview Drive, line 5 is uniform, line 6 the height calculations will be reviewed along with the heights of other buildings on-site, line 7 Applicant will conform, line 8 Applicant is asking for a waiver but will supply if needed, line 9 signage is needed for the directional, line 10 the small garage is for office use, line 11 will be proved at next month's meeting, line 12 there will be 6 people, line 13 building mounted lights will need to be shown for next meeting, line 14, 15, 16, 17 Applicant will comply. Engineer Murphy also will need explanation how the exiting drainage will be fixed on the exit driveway.

Jeff Meeker, was sworn in by Attorney Briigliodoro, he distributes and manufactures asphalt equipment and has been in business for 31 years. There are two types of asphalt plants, batch plants and drum mixing plants. The Applicant is asking for a batch plant, the other asphalt plant in Totowa is a drum mixing plant. A batch plant makes asphalt in batches and a drum plant is limited on the mixes it can produce. The entire plant will be automated. Drum plants are for high volume and batch plants can make higher quality mixes that last longer. New Jersey is the toughest for air quality. This plant will have the towers insulated and there is a vacuum that will suck up the dust. On an asphalt plant the burner will remove all the moisture from the aggregates. The newer plants are fairly quiet. The code in NJ required producing .02 per grains per cubic foot. Odors are from the oxidation of asphalt, and natural gas will be used for energy. The silos and batch towers are 98', which is needed to premix ingredients and get trucks out immediately. Vice Chairman Krautheim would like to know how much leeway is needed for the batches, Mr. Meeker said all highway work is ordered weeks in advance with the tower anyone can come in and tell them what they want and within minutes they can get it. They can make hundreds of different mixes.

Attorney Vogel assures everyone that all his witnesses will be back at next month's meeting.

At this time Chairman Fierro opens the public portion of the meeting.

Manuel Aranjo, was sworn in by Attorney Briigliodoro and has a business at 77 West End Road. He questions if approximately 4 trucks per hour on average come into the plant and if 30% are bringing in material is that figured into the calculation, because that is a lot of diesel on the streets.

A motion was made to close the meeting by Commissioner Nash and seconded by Vice Chairman Krautheim.

Attorney Brigliadoro states this matter will be continued at our August 9<sup>th</sup> 2017 meeting with no further notice.

There was a brief break and roll call was taken before re-starting the meeting at 9:57 pm.

RESOLUTIONS TO MEMORIALIZE:

1<sup>ST</sup> CASE: CORNELIUS VAN ESS  
310 WINIFRED DRIVE, BLOCK 167, LOT 16

Applicant was denied permission to build an additional driveway on the front lawn of their property.

2<sup>ND</sup> CASE: MR. & MRS. TEA  
2 CONTINENTAL CIRCLE, BLOCK 910, LOT 58

Application was granted to expand the first floor of their home and for an addition to the second floor

A motion was made by Commissioner Nash to adjourn the meeting and was seconded by Commissioner Bavazzano at 9:59 pm.

Respectfully submitted,  
Pam Steinhilber, Secretary