

Application #: 17-03

Approved: 03/29/2018

**RESOLUTION
BOROUGH OF ALPHA
LAND USE BOARD
FINDINGS OF FACT AND CONCLUSIONS OF LAW
REGARDING AN APPLICATION OF
BIHLER OF AMERICA, INC.
FOR PRELIMINARY AND FINAL SITE PLAN APPROVAL
AS TO BLOCK 100, LOT 10.05 (85 INDUSTRIAL DRIVE – INDUSTRIAL ZONE)**

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The Land Use Board of the Borough of Alpha in the County of Warren and State of New Jersey, upon motion of Dunwell, seconded by Gable, adopts the following findings of fact, conclusions and resolutions:

Findings of Fact:

1. The applicant, BIHLER OF AMERICA, INC., owns certain lands identified as Block 100, Lot 10.05, and is adjacent to 85 Industrial Road, in the Borough of Alpha. The property consists of approximately 12.16 acres located within the Borough's Industrial Zone with frontage on Industrial Road. The site currently contains cultivated agricultural fields and is adjacent to industrial type usages.
2. The applicant now brings this application for preliminary and final site plan approval to construct an approximately 103,027 square foot light industrial/manufacturing/ warehouse building. The Industrial Zone specifically permits offices, warehouse, light manufacturing uses. The proposed development meets all bulk requirements of the Industrial Zone with the exception of maximum depth of measurement which is an existing non-conformance. The applicant does not propose to alter the lot depths from existing conditions.

The applicant was at all times represented by General Counsel Peter Russell, Esq.

3. On November 2, 2017, the applicant appeared before the board. Peter Russell, Esq., addressed the completeness items identified in the October 30, 2017 "Completeness Bihler of America Site Plan" prepared by Board Engineer Stanley J. Schrek. Mr. Schrek stated that the application was presently incomplete and identified and reviewed several waivers from the Preliminary Site Plan Checklist and Final Site Plan Checklist, indicating those which he would support and those from which he would not recommend that the Board grant waivers. Mr. Russell introduced Radim Kucera, P.E., to address the completeness items relating to the Preliminary Site Plan Checklist and Final Site Plan Checklist. The applicant, through Mr. Kucera, agreed to provide the information, documents and revised plans as identified in Mr. Schrek's October 30, 2017 "Completeness, Bihler of America Site Plan" letter. The applicant also agreed to obtain consent from the adjacent property owner (Block 100, Lot 10.03) since proposed improvements to be made on Block 100, Lot 10.05 will benefit Block 100, Lot 10.03. The applicant also agreed to include adjacent Lot 10.03 for purposes of providing public notice. Chairman Fey called for a motion to deem the application complete with waivers granted for completeness purposes only; and to authorize the applicant to advertise for a public hearing on December 13, 2017 provided that the applicant will provide the Board Secretary and Board Engineer with the information, documents and revised plans requested by Mr. Schrek. A motion was made by Mr. _____, seconded by Mr. _____ to grant the waivers, deem the application complete and to authorize the applicant to advertise for a public hearing on December 13, 2017, conditioned as provided above. The motion carried with the following roll call vote:

Members in Favor: ____ (_____).

Members Opposed: 0 Members Abstaining: 0. Members Absent: ____

4. Upon review of the applicant's Notice of Hearing, it was found to be incomplete and, therefore, there was no public hearing on December 13, 2017. The January 17, 2018 meeting of the Land Use Board was cancelled and the applicant agreed to provide public notice for the February 21, 2018 regular Land Use Board meeting.

5. On February 21, 2018, the application was again addressed for completeness. Mr. Schrek reviewed his December 8, 2017 "Revised Completeness and Initial Technical Review" letter and advised the Board that the applicant had supplied the majority of requested information. As noted, there is an existing non-conformance with Ordinance 410-21 regarding maximum lot depth. The applicant does not propose to alter the lot depth. Ordinance 410-43A. requires a minimum of 187 parking spaces. Variance relief is required because the applicant is proposing to construct 109 spaces as part of the proposed construction and has shown how 78 future spaces could be accommodated. The applicant proposes a cross access driveway between the adjacent Lot 10.03 and Lot 10.05 via a private driveway. The Borough Code does not contain an ordinance permitting such driveways or expressly prohibiting such driveways. Variance relief is required. Mr. Schrek then reviewed the remaining issues that were not addressed, viz., size of plans, certification of water and sewer to the site; estimate of the average amount of truck traffic (to be addressed in testimony), location of sight easements and proposed road improvements. Board Engineer Schrek recommended that the Board grant the remaining waivers and deem the application complete. Mayor Dunwell moved to grant the requested waivers and to deem the application complete, seconded by Councilman Seiss. The motion carried with the following roll call vote:

Members in favor: 6 (Dragotta, Fey, Gable, Mihursky, Dunwell and Seiss)

Members Opposed: 0. Members Abstaining: 0.

6. Mr. Lowcher confirmed that he reviewed the applicant's Notice of Hearing and that the Board had jurisdiction to proceed with the public hearing. Peter Russell, Attorney for applicant, summarized his client's application and requests for preliminary and final site plan approval for the warehouse, office and light manufacturing, similar to what Bihler currently does at Building A located on adjacent Lot 10.03. Mr. Russell then called his first witness, Damian Hirsz, Professional Engineer with Civil & Environmental Engineering, Inc., who was sworn, provided his professional qualifications as a licensed Professional Engineer in the State of New Jersey, and accepted by the Board as an expert in the field of civil engineering.

7. Mr. Hirsz gave an overview of the project and surrounding area. Mr. Hirsz identified and marked as Exhibit A1 a colorized Landscaping Plan, showing the proposed light industrial building and landscaping, which was received into evidence. Mr. Hirsz pointed out the proposed access driveways. Site circulation was based on the assumption of a large firetruck in order to demonstrate adequate large truck circulation. He then discussed the proposed 187 parking stalls: 78 are to be "banked" for future use deemed not necessary at this time by the applicant and 109 parking stalls will be constructed. Storm water is being controlled by a bio-retention basin onsite. Several Board members addressed questions to Engineer Hirsz. Councilman Seiss inquired about the existing vegetation shown on the plan in green. Mr. Mihursky asked how storm water was handled onsite. Mr. Hirsz explained that storm water generated onsite, including storm water from Industrial Drive, will be directed to the on-site bio-retention basin, built to address all stormwater management requirements.

Mayor Dunwell asked if there will be a pumping system for the storm water. Mr. Hirsz replied no, but that the sanitary sewage disposal system will have a pump station. Councilman Seiss asked that Mr. Hirsz expand on the firetruck scenario. Mr. Hirsz explained the reasoning of using a 2000-gallon Pierce fire truck for circulation. Board Engineer Schrek stated the applicant will need to request plan comments from the fire and emergency services, particularly the Fire Department. The applicant agreed to supply a PDF copy of plans to Fire Department. Mr. Dragotta asked for a description of the improvements to Industrial Drive. Mr. Hirsz explained the widening of the existing road with curb on one side due to the varying existing pavement width in the area. Chairman Fey then asked if any members of the public had questions for Mr. Hirsz. Lisa Lacaruba, Springtown Rd., asked for an explanation regarding the traffic circulation plan. Mr. Hirsz explained the purpose of the traffic circulation plan, noting that it is designed according to turning templates to ensure that the site can handle the maneuverability of the design vehicle.

Dave Whiting, Vulcanite Ave., asked about the expected traffic in relation to New Brunswick Avenue. Mr. Hirsz responded by stating that based on the number of employees on site, there would be 15 vehicles anticipated in and 15 vehicles out within the peak hour, spread over 60 minutes. As such he opined that there is no sizable impact. Mayor Dunwell asked if the plans here shown comply with ordinance or is a waiver being requested? Mr. Hirsz deferred the question to Attorney Russell. Attorney Russell responded that the proposed improvements are only being made in the northern half and the applicant believes the plans comply.

8. Attorney Russell then called his next witness.: Billy Daniels, Director of Production for Bihler as a fact witness. He was duly sworn and provided an explanation of the improvements at the end of Industrial Drive. Board Engineer Schrek noted that the applicant is not proposing

road improvement along the entire frontage of Industrial Drive, but only up to the location of the new gate across Industrial Drive, and that the applicant is willing to address the entire frontage of its property along Industrial Drive with regards to providing street trees. In response to a question from Mayor Dunwell, Mr. Daniels pointed out the proposed location for the gate at the end of Industrial Drive would be at the south side of applicant's second driveway, which location is subject to approval by the Municipal Engineer. Mr. Russell then recalled Engineer Hirsz to continue with his review of the site plan.

9. Engineer Hirsz continued with his testimony on the orientation of the proposed building and setback requirements. He marked and introduced Exhibit A-2 Layout Plan, Sheet 3 of 14 into evidence and noted that the setbacks meet ordinance requirements. He also addressed lot coverage and concluded by stating that all bulk zoning criteria are met. Mr. Daniels was recalled to explain what Bihler presently does: makes electrical receptacles, light switches and other products in a highly automated process which reduces the number of employees required for operations. Board Engineer noted that the building size dictates the number of required parking spaces, which is greater than the applicant's needs. In response to Chairman Fey's question, the fire hydrant locations were specifically noted and they are to be placed no more than 700 feet apart.

Board Engineer Schrek's December 8, 2017 "Revised Completeness and Initial Technical Review" letter was marked and received into evidence as Exhibit B-1.

Attorney Lowcher requested confirmation that the applicant agree to submit revised plans that address all of Board Engineer Schrek's technical comments. Mr. Hirsz answered affirmatively. There followed a discussion among Mayor Dunwell, Chairman Fey and Mr. Hirsz, with respect to retrofitting every catch basin on the Bihler property to meet NJDEP requirements and the

location of the 8-inch water main connection on Industrial Drive; and the fire hydrant connections and adaptors. Ed Hanics, Schley Avenue, a member of the Fire Department who was in the audience was sworn and provided additional information concerning the hydrant connections and adaptors.

10. Attorney Russell then called his next witness, Ondrej Kucera, LEED/AP, Civil & Environmental Engineering, Inc. Mr. Kucera provided his professional qualifications and was accepted as an expert in the area of project design and specifically regarding storm water management. Mr. Kucera discussed the flow and existing conditions on site. Board Engineer Schrek confirmed that he reviewed the storm water calculations and management plan and they complied with the regulations. In response to a question from Mayor Dunwell, Mr. Kucera confirmed that there was no need for DOT approval regarding storm water since the proposed work was not within the State right of way. He also stated that the basin would be fenced in, in response to Mr. Dragotta's question, and that it was four and one half feet deep, in response to Councilman Seiss. Chairman Fey then opened the matter to questions from the public. Ed Hanics, Schley Avenue, questioned the applicability of DEP regulations and basins located on private property. Board Engineer Schrek confirmed that any facility with a basin must have an operations and maintenance manual and comply with NJDEP rules. Mayor Dunwell questioned whether the applicant's "O and M" manual for the current operations must be updated and Mr. Daniels stated the applicant would look into it.

11. Attorney Lowcher requested the applicant to address variance relief related to the proposed cross-access driveway. Mr. Kucera identified and marked into evidence Exhibit A-4 which is Sheet 2 of 14. He pointed out the existing site conditions, indicating where the curb cut would be made and the proposed interconnections between the two sites owned and/or controlled by

Bihler. In response to questions from Attorney Russell, Mr. Hirsz was recalled and stated that connecting the two sites via a private driveway would take traffic off of Industrial Drive. Lastly, Mr. Hirsz addressed Councilman Seiss's question and explained the existing vegetation and proposed landscaping. Chairman Fey then asked for a motion to open the matter to comments from the public. Motion made by Mr. Gable, seconded by Mr. Dragotta and all were in favor on a roll call vote:

Members in Favor: 6 (Dragotta, Fey, Gable, Mihursky, Dunwell and Seiss).

Ed Hanics, Schley Avenue, stated that the applicant has done a good job working with the Fire Department in connection with the current operations, offering tours of the layout of their facility.

Chairman Fey confirmed that there would be a walk-through of the building. Board Engineer Shrek confirmed that the Fire Department shall issue their comments upon review of the plans, as a condition of approval.

There being no further public comment, Chairman Fey called for a motion to close the public portion of the hearing.

12. Attorney Lowcher summarized the applicant's C-variance requests and design waivers:

Variance pertaining to the parking requirements: 187 required. 109 parking spaces are shown.

78 are banked for future use. Calculation based on number of employees.

Planning Variance: Cross access driveway. Engineer explained reasons and benefits, i.e. traffic circulation within the site instead of going into road. C-2 variance - relates to specific piece of property. Purpose of Municipal Land Use Law, advancement by deviation of zoning ordinance requirement.

If applicant demonstrates that the benefits of deviation substantially outweigh any detriment to the public good, the master plan, or zoning ordinance, then granting of the variance to permit departure of the requirements of the industrial zone criteria is justified.

Motion to grant variance relief and design waivers made by Dunwell and seconded by Dragotta.

Roll call: Ayes 6: (Dragotta, Fey, Gable, Mihursky, Dunwell and Seiss.)

Attorney Lowcher then stated that the applicant is seeking preliminary and final major site plan approval subject to the conditions stated below. Motion to grant preliminary and final site plan approval made by Seiss and seconded by Dunwell, all were in favor.

Roll call: Ayes 6: (Dragotta, Fey, Gable, Mihursky, Dunwell and Seiss.)

CONCLUSION:

1. The applicant has demonstrated that “C” variance relief and design waivers can be granted without substantial detriment to the public good, master plan and zoning ordinance.
2. The applicant has established that preliminary and final site plan approval can be granted with the proviso that the applicant shall comply with all conditions of approval discussed and agreed to by the applicant during the public hearing and as set forth below.

RESOLUTION:

RESOLVED, that Bihler of America, Inc. is:

1. Granted variance relief from Ordinance 410-21 (Bulk Schedule) relating to maximum lot depth; Ordinance 410-43A. to permit 109 parking stalls to be constructed where 187 are required with the proviso that the applicant shall “bank” 78 future spaces should the need for additional parking arise; together with those design waivers identified in Exhibit B-1, December 8, 2017 “Revised Completeness and Initial Technical Review” letter prepared by Stanley J. Schrek, Board Engineer.

2. Preliminary and final major site plan approval subject to the following conditions:
 - A. Compliance with the requirements of Exhibit B-1, December 8, 2017 “Revised Completeness & Initial Technical Review”, prepared by Stanley J. Schrek, Board Engineer.
 - B. Approval of Borough engineer for sanitary sewer capacity.
 - C. Provide an easement from Lot 10.03 to locate the force main to the extent possible outside of right of way at least 10 feet behind the existing curb line.
 - D. All proposed easements to be submitted to board engineer and board attorney for review shall contain such language for maintenance of runoff, snow removal and access, as may be required.
 - E. Subject to receipt of approval from Warren County Soil Conservation.
 - F. Subject to receipt of final approval from Warren County Planning Board.
 - G. Subject to receipt of written comments and compliance with the Police, Fire and Health departments and any revisions to the plans required thereby.
 - H. Subject to receipt of NJDEP 5G3 construction activity storm water approval.
 - I. Payment of real estate taxes and maintaining a positive balance in escrow account as required by the Land Use Board procedures.
 - J. The applicant shall comply with all representations made during the hearing including but not limited to the following:
 1. Revised traffic circulation plan.
 2. Improving Industrial Drive to the length of proposed site improvement, to the point where proposed gate is to be located.

3. Use five-inch diameter Storz connection on hydrant with hydrant barrel of 5.5 inches.
4. Review the operations and maintenance manual regarding Bihler of America, Inc. storm water management practices on Lot 10.03 to the extent there is any impact on Lot 10.05.

BOROUGH OF ALPHA LAND USE BOARD

APPLICATION 17- 03

SECRETARY: Laurie A. Barton

APPROVAL DATE: March 29, 2018

BLOCK: 100 LOT: 10.05

VOTE:

Ayes: Dragotta, Fey, Gable, Mihursky, Dunwell and Seiss.

Nays: None

Abstain: _____

Eligible to vote: Dragotta, Fey, Gable, Mihursky, Dunwell and Seiss.

I certify that this is a true copy of a resolution adopted by the Land Use Board of the Borough of Alpha, Warren County, on March 29, 2018, to memorialize the Land Use Board's action on February 21, 2018.


LAURIE BARTON, Secretary

A.