

PLANNING BOARD
BOROUGH OF ALPHA
 Regular Meeting
 April 15, 1998

Municipal Building, 1001 East Boulevard, Alpha, New Jersey

The regular meeting of the Borough of Alpha Planning Board was called to order at 7:30 p.m., by Chairman Richard Barbadora with the following members present: Mr. Dota, Mayor Fey, Mr. Kohler, Mr. Mengucci, Mr. Olah, Mr. Savary, Mr. Seiss, Mr. Barbadora and Mr. Famularo, Alt. II. Mr. Boyle and Mr. Smeall were absent. Also present were Charles Lee, Esq., Board Attorney; Douglas Mace, P.E., Board Engineer and Councilwoman Klara Tarsi, who was the acting secretary in the absence of Dolores Hanisak, Secretary.

NOTICE

Pursuant to the Open Public Meetings Act, Chapter 231, P. L. 1975, adequate notice of this meeting has been provided by mail to the Free Press and the Express Times; a notice of this meeting and all other regular meetings of the Planning Board of the Borough of Alpha, which notice sets forth the time, date, and location of this meeting by posting said notice on the bulletin board in the municipal clerk's office.

Mr. Dota moved to adopt as to form Resolution No. Z- 98-01, second by Mr. Mengucci.

RESOLUTION NO. Z-98-01 (Copied in minute book)

The motion carried with the following roll call vote:

AYES: 6 (Dota, Kohler, Mengucci, Olah, Savary, Barbadora)

NAYS: 0

Abstaining: Fey, Seiss, Famularo

Absent: Boyle, Smeall

PUBLIC HEARING (CONTINUED)

APPLICATION NO. 96-1, MAJOR SUBDIVISION, BLOCK 103, LOT 1
 BRIAN PROPERTIES

A letter had been received from Lawrence Fox, Esq., attorney representing the applicant, requesting the application be carried to the May 20, 1998 meeting since there is still additional work to be completed by the engineers with respect to drainage.

PUBLIC HEARING (CONTINUED)

**APPLICATION NO. 97-2, AMENDED FINAL SITE PLAN & BULK VARIANCE
BLOCK 105, LOT 2 - HUNTERDON INDUSTRIAL GASES, INC.
(ALPHA COMPRESSED GASES, INC.)**

Attorney William Edleston was present to continue the application. Cynthia Hartshorne, president of Alpha Compressed Gases, Inc. was also present.

Mr. Edleston said the applicant is seeking amended final site plan approval in connection with permission to place a 1,000 gallon propane tank on the premises for the purpose of supplying heat to building # 2, which is the transfilling building. He said the building has no source of heat and explained the reasons, which are part of previous testimony. With respect to the tank, he said there is no need for a front yard setback since the tank has been relocated, however, a variance is requested for the rear yard setback. Mr. Edleston said there was also an issue with respect to the approval resolution, condition (d), which was adopted in May 1997. He said there should be no flammable gases including acetylene or propane transferred or stored in bulk on the premises.

Mr. Edleston said permission is being sought to allow a proposed utility shed on the easterly side of building # 2 to enclose the furnace. The shed approximately 8' x 8' was not shown on the approved site plan. He said the small shed does encroach in the front yard setback on Seventh Avenue.

Mr. Edleston said two bulk variances are being requested to allow the shed to encroach in the front yard setback on Seventh Avenue and to allow the proposed 1,000 gallon propane tank to encroach in the rear yard setback of the property.

With respect to the condition in the resolution, Mr. Edleston said there was a question as to what was meant by the word "bulk". He said he has not found a definition in the administrative code or any statute which defines bulk. He said the focus should not be on the question of bulk but rather on how the propane will be used. He said Mrs. Hartshorne had testified that it would be used strictly as a source of heat for the building. He said the propane will not be used to transfer propane to any other cylinder or vessel. He said he does not believe it constitutes storage. He said the tank is used to supply propane to a building for consumption. He said he does not believe the proposal violates any condition in the previous resolution. Mr. Edleston also discouraged defining the word "bulk".

Mr. Lee asked where the proposed tank is to be located. Mr. Edleston described the location to the rear of the property. He also discussed previous testimony relative to the reasons for wanting to use propane and added that Mrs. Harshorne had stated that she would be willing to use two 500 gallon tanks instead of a 1,000 gallon tank, if for some reason the 1,000 gallon tank was objectionable.

Mr. Lee said the issue, as to whether or not it is "bulk", does not need to be heard but rather the board needs to hear the grounds for a variance.

Mr. Edleston said the shape and condition of the property does not permit the tank to be located in the required setbacks. Mr. Lee said a variance should be granted only if it is necessary to limit or prohibit use of the property. He said gas is available for heating purposes on the site. Mr. Lee said the variance request was based on an economic decision. He said with respect to granting a variance, nothing relates to the land.

Mr. Edleston asked if it is agreed that the propane tank or vessel is an accessory use. Mr. Lee said he did not think it was a use at all. Mr. Edleston said the applicant is requesting to build an 8' x 8' shed to enclose the furnace. He said the shed is an extension of the building and is further encroaching into the front yard setback.

Mr. Mace asked if the furnace could be located on top of the roof and questioned when the encroachment in the front yard setback would stop. Mrs. Hartshorne said a roof top unit had not been considered, that the boiler has already been purchased. There was discussion on the encroachment in the front yard setback. Mr. Lee questioned why it was shown as a utility shed rather than a furnace room, which would be an extension of the building. Mr. Edleston said it will not be used as a storage room and will be used only to house the furnace. Mr. Mace asked why the shed could not be located on the Alternate Rt. 22 side of the building at the front corner, which would be only a minor encroachment into the front yard setback. Mrs. Hartshorne said all the power comes into the building at that location. She also noted aesthetic reasons.

Mr. Savary asked why the furnace could not be enclosed within a separate enclosure in the building and vented to the outside. Mrs. Hartshorne said the square footage inside the building is needed.

Mr. Lee advised Mr. Edleston that he did not believe that factual basis had been established to support a variance.

Mr. Edleston said he did not believe Mrs. Hartshorne could give testimony on whether or not the furnace could be located inside the building or on top of the roof.

Mr. Mace said a standard boiler on top of the roof would probably not be possible but noted that he was referring to a roof top HVAC unit and he assumes there may be a unit to only provide heat.

Mr. Lee said his advice to the board would be to carry the application upon a request from Mr. Edleston so as to allow additional testimony or to deny the variance without prejudice because there is insufficient grounds to grant a variance on the building at this point.

Mr. Edleston said that with the board's permission, he would request a continuation and consents on the record that any time within which the board has to act is extended to the next meeting. Mr. Lee requested a letter be sent to the board.

Mr. Mace requested that other locations be considered for the shed. He suggested another location towards the back of the lot behind tank H next to the loading dock, which would be less intrusive into the front yard. He also suggested back in the corner behind unit D and tank C on the other side of the building. He said since only pipe and electrical lines have to be run into the building, the shed does not have to share a common wall with the building. He said the shed could be free-standing in the back of the lot. Mrs. Hartshorne said with the building being positioned and the property set, the proposed location seemed like a logical location.

Mr. Seiss said the issue of the tank should be discussed before the applicant leaves so there would not be another issue the next time. Mayor Fey said if the board was not going to allow the propane tank, the applicants should not have to look for another location for the shed or a roof unit. Mr. Mace said the applicants need heat and if the board does not permit the propane tank, there is natural gas on the property which can be utilized. He said the issue of firing the boiler is independent. He said a boiler location can be approved without knowing how it will be fired.

Mr. Lee said bulk storage of liquefied propane is regulated by the State of New Jersey as an excess of 2,000 gallons. He said he had inserted bulk in the resolution because that was the testimony. He said the board did not take testimony as to the meaning of bulk, therefore, the board is limited to what the state regulations define as bulk, which is 2,000 gallons. He said the tank is required to be 25' away from a building. Mr. Lee said the board has no ability zoning-wise to prohibit less than 2,000 gallons.

Mr. Mace said the front yard variance has been eliminated on the tank but a rear yard variance on the tank is needed.

Mr. Lee said whether or not the board wants to grant the rear yard variance is the reason the applicant needs to return to the board for further testimony. He said the purpose of the variance is that the type of heat they want to use is not grounds for granting a variance.

Mr. Mace asked why the issue had not come up before, when the tank location was discussed. Mrs. Hartshorne said they had neglected to address the issue of the open-flamed heaters within the building because of all the other things they had to consider.

Mr. Kohler moved to grant the time extension until the next meeting on May 20, 1998, as requested by Mr. Edleston, second by Mr. Dota. The motion carried with the following roll call vote:

AYES: 8 (Dota, Kohler, Mengucci, Olah, Savary, Seiss, Barbadora, Famularo)

NAYS: 0

Abstaining: 0

Absent: Boyle, Fey (out of the room), Smeall

Mr. Edleston is to send a letter to the board with respect to his request for the time extension.

**APPLICATION NO. 98-1, PRELIMINARY & FINAL SITE PLAN
BLOCK, 38, LOT 1 - East Vulcanite Avenue & C.R. 519**

Mr. Dota stepped down from the board, since he is the owner of the property.

Donald Einhorn, from the law firm of Gaetano DeSapio on behalf of the applicant, DeSapio & Sons, was present to discuss the application. He introduced Peter Olieman, P.E., from the firm Cherry, Weber & Associates. He said the purpose of being at

the meeting is to determine the application is complete or at least determine what changes are needed on the plan so it can be determined complete.

Mr. Mace said the application is not complete, that there are several items which are incomplete. He said some of the items need to be discussed. He said correspondence on April 7, 1998 from the applicant was in response to some of the comments noted in his letter of review, dated February 18, 1998. He said there needs to be a change in plans before some of the items can be determined complete. He recommended to the board that the plans be revised and submitted to the board before the application is determined complete. He said it would be appropriate for the purposes of determining the application complete, that the improvements on Fourth Avenue be waived so that it can be shown on the plan and discussed during the hearing rather than having it discussed as a completeness issue.

With respect to comment #1 in the review letter, Mr. Mace said the lot does not have minimum lot area and noted that Mr. Dodge from his office, who reviewed the plan, indicated that with respect to sub-standard lots, a variance for development of an existing sub-standard lot has not been required. He said that may need to be clarified.

Yard requirements have been met, lot area does not comply. Mr. Lee agreed with Mr. Dodge.

Item # 2 and # 3 will be met (correct name of owner and applicant and reference meridian will be placed on the plan).

Item # 4, with respect to Fourth Avenue being widened along the property to 15', Mr. Mace said when the completeness determination is made, he recommends that matter be waived as to completeness and hear that presentation during the public hearing. The applicant objects to widening Fourth Avenue.

Mr. Einhorn requested there be some discussion since that is the only issue with which the applicant has some concerns. He said the other comments in the engineer's review letter can be taken care of and the issue of Fourth Avenue is more complicated. He noted such items as moving storm grates and telephone poles. He said the lot is unique since it has frontage on three streets, one being C.R. 519, which is the main street with traffic coming from that street. He said Vulcanite Avenue would be the entrance and Fourth Avenue is a residential street. He said the existing homes are close to the street and there does not seem to be room to widen the street to put a sidewalk.

Mr. Einhorn said that they wanted to discuss that issue with the board, since that is a concern for the applicant.

Mr. Mace said he wanted to delay that discussion until the public hearing, since it is a lengthy discussion particularly with planning issues that has to do with recommended zoning changes to that entire block. He said there are changes with respect to commercial/business use and he also noted that the county will not want driveways on C.R. 519, which will change the character of Fourth Avenue. He said since the zoning will be changing and that needs to be considered with the site plan.

Mr. Einhorn said he was not aware of that and asked when the zoning changes would be completed. Mr. Mace said there is one more decision with respect to a remaining zone in the borough. He said the Master Plan should then be adopted and the zoning changes should be made shortly thereafter. In response to a question from Mr. Einhorn, Mr. Mace said there will be a revision to all of C.R. 519 from the way it is treated now to when it will be used as a non-residential zone. Mr. Mace noted the changes which have already been agreed upon and said there has been a hearing on that aspect and said there is one other aspect to be considered and a hearing to be scheduled. He said that fits in with comment # 4.

Mr. Lee questioned Mr. Einhorn with respect to the board being able to require the applicant to comply with the improvements on Fourth Avenue. Mr. Einhorn said that was not his intent, that he only wanted to discuss the issue before moving on to the next step.

Details of the issue with lighting will have to be provided. There needs to be discussion on the plantings with respect to height. Mr. Mace said it is a design issue. There was agreement that there will be compliance with the other issues noted in the review letter with respect to completeness.

There was a discussion as to when revised plans have to be submitted to Mr. Mace.

Mr. Seiss moved to determine the application complete subject to submittal of revised plans to Mr. Mace and the borough no later than Wednesday, April 22, 1998 and with waiver as to completeness on item # 4, # 5 and portion of # 7, second by Mr. Savary. The motion carried with the following roll call vote:

AYES: 8 (Fey, Kohler, Mengucci, Olah, Savary, Seiss,
Barbadora, Famularo)

NAYS: 0

Abstaining: Dota

Absent: Boyle, Smeall

Mr. Seiss said for the record that he owns property within 250' of the property.

Mr. Einhorn asked, with respect to the proposed zoning changes, if there was anything which the applicant should provide to help the board. Mr. Mace said he would provide the applicant with uses required in the Master Plan, which is still in process.

There was brief discussion on drainage. Mr. Mace briefly discussed contributions to a regional basin rather than on an on-lot basin.

INFORMAL APPEARANCE

Walter Wilson, Esq., was present to informally discuss an intended subdivision and proposed use of Block 100, Lot 1.02 on Edge Road, on behalf of the property owner Lance Rinaldi, who was also present. He said Mr. Rinaldi recently purchased the small home on Edge Road in which he resides, next to Rt. 78.

Mr. Wilson said that it is an understanding and an acknowledgment that it is an informal discussion and there is nothing binding with any future applicant, the board or Mr. Rinaldi. He said they were seeking direction from the board as to how to proceed. He presented a portion of a copy of a map, which appeared in public record, delineating some of the properties in that area. He said at this time there has been no survey to create plans.

Mr. Wilson said Mr. Rinaldi resides in the small house that is on the property on Edge Road, which is about 1/2 acre. He said the zone requirement which is an Industrial Zone is for two acre minimum lot size. He said the lot was created in 1966 or thereabouts. Mr. Wilson said Mr. Rinaldi owns an excavating business. He said Mr. Rinaldi has been discussing with the owner of the adjoining parcel to the left and behind his property on which is located a large barn, the possibility of buying a little bit of land to merge with his land. He said they were requesting a general non-binding view from the board as to how to bring the smaller lot into conformity with the minimum lot

size for the zone with respect to their ideal and other alternatives. Mr. Wilson said their ideal is to double the size of the existing lot by purchasing an additional 1/2 acre to the property to the rear and to create an additional one acre parcel next to it to include the barn. He said the purpose of the one acre parcel and why they would not take an additional one and one-half acres to make a conforming lot is that the business is not owned entirely by Mr. Rinaldi. He said the house is his residence and will continue to be his residence. He said for storage/yard purposes only, not for repair of equipment, the property with the barn will be owned by the business. He said the board will be requested to create by subdividing a portion of the larger parcel, a lot for the business of approximately one and one-half acres. He said the barn is not of any value to the present property owner and that owner would be willing to sell more than the one and one-half acres, however, he said the applicant cannot afford it.

Mr. Lee said the applicant is looking for a minor subdivision, a merger and a site plan. Mr. Mace asked what is the advantage in creating two one-acre lots. Mr. Wilson said one acre lots give protection against septic system failure and brings the lot with the residence closer to conformity. Mr. Mace said residences are not permitted in the industrial zone, so it cannot be brought into conformity. Mr. Wilson said it would permit the home to be used for the business which will operate out of the home and it would become a transitional use toward conformity as well. He said there would be two separate lots, there was no intent to merge the two one-acre lots at this time.

Mayor Fey asked what would be the use of the one-acre parcel for the business. Mr. Wilson said it would not be the intent at this time to have any water source or well, septic system or any structure requiring waste water disposal of any kind. He said water to the barn is currently served by the well on the residential lot and there is an easement of record providing that but that the easement has probably expired. He said Mr. Lance parks trucks and is an excavator. He said the barn would be utilized for that purpose. He said Mr. Rinaldi had said that evening that the barn may be structurally unsound in which case a Morton type building would be constructed to put excavating equipment under cover.

Mr. Lee said that the problem is that once the new lot is created, the lot can be sold and used for whatever purpose the new owner wants to use the lot. He said the problem is that a sub-standard lot is being created.

Mr. Mace commented on the situation of the barn on the newly created lot and then the employees needing to use the residential unit on the other lot for bathroom facilities.

Mr. Wilson explained the business reasons for wanting to keep separate lots. Mr. Mace said from a zoning standpoint, it is cleaner to see them all one. Mr. Lee asked if the two acres couldn't be merged as one and make it owned by an L.L.C., and split up the shares. Mr. Wilson said that is an alternative.

The lot to be subdivided is approximately 14 acres and Mr. Wilson said the property owner's view is that by selling the one and one-half acres, he is not diminishing his potential industrial lot yield.

Mr. Mace suggested two acres be purchased, that the house lot remain the 1/2 acre and that some sort of lease arrangement be made to put an additional septic system in the back if it is needed on the two acres. He said it would be a conforming lot.

Mr. Wilson said there are two legal problems. He read the definition of a minor subdivision and explained it to the board. Mr. Lee said a lot cannot be created under minor subdivision that conflicts with the zoning ordinance. He said by definition, it then becomes a major subdivision.

Mr. Wilson thanked the board for the opportunity to be heard.

There was no correspondence.

Mr. Mace requested that the agenda for the next meeting include a discussion on the issue of the piece of land for PUD so that the Master Plan can be completed and a hearing scheduled. Mr. Lee urged that the Master Plan be completed.

There being no further business to come before the board, Mr. Dota moved to adjourn the meeting at 8:55 p.m., second by Mr. Kohler. The motion carried unanimously.

Respectfully Submitted,



Dolores Hanisak, Secretary