

John Barbarula swore in Rick Malanga and he swore that he listened to the recording of the meeting. The attorney for the applicant Mr. Vincent DeSimone stated he accepts Mr. Malanga's certification and he had no problem with him as a voting member of the board. Mr. DeSimone had no questions for Mr. Malanga.

Mr. DeSimone stated that they were before the board on February 24, 2022 and they asked to be carried so that they could continue to compile an operations and maintenance manual as the board had previously requested. That was actually submitted last year, but they revised it to add additional information. There is an abandonment plan in there, as requested by your fire marshal and some other things the board had asked for at that hearing as well. This is dealing with housekeeping things, you had asked Ms. Roetman to look at the resolutions of the original approvals as to signage and the Knox lock gate. Ms. Roetman stated she spoke to the owner of the property and as per the resolution the gate is the town's responsibility and the fire marshal and the lock is in place. The lock is the town's responsibility and not the gate.

THE CHAIRMAN STATED THAT COUNCILMAN PELLEGRINI IS STEPPING DOWN FROM THE DAIS.

Mr. DeSimone stated that at the February 24th hearing, I asked to be carried with no further notice to this evening's hearing and I just want to refresh that we did present our engineering testimony to the board and I believe we completed that, however our engineer is here this evening should the board have any questions of the subsequent testimony that we will provide and we also presented our traffic engineering testimony and his partner is here this evening in case the board has questions for him. We also have witness from BJ's Corporate, the Site Development Manager, Martin O'Boyle who will give you an overview as to BJ's operations overall with regard to propane and we have Ronald Laurence from Stantak, he is a professional engineer to discuss propane safety and operations and deliveries and things like that and then finally and hopefully, Christine Nazzaro will be providing planning testimony.

Mr. DeSimone called Mr. Martin O'Boyle to the witness stand. Mr. O'Boyle was sworn in by John Barbarula. Martin O'Boyle, business address is 25 Research Drive, Westboro, MA. Mr. O'Boyle stated that he is the site development manager with in BJ's real estate department, and I oversee the approval process for clubs, gas stations, and propane installations and that is my role here. Mr. O'Boyle stated the propane gets filled two to three times a week, that's based upon sales, and those are recurring schedules. The driver will alert the club that they are delivering, the manager or someone certified from BJ's will come out, unlock the gates, and provide access to the vendor who is going to fill the primary tank. That takes about fifteen to twenty minutes and then the truck is on its way. Mr. O'Boyle stated every BJ's employee that operates or dispenses propane has to go through a video training exercise. That is followed by a quiz to insure that they understand the information. That is not a BJ's video or quiz, it is provided by the Propane Education and Research Council, that video goes over the components and the functions of the propane dispensing system, reviews safety measures and then gets step by step for dispensing operations beginning with simple things like unlocking the gates, so

it really goes step by step in how an employee is supposed to approach dispensing of propane and filling tanks. The Propane Refill, Operation and Maintenance Guide, in the initial section of that guide also goes through the operations and maintenance and also goes through the components of the system and then goes into the billing process, talks about the customer coming up parking in the space, pulling on the box and they will be instructed to go into the tire center and the BJ's employee will meet them out there and the employee is the only one that can enter the enclosure to fill the tank. The employee will then lock up everything and insure the safety and everything is closed correctly and the customer goes on their way and the BJ's employee back into the store. Also in there is the emergency procedures which is a step taken in the event that there is anything abnormal that occurs out there, just quick and easy steps, hitting the emergency button, call 911, those sorts of things. The preliminary training as we discussed, they do a video training and they take a quiz after that, beyond that every facility will then have the vendor and the employees come out, go over the system itself, hands on, what the delivery looks like, every club is not a cookie cutter shape, everyone is different. When the deliveries come the area is coned off and to make sure the area is unobstructed for the delivery driver and again fifteen, twenty minutes, and they are back on the road.

Chairman Trowse asked if there is a minimum age that an employee has to be who is filling the tanks. Mr. O'Boyle stated he was unaware if there is, but that is an answer I could get for you. Mr. O'Boyle stated he doesn't know if there is a minimum age by law that they have to be, or if the State regulates that or not. Chairman Trowse stated the other question is the PERC guide that is going to train them, is there testing on the end of that. Mr. O'Boyle stated yes he mentioned before about the quiz or testing. Chairman Trowse asked if this is a yearly recertification or a one-time thing. Mr. O'Boyle stated as far as he know it is a one-time thing, if there are changes in it there is probably an ongoing thing.

Rick Malanga asked about the dispensing of it, is it done by weight or is there also a gallon. Mr. O'Boyle stated he believes it is just done by weight. Mr. Malanga stated there will be no gallon meter on dispensing. Mr. DeSimone stated we do have a propane expert coming up that would be able to answer those questions. Mr. Malanga stated when he listened to the tape, they said an average of twenty-five fills a day, is that average for the annual, I mean what about the busy months, that didn't seem right to me. Mr. O'Boyle stated he didn't have an answer for that question. Mr. Boorady stated the last time you were here the time of delivery was discussed, did we get an answer to that, because I didn't put it down. Mr. DeSimone stated it was testified to that they will be doing off hours deliveries. Mr. DeSimone stated the manager of the store would be testifying to the time of day for deliveries and the manual actually designates certain spots short term parking that will be coned off during time of delivery. Mr. DeSimone stated there will be testimony about the deliveries being off hours. Mr. O'Boyle stated the short term parking is actually employee parking not short term, that we have more control over the parking. Mr. Boorady asked if there would be testimony in reference to the hours and the parking for deliveries. Mr. Boorady asked if there are employees parked in those spaces will they have to come out and move their cars for the deliveries. Mr. O'Boyle stated right now, nobody parks there, they are labeled as

employee parking only, and essentially to make sure that the general public isn't parking there.

Chairman Trowse asked about the tire center, and if they just do tires or do they do repairs, brakes, batteries? Mr. O'Boyle stated no they just do tires.

James Talerico asked if their engineer is going to come back to the witness stand. Mr. DeSimone stated he is present and can certainly come back up if there are more questions. James Talerico stated he thought you were considering changing some of those parking spaces in front or behind the propane center where, I'm quite sure we discussed where the truck would have to stop in the lane. Mr. DeSimone stated in the revised maintenance manual there are assigned spaces that we were just discussing with regard to parking, that is in the revised maintenance manual that was submitted.

Sal Poli asked out of all the BJ's stores that have propane have there been any accidents, any problems, any issues, ever had a car or truck explosion. Mr. O'Boyle stated that he has been there at least six or seven years and there have been no incidents that he was aware of.

Chairman Trowse opened this testimony to the public. No one from the public came forward, thereupon Chairman Trowse set forth the motion seconded by Sal Poli to close the public portion of the testimony.

ALL IN FAVOR / Motion Carried

Vincent DeSimone called Mr. Laurence to the witness stand. Ronald Bruce Laurence Jr. came forward and was sworn in by the board attorney. Mr. Laurence reviewed his qualifications and was accepted by the board as an expert witness. Mr. Laurence business address 5 Dartmouth Drive, Auburn, NH 03302. Mr. Laurence stated the propane facility has a storage tank of 1,000 gallons of water capacity, the propane is stored in a liquid form and the tank is under pressure. Deliveries are brought in from a small truck called a bobtail, the driver pulls up, undoes the hose reel, the deliveries are made to the top of the tank in the center where there is a level gauge. The driver fills the tank to a preset fill level, which is usually about 85% of total capacity. After delivery is complete, all valves are closed disconnections are made. Fuel is dispensed from a dispensing cabinet in front of the tank by the BJ's employee. The dispensing system is supplied by electricity, that system has a pump. There is an electrically actuated valve at the bottom of the tank from which the liquid flows to the dispenser. There is a metering device whereas the fuel is metered in gallons, however, there is an automated system by weight whereby the attendant puts in the weight of the cylinder, puts in the size of the cylinder and puts in the start time. The cylinder is kept on the scale during the filling process, there is a digital readout and the valve automatically closes when the cylinder is filled to the appropriate level. Mr. Laurence stated so that is the dispensing system and there are also a number of safety devices on the tank as required by code. The facility is regulated by two primary codes, the first is NJ Administrative Code Title 5 Chapter 18 and ANAPA 58 which is adopted by that code. ANAPA 58 is the LP gas code which is adopted in most jurisdictions nationally. Among the safety devices all of the valves on the tank itself are called internal valves, so the actual actuation device which closed the valve is inside the tank itself so if the valve were to break off, it would close automatically inside the tank, so a

broken valve would not result in the loss of product. There are a number of flow control valves which limit the rate of release of the propane, there is one at the bottom of the tank, there is one at the dispenser, and there is one at the hose reel. There is an emergency stop device which controls the electricity to the facility, the emergency stop device is actuated, it turns off electricity to the pump, the dispensing cabinet and also closes that electrically actuated valve at the bottom of the tank from which the liquid is flowing. There is a level gauge at the top of the tank to prevent overfills. The tank is surrounded by bollards. The bollards in this case are 4' above grade, 4' below grade, which is relatively a robust design, they are 6" bollards concrete filled, and they are no more than four feet apart. There is also a fence for security so that only a BJ's employee can access the gate. The Department of Community Affairs regulates these types of facilities in New Jersey. Mr. Laurence stated after reviewing the site he sees no problems with this site and it is a common installation.

Vice-Chairman Sheps asked the one thousand gallon tank, is there a minimum or a maximum life span of these tanks is there any mandates as to how often they have to be checked and replaced. Mr. Laurence stated it is an ASME pressure vessel and they do have a recertification time frame, the exact time frame has escaped me at the moment, but it is an ASME pressure vessel yes. Vice-Chairman Sheps stated so at some point the tank would have to be replaced. Mr. Laurence stated the propane company would not be able to deliver propane to an out of certified date tank. Vice-Chairman Sheps stated and who monitors that. Mr. Laurence stated he believes that is part of the drivers are licensed by the State and I believe that is part of their procedure. Vice-Chairman Sheps stated so we are just hoping that the driver does due diligence in monitoring the tank. Mr. Laurence stated that is the mechanism as he understands it.

Chairman Trowse stated he believes the tank is registered with the State of New Jersey and he believes that the State of New Jersey does have jurisdiction over that tank somewhat and they will be able to tell if it's certified. Mr. Reilly stated all pressure vessels are registered with the State of New Jersey and they have to be certified by the State on an annual basis.

Chairman Trowse stated you mentioned the scale is going to shut the system down when the tank that it is filling is either going to be a twenty or thirty pound tank or is that pre-calibrated or certified at certain times. Mr. Laurence stated he doesn't know whether exactly if it's a requirement of weights and measures to be certified, I assume it is, but I don't know. Chairman Trowse asked some of the signage that is in there and you mentioned the signs, one of the signs happens to say that once a tank is filled and transported in a vehicle, whether it be in the trunk or inside the vehicle, that the vehicle shall not be parked out in hot sun and should be transported as fast as possible to where it has to go, because the heat in the car is going to bring up... don't members usually go back into the store and the tanks are going to be in the cars while they are shopping. Mr. Laurence stated that could happen, however I don't think a propane cylinder in a car for an hour is a huge issue, but I think in general I think people get these on their way out and I don't think there is anything from buying them in the beginning and they certainly can't bring a cylinder into the store. Chairman Trowse asked if there has been any documented issues where tanks left in hot cars have become a problem and the

safety device has let go. Mr. Laurence stated personally he has not heard of any but if the signage is there it must have occurred.

Mr. Malanga asked the tank when it's being filled from the truck is that measured in gallons or your tank has a scale on it. Mr. Laurence stated the tank has a level gauge on the top right at the fill connection so the driver will be stopping the delivery when the level gauge reads that it is full. Mr. Malanga stated so it has nothing to do with weight. Mr. Laurence stated no the delivery is a level indicator and the truck has a meter for billing purposes. Mr. Malanga asked so when you are transferring it to a customer it is strictly by weight. Mr. Laurence stated there is a meter as well, but the weight is what actuates the shutdown. Mr. Malanga asked how long the discharge hose is. Mr. Laurence said from the dispenser to the customer, I don't remember exactly. There was a discussion in reference to motor homes and Mr. Laurence stated they do not fill motor homes with propane and there was a limit of 20 to 30 pound portable tanks. Tom Boorady stated the State does do annual registrations and Superior Plus also does annual registrations.

Chairman Trowse asked you brought up NJAC518 going to 518-1.6 down below paragraph E, prior to filling any cylinder of four to 40 pounds LP-Gas capacity, except fork lift cylinders, the operator of the fill plant (a BJ's employee) or distribution plant shall affix a label to the collar of the cylinder that includes the following warning printed in English and in Spanish: "Flammable Gas—Never Use or Store Indoors/Gas Inflammable—Nunca Se Use o Guarde Adentro". In addition to this written warning, a label that graphically depicts the prohibition on bringing a cylinder indoors shall be affixed to the collar of the cylinder. I didn't see that in any of the BJ's procedures. Mr. DeSimone stated if that is NJ code we are required to do it.

James Talerico asked if there is a tag on the tank with the certification date on the tag. Mr. Laurence stated yes. Mr. Talerico stated the reason he asked is that different organizations have labels and tags, and an official from this town can literally go up to the tank and read the date on the tank. Mr. Laurence stated that is correct. If someone else isn't doing their job, stated Mr. Talerico one of our officials could read the date on the tank. Mr. Laurence stated that is correct.

Tom Boorady stated people may not know what ASME is and it is the American Society of Mechanical Engineers.

Chairman Trowse asked if any members of the public had questions of this witness. William Revis, 27 Arlington Place came forward and stated he is representing fire prevention and the fire department. Mr. Revis stated it was his understanding that they were going to get the procedures in writing before this. We didn't receive them, Mr. Revis stated his question is the truck driver drives up and you didn't mention anything about grounding, should that truck not be grounded. Mr. Laurence stated he did not believe that there is a grounding wire between the truck and the propane tank. Mr. Revis asked about static. Mr. Laurence stated he did not believe that was an issue. Mr. Malanga stated gasoline is grounded through its hose. Mr. Laurence stated there is not a separate grounding mechanism.

No one came forward, thereupon Chairman Trowse set forth the motion seconded by Sal Poli to close the public portion of the meeting.

ALL IN FAVOR / Motion Carried

Vincent DeSimone called Mauro Amato to the witness stand. Mr. Amato is the general manager of the Riverdale store. Mr. Amato stated he would have the deliveries early in the morning before the store opens. The resolution will reflect that the propane deliveries will be prior to 8:00 am. Mr. Amato reviewed the certification for the propane training. Mr. Amato stated the recertification is done annually. Mr. Reilly asked about OSHA requirements and Mr. Amato stated the front office completes that paperwork. Mr. Malanga asked what the procedure is for filling a tank. Mr. Amato reviewed the process for a customer coming to fill a tank. Mr. Amato also stated that no one under the age of 18 would be working with or on any electronic devices and not filling propane tanks.

Chairman Trowse stated that during prior testimony it was agreed that each employee would have a private code and he wanted to make sure that was still going to be the case. Mr. DeSimone stated that was agreed to and it will be in the resolution. Vice-Chairman Sheps asked how many people work in the tire center full time and part time. Mr. Amato stated they presently have four full timers that have been there for four years. There was a discussion in reference to how many employees and their recertification. Mr. Malanga stated the walkway is almost ninety feet.

Chairman Trowse opened the testimony to the public. No one from the public came forward, thereupon Chairman Trowse set forth the motion seconded by Sal Poli to close the public portion of the hearing.

ALL IN FAVOR / Motion Carried

Vincent DeSimone called the planner Christine Nazzaro-Cofone to the witness stand. Ms. Cofone listed her qualifications and was accepted by the board as an expert witness.

Ms. Cofone stated they are here seeking a use variance because of the outside storage and the retail sales of the propane outside as well. Ms. Cofone testified about the requirements the board is looking for. There is also a bulk variance for parking. There is a C variance required for the parking which is seventeen spaces short of the required spaces. Ms. Cofone testified in reference to the suitability of this site. Ms. Cofone stated she had been to this site many times and sees the site as an ideal location for this use. Ms. Cofone spoke about the negative criteria, and she stated in HB zone outside storage is prohibited, but there is a statement in the Master Plan in reference to the 23 corridor. Ms. Cofone testified at length and stated that the propane station meets the burden of proof, and that there is no negative impact on the location.

Chairman Trowse asked if there were any questions of this witness. Sal Poli stated she was an excellent witness. James Talerico asked about the parking spaces and Ms. Cofone answered the question. Chairman Trowse stated he was impressed by her testimony and he stated this isn't really outside storage. Ms. Cofone stated it is different than outside storage because it is also retail and that is why the C2 variance in the HB Zone. Ms. Cofone stated the prohibition in the ordinance is for the outside sale of merchandise.

Chairman Trowse opened the testimony to the public, no one from the public came forward and thereupon Chairman Trowse set forth the motion seconded by Sal Poli to close the public portion of the meeting.

ALL IN FAVOR / Motion Carried

Mr. DeSimone came forward and thanked the board and asked for a favorable ruling.

Mr. Reilly stated someone stated that the tanks that will be filled are BJ's tanks, does that mean they will only fill BJ's tanks. Mr. Amato stated no any tank will be filled as long as it is 20 to 30 pounds. They cannot fill any tanks over thirty. Vice-Chairman Sheps stated he watch a UTube video in reference to tanks that are damaged or rusty, etc. Mr. Amato reviewed the procedure for the abandonment of damaged tanks and tanks that are not certified.

Mr. Malanga asked what the busiest time of filling the tanks would be. Mr. Amato stated the busiest time he remembers was in Stroudsburg, PA and there were 30 fills that day in the summer months. Mr. Malanga stated that made him feel easier.

Chairman Trowse opened this portion to the public, no one came forward thereupon Chairman Trowse set forth the motion seconded by Sal Poli to close the public portion of the meeting.

ALL IN FAVOR / Motion Carried

Gregory Oman, the engineer for the project came forward and was previously sworn in. James Talerico had a question for Mr. Oman. Mr. Talerico stated the designated delivery marked in red, could you please review the delivery procedure. Mr. Oman walked everyone through the delivery process and where cars would be parked.

Chairman Trowse opened the testimony to the public, no one from the public came forward, and thereupon Chairman Trowse set forth the motion seconded by Sal Poli to close the public portion.

ALL IN FAVOR / Motion Carried

Chairman Trowse opened the application to the public to either ask questions or make statements. No one from the public came forward. Thereupon Chairman Trowse set forth the motion seconded by Sal Poli to close the public portion of the meeting.

ALL IN FAVOR / Motion Carried

Mr. DeSimone asked for a favorable ruling from the board.

John Barbarula stated the board has a chance to say yes or no. The things that you are going to decide is first of all primarily is a use variance. You have heard the positive and negative criteria of the use variance. What you will be determining is a variance for outside storage and outside retail sales, because it is both. You are also going under another variance for parking, A C2 variance increasing the variance by another six spaces. Those are the only two things you are going to decide. Over the course of the hearings in this matter, the recommendations of our engineer

dated November 24, 2020, and they were agreed to by the applicant, as well as other representations on the record including all the obligations that they said they would do would be incorporated. The last ones you heard tonight which also will be incorporated is the deliveries will be prior to 8:00 am when the store is open, the revisions to the operations and maintenance manual, and the administrative ruling that that the sticker requirement will be added to the manual. Those are the variances, aside from the variances, this is an amendment to the site plan. So three things, C2 Variance, Use Variance an amendment to the Site Plan, that is everything that would have to be an affirmative vote. If there is a negative vote, the member should indicate why it is a negative ruling. As you all know it is the applicant's burden of proof, especially when you have a C Variance. Mr. Barbarula stated you have everything you need to make a ruling to approve or deny this application.

Rick Malanga asked in reference to the outside storage, it doesn't matter what type of outside storage. John Barbarula stated it doesn't matter what type of outside storage it is. Rick Malanga stated so what if I wanted to put a dynamite stand out there. John Barbarula in terms of what you store outside, that is part of the application and whether it is appropriate. Ms. Cofone testified about the master plan and what the Borough is looking for in the corridor. As soon as you are asking for storage and retail sales of items, it could be dynamite, horse manure, it's not allowed, so the safety issues is one of the things this board was concerned about and sent a clear message to the applicant, and that is why the propane person testified this evening.

John Barbarula stated there was one thing he did forget to mention and that was there is a sunset on this use. If this applicant leaves the property the propane use is terminated.

Thereupon Sal Poli set forth the motion to approve the application, stating that he felt the applicant satisfied me and most of this board. I would like to definitely put the sunset in the resolution and all the other comments that Mr. Barbarula mentioned and the conditions that we had set forth at all the other meetings. James Talerico seconded the motion to approve with the comments that Mr. Poli set forth.

ROLL CALL:

Ayes: Poli, Talerico,

Reilly (I am voting yes, even though I am not happy with the location, I feel the applicant has given more than sufficient testimony about the safety standards and have comfort my thoughts again I wish the location was different but the applicant provided proof that this will be a safe project.

Bulger (I had two concerns about this application, safety and location. Based on the testimony and information given, I believe that the applicant has met or exceeded protocols for this industry and other locations and with respect to the location, I think the planner gave excellent testimony in respect to the variances and

especially in regard to the location and those are the reasons I am voting yes)

Sheps (I have reservations, but through all the testimony, the applicant has done an outstanding job presenting his case and the planner did an outstanding job of pointing out the positives and negatives and based on the fact the safety standards are in effect, I am voting yes.

Nays: Malanga (Mr. Malanga stated he feels it is unsafe for the population and the traffic that goes through the site every day)

Trouse (the testimony was great from everyone that gave testimony. My negative issue about the whole thing is not about the parking spaces or the retail being out there, it's the product that is going to be out there. The storage I have no problem with, I have a problem with the transfer of the product and knowing a little about the product it's when most things happen and it's usually human error. After consideration I am going to deny the application

(5 Ayes – 2 Nays – Motion Carried)

The Resolution will be read and adopted the second meeting in April, April 28, 2022.

ADJOURNMENT:

Thereupon Sal Poli set forth the motion seconded by Michael Reilly to adjourn the meeting.

ALL IN FAVOR / Motion Carried

Meeting adjourned at 9:15 p.m.

Respectfully submitted by:

Linda Roetman, Board Secretary