

November 5, 2008

Zoning Board of Appeals

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Proceedings by Authority

State of New York,  
City of Jamestown, ss:  
Council Chambers

The regular meeting of the Zoning Board of Appeals of the City of Jamestown, New York, was held on Wednesday, November 5, 2008 at 3:30 p.m.

Members Present: Chairwoman Tammy Donato, Richard Hanson, Ellen Ditonto, and Dave Daversa

Members Absent: Howard Brook, Bob Karbacka and Tom Ferri

Others Present: Director of Financial Services/City Clerk James N. Olson

Chairwoman Tammy Donato called the meeting to order.

The Secretary read the petition of Gary Risley representing Suit-Kote Corporation, 57 Lister Street, Jamestown for a use variance to install one (1) 725,000 gallon base asphalt tank, 50'6" round and 48' tall on parcel 387.05-2-3 owned by Suit-Kote Corporation, 1911 Corning Crossing, Cortland, New York in an L-M Zone. (Section 300-0313 L-M Light Manufacturing District – The proposed tank would be an expansion of pre-existing, non-conforming use. Asphalt storage is not permitted in the L-M District. The first permitted district would be the M-District).

Gary Risley, 3069 Old Chautauqua Rd., Sinclairville, New York: We had discussed maybe some further expansion. This year there was an asphalt shortage in the East. Anybody handling asphalt or selling asphalt was put on allocation about the middle of our season, so the company decided to put in another tank so that we wouldn't run into that again if there was a shortage, we have nearly half of our needed base asphalt on hand at the beginning of the season. We just work during the summer construction season.

Ms. Donato: Have you had any issues with any of the neighbors in the last couple of years?

Mr. Risley: We have one neighbor that has had a couple of complaints with lighting – nothing to do with the new tank. We've tried to make any adjustments we could to help that. Larry and I have conversations when he gets a call and we do our best to take care of whatever we can there.

Ms. Donato: Any questions from the Board?

Ms. Ditonto: I'd just like to ask one. Is it a stainless steel tank or what's the potential for leakage out of that?

Mr. Risley: The tanks are built on site because of their size. They are a steel tank, welded and insulated. Because they hold asphalt and they're held at a temperature, when the tank is full, of around 300° - we don't have much problem with rust. We are required to go through the DEC, that's part of the SWPPP – right now we're still under our construction – SWPPP – for the other tank. This tank is slightly smaller. The permit's for 725,000 gallons – it's actually 710,000 gallons, so it's slightly smaller than the other tank. So it's going to meet all of our requirements as far as our Stone Water Prevention Plan when we get it. When we finish our work there and go and do our SPEDES. The containment's already for 110%. In case of a spill – we certainly don't want to see them – but yes, all that is taken care of and we've been working with the DEC.

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Ms. Ditonto: And then at the end of the season, are these empty – these tanks?

Mr. Risley: Yes.

Ms. Ditonto: Okay.

Mr. Risley: In a normal season – they're empty. I'm not going to tell you that... there's some residual product, but usually it's...like right now the big tank that we put in last year, we had it full this Spring, it's empty now. Depending on pricing, depends on when we fill. We may start filling as early as January, or as late as...this year it was the first of June when we filled the other tank. It just really depends on pricing and availability. Normally, over the major part of the winter the tank will be empty.

Ms. Donato: So the plan is to put the 2<sup>nd</sup> tank in place for next Spring.

Mr. Risley: Yes.

Ms. Donato: Okay. So it will take the winter for the construction...

Mr. Risley: We hope to – of course, we have to put a large pad in to set the tank in, so our hope is if we get through the variance and we have to start our construction on the pad as soon as possible, the company that's actually building the tank hopes to start work in December. We're hoping to finish in four-six weeks.

Mr. Daversa: That pad...just picking up on Ellen's questions here and...Gary just mentioned the pad kind of falls on line with a couple of my questions, Gary. Of course, 710,000 gallon tank is quite large. As you know, I know that's big. So containment wise...this is going to be a concrete pad, I'm assuming, or an asphalt pad?

Mr. Risley: It's a concrete pad that the tank actually sits on. We've used much of our property as a containment. If you guys have been through there since we did the containment for the other tank, but it's in a large berm – it covers most of the property so that if the tank was to leak, it would cover a lot of the property but not be able to leave the property. We have...the valving – we have a storm water separator in place and there are procedures that we have to go through before we can do any releases. They have to have the water tested. There's a whole bunch of stuff we have to do before we can really do a release, but yes – the concrete pad is for the tank alone, it has nothing to do with the containment itself.

Mr. Daversa: And there'll be containment added to that?

Mr. Risley: Well, because the tank is smaller than the other tank, and as long as they're not hooked together and manifolded, as the DEC calls it, the containment has to be 110% of your largest tank. This tank is slightly smaller than the other tank so we don't have to increase the size of the containment.

Mr. Daversa: Has the DEC approved your plans for this tank as we speak?

Mr. Risley: Well, we're still under construction. We working with Abate Engineering as far as our storm water permit. Because we are still under construction, they're checking with the DEC but they're quite sure that we won't have to make any changes with the containment because the likelihood of both tanks failing at once are nil so you don't have to...we would end up with a 10' high wall, if we had to do it for both tanks. But the way the DEC approaches it, we have to have 110% storage for your largest tank if it's full. And we've achieved that for the first tank which is larger so the containment will suffice for the second tank.

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Mr. Daversa: I don't know about on your side of the road, but I do know because I'm dealing with an issue now on the other side of the road. There are certain restrictions on the other side of the road because it's zoned for farming and stuff. They can't even dump dirt on that land; here you guys are across the street with all this asphalt and they can't even put a pile of dirt across the road because that's in the DEC's minds zoned protection where wetlands, and what have you...

Mr. Risley: Wetlands...I think it's actually falls in the Federal Flood Plain now...

Mr. Daversa: Does it? Okay. Yes, I know there's some sort of criteria there and I don't want to speak because I'm not sure of it...

Mr. Risley: Some of the property that we owned on our side of Jones & Gifford Avenue is also deemed to be wetlands by New York State DEC and we had to go through that process before we could put the containment in as it stands today. Yes, we've been through all that.

Mr. ????: That's what I was going to say – the DEC would probably have a lot more issues with you than this Board would. You know what I mean? Because I do know the situation down there too to some degree. I had one other question. But your containment – would it still contain a full capacity tank in the event of a major rupture?

Mr. Risley: Yes it will.

Mr. ????: It can take 710?

Ms. Donato: It's 110% of the largest tank...

Mr. Risley: The containment as it's built will hold 111,000 gallons...I'm sorry –811,000 gallons. Actually and the DEC requires that you have a foot of free board above the 811, so we could probably hold close to a million gallons...worse case scenario...and I don't ever want to see that day...but...

Mr. Daversa: No, but you've always got to think about it.

Ms. Ditonto: You'd have one major parking lot there, wouldn't you?

Mr. Risley: It's hot asphalt – to help you understand how asphalt...it has to be handled at a very high temperature – around 300°. And, if a tank was to fail, the tank would have to be very full and the stuff cools so quickly when you get it out in ambient temperatures that they start to solidify and the chance of it ever getting to the top of the dike...it would build a mound before it would do that, if you understand what I'm saying... but we still have to handle it just like it's a liquid and so that's what the DEC asked that we do in 110% of our largest tank.

Ms. Donato: Just so I understand what you're saying, you are still under construction and dealing with the DEC because of the first tank that you put in, so all of that will continue through the construction of the second tank should we approve it, so there will be no discontinuation of that relationship.

Mr. Risley: Yes.

Ms. Ditonto: Okay. Can you explain to me the process...now Gary you come here for the permit for the second tank. You're already well into your plan - you with the

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engineering firm and with discussions with the DEC; does the DEC have to give you another plan since you're still working though that first one?

Mr. Risley: No. We'll continue to work under the same plan. The plan likely won't change because we're already meeting all their criteria for the second tank with the first tank, if you understand what I'm saying.

Ms. Ditonto: Yes.

Mr. Risley: So our engineering firm is telling us they just want to notify them that we are doing other work there, but it shouldn't change our storm water prevention plan at all. We just have a couple things that we want to clean up and there's some...as part of the plan there's a lot involved because your storm water prevention, we have to state how we're going to prevent spills which means fencing, fencing in the property, gating it, locking the gates and we haven't gotten to that point yet. We got the berms in in the summer and we're getting that other stuff, we got the whole property hard surfaced which is required, but the reason that the permit hadn't actually gone from a construction permit to a general SPEDES is because we hadn't finished a couple of steps yet because we planned to do it in the Spring. The other tank has come along in the meantime really shouldn't change any of that but I just wanted you to know that it is still open and we are going to be in contact with the DEC and if anything changes we'll take care of those as well.

Ms. Ditonto: Okay. Then you have to go to Planning still, or are you done with Planning.

Mr. Risley: We've been through a site review with Planning already. They approved it...actually going through the variance and then Jeff Lehman approving our storm water and Jeff and I have already discussed the storm water and he's good with that.

Ms. Ditonto: Okay.

Ms. Donato: Jim, did we by chance have any communications on this?

Mr. Olson: No the only person that called was Mr. Brook and he was just concerned about the size of the tank. He wasn't able to be here today.

Ms. Donato: Okay.

Mr. Risley: You really won't be able to tell it much from the other tank, it's just slightly less in diameter by a couple of inches.

Mr. Daversa: Is it going to be long, Gary, or is it going to be high?

Mr. Risley: It's 50 some feet long x 48 feet high. It'll be almost identical to the other tank.

Ms. Ditonto: What's the life span on one of those tanks?

Mr. Risley: Honestly, if I was to try to answer that question, it would be a guess on my part. The company has tanks that are 30-40 years old. You have to maintain them, go in and clean them. Our products are all, even our emulsion tanks-our end product tanks, are left empty in the Fall, so normally in the Spring we go in and take a look at the vat and our piping – anything that could be a problem. Normally with asphalt if you do start to see a problem, this is just a new...if you were to get a rust hole in something, it just oozes out, it's not a failure. It's surprising to me and I'm not an engineer, but when we filled it, as part of putting the other tank in, we had to water test it. We had to fill it with water. We contacted BPU and put 750,000 gallons

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of water in it. And you'd think something that size would have a lot of pressure, but when we actually went to drain it and hooked to our drain lines to go out to the pumping station that the City owns right on the corner of our property, we had to pump the water out because it just wouldn't...it didn't pump fast enough through the hoses which really surprised me.

Mr. Daversa: You'd think gravity would take that much and really rush it – right.

Mr. Risley: I suppose if you were 100' high with a tank, that would change but at 48' I was very surprised we had to pump in the line to help speed draining it.

Mr. Daversa: Well, of course, it depends on how big the line is too.

Mr. Risley: Yes.

Ms. Donato: Any further questions?

Mr. Daversa: I'm willing to make a motion if I can.

Ms. Donato: I have no objection to that.

Mr. Daversa: I motion to pass this zoning ordinance to Suit-Kote on the condition that they meet all of DEC's requirements. In my opinion, the DEC in my experience with them, are very stringent and if they can meet all those requirements, I think I believe that they would supercede ours and I'll make a motion to approve the zoning based on that.

Mr. Hanson seconded the motion.

Carried: 4 ayes, 0 nays

There being no further business, the meeting was adjourned.

James N. Olson, Director of Financial  
Services/City Clerk  
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