

The Keyport Unified Planning Board held a Regular Meeting on February 27, 2020 which was called to order at 7:01 PM in the Council Chambers at Borough Hall, 70 West Front Street, Keyport, NJ, called to order by Mark Sessa, the Sunshine Law Notice was read followed by the Flag Salute.

ROLL CALL:

Present: M. Sessa, H. Aumack, R. Benedict, L. Davidson, K. Howe, D. Pacheco, N. Vecchio

Absent: Mayor Kennedy, Councilman Goode, J. Oviedo, J. Royster

Mayor and Councilman Goode are unable to vote on the application because the application is a use variance application.

PROFESSIONALS SWORN IN

Trevor Taylor, Engineer and Peter Van den Kooy, Planner was sworn in.

MINUTES: January 23, 2020

Motion to approve with correction was made by K. Howe, second by R. Benedict

Ayes: H. Aumack, R. Benedict, L. Davidson, K. Howe, D. Pacheco, N. Vecchio

Abstain: M. Sessa

OLD BUSINESS:

**APPLICATION: KUPB 19-05
DENNIS J. KAVANAUGH
123 HIGHWAY 35
BLK 33 LOT 52
USE VARIANCE / SITE PLAN**

Mr. Leckstein explained that the since the previous application was not noticed correctly the applicant would be starting this as a new application.

Exhibit A1 – Application Package
Exhibit A2 – Exhibit List package dated 8/12/2019
Exhibit A3 – Survey of property dated 10/10/2019
Exhibit B1 – CME letter dated 2/24/2020

Trevor Taylor stated that the only outstanding issue listed on the letter was on page 3 regarding the minor site plan, he had no issue waving this condition since there are no changes to the site.

Mr. Leckstein stated that there was no previous resolution for this location so the assumption would that this is a pre-existing non-conforming use on this site.

The applicant would be looking to get approval for the expansion of a non-conforming use which would be the selling of the propane and the expansion of a non-conforming use for the selling of crabs. Both of these are D2 variances.

Mr. Ray Laytham (applicant's attorney) stated that the propane tank variance is not regulated by the Borough it is done by the State. Mr. Laytham explained that his client went to the building department when he added the propane refill and he was told by Mr. Burlew that he there was nothing in the ordinance regarding it. Mr. Leckstein asked if he had it in writing; no. There was discussion regarding the applicant needing the variance even though the state approved the use.

Mr. Van den Kooy stated it would need be some kind of relief, Mr. Leckstein stated it needs a variance.

Mr. Aumack asked Mr. Vecchio if the propane use would need some kind of inspection from the fire sub code official; yes. Mr. Vecchio stated that in the zoning ordinance it is not allowed. Mr. Leckstein stated that the Board will vote whether to approve or not approve it. The fact that it is there that can help your case but the applicant does need a variance.

Mr. Kavanaugh was sworn in. Mr. Leckstein asked Mr. Dennis Kavanaugh if he was the tenant of the property; yes.

Mr. Laytham asked Mr. Kavanaugh to describe the propane part of the business; Mr. Kavanaugh explained that it is a refill station, the public drives in the tanks are refilled and they pay and leave. Further discussion regarding the number of customers that come and how long each customer is at the site when they come to refill the tanks. Mr. Laytham asked how long has this part of the business been; 20-25 years. Mr. Kavanaugh was asked if he went to the town for approval; he stated he went into town and spoke to Mr. Vecchio (Tony). The state marked out for fencing and back up post, there was special electric added that was inspected by the town. The state of New Jersey comes in once a year and reviews the location. Mr. Laytham confirmed that the electrical permit was through the town; yes. Mr. Laytham asked at any time that you went for the permit was there anything else the town stated you needed; Mr. Kavanaugh stated he wasn't sure that he followed all the items from the state.

Mr. Aumack asked since you pulled an electric permit was it ever inspected by the Borough electrical inspector; Mr. Kavanaugh replied that there was a sticker on the box. Mr. Aumack asked to confirm that Mr. Vecchio Sr. was involved with the location; Mr. Kavanaugh replied not in the location but with the safety features.

Mr. Leckstein stated that legally just because two department didn't communicate to each other that doesn't mean you automatically get zoning approval.

Mr. Aumack asked if the zoning officer, Bob Burlew ever give application, Mr. Kavanaugh stated they never filled out an application, but was told no. On the state form it never asked for local approval. There was discussion regarding the state approval.

Mr. Howe asked confirmed that the D variance is needed because it is a non-permitted use.

Mr. Van den Kooy stated it is an accessory use, the automotive business is the non-conforming. Mr. Leckstein added that the D2 variance is for the expanding of a non-conforming use.

Mr. Howe asked if the state of New Jersey Safety policy mandates all the safety issues; yes. They met the criteria from the state; yes.

Mr. Van den Kooy asked about the size of the delivery trucks and the frequency; Mr. Kavanaugh replied that the frequency depends on the use. They usually show up with a tank the size of a camper. Mr. Van Den Kooy asked about 25-30 feet; yes. There was discussion regarding the amount of parking spaces that would be used and the frequency of deliveries.

Mr. Taylor asked if there was approximately 20-25 customers per week; yes mostly in the summer. Mr. Taylor asked if the customers park directly in front of tanks when they exchange the tanks; yes.

Mr. Leckstein clarified that the applicant is seeking two D2 variances, one for the selling of crabs either D1 or D2. The selling of the propane would be a normal accessory use.

Mr. Leckstein wanted to make clear that the Board would have to make a decision whether the selling of the crabs is a D1 or D2 variance. Whereas the propane tank is an accessory use to an expansion to a non-conforming use. Further discussion regarding the type of variance.

Mr. Laytham asked Mr. Kavanaugh to describe the repair shop before the sale of crabs. Mr. Kavanaugh stated it was an automotive muffler and brake shop and they also did state inspections. The shop does general shop repairs no body work. There was a quick turnover. Mr. Laytham asked besides the propane is there any other fuel; no. Mr. Kavanaugh stated he has been in Keyport 30 years and at this location 20 years. He has four other employees beside himself.

Mr. Leckstein asked what the location was used for prior to his business; it was a safelite auto glass with some repairs before that it was gas station. There was discussion regarding what the business looked like before he took over. Mr. Laytham asked him to describe the room they built for the commercial fishing as he got older he doesn't fish anymore. The area is a separate room well insulated for shell fish and was approved from the state. There are four tanks, Mr. Kavanaugh sells whole sale right now. Mr. Leckstein confirmed that the state approved the sale of crabs; yes he can sell commercially he can sell to stores and restaurants. Mr. Leckstein asked if the state approved the room; Mr. Kavanaugh replied they are not concerned with the room the person concerned with that would be the County. The county did come in and asked him to shut it down but they did say to square the stuff with the town. Mr. Leckstein asked why the department of health shut down the operation; Keyport called the County Board of Health. Mr. Leckstein asked prior to that did he have approval from the County; Mr. Kavanaugh replied that he didn't need it. There was discussion what approval would be needed for live animals.

Mr. Kavanaugh described how he traps, stores and sells the crabs. There was discussion regarding the care and selling of the crabs.

Mr. Laytham asked if he feels this is compatible with the auto service; Mr. Kavanaugh states he didn't see why it wouldn't be. He doesn't work on the cars anymore he usually just goes to the building that supplies the crabs. There was discussion regarding they are going to expand on the business; no. Mr. Leckstein asked if the Board decides to approve the application would he accept that as a condition; yes. Mr. Laytham asked if the additional business causes any conflict with the

automotive traffic; no. They are opened the same as the auto shop Monday thru Friday, 8am to 6pm, Saturday times vary. They are usually closed on Sunday.

Mr. Leckstein asked if Mr. Kavanaugh has an agriculture license; yes. Mr. Kavanaugh stated that there are only 152 licenses allowed the license is usually handed down to family members. The season for crabbing is usually March 15th to December 1st.

Ms. Davidson asked when the fourth bay was installed; Mr. Kavanaugh replied approximately 20 years ago the permits were pulled. Ms. Davidson asked if something happened to him what would happen to the license; hopefully someone in his family would take it over.

Mr. Howe asked if the shell fish is regulated by the state; yes. There was discussion regarding sales tax and who would inspect establishment. Mr. Kavanaugh stated as long as he doesn't cook the crabs there are no taxes.

Mr. Howe asked what happens to the crabs that die; Mr. Kavanaugh stated he takes them back to the Bay he does this twice a day.

Mr. Pacheco asked if there was a regulation container used for transferring the water from the Bay to the facility; they use two containers that are used for fluid. There was discussion regarding the transfer of water as well as how often this takes place a day.

Mr. Taylor asked about advertising or is just word of mouth; Mr. Kavanaugh stated he wasn't sure they were only opened 14 days not sure how it will work. Mr. Kavanaugh stated he has a sign on a truck and his daughter in law puts things on the internet. Mr. Taylor asked if he had any signs; on the door.

Mr. Taylor asked the number of tanks there were; four. How many crabs are stored in the tanks four bushes (86 crabs per bushel) approximately 400 crabs in total. Discussion regarding how many crabs are sold in one day. Mr. Taylor asked if eight parking spaces are adequate; yes.

Mr. Leckstein confirmed that Mr. Kavanaugh is not selling the crabs from the truck just the room; yes just from the truck.

Mr. Van den Kooy asked if the traps were stored on site; yes in the back of the building. They shrink wrap them when not in used on pallets. Discussion regarding the height and location of the traps that are being store.

Motion to open to the public at 8:05 pm was made by R. Benedict, second by N. Vecchio with ayes by all present.

There being no comments or questions by the public a motion to close the meeting at 8:08pm was made by R. Benedict, second by N. Vecchio with ayes by all present.

Mr. Sessa stated that he feels this business is particularly suited for this location, he stated that he doesn't see any negative impacts.

Mr. Benedict agreed with Mr. Sessa, stated he likes the use in Keyport.

Motion to approve application for D2 variance for propane and D1 and D2 variances for the selling of crabs was made by R. Benedict, second by L. Davidson.

Ayes: M. Sessa, H. Aumack, R. Benedict, L. Davidson, K. Howe, D. Pacheco, N. Vecchio

Mr. Laytham asked if his client could sell the crabs before the approval of the resolution. Mr. Leckstein stated that he feels the Board of Health would want to see the resolution before allowing the selling of the crabs.

PLANNING BOARD PROFESSIONALS: Update on applications

Mr. Taylor updated the Board:

- The Developers agreement for 333 First Street - Mayor and Council just approved resolution.
- 149 West Front Street – Tideland from
- Mariners Village – asked Mayor and Council for extension on the financial agreement as well as developers agreement

There are two applications being reviewed:

- East Front Street – two uses looking to have it subdivided
- Broad and Butler looking to put apartments on second floor and commercial on first floor

Motion to Adjourn:

Motion to adjourn meeting at 8:17pm was made by R. Benedict, second by K. Howe with ayes by all present.

The next regularly scheduled Planning Board Meeting will be Thursday, March 26, 2020