

**ZONING BOARD OF APPEALS MEETING  
MAY 15, 2018**

**PRESENT:** Kathy Kiernan, Chairperson  
Joseph Guido  
Vic Barranca  
Karl Wick  
Frank Skerritt  
Glen Kubista  
James Banks

**CONSULTANT:** Myles Putman

Chairperson Kiernan called the meeting of the Town of Esopus Zoning Board of Appeals to order at 7:00 p.m. beginning with the Pledge of Allegiance to the Flag.

Chairperson Kiernan asked the Board if everyone read the minutes of the March 20, 2018 meeting and if there were any changes.

**GLEN MADE A MOTION TO APPROVE THE MARCH 15, 2018 MEETING MINUTES SECONDED BY VIC. ALL MEMBERS WERE IN FAVOR.**

**VOUCHERS:**

April Oneto (secretarial services)..... 5 1/2 hours

**VIC MADE A MOTION TO PAY THE VOUCHER AS SUBMITTED, SECONDED BY GLEN. ALL MEMBERS WERE IN FAVOR.**

**INFORMATIONAL:**

**05-15-18-01 Jess Hicks  
15 Broadway, Port Ewen  
SBL: 56.044-1-1.1  
Change in Non-Conforming Use (Section 123-30B(3))**

Jess stated that he has been an Esopus resident for over 40 years. He owned his own business and sold it to Island Pump and Tank. Now he operates his branch through them. The owner of Island Pump and Tank (Port Ewen Corp., Frank DiAndrea) has purchased the KOSCO property and is leasing it to Jess. Jess is in the environmental petroleum construction business. They respond to petroleum spill. They build gas stations. They work hand-in-hand with the DEC and assist with clean-up activities of less than honorable gasoline operators. Jess stated that they are not trying to seek any kind of storage permit or a 360 permit or anything like that regarding waste material. They have disposal facilities, the main one on Long Island, where they dispose of water contaminates. There are several other waste facilities they use. Nothing will ever

touch the site at 15 North Broadway. You will see empty drums down there and once they are filled they get manifested from the site where generated and transported directly the waste facility.

Kathy asked what they would be storing there. Jess stated there will be empty drums, a small excavator and small bobcat. He stated that there is more activity there now because they are trying to clean the place up. Kathy questioned the traffic during normal business hours. Jess stated from 7:00 a.m. maybe three trucks in and out. Everybody gets dispatched from home. There will be occasional pick-up trucks or a box truck. They will not be stored there. It will be people coming in to get supplies. They have one dump truck and a small dump truck. James stated that if they are dispatching at no given time will there ever be hazardous waste stored at this facility. Jess responded no never, it will not even touch the site. Jess stated that they will have fresh absorbent material and fresh pads.

We have the owner's consent for Jess to represent him in this matter before the ZBA. Presently Jess is located in Wappingers Falls and wants to move his branch of Island Pump and Tank to the Kosco site. The Wappingers' site is located at 110 Airport Drive. Vic asked how much inventory is he proposing to have on site and how many tanks will be stored there and what are the sizes of the tanks? Jess stated that the only tanks he has are emergency rental tanks and he only has three of them. They don't store tanks on the site. There may be one on the trailer which would be equivalent to 1,000 gallons which will be going to a site to be installed. At the Wappingers Falls site you will see drums in a quanset hut, a sweeper attachment, pallets of speedy dry, pallets of plastic, 9 ton lift and inside the garage are all of the electronic parts.

Jess stated that this property went to auction and nobody wanted to buy it. The individual from Getty Realty called Frank DiAndrea on the phone and asked him if he wanted it and said that he could give him a good deal. This was about 2-3 years ago.

Kathy asked about the number of employees. Jess stated that he has 3 office employees and himself at the site. He is in and out most of the time. As for, field employees he has 7 and they are dispatched from their home. He stated that there is no reason for the field employees to be down there unless they are picking up supplies.

Glen stated that if he understands this correctly there will be nothing conducted down there that will adversely affect the environment. Jess stated that this is correct. Joe asked if they just decided what they wanted to do with the site. Jess stated that his rent was just raised at his present site and the owner, Frank DiAndrea, has just been sitting on it and he decided that instead of paying rent he might just as well use the office and the garage.

He stated that he has a backhoe but he does not think it will be on the site but it could be. He has three rental tanks and they would be in the garage.

Vic stated that it would be helpful for the next meeting to have some pictures so that we can see where he might store things outside the garage. He thinks it might be helpful to show the public at the hearing. Jess stated that he is not doing anything to that property. He is not doing anything to the interior or the exterior of the building.

Glen questions the aesthetics of the outside from the Rondout Creek Side. Glen stated that if the Rip Van Winkle or other boats were coming in or people on the Kingston side were looking how would it look aesthetically? Glenn asked if it would remain the same or would there be improvement. Jess stated that he would like to clean up the fence line. James asked if he would be doing any landscape work so that it did not look like a construction yard. Jess stated that he could. He stated that he would not be opposed to putting privacy slats in the fence. Jess stated that it is chain link and it runs all the way across the bulk head. Kathy asked if they can come down and look at the site. Jess said they were welcome to visit.

Myles referred the Board to his memo. He gave a lot of background information and assessment. Myles stated that prior to going forward with a Public Hearing the Board might want to get in touch with their legal counsel regarding the proper procedure to follow. Myles stated from what he is hearing tonight this is almost like a turnkey operation as far as reusing the building. This might be a Type II Action under SEQR which means that the Board does not have to worry about anything under the Environmental Laws. He stated that this is not really clear as to what the process is when you are applying under Section 123-7.J for this change of non-conforming use as opposed to a variance where the process is very clear. Vic stated that this Board has the power to give a conditional variance. Myles stated that they can attach conditions to any variance. Myles asked the Board to keep in mind that if they are proceeding under a "Use Variance" there is a lot of burden of proof on the applicant to show to the Zoning Board of Appeals that they cannot get any reasonable return for any allowed use in this district. This is what you will be asking for if you are doing a use variance.

Karl asked if this property has any riparian or underwater rights. Karl stated that it appears on the map that it does. Jess does not know. Jess stated that all throughout the Rondout it is hit and miss depending on who has the rights and who does not. Karl asked if he has a Title Search for this property. He does not. Karl asked if they were planning on doing any docking, loading, unloading, etc. Jess stated nothing other than cleaning up the bulkhead. He stated that there is really no boat ramp access and it would be very costly thing to try and access the water from there.

Joe asked if the secretary could research Mirror Lake Lodge because it used to be a bar/restaurant and it was changed to apartments and he is curious what procedure was used to accomplish this. Joe stated that he believes this was not a variance but a change of use.

Chairperson Kiernan announced that this application will be going to a Public Hearing next month. Kathy will contact Peter C. Graham, Esq. to give us direction on how we will announce the public hearing for Tuesday, June 19<sup>th</sup>, at 7:00 p.m.

Glen asked other than what Kosco did in this location do you as the applicant see an increase or decrease or remain the same as far as noise level. Jess stated there will be far less noise. Kosco had loading docks there. They had people working in the garage. They had the trucks there. The activity level and noise will be a lot less.

Karl asked if the secretary could check with the Building Inspector regarding the amount of waterfront area the Town of Esopus has.

**VIC MADE A MOTION TO ADJOURN SECONDED BY FRANK. ALL MEMBERS WERE IN FAVOR. MEETING ADJOURNED AT 7:40 PM.**

**NEXT MEETING: JUNE 19, 2018**

**DEADLINE DATE: JUNE 5, 2018**

Respectfully submitted:

April Oneto  
Secretary