

STOCKBRIDGE SELECT BOARD MEETING MINUTES
Thursday, November 9, 2023
6:30 p.m.
ZOOM MEETING - TOWN OFFICES, 50 MAIN STREET

Present:

Patrick White, Chuck Cardillo, Jamie Minacci and Mike Canales

Call to Order:

Chuck opened the meeting and began with the Pledge of Allegiance.

Chuck moved to open the Continued Public Hearing of 9/28/2023 in accordance with the provisions of MGL c148 Section §13, in regard to an application received from Jason Wild requesting the storage of 600 gallons of propane for a total of 114,640 gallons located at 9 Lee Road. Jamie seconded. Aye Patrick, Aye Chuck, Aye Jamie. Patrick moved that we take no action on this license. Chuck seconded. Aye Patrick, Aye Chuck, Aye Jamie.

Public Hearing

Chuck moved that they open the hearing to consider the application for License under Massachusetts General Laws Chapter 183, Section 13 for a property located at 9 Lee Road and waive the reading of the notice and incorporate the notice into the minutes of the hearing. Jamie seconded. Aye Patrick, Aye Chuck, Aye Jamie.

Notice:

Town of Stockbridge
Public Hearing

Notice is hereby given that in accordance with the provisions of MGL Chapter 148 Section 13, the Board of Selectmen will hold a public hearing on Thursday, November 9, 2023 at 6:30 p.m. at the Town Offices and via Zoom, regarding an application received from Jason Wild for property owned by Berkshire Gas Co. located at 9 Lee Road., requesting the storage of 600 gallons of methanol, 24,640 gallons of LP-gas in above ground containers (five 3,200 gallon delivery trucks and seventy-two 120 gallon vertical tanks) and 90,000 gallons of LP-gas stored in underground containers (three 30,000 gallon tanks); for a total aggregate to be stored of 114,640 gallons of all LP-gas and 600 gallons of methanol.
Ernest Cardillo, Chair

Chuck read:

The following procedures will be followed:

- a) Testimony will be limited to the issues directly related to the subject matter.
- b) Only one person will be permitted to speak at a time.
- c) All discussion will go through the chair.

d) Arguments between parties will not be permitted

He added that they were setting a two-minute time limit for discussion but could extend if asked.

Chuck asked the applicant to present. Jason Wild, representative for Superior Plus Propane stated that the location on 9 Lee Road is a plant for a propane substation for natural gas. The three – 30,000-gallon underground tanks that are currently there are original to when Berkshire Gas built the property and more tanks were added. In 2004/2005, Osterman Propane purchased those tanks and conducted business out of there with propane distribution. From that time on they leased the property from Berkshire Gas but owned the tanks in the ground. In 2018 Superior Plus bought Osterman and has been in control of those tanks and utilized it as Osterman had as a facility for parking the trucks, bringing back tanks and bringing new ones back to the customers. About three months ago, the fire department responded to an inspection for maintenance repairs that Berkshire Gas was doing and the fire department questioned all the tanks on the property. It was determined that they did not renew their permits, it was an oversight and discovered that they were not allowed to have the extra tanks and trucks on the property. They have been working to get it compliant and asking to have 8600 gallons of tanks (72 tanks) on the property, allow the delivery trucks on the property (up to five) along with the already existing tanks in the ground. Up to 600 gallons of methanol is also requested to prevent freeze-ups. He said that they are working on cleaning the site.

Mike Canales ran through the timeline:

Timeline -

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| 1973 | Berkshire Gas Company application for license and permit to install a Mounded UST 30,000 GAL LP Tank was approved. |
| 1981 | Berkshire Gas Company application for Special Permit to install 2 (two) Mounded UST 30,000 GAL LP Tanks was approved. |
| 2005 | Storage license for 90000 GAL LP to Osterman Propane Inc. (this is when Osterman Propane Inc started to operate at 9 Lee Road). |
| 2021 | U.N.I. Engineering Inc performs 3rd party inspection on Tanks #1, #2 and #3 all Mounded 30,000 Gal LP Tanks FP-102 AST Use Permit Renewal Form stating each tank is in “good working condition and compliant with the applicable regulations and standards” |
| 2023 | Site inspections by Stockbridge Fire Chief Vincent Jan Garofoli included MASS DFS Code Compliance Officer II John Wood III to verify all code compliance violations are properly documented for the Order of Notice to be issued to Berkshire Gas Company and Superior Plus Energy Services Inc. 10-23-2023 Compliance Inspection performed for Superior Plus Energy Services Inc which found all remaining violations except those being addressed under the Amended Land License Application were in compliance at that time. |

Current Status – Approved Uses

- Berkshire Gas (the land owner) through Superior Plus Energy Services Inc. who acquired Osterman Propane Inc. can operate the three 30,000-gallon tanks for the actual storage of inflammable materials. This license may not “expire” or otherwise be revoked except for cause, subject to notice and a hearing.

Requesting Storage –

- 600 gallons of methanol (New request to install)
 - o Operator - Methanol is critical to the operation of propane supply to the end user. It is not added at a terminal when the transport loads to bring it to us. We must add it during the transport unload process at the plant.
- 24,640 gallons of LP-gas in above ground containers (have not been approved for the site but has been happening on the site).
 - o Five 3,200-gallon delivery trucks
 - o Seventy-two 120-gallon vertical tanks

Additional Concerns –

Propane marketers are required to take a tank with more than 5% (greater than 125gal tank) to the closest bulk plant facility under hazmat transportation regulations. Tanks would be required to go to Stockbridge, to safely evacuate the tank. (Emergency operations are not included in the license – state and federal law take priority in these cases – once evacuated the storage of tanks would fall to local license requirements.)

Chuck asked if there were any questions from the Board. Patrick asked for clarification on the recovered and or refurbished tanks. The maximum number ask under the permit would be 8600 gallons – water capacity of every tank that sits there. Jason said they were trying to get the permit to match what is already existing. Patrick asked why they did not apply for the license or request the annually required safety inspections until now, or was it just oversight?

Jason said that it was oversight on the corporate side and the ball was dropped. Patrick asked who was going to be responsible moving forward. Jason said he oversees the region of southern New England, so he and the general manager will be, along with Scott Sullivan.

Jamie asked why 5 trucks and Jason said that 4 is what is required based on the business in this area. She asked if they service local customers and they do. In order to refurbish tanks, they need 72 tanks which will be stored at the location. She also asked how often the semi-trailers came and Jason said approximately 7 or 8 within the last three months. He found out that they did not have permitting when the Fire Chief brought it to his attention.

Chuck asked if the 72 tanks was to fill a tractor trailer and Jason said it is the goal.

Mike added that under this licensing process, whether or not the containers are full or empty, 72 is the limit; they are all considered full for the permitting.

Chuck asked if anyone wished to speak in favor. Hearing none, Chuck asked if anyone wished to speak in opposition.

Sally Underwood Miller, 10 Rattlesnake Mountain Road, asked as member of the Conservation Commission noted that in respect to the location abutting the Kamposa Bog, asked if they were permitted with Conservation for paving. Chuck said that it cannot be discussed as it is not a part of this license application.

David Adler, 7 Lee Road, stated that they are primary abutters and reviewed his concerns. He reviewed the 1973 permit requestion Berkshire Gas to store 30,000 gallons with the option of adding two additional tanks with a limit of 90,000 gallons with the purpose of being a standby for the natural gas line. The site was to be screened. He said that he is more concerned with their safety. He stated that the tanks were not registered until 1981 when they came forward asking for the two additional tanks. The permit for 3 tanks was approved in 1981. From then, there was no registration for 30 years and no inspections. In 2005, Berkshire Gas began to lease the tanks to Osterman Propane, no longer being only standby for the national gas line; the natural gas line was abandoned. Osterman was permitted in 2005 for the three tanks. He gave an overview and showed pictures of how the site appeared when Chief Garofoli inspected in August 2023; many tanks and propane that was not permitted for. The Chief asked that the unpermitted tanks to be removed and to come into compliance with a permit that has yet to be approved. He said that no one knew what was going on there. He also questioned the name of Berkshire Gas is on the application and stated that the permit is flawed in numerous ways. He said that there is a buried 800-gallon tank on the property which has never been permitted or when it was installed. It contains Mercaptan which is an odorant added to propane and is classified as a potential chemical weapon of mass defect.

Adler said that the abutters request that the Select Board deny the applicant's permit in its entirety, delivery trucks are removed, along with any new or refurbished tanks, and the methanol denied as well. They also request an environmental study of the property immediately to determine any adverse environmental impact, both current and potential; that the Stockbridge Conservation Commission review the property to see if the asphalt or any other surfaces were permitted and if not, Berkshire Gas return the property to its previous state; that the buried Mercaptan 800-gallon tank be removed within 120 days with the process to be supervised accordingly; and lastly in regards to the three 30,000-gallon mounded tanks, Berkshire Gas has substantially altered the business as it was originally permitted for and would like these tanks removed. Stephanie Adler asked the Board to consider the safety of the neighbors when making their decision. Jim MacDonald, 3 Lee Road, said they bought their property knowing that the gas company was there but was disappointed finding out that the facility was not permitted for its current use, specifically noting the number of tanker trucks entering and exiting the property. Rich Bradway noted that the land does fall within critical environmental land.

Attorney Nick Arienti, representing the Adlers, said that he submitted a form today requesting that the Building Inspector inspect the property for compliance with the zoning bylaw and specifically, the two special permits applicable to the site. Due to the allegations, the alleged and actual uses of the property far exceed those permitted for the use of this property, that the Select Board cannot act on this permit until such time the user can demonstrate that they have authority to do any of the things they are doing at this property pursuant to the zoning bylaw, pursuant to the use that is in place and pursuant to the explicit permits that were granted by the Select Board for this purpose.

Mark Sprague, 8 Yale Hill Road, asked why there isn't a cease and desist everything that is taking place inappropriately.

Mike said that there is a 2005 permit allowing the three 30,000 tanks.

What the Board has in front of them are the optional ones to consider tonight: the 600 gallons of methanol, five 3,200-gallon delivery trucks and up to seventy-two 120-gallon vertical tanks.

Chief Garofoli said that a concern came to him tonight that with the possibility of continuation, an order be put forth to go back to the 2005 permit, as opposed to continuing.

Kate Fletcher asked if abutters were notified in 2005 and Mike said yes and that it was for a license not special permit. She said that it does sound like a significant impact and public health concern.

Chuck moved that they close the evidentiary portion of the hearing and move to deliberation by the Board. Jamie seconded; Aye Patrick, Aye Chuck, Aye Jamie. Chuck reviewed what they can approve, limit or deny: the 600 gallons of methanol, five 3,200-gallon delivery trucks and up to seventy-two 120-gallon vertical tanks.

Chuck said he would like to allow the 600-gallon methanol to load trucks but deny the other two. Jamie said that she supported going back to the 2005 license and would not allow the delivery trucks and vertical tanks. Patrick said that he was not prepared to approve any aspect of the expansion of this permit tonight. Patrick made a motion to deny. Chuck asked if he meant everything including the methanol. Chuck said that without the methanol things would freeze. Patrick said that a decision to deny would allow them to fix all of the issues and they come back for another application. Jamie seconded the motion on the floor. Aye Patrick, Aye Jamie, Aye Chuck.

Chuck made a motion that they close the hearing. Patrick seconded; Aye Patrick, Aye Chuck, Aye Jamie.

Adjournment:

With no further business, adjourned the meeting.

Please see <https://ctsbtv.org/government-channel-1303/> to view the full meeting.