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May 11, 2022

VIA EMAIL ONLY

Town of Waterboro  
Zoning Board of Appeals  
ATTN: Angela Chute, Admin.  
24 Townhouse Road  
East Waterboro, ME 04030

RE: Zoning Board of Appeals Hearing May 12, 2022

Dear Angela,

Attached are the following:

- 1) Letter from the State Fuel Board dated May 6, 2022.
- 2) Site Plan Review Submission Criteria and Review Standards from Gartley & Dorsky Engineering and Surveying dated May 11, 2022.

Please provide copies to the Board of Appeals and other parties entitled to receive them.

Sincerely,



William A. Lee, III

WAL:tlr

Enclosures

cc: Hillel Weisel, E23, LLC (email only) (w/encs.)  
Natalie Burns, Esq. (via email at [NBurns@jensenbaird.com](mailto:NBurns@jensenbaird.com)) (w/encs.)



Janet T. Mills  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
OFFICE OF PROFESSIONAL & OCCUPATIONAL REGULATION  
**MAINE FUEL BOARD**  
35 STATE HOUSE STATION  
AUGUSTA, MAINE  
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ANNE L. HEAD  
Commissioner

May 6, 2022

William A. Lee III  
O'Donnell Lee, P.A.  
P.O. Box 559  
Waterville, ME 04903

Mr. Lee,

Mr. Lee this letter is in response to you request on safety with Propane Bulk Plants.

The State of Maine has an extensive permitting process that must be completed and reviewed by the State Fuel Inspectors before any construction may begin. Once the permit has been approved on the administration side an initial site inspection is done and if, the site meets State of Maine adopted standards then construction may begin.

During the construction process an intermediate inspection will be done by a State Fuel Inspector, and if any deviation from the submitted plans are identified the Inspector has the ability to stop the project until the Inspector is satisfied that the issues have been corrected. A final inspection is required once the project is finished and before any propane is put in the tanks. The final inspection includes the propane tank installation as well as all required safety items required by State adopted rules.

When these steps are followed it has been my experience over my 21 years' experience as a State Fuel Inspector, that propane bulk plants perform well and are very safe.

I have no experience with bullet strikes to a propane tank however, I have done some research as a result of your question. I have found that studies have been done and because to the spherical shape of the propane tanks when a bullet hits a propane tanks it deflects.

*Dale D. Hersey*

Dale D. Hersey  
Senior Fuel Inspector  
Maine Fuel Board

**MEMORANDUM**

To: Waterboro Zoning Board of Appeals

From: William T. Lane, P.E.  
Gartley & Dorsky Engineering & Surveying, Inc.

Date: May 11, 2022

Subject: **E23, LLC and Fabian Oil – Site Plan Approval Appeal**  
**Site Plan Review Submission Criteria and Review Standards**

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Gartley & Dorsky Engineering & Surveying, Inc. submits record information on behalf of E23, LLC and Fabian Oil in relation to the appeals of the Town of Waterboro's Site Plan approval. The planning board's April 6, 2022 approval has been appealed by abutters. We understand that the Zoning Board of Appeals will hold a de Novo review of the application. We submit this narrative to demonstrate compliance with the town's Zoning Ordinance, addressing Submission Criteria and Review Standards.

The following are responses to the requirements of Section 2.09B of the Waterboro Zoning Ordinance.

1. Boundaries of the site and abutting streets with widths indicated.  
*These elements are provided on the Sketch Plan submitted.*
2. Footprints of all buildings - showing the number of stories, access and use.  
*This data is provided on the Sketch Plan depicting the site conditions and proposed propane tank. All buildings are one story.*
3. Layout and location of off-street parking; loading; and access drives; and vehicular maneuver-areas to conform with the standards set forth in Article 5 of the Waterboro Zoning Ordinance.  
*This information is provided on the Sketch Plan, depicting the existing curb cuts on Sokokis Trail as well as the internal circulation routes and existing parking. The layout of travelways demonstrate that vehicular movements within the property conform with Article 5, in that: Sightlines are maintained and adequate at both curb cuts on the property. Buffering from the road is provided. Adequate parking (800 sf office at 1 per 200 square feet plus 3 employees at 1 per 3 employees – 5 spaces) and loading areas (4,000 sf commercial floor area at 500 sf loading/2,500 sf – 800 sf) for the use exists on site. The parking and loading areas do not serve more than twenty (20) vehicles, and so do not require screening. Internal circulation allows for all vehicles to exit onto Route 5 without backing.*
4. Location and size of all signs, gasoline pumps, and other freestanding structures.  
*A freestanding sign is shown on the original approved site plan and on the Sketch Plan. This existing sign will not be modified. There are no gas pumps on the property.*
5. Location, direction, and type of outdoor lighting.  
*Building mounted entrance lights exist at the existing office building. The site is presently not equipped with freestanding lighting. Security lighting will be provided at the new propane tank location and will be downward aimed full cutoff LED fixtures.*

6. Location and type of screening and/or buffers and other landscaping.  
*The plan shows the existing front yard lawn and landscaped area as well as the existing treeline buffer.*
7. Location of all utilities.  
*The proposed development requires no new connections to public utilities at the street. Internal power connections are noted. No changes are proposed to the private water and sewer onsite.*
8. Topography of a contour interval not greater than two feet showing the effects of drainage from the site upon adjacent property. A greater contour interval may be used if the Planning board determines that the plan is adequate to evaluate site conditions.  
*Contours are depicted at 1' intervals on the Site Sketch Plan.*
9. The applicant shall, in addition, submit for any project utilizing an on site septic disposal system if the septic system has a design system flow in excess of 800 gallons or if predominantly made up of non typical septic waste, a hydrogeologic impact study prepared by a State of Maine Certified Geologist or a Registered Professional Engineer with experience in hydrogeology. This study shall contain, at a minimum, the following components:
  - a. A map showing the soil types using the Unified Soil Classification System (USCS).
  - b. Groundwater levels and flow rates through the site, and the aquifer type.
  - c. An analysis of surface drainage conditions and their relationship to off-site conditions.
  - d. Data on existing groundwater quality and quantity for the site should be provided. Collection of this data can either be provided by test wells on the proposed site or by existing wells on abutting properties, provided that the data collected from those wells would represent the groundwater on the site. If public water is to be used, the applicant shall submit a written statement from the Waterboro Water District that it can provide adequate water service to the proposed development.
  - e. A calculation of average nitrate nitrogen levels on-site after development and a calculation of nitrate nitrogen levels at the down gradient property line(s). These calculations should be done under simulated conditions of both normal rainfall and draught conditions.
  - f. A map showing the recommended sites for the subsurface wastewater disposal system(s) and well(s) on the site.*This section is not applicable, in as much as the existing septic system is less than 800 gallons per day, and no change is proposed to the system. The proposed propane storage use will not modify the current use of the existing septic system and will not add flow to the system.*

The following are responses to Section 2.10 Site Plan Review Standards of the Waterboro Zoning Ordinance.

A. In reviewing a site plan application, the Planning Board shall require the applicant to provide written evidence that the following standards have been met:

1. The proposed use meets the definitions and/or requirements set forth in the Zoning Ordinance;  
*The property is located in the Agricultural and Residential (AR) district to an approximate depth of approximately 840 feet from Sokokis Trail, encompassing the project area. The balance of the property is in the Forest and Agriculture (F&A). The existing facility, along with the proposed bulk propane tank are located in the AR district. As per Subsection 3.06.02 (21), Bulk propane storage*

*including propane tank refill station are conditional uses and structures. The minimum parcel size must be 5 acres. The property is 22.87 acres, per the tax card.*

2. The proposed use will not create fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles; adequate dry hydrants; or adequate access to off-site dry hydrants and from there to the site;  
*The new propane bulk storage and filling operation will comply with the National Fire Protection Association Liquefied Petroleum Gas Code (NFPA 58) and the Maine Uniform Building and Energy Code (MUBEC). There is adequate access for emergency equipment from Sokokis Trail, clear lanes for internal movement, and clear space adjacent to all structures. The fire chief's review and the Fire Safety Analysis performed by TRC Environmental Corporation conclude that adequate water supply is available for the facility.*
3. The proposed exterior lighting will not: create hazards to motorists traveling on adjacent public streets: be inadequate for the safety of occupants or users of the site or will damage the value and diminish the usability of adjacent properties;  
*Exterior lighting will be limited to motion activated security lighting at the propane tank. This lighting will not be regularly illuminated. It will be available for operations in the evening. This location is well screened from the adjacent public street. This lighting will be downward oriented and be provided by full cutoff LED fixtures. These light fixtures will be screened from adjacent properties by existing vegetation, with a wooded buffer of approximately 80 feet to the nearest property line.*
4. The provisions for buffers and on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development;  
*The proposed propane tank will be visually masked from Sokokis Trail by existing buildings. The closest neighboring property, Map 13 Lot 42A, will be buffered by 80 feet of woods from the clearing associated with the project.*
5. The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare or other cause;  
*The project will not create significant detrimental effects on abutting properties owing to its operation. Odor, noise and vibrations from vehicles on Sokokis Trail (Speed limit 50 mph and Maine DOT Factored Annualized Average Daily Traffic of 6,751) is significantly greater than the project's slow speed operation carried out during normal business hours. Vehicles onsite will be operating on stable reclaimed asphalt drives and will not generate dust. Glare from lights to abutting properties is minimized by hours of use, wooded buffers, using full cutoff lighting fixtures.*
6. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will not create hazards to safety or will not impose significant burdens on public facilities which could be avoided by reasonable modification of the plan;  
*All tank filling and bobtail loading operations from the proposed propane tank will occur remote from the site's other activities and entirely separated from the adjacent public street.*
7. The bulk, location, height or design of proposed buildings, structures or paved areas, or the proposed uses thereof, will not have a significant detrimental effect on private development on

adjacent properties, or on the value of adjacent properties which could be avoided by reasonable modifications of the plan;

*The proposed propane storage tank is planned to be fenced and provided with a separation buffer of 80 feet of existing woods on the property. It will be sited ~126 feet from the property line of the adjacent developable parcel. This exceeds the NFPA standard of 50 feet. In combining the adjacent parcel's side yard setback of 35 feet, the nearest developed structure would be separated from the propane tank by >160 feet, which is >3 times the minimum separation per NFPA. The proposed siting of the project improvements as planned has no significant detrimental effect on development of the adjacent parcel. The parcel may be developed within the limits of the ordinance without limitation from the tank's location, nor from the paved area associated with the tank.*

8. The design of the site will not result in significant flood hazards or flood damage and is in conformance with applicable flood hazard protection requirements; or storm water detention pond(s) are not adequate;  
*The property is not in a floodzone and does not experience flooding. Soils, ground cover, and grading are adequate to control stormwater runoff safely by conveying to roadside drainage. The development footprint does not modify any surface water conveyances, and its de minimis impervious increase does not change drainage patterns.*
9. Adequate provisions have been made for the disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;  
*The proposed storage tank does not increase wastewater or solid waste contributions. The proposed tank is sited above ground so that it can be regularly monitored to ensure safe operation. Normal operation does not release any propane products. If released, liquefied propane in the environment rapidly vaporizes and dissipates. It has been studied as a risk to groundwater. A Texas A&M Agricultural Extension assessment of rural well water identified petroleum products as a risk, but notes LP does not threaten groundwater.*
10. Adequate provisions have been made to control erosion or sedimentation;  
*The contractor performing earthwork for the project will comply with the Maine Erosion and Sedimentation Control Law (Title 38 M.R.S.A. Section 420-C).*
11. Adequate provisions have been made to handle storm water run-off or other drainage problems on the site;  
*No existing drainage problems have been observed on the site in the project area. Soils in the project area are identified on the County Soil Survey as fine sandy loams. Stormwater runoff from the presently cleared project area is presently infiltrated in these well drained soils or conveyed to the roadside ditch and culvert system. All ground surfaces are stable and will be able to infiltrate and convey the property's runoff to the road drainage.*
12. The proposed water supply will meet the demands of the proposed use or for fire protection purposes;  
*The Fire Chief and the Fire Safety Analysis consultant have identified that the Waterboro Fire Department has access to adequate water for fire protection purposes.*
13. Adequate provisions have been made for the transportation, storage and disposal of hazardous substances and materials as defined by state law and Waterboro Hazardous Waste Ordinance;

*Propane is not an identified hazardous waste for the purposes of the Waterboro Hazardous Waste Ordinance. The applicant has planned and will operate the storage tank in accordance with NFPA 58, the Propane storage tank and its operations has been assessed as adequate by the Fire Safety Analysis. Transportation, loading, and unloading of LP is regulated by the state and by federal motor carrier law.*

14. The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan;  
*This section is not applicable. The property is not near any significant scenic vistas. No significant wildlife habitat is mapped in the project area.*
  
15. The project will not increase nitrate nitrogen concentrations in surface or groundwater at the property line of the site in excess of State of Maine Drinking Water Standards. If groundwater contains contaminants in excess of the primary drinking water standards and the project is to be served by on site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated to meet applicable standards.  
*This section is not applicable. The project activity will not release nitrate.*