

# BOROUGH OF TOTOWA P L A N N I N G   B O A R D

PASSAIC COUNTY  
NEW JERSEY



MINUTES – JUNE 26, 2014

Chairman Hennion called the Planning Board meeting of Thursday, June 26, 2014, to order at 8:05 p.m. in the Municipal Building of the Borough of Totowa.

**PRESENT:**

Commissioner Festa	Commissioner Campilango	Commissioner Murphy	Commissioner Niland
Chairman Hennion	Commissioner Vickerilla	Vice Chairman Coiro	Mike Cristaldi, PE
Richard Briigliadoro, ESQ			

The clerk read the statement of the meeting as follows: The meeting of the Planning Board to be held on the 26th day of June 2014 is in accordance with the Schedule of Annual Notice, which is posted, and in accordance with Chapter 231 P.L. 1975 of the State of New Jersey. The agenda for this meeting has been prepared and distributed to the members of the Planning Board and a copy has been on file in the Construction Official's Office.

**ITEM #1**

Abco Refrigeration Supply Inc.	Block 158- Lot 3.01	Minor Site Plan
40 Vreeland Avenue		Certificate of Use

E. Neal Zimmermann, Esq. of the law firm Waters, McPherson, McNeill. appeared and presented a Letter of Intent dated May 30, 2014, which was supplemented by an amendatory letter dated June 16, 2014, were accepted as part of the record. Mr. Zimmerman offered a series of exhibits into evidence at the time of the public hearing and they are identified as follows:

1. A-1 – Google map aerial of property.
2. A-2 – Resolution of the Borough of Totowa Planning Board in the matter of Moreng Telecom Products Inc. dated July 22, 1999.
3. A-3 – Resolution of the Borough of Totowa Planning Board in the matter of ABCO Refrigeration dated February 24, 1994.
4. A-4 – Resolution of the Borough of Totowa Planning Board in the matter of ABCO Refrigeration dated May 22, 1997.
5. A-5 – New Jersey Uniform Fire Code Certificate of Inspection dated June 25, 2014, issued by Allen Del Vecchio, Fire Marshal, Borough of Totowa with exhibits attached thereto.
6. A-6 – Original Site Plan dated January 24, 1985.
7. A-7 – Sample of signage proposed by ABCO.

Testifying on behalf of the Applicant was Charles Winsor. Mr. Winsor represented that he is Vice President of Operations involving logistics throughout the distribution center. He testified that ABCO is a wholesale distributor of HVAC products. Mr. Winsor also testified that ABCO currently maintains 19 facilities in various states along the northeast corridor including facilities in New York, New Jersey, Connecticut,

Delaware and Maryland. Mr. Winsor also highlighted the fact that ABCO has a branch operation which distributes products to the trades, as well as a distribution center which distributes products to the other ABCO branches.

A review of the June 16, 2014 amendment to the Letter of Intent, dated May 30, 2014, confirms that ABCO is a wholesale distributor of heating, ventilation, air-conditioning and refrigeration (HVACR) equipment. ABCO has been a tenant in an adjacent space in the same multi-tenant building. The original space consisted of 10,110 square feet leased in 1994, and 11,113 square feet of space added in 2004, for a total of 21,223 square feet. In December 2013, ABCO entered into a lease amendment for additional space in the same building for use in wholesale distribution and warehousing of HVACR equipment. The additional space consists of 23,000 square feet. The Applicant explained to the Planning Board that the additional space was previously occupied by Moreng Telecommunications Products. It was further represented that ABCO's floor plan is the same as Moreng's floor plan and that ABCO will utilize the same office space that Moreng used as well as the same warehouse space Moreng used.

It was represented to the Planning Board that when Moreng occupied the 23,000 square feet of space, which is now intended to be occupied by ABCO, Moreng's hours of operation were Monday through Friday from 6:00 a.m. to 10:45 p.m. and Saturday from 6:00 a.m. to 12:00 noon. However, ABCO indicated that the additional space to be occupied by ABCO will be used approximately between 7:00 a.m. through 8:00 p.m. In addition, the Applicant testified that an ABCO truck will be returned to the parking lot and parked sometime between 10:00 p.m. and 12:00 a.m. It was indicated on the record that this truck will be parked on the far side of the building away from the residential side at the area marked with an "X" on Exhibit A-1.

The Applicant further explained that the truck gets loaded at the Totowa facility approximately between the hours of 5:00 p.m. and 7:00 p.m., whereupon the truck drives to Queens, New York to another ABCO facility. The truck is dropped off in Queens, and then the driver picks up a new truck and returns to the Totowa facility arriving typically between the hours of 10:00 p.m. and midnight. The Applicant also confirmed that there will be no loading or unloading of trucks between the hours of 10:00 p.m. and 12:00 a.m. It was represented to the Planning Board that the driver will drop off the truck, leave it in the loading dock, punch out, lock up and then drive offsite in the driver's personal vehicle. It was further stipulated by the Applicant that offloading of this truck will occur the next morning by branch personnel no earlier than 7:00 a.m.

With respect to proposed signage, the Applicant will replace the existing Moreng sign on the site by changing the text only and replacing it with a sign with the text "ABCO Receiving". Furthermore, the Planning Board was addressed by Matt Francisco, Executive Vice President of IT and Project Management of ABCO. Mr. Francisco addressed the issue of illumination of the sign. Mr. Francisco testified that he did not believe the sign would be illuminated, but if the sign was illuminated, it was stipulated that the sign would be turned off no later than 8:00 p.m.

A motion was offer by Commissioner Campilango and seconded by Commissioner Festa to open the public portion of the meeting.

Seven agreed on a roll call vote.....7-0

Debra D'Agostino; her daughter, Annalyce D'Agostino; Joseph D'Agostino (husband); and Joseph D'Agostino, Jr. (son), all of whom reside at 70 Vreeland Avenue, Totowa, New Jersey. The D'Agostinos offered the following exhibits in evidence at the public hearing:

1. O-1 – An as-built plan prepared by BPA Engineering Associates, P.A., with the buffer area highlighted in green.
2. O-2 – A page from ABCO's website indicating 2014 summer hours.
3. O-3 – A page which contains technical notes for idling of vehicles regarding the diesel risk reduction program.

4. O-4 – A series of 16 sheets containing various photographs depicting the property at 40 Vreeland Avenue, Totowa, New Jersey.
5. O-5 – A letter dated April 2, 2006 from Alfonse J. Cifelli to Leroy Humes, Building Inspector/Zoning Officer, Boro of Totowa, with an exhibit annexed thereto.
6. O-6 – A letter from Allan Burghardt, Construction Code Official of the Borough of Totowa to Debra D'Agostino, dated May 11, 2006, with attachments.

The D'Agostinos raised a number of issues with the Planning Board. The D'Agostinos contend that ABCO's activities at the site result in them leaving open the loading bay doors and, as a result, loud sound emissions including audible alarms from forklift-type equipment are very audible on their property and are disturbing to the D'Agostinos' enjoyment of their property. Furthermore, the D'Agostinos complained that there are trucks on ABCO's property idling for long periods of time. In addition, the D'Agostinos allege that lighting from the ABCO site spills over onto the D'Agostinos' property. Furthermore, the D'Agostinos, as part of Exhibit O-4, provided photographs which depicted garbage dumpsters over-flowing and debris in various forms throughout the site. The D'Agostinos also complained that ABCO has been operating the additional space for its distribution side of the business since December 2013 without the benefit of a Certificate of Occupancy. This list of complaints is not intended to be an all-inclusive list but rather it is to illustrate the D'Agostinos' allegations of the types of activities that are going on at the site. The D'Agostinos also complained that they did not receive notice of the pending application.

In regard to the issue of lack of public notice, the Board finds that under Borough of Totowa Ordinance Section 415-7B(1)(a) and the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-12, minor site plans are exempt from public notice. As a result, the Applicant was not required to provide either notice to property owners by certified mail or notice by publication pursuant to the Municipal Land Use Law. Next, the Board understands that the Applicant has occupied this additional space since December 2013 without the benefit of a Certificate of Occupancy, but that the Applicant has now filed an application for minor site plan approval and certificate of use approval which is a necessary predicate step for the Construction Code Official to issue a Certificate of Occupancy. The Board is obligated to decide this case on the merits and the fact that the Applicant moved into the space before they filed for a Certificate of Occupancy will not benefit the Applicant nor will it be a detriment to the Applicant in regard to the Board's consideration of this application.

In regard to the issue of the open loading bay doors, the Board concludes that the loading bay doors should be closed at all times unless they are required to be open for loading or offloading of trucks on the site. The Board sees this as an opportunity to reduce any sound emissions or noise from audible alarms at the ABCO site which could disturb the adjacent property owners. Furthermore, in regard to the idling of trucks, the Board recognizes that there are regulations inclusive of New Jersey Department of Environmental Protection regulations which regulate idling of trucks. The Board determines that the Applicant shall comply with all municipal, county, state or federal regulations in regard to idling of trucks.

In regard to the D'Agostinos' concern regarding spillover lighting, the Applicant indicated that they are not the owners of the building, although they are a significant tenant. ABCO indicated that to the extent they have control over lighting, they will address the concerns of the D'Agostinos about spillover lighting. Nevertheless, the Board notes that lighting from this site shall not spill over onto adjacent properties. The Applicant also agreed to provide after-hours contact information for key ABCO personnel so that if situations arise off hours, ABCO can be contacted in order to address these matters.

In regard to the issue of garbage and recycling, the Board finds that the garbage and recycling containers shall be adequate in number and appropriately sized for the ABCO operation. In addition, ABCO must ensure that garbage and recycling is picked up on an as-needed basis and as frequently as is required. The garbage and recycling pick up should occur during the operating hours of 7:00 a.m. to 8:00 p.m.

The D'Agostinos introduced to the Board a page from the ABCO website indicating that ABCO conducts an ABCO University for training purposes. ABCO stipulated that the ABCO University would not occur at the Totowa facility.

With respect to the issue of the truck returning from Queens, New York, and being dropped off at the facility typically between the hours of 10:00 p.m. and 12:00 a.m., the truck will be parked on the side of the building identified with an "X" on Exhibit A-1. The truck will not be backed into the loading space upon its return from Queens during the evening hours. The truck will be moved the next morning when offloading will occur. Furthermore, there will be no truck parking along the buffer area adjacent to the D'Agostinos' residence.

In regard to signage, the Applicant will replace the existing "Moreng" sign on the site by changing the text only and replacing it with a sign with the text "ABCO Receiving". If the sign is to be illuminated, the Applicant has agreed that the sign would be turned off no later than 8:00 p.m.

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to take a 5 minute break.

All In Favor .....7-0

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to return from break.

All In Favor .....7-0

A motion was offer by Commissioner Campilango and seconded by Commissioner Festa to close the public portion of the meeting.

Seven agreed on a roll call vote.....7-0

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to approve the application for occupancy as presented. This approval is subject to and contingent upon the following conditions and will be memorialized in a Resolution at a future date:

1. The construction of internal partitions, exits, entrances and fire safety devices are subject to and require the approval of the fire sub-code official, the fire inspector and the building inspector.
2. The applicant will supply the Chief of Police with an emergency contact list and will also obtain the approval of the Police Chief in regards to all alarms and security devices.
3. There will be no outside storage of equipment/materials.
4. The applicant will comply with the Boro Sign Ordinance. The applicant intends to replace the text only on the existing Moreng sign.
5. The applicant stipulates that the loading bay doors will be closed at all times unless they are required to be open for loading or offloading of trucks on the site.
6. The applicant will comply with all municipal, county, state or federal regulations in regard to the idling of trucks onsite.
7. All lighting will be contained on the property and there will be no spillover lighting onto adjacent properties.
8. The applicant will arrange to have garbage & recycling containers picked up on an as-needed basis and as frequently as is required. The garbage & recycling pick up should occur during the operating hours of 7:00am to 8:00pm. The garbage & recycling containers shall be adequate in number and appropriately sized for the ABCO operation, which shall be subject to the review and approval of the Construction Official of the Boro of Totowa.
9. ABCO University training will not be conducted at the Totowa facility.
10. The Applicant's truck returning from Queens, New York to the Totowa facility for drop-off typically between the hours of 10:00 p.m. and 12:00 a.m., being parked on the side of the building identified with an "X" on Exhibit A-1. (A copy of which is attached hereto and made a part of this Resolution.) The truck shall not be backed into the loading space upon its return during the hours of 10:00 p.m. and 12:00 a.m (unless the "beeping" device on the truck is fully deactivated, in which case the truck may be backed into the space). The truck shall be moved the following morning. There shall be no loading or

unloading of trucks between the hours of 10:00 p.m. and 12:00 a.m. The unloading of the truck shall not occur earlier than 7:00 a.m. the following day. There shall be no truck parking along the buffer area adjacent to the D'Agostinos' residence.

- 11. All previously approved conditions shall remain in full force and effect except as satisfied or amended and not in conflict with this approval.

Seven agreed on a roll call vote.....7-0

**ITEM #2**

Bayada Home Health Care Pediatrics  
195 Route 46 West

Block 174- Lot 12  
Suite 14

Minor Site Plan  
Certificate of

Raymond B. Reddin, Esq. and Marlana Follet, Area Director appeared requesting approval for occupancy of approximately 1,350 sq. ft. of office space. Bayada Home Health Care Pediatrics is an international home care service firm that has over 250 offices throughout the mainland United States, Hawaii and India. Bayada Pediatrics is a service line of Bayada Home Health Care which provides private duty nursing services to medically-fragile, pediatric clients. There are approximately two-hundred nurses employed who work out of Bayada's clients' homes and schools. Bayada cares for children with various healthcare issues including, but not limited to, autism, cerebral palsy, developmental delays, and neurological and seizure disorders. Furthermore, services include tracheostomy and ventilator nursing care, diabetic care and teaching, parent education, as well as well-baby visits. The aforementioned services rendered by Bayada are not an exclusive list but are merely to illustrate the types of services that are provided.

Chairman Hennion read a letter of intent into the record. The hours of operation will be approximately 8:30 a.m. to 5:30 p.m., Monday through Friday. There will be 10 employees onsite. Parking will be shared in common with other tenants of the shopping center.

Marlana further testified that typically, nurses are dispatched from their home and they travel to a child's school or to the child's residence to render care. There will be no outdoor signage. There will be a window sign attached to the inside of the window facing Union Boulevard. Additionally a sign will be on an internal glass door in order to identify the name of the business.

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to approve the application for occupancy as presented. This approval is subject to and contingent upon the following conditions and will be memorialized in a Resolution at a future date:

- 1. The construction of internal partitions, exits, entrances and fire safety devices are subject to and require the approval of the fire sub-code official, the fire inspector and the building inspector.
- 2. The applicant will supply the Chief of Police with an emergency contact list and will also obtain the approval of the Police Chief in regards to all alarms and security devices.
- 3. There will be no outside storage of equipment/materials.
- 4. There will be a window sign attached to the inside of the window facing Union Boulevard. No more than 20% of the window will be covered. Additionally a sign will be on an internal glass door in order to identify the name of the business..

Seven agreed on a roll call vote.....7-0

**ITEM #3**

Royal Packaging, LLC  
400 Maltese Drive

Block 170.03- Lot 4

Minor Site Plan  
Certificate of Use

Martin Llaque appeared requesting approval for occupancy of approximately 64,000 sq. ft. of warehouse space. Mr Llaque currently operates two existing facilities in Totowa, this will be his third.

Chairman Hennion read a letter of intent into the record. The hours of operation will be approximately 8:00 a.m. to 5:00 p.m., Monday through Friday and Saturday from 8:00am to 1:00pm. There will be 5 employees onsite. There are 6 parking spaces onsite.

Mr. Llaque testified as to the nature of the business. Royal packages and warehouses food ingredients such as cornstarch, pea proteins, potato starch and similar ingredients. The proposed use of the premises at 400 Maltese Drive will be used strictly for warehousing. Mr. Llaque indicated that the Applicant receives products from overseas as well as domestically. The product is in either super-sacks or bags. All products are palletized and stacked no higher than two pallets. A freestanding sign is proposed and the applicant stated that he will comply with Zoning Ordinances with respect to setback and sign area.

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to approve the application for occupancy as presented. This approval is subject to and contingent upon the following conditions and will be memorialized in a Resolution at a future date:

1. The construction of internal partitions, exits, entrances and fire safety devices are subject to and require the approval of the fire sub-code official, the fire inspector and the building inspector.
2. The applicant will supply the Chief of Police with an emergency contact list and will also obtain the approval of the Police Chief in regards to all alarms and security devices.
3. There will be no outside storage of equipment/materials.

Seven agreed on a roll call vote.....7-0

**RESOLUTIONS:**

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to approve the resolution for B&D Car & Limo Service.-Blk 178-Lot 3.01 as presented.

Five agreed on a roll call vote.....5-0

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to approve the resolution for ADT.-Blk 166.03-Lot 14 as presented.

Four agreed on a roll call vote.....4-0

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to approve the resolution for Totowa Barber Shop.-Blk 91-Lot 15 as presented.

Five agreed on a roll call vote.....5-0

There being no other business, a motion was offered by Commissioner Campilango and seconded by Commissioner Festa to adjourn the meeting.

All in favor.....7-0

Respectfully submitted,

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Pete Campilango, Secretary

\_\_\_\_\_  
Patricia Paulson  
Planning Board Clerk

\_\_\_\_\_  
Date Approved