



## Zoning Hearing Board Meeting Minutes April 16<sup>th</sup>, 2025

Chairperson Ginter called the meeting to order at 7:00 PM. Members present included Jonathan Reynolds, Gina Myers, James Turnure, Robert Mann, and alternate Richard Pope. Also present were Zoning Officer John McLucas, Code Enforcement Officer Garry Waltersdorff, Solicitor Michael Craley, Attorney Samantha Craley, Stenographer Tammy Rinehart, and Recording Secretary Tina Wagner. Additionally, five members of the public were present.

### **I. Approval of Minutes of March 19<sup>th</sup>, 2025, Meeting**

Motion by Myers, seconded by Reynolds, to approve the meeting minutes from March 19, 2025. All members voted aye; motion carried.

### **II. Zoning Hearing Cases**

#### **a. ZHB 25-2 – 4750 W. Canal Road – Agricultural District**

- i. Application by Mid-Atlantic Cooperative Solutions, Inc. t/a Aero Energy of 230 Lincolnway East, New Oxford, seeking a Use Variance of § 27-401, for the property located at 4750 W. Canal Road to permit a propane filling facility.

Code Enforcement Officer Garry Waltersdorff filled in for Zoning Officer John McLucas as he recused himself from this case.

Chris Naylor of Barley Snyder, representing Mid-Atlantic Cooperative Solutions trading as Aero Energy, located at 230 Lincolnway East, New Oxford, together with Larry Marshall, President/CEO of Aero Energy, is seeking zoning approval for a Use Variance of §27-401 to allow a propane filling facility on the 1-acre wooded property at 4750 W. Canal Road in an Ag zone, as an equitable owner of the property under a conditional purchase agreement.

The property currently features a 12,000-gallon propane tank, which is unique in terms of what Aero would use the property for. They would like to rehabilitate the existing 12,000-gallon propane tank that currently sits on the property and bring it up to code. The tank predates the zoning ordinance and sits at the center of this property, representing a unique physical circumstance that must either be removed at a significant expense or be repurposed and approved for use. Allowing the variance will improve the site, as it is currently in disrepair and has been for many years.



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They would like to remove all the debris from the property and all the abandoned propane tanks stockpiled at the back of the property. They aim to make the property safer by placing bollards around the refilling tank and constructing a safety fence. There will be no on-site sales occurring on the property; it will be used solely for refilling their own trucks for local deliveries. A truck will come once a day during peak season to refill the tank. The regular operating hours will be between 7 a.m. and 5 p.m., Monday through Friday. The variance is minimal and will not result in any physical changes to the property. The use itself will involve minimal traffic and little to no activity on most days, aside from the truck deliveries. A typical operating business day would include a walk-through of the property, a pre-inspection of the vehicle, opening the valves, and filling the truck for deliveries. The pump used to fill the delivery truck takes about half an hour to forty minutes for the task. The noise produced by that pump is no louder than that of a diesel engine in a tractor-trailer. There is no knowledge of any underground tanks located on the property.

According to the zoning ordinance, a single-family dwelling requires an acre and a half of land, and this property is just under that; therefore, nothing else can really be done with it. If this variance were approved, it would not alter the character of the neighborhood or zone in which the property is located in any way.

Currently, there are no safety measures in place; there are no internal valves on the tank as it sits, which would prevent a possible leak. Additionally, there are no safety bollards around the tank. By installing internal valves and implementing a nitrogen system, the internal valve would close to prevent any leakage. The accompanying piping is controlled by this nitrogen system. If there is a break in that line for any reason, the internal valve on the tank will slam shut. Tanks are continuously monitored; if there is a drop in pressure, a notification is dispatched. Furthermore, setting safety bollards around the tank for crash protection could mitigate potential hazards in the event of a collision. The clean-up of the existing tank would not involve any toxic materials. The DEP conducts surprise on-site inspections for compliance. The tank itself is inspected annually using an ultrasonic tester that measures the thickness of the metal. Monthly testing is also conducted on all equipment, and that data is sent to the state annually. Tanks typically last up to 100 years.



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The burn-off would involve burning the vapor from the tank with all proper safety features in place. During the burn-off, the adjoining properties may hear a whistling noise. The Fire Department will be alerted, and it typically takes a few hours to complete. Once they are up and running, the fire department is always invited to come out for on-site training in case of an emergency.

They are aware that any other zoning relief they seek must be resubmitted to the Zoning Hearing Board. The property's settlement date will be 30 days after the zoning approval.

Public concerns covered various issues, including lighting, after-hours emergency postings on the property, footer conditions, tank placement, privacy screening, site plan submission, and visual barriers such as vegetative buffering, parking, entrance and turnaround placements, and fencing.

J. McLucas, a neighboring property owner, testified that the intent of the agriculture zone is to direct and support agricultural activity while minimizing conflicting land use that detracts from the zone. A vegetative screen around the property, while ensuring clear sight lines, should limit the visual impact of the end product when completed and as one drives past.

Chairperson Ginter read the Planning Commission's Recommendation, "*Motion by Love, seconded by Harlacher, that the Zoning Hearing Board look favorably upon the application as presented, as this property is non-conforming and would be difficult to use in any other way, with a suggestion of having reasonable hours of operation. All members voted aye; motion carried.*"

Members of the Zoning Hearing Board went into deliberation at 8:15 pm.

The hearing was reconvened at 8:48 pm.

Attorney Craley asked Attorney Naylor whether the applicant would be willing to submit additional evidence specifically regarding vegetative screening. This should include details on what will remain and what will be removed, the proposed location and specifications of the lighting, fencing details, and the condition of the concrete footers for the existing tank, as well as the entrance and turnaround points. This additional information is requested based on testimony and public concerns to help formulate conditions for the board to make a ruling.



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Attorney Naylor addressed the board on behalf of his client and accepted the invitation to extend the hearing to May 21st.

**III. Adjournment**

Chairperson Ginter recessed the meeting at 8:54 p.m., and the hearing will continue on May 21st at 7:00 p.m., when additional testimony will be heard.

*Respectfully Submitted by,*

Tina Wagner  
Recording Secretary