

**Town of Milford**  
**Zoning Board of Adjustment Minutes**  
**October 21, 2010**  
**Case #31-10**  
**Platinum Holdings, LLC**  
**Special Exception**

Present: Steven Bonczar  
Kevin Johnson  
Fletcher Seagroves  
Laura Horning  
Steve Winder

Michael Unsworth - Alternate

Absent: Katherine Bauer – Board of Selectmen representative  
Zach Tripp - Alternate

Secretary: Kathryn Parenti

The applicant, Platinum Holdings, LLC, owner of 5 Tonella Road, Map 30, Lot 57 in the Commercial “C” district, is requesting a Special Exception from Article V, Section 5.05.2:A.3 for the relocation and construction of a new propane filling facility to be located within the front setback, ten (10) feet from the property line.

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Steven Bonczar read the notice of hearing into the record as well as the list of abutters: Jim Infanti of Platinum Holdings, LLC and Steven Desmarais were present. He then invited the applicants forward to present their case.

Jim Infanti noted Steven Desmarais was the general contractor for this project and he would be presenting the case.

S. Desmarais stated the board members had a copy of the plot plan and a picture of the tank in their packets. He noted the setback from the railroad has changed from thirty (30) to forty (40) feet to fifty (50) feet and the propane filling station, located on Tonella Road behind the equipment repair shop, is in that setback. He noted the tank is similar to the type found at home and the only difference is the filling station part. Their biggest concern is safety; looking at the property, and the current location of the tank is not safe. The proposed location is close to the building to be practical to serve customers and it is also out of the way of traffic and the overhead power line. The proposed location is within the front setback. The only other place where the tank could be located would be in the middle of the parking lot at County stores. The proposed location is where it would meet all safety criteria. He used a copy of the plan from the town's files that most accurately depicts this portion of the property. The location of the tank would be two (2) parking spaces from the entrance and exit ramp on Tonella Road. They are improving what exists. The tank would not be in the setback but the fence would be.

S. Bonczar asked how tall the tank would be since there were power lines above.

S. Desmarais replied the facility is 16.5 feet tall, the same size as the larger house tank. The tank is stored vertically instead of horizontally. The tank is 10.5 feet tall and is four (4) feet in diameter.

S. Bonczar asked about the parking spaces.

J. Infanti replied they would lose two (2) spaces and two (2) would remain.

S. Bonczar asked how far away from the power lines the tank needs to be.

S. Desmarais replied it was strictly regulated and the tank needed to be eight (8) feet away.

J. Infanti stated they wanted the filling station to be as close to the utility pole as possible. They will be cutting into the berm a bit. He noted when they created the original filling area 25 years ago, they went from filling three (3) or four (4) tanks to one hundred fifty (150) tanks on Saturdays. The current location has no parking for those looking to fill their propane tanks. The thought is to address the setback issue.

K. Johnson asked if the entrance/exit ramp will remain.

S. Desmarais replied the ramp was not located on any plans; the dog leg in the road was done when the town, at one time, wanted to fix the intersection of Tonella Road and Nashua Street.

S. Bonczar noted he could not easily see where the tank would be located. The access road drawn on the plan makes it confusing.

S. Desmarais replied the area of bark mulch and shrubs is where the tank would go. He noted the tank would be twenty five (25) feet from the stone building and fifty (50) feet from the corner of the County Stores building.

J. Infanti noted the filling station he has chosen is state of the art.

S. Bonczar asked if there were any additional comments from the board or from the public; there were none so he closed the public portion of the meeting and asked the applicant to go over the criteria for a special exception.

**1. The proposed use shall be similar to those permitted in the district:**

S. Desmarais stated the proposed use will be a continuing use that has existed for twenty five (25) years.

**2. The specific site is an appropriate location for the proposed use because:**

S. Desmarais replied this is the safest place to position the tank yet close enough for the staff to service the public.

**3. The use as developed will not adversely affect the adjacent area because:**

S. Desmarais stated this will move an existing use to conform more with the zoning ordinance than it did before.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians.**

S. Desmarais stated the purpose of the project is to improve this situation to current standards.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:**

S. Desmarais replied the construction will be overseen by experts in this field along with the fire department to ensure the safest possible filling station.

S. Bonczar asked if the board had any questions or comments; there were none so they went on to the discussion the criteria for a special exception.

**1. Is the exception allowed by the Ordinance?**

F. Seagroves replied yes, reduced setbacks are allowed by the Ordinance.

K. Johnson, S. Winder and L. Horning agreed.

S. Bonczar stated it is allowed by special exception in the ordinance.

**2. Are the specified conditions present under which the exception may be granted?**

S. Winder stated the conditions are present under which the exception may be granted.

F. Seagroves agreed; they picked a good location for the facility.

K. Johnson stated he was concerned with the location at first but if the statutes state that it needs to be eight (8) feet from the power line, then he is ok with that. If they were held to the setback requirements, it would be located in the middle of the parking lot. He felt the conditions were met.

L. Horning agreed; the tools are in place that will monitor the construction of the facility; i.e. fire and building department.

S. Bonczar agreed. The applicant has addressed the items in the criteria and he has no issues with the application. There are a lot of regulations that need to be met and those are out of the control of the ZBA.

S. Bonczar asked if there were any additional comments or questions; there were none so he called for a vote by stating that after reviewing the petition and after hearing all the evidence by taking into consideration the personal knowledge of the property in question, this Board of Adjustment member has determined the following findings of fact.

**1. Is the exception allowed by the Ordinance?**

K. Johnson – yes      F. Seagroves – yes      S. Winder – yes      L. Horning – yes

S. Bonczar -yes

**2. Are the specified conditions present under which the exception may be granted?**

F. Seagroves – yes      S. Winder – yes      L. Horning - yes      K. Johnson – yes

S. Bonczar - yes

S. Bonczar asked if there was a motion to approve Case #31-10.

F. Seagroves made the motion to approve Case #31-10.

K. Johnson seconded the motion.

**Final Vote**

S. Winder – yes      L. Horning – yes      F. Seagroves – yes      K. Johnson - yes

S. Bonczar – yes

S. Bonczar reminded the applicant of the thirty day appeal period.