

PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT
MEMORIALIZING RESOLUTION
JAR Fence LLC
d/b/a JAN FENCE, INC.
4 INDUSTRIAL ROAD, PEQUANNOCK, NEW JERSEY
Block 4402 Lot 6

WHEREAS, K&G CORPORATION, a wholly-owned subsidiary of Bel-Art Products is the owner of the subject property located at 4 Industrial Road, Pequannock, New Jersey 07444, Block 4402, Lots 6 & 7 located in the I-1 Industrial zone district; and

WHEREAS, the applicant, JAR Fence LLC d/b/a JAN FENCE, INC., is the contract purchaser of the subject property; and

WHEREAS, by resolution adopted July 1, 2010, this board granted a use variance to the applicant, JAR Fence LLC d/b/a JAN FENCE, Inc., to permit outdoor storage of fencing materials, on the property at 4 Industrial Road, Block 4402, Lot 6, which application was bifurcated and the applicant has now applied for site plan approval in connection with the previously granted use variance, and a sign permit and a flood plain development permit;

WHEREAS, testimony was taken at a public hearing on July 1, 2010, at which time the Board took sworn testimony and both the applicants and the public were afforded the opportunity to be heard and participate in the application and to make comments; and

WHEREAS, the Board has reviewed and considered all of the evidence and the testimony at the public hearings from which the Board makes the following factual findings:

1. All proper public notice has been given in accordance with the municipal land use law.

2. In addition to the application forms for site plan approval, for a flood plain development permit and approval of a proposed sign, the Board has considered the following documents:

1. Site plan consisting of nine pages signed and sealed by Dynamic Engineering dated 3/17/2010, most recently revised 6/10/10;
2. Boundary and topographic survey consisting of one page, unsigned and unsealed by Weed Land Surveying; and
3. Architectural elevations and details, and sign details prepared by J.R. Frank Design LLC dated 1/25/10 and most recently revised 6/16/10; and
4. A one page report with preliminary construction cost calculations prepared by J.R. Frank Design LLC dated 6/16/2010; and

5. Document entitled First Amendment to purchase and sale agreement consisting of three pages, and exhibit A1 a map depicting parking spaces, exhibit A2 a map depicting existing driveway location, exhibit B a six page agreement entitled "Cross-Easement" and a one page attachment and exhibit C entitled "Lot Line Adjustment Plan"; and
6. Two page planning report prepared by J.R. Frank Design LLC dated 4/30/2010; and
7. Five page planning report prepared by the Board Planner, Eileen F. Banyra dated 5/27/2010; and
8. Two page planning report prepared by Eileen F. Banyra dated 7/1/2010; and
9. Two page engineering report dated 6/2/2010, prepared by David C. Battaglia, PE, Board Engineer; and
10. One page engineering report dated 7/1/10 prepared by David C. Battaglia, PE; and
11. One page report prepared by the Pequannock Township Traffic Officer dated 5/20/2010; and
12. One page report prepared by the Pequannock Township Health Officer dated 5/19/2010; and
13. One page report prepared by the Pequannock Township Environmental Commission dated 6/9/2010; and
14. Photograph of PBC material wrapped in it's original shipping packaging which was marked exhibit A2 at the 7/1/2010 public hearing.

3. The subject property consists of two sections which could easily be thought of as two separate lots. The first section is in the front and has 200 feet of frontage on the west side of Industrial Road, is approximately 200 feet deep and is essentially a parallelogram at a slight angle to Industrial Road. The second section is to the rear and is roughly a rectangle with the southwest corner cut off at a sharp angle by the New York Susquehanna railroad property. The second section of the subject property is directly behind Lots 7, 8 & 9 in Block 4402.

4. The lot is presently improved with four structures. The first structure is generally centered on the first section nearest Industrial Road. It is an L shaped building which is proposed to be converted from a machine shop to an administrative office building. The remaining buildings are long narrow shed type structures which are a remnant of the former lumber yard which was located on this property at a time when there was a railroad siding

running down the approximate middle of the property. A vestige of that railroad siding exists at the very southerly end of the property.

5. In addition to the structures on the property there is also a paved, stripped parking lot consisting of forty-nine parking spaces which are currently used in conjunction with the industrial building on Lot 7. Consequently, the sale of Lot 6 by the owner of Lot 7 constitutes a reduction of the available parking on Lot 7 which would become non conforming if additional parking were not created on Lot 7. Therefore, as part of the approvals granted in this application, Lot 7 must be reconfigured to add the number of parking spaces required by the ordinance for that lot. The applicant's engineer testified that based upon the current ordinance, sixty-one parking spaces are required on Lot 7.

6. There are twenty-seven existing parking spaces shown in the vicinity of the lot line separating Lots 6 and 7. Those parking spaces encroach onto Lot 6. Testimony indicated that there is ample room to re-stripe the pavement moving those parking spaces approximately six feet to the east so that they will be entirely on Lot 7. In addition, there is a chain link fence which would initially appear to be on the property line between Lots 6 and 7, but it is in fact approximately nine feet west of that property line. The applicant has agreed move that existing fence to the property line between Lots 6 and 7. A testimony indicated that although there is not sufficient space on Lot 7 to replace the full number of forty-nine parking spaces currently on Lot 6 which are used in conjunction with the building on Lot 7, there is space to provide sixty-one parking spaces on Lot 7 so that it will conform to the requirements of the ordinance. A new, signed and sealed boundary line survey for Lot 7 must be filed with the planning department showing the new configuration of sixty-one parking spaces on Lot 7.

7. In the document submitted by the applicant entitled "First Amendment to Purchase and Sale Agreement", Exhibit A1 shows an easement for the parking spaces along the property line between Lots 6 and 7. The applicant has agreed to abandon that easement and the parking spaces will be moved entirely Lot 7 and the fence will be moved to the property line between the two lots. In addition, Exhibit A2 to the First Amendment to Purchase and Sale Agreement depicts an access driveway along the south property line of Lot 7 to the east property line of Lot 6. There is also a gate shown in the chain link fence along the property line between Lots 6 and 7. The applicant has agreed to revise the site plan and the new boundary line survey of Lot 7 to show the driveway making contact with the gate between Lots 6 and 7. Exhibit C to that agreement shows a proposed lot line adjustment which will now be abandoned because the parking spaces will be moved entirely onto Lot 7.

8. The boundary and topographic survey submitted with the plans shows an encroachment by the one story masonry warehouse building along the west property line encroaching onto the adjacent lot to the north, Lot 3, Block 4402. That encroachment is to be removed as noted on the site plan.

9. The elevation of the majority of the property is approximately one hundred seventy-four feet. However, the base flood elevation is one hundred eighty-two feet as shown on

FEMA Map 345311-002-C. Therefore, in accordance with the Township Code Section 085 "Flood Damage Prevention" a flood plain development permit is required. Testimony indicated that all outdoor storage racks and sheds to be constructed will be permanently affixed to secure footings. The applicant must deliver to the planning department written confirmation that the New Jersey Department of Environmental Protection has granted approval to use the site as proposed and to construct the improvements as shown on the site plan as revised in accordance with this resolution. The applicant's witnesses testified that the NJDEP has indicated it will grant a "Permit by Rule". This means that no permit will actually be issued, rather there will be a confirmation by NJDEP that no permit is required.

10. The applicant has added landscaping to the site plan at the approximate distance of the rear lot line between Lots 6 and 7 on that portion of the property near the proposed administration building. This landscaping adequately blocks the storage yard to the rear and substantially improves the overall appearance of the property from Industrial Road. In addition, certain aesthetic improvements to the administration building itself which will also improve the appearance from the street.

Based upon the above factual findings the Board has reach the following conclusion:

1. Subject to full compliance with the report of the Board Engineer, David C. Battaglia, dated 07/01/10, the planning report of Eileen F. Banyra dated 7/1/2010 and the conditions set forth below, the application for site plan approval meets all municipal requirements for approval.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment of the Township of Pequannock this 5th day of August 2010, that it now memorializes, ratifies, and adopts the action taken at its meeting on July 1, 2010 granting site plan approval to the nine page site plan prepared by Dynamic Engineering dated 3/17/2010 and most recently revised 6/10/10 and the boundary and topographic survey prepared by Weed Land Surveying dated 1/25/2010 and most recently revised 3/25/10, granting the issuance of a flood plain development permit and approval of the proposed sign, subject to the following conditions:

1. All revisions to the site will be in substantial conformance with the plan referred to above as amended herein, and the testimony presented at the public hearings.

2. The free standing signed proposed for the site must conform to all municipal zoning requirements.

3. The applicant must deliver to the planning department written confirmation from NJDEP that the site as revised in the new site plan needs no further approval from NJDEP.

4. All requirements set forth ⁱⁿ and the planning report of Eileen F. Banyra dated 7/1/2010 and the engineering report of David C. Battaglia, P.E. dated 7/1/10 shall be complied with.

5. The applicant will submit a boundary line survey for Lots 7 as well as Lot 6 showing the relocation of the twenty-seven parking spaces along the rear lot line of Lot 7 entirely within that lot. In addition, a revised parking layout will be shown on the Lot 7 survey complying with the off street parking requirements of the municipal ordinance. The site plan will be amended to add a note showing the calculation of the parking spaces for both Lots 6 & 7 which parking spaces shall also be shown on the boundary line surveys.

6. The site plan will also be amended to show the relocation of the driveway along the south property line of Lot 7 to demonstrate viable access to the proposed gate between Lots 7 and 6. The driveway access on the north side of the proposed administration building will be one way traffic, westbound, and there will a note on the plans to so indicate and an appropriate directional sign on the property.

7. The applicant will submit for review and approval of the Township Engineer and Board Attorney an access easement across Lot 7 for the benefit of Lot 6 for the driveway shown on the south side of lot 7. The document must be in recordable form and after approval by the Township engineer and board attorney it will be recorded in the Morris County Clerk's office by the applicant and a copy of the recorded document will be filed with the planning department.

8. The site plan will be revised to show sixty-one conforming parking spaces entirely within the property lines of Lot 7.

9. There will be no retail display anywhere on the property, including inside the administration building.

10. The existing chain link fence which is approximately nine feet west of the property line between Lots 6 and 7 will be moved to the property line and will be shown on the site plan at that revised location. The applicant shall post all installation and maintenance bonds required by the municipal ordinance for improvements and landscaping.

11. All improvements and plan revisions, especially those referred to in Paragraphs 6 & 7 on page 3, Paragraph 4 on page 4 and Paragraphs 5, 6, 8 & 10 on page 5, shall be subject to the review and approval of the Township engineer and board planner.

12. No permits and/or certificate of occupancy shall be issued for the use and/or construction permitted by this resolution, unless and until all fees, costs and escrows required in connection with this application have been paid in full.

I hereby certify that the above is a true copy of a resolution adopted by the Board of Adjustment of the Township of Pequannock at its regular meeting on August 5, 2010, by a vote of 5 to 0.



Linda Zacharenko, Secretary