



**KNOWLTON TOWNSHIP LAND USE BOARD  
RESOLUTION OF MEMORIALIZATION**

**Approved: July 23, 2024  
Memorialized: September 24, 2024**

**IN THE MATTER OF JAHN  
VARIANCE APPLICATIONS  
LOT 1.05, BLOCK 63  
APPLICATION NO. 24-002**

**WHEREAS**, Ken Jahn (from now on known as the “Applicant”) applied for bulk variances approval with the Township of Knowlton Land Use Board (hereinafter known as the “LUB”), and

**WHEREAS**, the application was deemed complete on May 28, 2024, and

**WHEREAS**, public hearings with notice were held on June and July regular meetings of the Board, at which time the LUB rendered its decision on the application following the requirements of Municipal Land Use Law (“MLUL”) and

**WHEREAS**, the applicant was represented by legal counsel Michael Selvaggi and

**WHEREAS**, it has been determined that the Applicant has complied with all of the rules, regulations, and requirements of the LUB and that all of the required provisions of compliance have been filed with the LUB and

**WHEREAS**, the LUB has received as part of the hearing process the following testimony and documentary evidence submitted by the Applicant and its consultants, the LUB staff, and members of the public:

The LUB incorporated the testimony and comments of its Engineer, Mr. Denis Keenan, and his reports from French & Parrello dated May 23, 2024.

The applicant's Engineer, Bryce Good, was sworn and qualified. He outlined the proposal. The applicant owns the property known as Lot 1.05 in Block 63 on the Township of Knowlton tax map. The applicant's street address is 33 Auble Road, Knowlton, New Jersey. The applicant is seeking to replace an existing shed with a new 24 ft by 28 ft freestanding two-car garage.

The applicant seeks two bulk variances for Block 63, Lot 1.05, a Farmland Preservation District (FPD) zone property. Specifically, the two variances sought are: 1) Section 11-296L "Maximum Impervious Cover shall be 15.0 % ." 16.0 % is requested, resulting in a variance of 1.0% over what is permitted, and 2) Section 11-299A (7) "Accessory structure must be located within the building envelope." The structure is 16.25 feet from the side lot line, where 30.00 feet is required, resulting in a 13.75-foot variance. The lot also contains a two-story single-family dwelling with a deck, a paved driveway, sidewalks, a septic, and a well.

The proposed location was picked at the location of the current shed and proximity to the driveway (the shed will be removed)

Based on the concerns of the adjoining property owner, the applicant proposed relocating the freestanding two-car garage within the building setbacks and further to the rear of the original proposed location ( revised plan date July 1, 2024). This would lessen the visual impact the neighbor was concerned with and remove the need for the setback variance that was initially required.

Further, the applicant proposed removing a portion of the driveway and his existing deck to reduce impervious coverage. With these changes, the impervious coverage requested is 15.29 %, where 15% is the maximum allowed. The driveway to the new garage will be gravel and 16 feet wide. The existing gravel area and shed will be removed.

**WHEREAS**, in reviewing the preceding testimony and documentary evidence, the LUB makes the following findings of fact and conclusions: The applicant has met its burden of proof for the .29% variance for impervious coverage.

**NOW, THEREFORE, BE IT RESOLVED** that the Land Use LUB of the Township of Knowlton does hereby approve the impervious coverage relief to permit .29% more than the 15% allowed, as more practically discussed at the public hearing and shown in the applicant's revised plan, dated July 1, 2024.

This approval is subject to the following terms and conditions:

1. This approval is subject to paying all appropriate fees and taxes due the municipality.
2. Payment of all fees and expenses incurred by the municipality in its hearing and approval of this application.

The undersigned certifies that the preceding is a true copy of the action taken by the Land Use LUB of the Township of Knowlton at its regular meeting on July 23, 2024.

  
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Doreen Apgar

**KNOWLTON TOWNSHIP LAND USE BOARD  
RESOLUTION OF MEMORIALIZATION**

**Denied: July 23, 2024  
Memorialized: September 24, 2024**

**IN THE MATTER OF JBAR POCONO LLC  
D2 VARIANCE & SITE PLAN APPLICATIONS  
LOT(s) 1 & 2, BLOCK 17  
APPLICATION NO. 24-001**

**WHEREAS**, JBAR POCONO LLC (from now on known as the “Applicant”) applied for site plan and D2 variance approval with the Township of Knowlton Land Use Board (hereinafter known as the “LUB”) for the property known as 30 Decatur Street, and

**WHEREAS**, the application was deemed complete, and

**WHEREAS**, public hearings with notice were held on multiple dates, after which time the Board rendered its decision on the application based on the requirements of the Municipal Land Use Law (“MLUL”) and

**WHEREAS**, it has been determined that the Applicant has complied with all of the rules, regulations, and requirements of the Board and that all of the required provisions of compliance have been filed with the Board and

**WHEREAS**, the Board has received as part of the hearing process the following testimony and documentary evidence submitted by the Applicant and its consultants, the Board staff, and members of the public:

The Applicant owns the property known as Lots 1 and 2 in Block 17 on the Township of Knowlton's tax map. The applicant's street address is 30 Decatur Street. The Applicant seeks a D2 Variance for expanding non-conforming use, site plan approval, and design waivers.

There were ongoing discussions between Board members, the Applicant, and members

of the public over numerous public hearings.

The Board incorporated the testimony and comments of its Planner, Mr. Daniel Bloch, PP, and included his March 26, 2024, report. The Board also incorporated the testimony and reports of its Engineer, Mr. Denis Keenan, PE, and his reports from French & Parrello dated December 22, 2023, and January 22, 2024.

The site is developed with a one-story frame building and garage. The Applicant received a Section 68 certification for the existing non-conforming use of a towing and auto repair garage decided on October 24, 2023, and memorialized on November 28, 2023, by this Board. The Applicant is returning to the Board for minor site plan approval with a D(2) variance for expanding the use.

The property is located in the C-1 Neighborhood Commercial Zone District. Permitted principal uses in the C-1 District include neighborhood retail sales and services such as small grocery stores, florists, barber and beauty shops, dry cleaning and laundry collections, providing that no processing is done on the premises, shoe repairing, antique and gift shops, hardware stores, but specifically excluding motor vehicle sales and repairs; restaurants, coffee shops, and fast-food restaurants, but excluding drive-through facilities; business, professional, and medical offices, fitness center; banks; agricultural uses; child care centers; museum and art galleries, existing residential uses, and public schools.

Under Section 11-3 of the Township Land Use Ordinance, Automobile Service Station means "lands and buildings where motor fuel, lubricants and miscellaneous accessories for motor vehicles other than tractor-trailers are sold and dispensed and where services are rendered for engine and mechanical repairs, but where no vehicular painting or bodywork is conducted and where no junked or unregistered motor vehicles are kept or stored."

Automobile Service stations were listed as conditional permitted use in the C-1 District until May 26, 2022, when the Township Committee adopted Ordinance 2022-03. The ordinance removed automobile service stations from the list of permitted conditional uses in Section 11-311 and removed the list of conditions for such uses in Section 11-315.

The applicant's attorney is Michael Selvaggi. He advised that in September 2023, the then-zoning officer issued a notice of violation for items not on the site plan that were done without proper approval. These included an HVAC system, lighting, and signage. The applicant intends to seek a license from the New Jersey State Police to be one of the approved towing companies to service State Highway 80.

Michael Delia was then sworn in. He has been a sales and operation manager for JBar for the past three years. He testified there would be three on-site employees: a receptionist, a mechanic, and a tow truck driver. The hours of operation are Monday through Friday, 8:00 to 4:30, and there are no weekends. (later learned to be false; the NJSP license for towing requires Saturday hours of operation) The witness claimed they would rotate every five weeks because four other towing companies are already used. (later testimony of an already licensed tower objecting to this application stated this statement as to rotation was indeed false)

The testimony continued that if they were called out to tow a vehicle, it would most likely be taken to the Stroudsburg facility. (Again, this claim was later refuted.) It was claimed that a towed disabled tractor-trailer would not end up at the Knowlton facility because the Knowlton site was not large enough. The fact that such a large vehicle could not be stored at this site was generally accepted by all as accurate.

The claim of the applicant is that this site would instead be used for oil changes or tire

repairs. They would not work on accident scene vehicles. There would be no materials or equipment stored outside. (a statement later recanted by the applicant themselves when it was admitted many tow vehicles would need to be stored outside)

Daniel Davies of Davies Engineering was sworn in and gave his credentials as a licensed engineer. The property has non-conformities, including the lot size, width, coverage, and front yard setbacks. They are proposing ten parking spaces in the rear of the building, nine regular and one handicapped. Three lights in the front are located over three bay doors and are directed down. They previously were facing out towards Decatur Street but have been adjusted to down facing. The light meter readings found at the property line have a one-foot candle. Two lights in the back face the parking area downward and at an angle. Some spillage goes over the northern property line. They are prepared to adjust the lighting as necessary.

The site plan does not involve additional disturbance - soil movement or excavation. Regarding the EIS requested by the Board - these are usually prepared to talk about wetlands and streams. This property is pre-disturbed; 100% of the property is disturbed. They are only painting the asphalt, putting up a sign, and adjusting lights. The EIS did follow the requirements within the town's ordinance. It included a review of the existing conditions and what they are proposing to do. The property has no steep slopes, environmental concerns, or historical significance. They do understand there may be some air and noise concerns. They have a well and septic on site. There is no formal stormwater management system on the property. There is an inlet that is connected to the county system.

Members of the Board expressed dissatisfaction with the EIS as submitted. It was

pointed out that the submitted EIS did not address the expansion of the use as proposed. The presented EIS did not address the impacts of the proposed repair work on the site or the handling of oil and waste. There was no discussion of any effect on groundwater at all. This area of town has groundwater contamination, which is new information within the past ten years and should be considered. Discussion took place regarding the collection of leaking fluids from the disabled vehicles. The Board felt that the submission was unsatisfactory and failed to address the true environmental impact of the use.

Regarding access to the property, a rollback truck could access off Columbia St. This would involve some maneuvering and would have to be demonstrated to the Board engineer's satisfaction. Still, it could not be accommodated on-site. The Board Engineer, Keenan, questioned combining the two lots, which the applicant would do.

Trash collection was discussed; there will be no hazardous waste. Flatbed unloading of vehicles will be done in the rear fenced-in area. Any repair work inside the structure would be for passenger vehicles only.

Questions arose about the septic. It was presented as inside the building and a cesspool. They must go to the county as part of the application, and the process will be looked into.

The Board inquired about an oil separator system, which Mr. Davies said is unavailable. The applicant would consider installing one to alleviate any concern about groundwater contamination.

John Gentile was sworn in and said he owns JBar Pocono, which means he is the majority member of the LLC. Mr. Gentile attempted to clarify testimony on topics from the previous meeting. Regarding the angling and intensity of the lighting, Mr. Gentile



said as of May 11<sup>th</sup>, the breaker was shut off. They will get a lower voltage light directed towards the ground if necessary. There is no required level of lighting needed overnight for security purposes. There is no oil-water separator, but they do have a sediment trap. The trap was serviced not long ago, and there was no evidence that it wasn't working correctly. They would be willing to upgrade the trap to include the oil water separator. They have an application regarding the septic system pending with the Warren County Planning Board. He is prepared to do upgrades, modifications, or replacements as required.

Mr. Gentile owns the service station property and the adjacent property behind it. They share a well. If the county requires separate wells, he is prepared to do that. He would also agree to merge the two lots and share the well. They want to redo the perimeter fencing and add slats to deter the lights. It would be a chain link with plastic green slats. He is agreeable to screening the dumpster if needed. If a disabled vehicle is towed to the yard, the containment process of leaking fluids would be a duck pond containment area. It is made of a 40-Mil liner with a foam curb. Any fluids collected in the pond are absorbed with diaper pads and disposed of in a sealed container. They then use a vendor to pick up waste fluids. Any repairs done at the building will be done with the doors closed. The noisiest equipment they would be using would be a cordless impact gun. The proposed business hours would be 9:00 to 5:00 Monday through Friday with half a day Saturday.

The size and weight of the tow trucks they will be using are light and medium-duty rollbacks and one heavy-duty wrecker. The weight of the heavy-duty wrecker with three axles is 35 thousand pounds. The medium-duty roll-back is 11 thousand. Mr. Gentile said

he is willing to not bring any disabled cars or tractor-trailers to the subject property. They would tow to Pennsylvania in good weather in the middle of the night. In bad weather, they may need to take it to the Columbia site overnight; the following day, they may take it to the PA site. No vehicles will be on the lot for more than a shift (12 hours), no matter the type or size.

The Board Engineer asked if they had plans submitted to the Warren County Health Dept for the septic. Mr. Selvaggi said the County Planning Board could trigger a referral to the Board of Health. They need to figure out what will happen here first, and they have an extension from the county for more time. Mr. Keenan also clarified that the hours of operation on the towing are 24/7. Although no one will be there 24/7, they will be on-call, and the rotation is every five weeks. (again, later established to be wrong as to the actual intensity of the rotation)

The applicant's engineer, Daniel Davies, was again called to testify. He discussed the type/model of the oil-water separator that would be installed. Mr. Davies said the existing inlet has a flow guard insertion and a sediment trap. This was serviced in November of last year (2023) and is working correctly. Regarding the oil-water separator, they could remove the bottom and create a sump to upgrade an existing structure like this inlet. Then, put a steel hood on the outlet pipe, creating a trap. This would retrofit what is already out there.

The next witness, Jessica Caldwell, was sworn in. She is a licensed professional planner in the state of NJ. The applicant requires use variance relief because the improvements extend the pre-existing non-conforming use. She stated that in many cases, any change to a non-conforming use can trigger this review by the Board. They are also

here for the site plan application and the HVAC, sign, and lighting. She spoke regarding a case that said if an applicant is trying to improve conformity, improve visually, and reduce the negative impact, which serves the general welfare, which is purpose A. She believes that the applicant is trying to minimize any potential adverse effects. This includes fence improvements, minimizing light impact, environmental protections, doing repairs with the doors closed, minimizing hours of operation, the number of people, and the size of the trucks as much as possible. She believes there are other positive criteria: purpose G allowing this area to be reactivated and purpose H providing a service to the area.

Regarding negative criteria, she believes the applicant is working to minimize negative impacts on the neighborhood. The expansion does not increase the intent of the use but is trying to clean it up and improve it. The preexisting non-conforming use predates the master plan; therefore, she does not believe the site's re-opening has a substantial negative impact.

Board members stated they have an incomplete site plan. Many questions remain unanswered, and the credibility of the applicant's changing testimony is a significant concern.

Ultimately, the applicant will have six vehicles: three light-duty, one medium-duty, and two heavy-duty wreckers. The medium-duty and two heavy-duty will be parked out back inside the fence. There was still confusion on the "additional equipment" possibly needed on site according to the "state police requirements for vehicular towing" submitted to the Board by an objector.

Contrary to the applicant's previous testimony, some of the trucks (a minimum of

three) will be parked outside the building. The number of vehicles was also confirmed to have changed to six trucks and a forklift.

Further applicant testimony claimed parking towed disabled vehicles would be taken to his Pennsylvania location. They would not be brought to the subject property unless they are accident vehicles. It was asked where the applicant would park a tractor-trailer if the state police said it must come here to the subject property. The applicant noted a 28-foot spot between the back of the parking spaces and where the lowboy would be parked. When asked if a sizeable disabled tractor-trailer was required to remain on-site, it would be parked, blocking the use of the repair bays. This raised the concern that the repair business would cease operations for the duration the towed vehicle was on site.

The meeting was open to the public, and members testified about their concerns about the site. All public comments were in opposition to this proposal. Concerns were raised about the intensity of use and the heavy truck traffic on the local roads, both as to actual weight, the weight limit on the roads, and the number of trips.

**WHEREAS**, the Board, in reviewing the preceding testimony and documentary evidence, makes the following findings of fact and conclusions:

The Board reviewed the Applicant's testimony, the concerns raised by the members of the public, the comments and reports of the board professionals, and the comments made by Board Members.

The Board finds that the testimony of the Applicant's planner about the "d" variance and the waivers is not credible in most aspects of the plan. The Board does not find that the Purposes of Zoning are established in that while there may be an aesthetic improvement to the site, it is overshadowed by the fact the site is too small for the proposed use, and the neighborhood and

its infrastructure (i.e., the roads which have weight limits set by the municipality) cannot accommodate the intensity of the proposed expanded use the least of which is the size of the vehicles associated with the proposal which the Board finds to be significantly expanded from the predecessor's use that was relied upon for the previous Section 68 approval.

Key testimonies reveal discrepancies regarding operational details, such as the actual working hours and the possibility of storing vehicles involved in accidents on-site; actual requirements under the proposed State police towing license. Environmental concerns were raised regarding the handling of oils and fluids, as the area has groundwater contamination issues.

The Board expressed dissatisfaction with the submitted Environmental Impact Statement (EIS) as it did not adequately cover the implications of the site operations. Discussions included access for towing vehicles, proposed improvements for lighting, and sewage management concerns. The Applicant proposed installing an oil-water separator to mitigate pollution risks.

The meeting involved multiple witnesses, including engineers and planners, and addressed issues like the adequacy of parking, environmental protections, and site plan approvals. The Board indicated a need for further information regarding vehicle storage, site modifications, and health approvals from Warren County, suggesting that the application would be continued without further notice at a later meeting.

The Board also finds that the applicant's testimony lacks credibility in that almost all of its testimony as to the proposed towing operations changed during the hearings and was shown to be false in most aspects based on the credible testimony of an objector who currently operates a towing operation under a State Police license along Route 80.

The Board also finds that the site plan does not comply with the Local zoning ordinances

and Master Plan. The Board had significant concerns about most aspects of the plan and, as a result, must deny this application.

The Board's reasons for unanimously denying the application are summarized as follows:

1. **Site Suitability:** The site, a 0.36-acre lot surrounded by homes, is deemed unsuitable for expanded trucking repairs. Decatur Street, a residential road, is not equipped to handle heavy-duty trucks, which are central to the business.
2. **Applicant Credibility:** The applicant's credibility was questioned due to inconsistent testimonies regarding truck access on Decatur Street, onsite personnel roles, knowledge of site facilities, and the location of trucks.
3. **Environmental Impact Statement (EIS):** The provided EIS was considered insufficient. With no truck repairs on the site for over a decade, the claim of no harmful effects on air or water quality from daily operations was found implausible, especially given recent water contamination issues in Columbia.
4. **Township Zoning Plan and Ordinance:** The application contradicts the township's zoning plan and ordinance, which, in 2022, removed automobile service stations from the list of permitted conditional uses, aiming to diversify industries away from the truck and automotive sectors.

**NOW, THEREFORE, BE IT RESOLVED** that the Land Use Board of the Township of Knowlton DENIES the application.

  
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Doreen Apgar, Sec.

Roll call vote: Baley- no, O'Neill - no, Starrs - no, Werner - no, Drake - no, Mezzanotte - no, Taylor - no.