

## Minutes of May 22, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening May 22, 2000, at 7:00 P.M., in the Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 P.M., with Chairman Callaway presiding. The Board members present were: Mr. Callaway, Mr. McCabe, Mr. Wheatley, Mr. Mills, Mr. Hudson, with Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector, and Ms. Jackson – Recording Secretary.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda as circulated.

The approval of the May 15, 2000 Minutes was deferred until June 5, 2000.

Mr. Berl read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

Case No. 7156 – Wyoming Concrete Industry, Inc. – south of Road 380, 600 feet east of U.S. Route 113.

A special use exception for a concrete batch plant and concrete masonry supply yard.

Mr. Rickard presented the case. Joseph T. Conaway was sworn in and William DiMondi, representing Wyoming Concrete Industries, Inc., testified requesting to operate a concrete batch plant and concrete masonry supply yard adjacent to the rail line that is the easterly boundary line of the parcel; that the entrance to the property will be from County Road 380; that pictures of the site and a site plan were submitted to the Board; that the present owner of Lazy Lagoon will retain 5 acres of the parcel fronting on Route 113 and may place a sales lot on the property in the future; that the proposed use will not substantially affect adjoining property owners; that it will not negatively decrease the property values; that the surrounding area has mixed uses; that Hardwood Mills, a lumber operation, is an adjacent property owner; that Mr. DiMondi has two other concrete batch plants in Blades and Delmar; and that he feels there is a need for a concrete batch plant in Frankford to serve south eastern Sussex County. Mr. DiMondi explained the operation of a central batching plant for the production of concrete; that 2 silos are proposed to store bulk cement; that the height of the silos is 49-feet above base elevation; that dust collection devices will be provided; that dust will be controlled by watering down all dry surfaces; that baghouses will be provided to control cement dust; that a rock driveway will be provided to help clean the tires before entering the public road; that aggregate will be stored on the easterly side of the plant; that a thick stand of mature trees exists on the westerly and southerly side of the site; the same type of plant is operational in two locations in Delaware; and that the hours of operation will be 6:00 A.M. to 7:00 P.M. weekdays and Saturday 6:00 A.M. to 3:00 P.M. with no Sunday hours.

The applicant submitted a schematic of the plant; a specification for silo dust collector from CON-E-CO; a letter from Marcon Systems in reference to air quality and a letter from Marcon Systems, Inc. in reference to sound emission testing.

Mr. Conaway added that the west side of the site is zoned C-1 General Commercial and that HI-1 Heavy Industrial exists on the opposite side; that this application is similar to Allen's Family Foods in Harbeson; that the site is mapped in the 1997 Comprehensive Plan in the Development District and adjacent to the Town Center District; that the County and State are attempting to direct development in these Districts; that the site is within the 8 minutes response time of the Frankford Volunteer Fire Company; that the site will generate little noise; that the loudest noise will be the reversing beeper on the trucks and equipment; that the business will provide for 15-20 new jobs; that they anticipate 20-30 truck trips per day from the site; that they are aware of the opposition from the Frankford Town Council and are willing to offer a condition that all traffic entering and leaving the site utilize Road 380; that the project will have a positive effect on the tax revenues of the Indian River School District, Sussex Vocational Tech, and the County; that the use is somewhat similar to the adjacent sawmill operation; that they do not anticipate any adverse impact on property values or natural resources.

Mr. Conaway submitted on behalf of the applicant the following conditions:

1. The Applicant shall comply with all applicable Federal, State, and local laws and regulations concerning the use of the site as a concrete batch plant and concrete masonry supply yard including laws and regulations concerning the use of the site as a concrete batch plant and concrete masonry supply yard including laws and regulations concerning dust, odor, noise and waste materials.
2. All required Delaware Department of Natural Resources and Environmental Control (DNREC) permits will be obtained and all operations will be in compliance with said permits. In the event the Applicant is cited with a permit violation by DNREC, operations shall cease until the violation is corrected and authority to operate is issued by DNREC.
3. The use shall be located on the 10.473 acre parcel of land in substantial conformity with the site plan which was submitted at the hearing, including location of improvements, paving and roadways on the site. The final site plan approval is to be made by the Planning and Zoning Commission.
4. The wooded area located on the Southern side of the site shall remain undisturbed except for necessary pruning in order to provide a natural buffer.

5. All site improvements and storm management improvements will comply with applicable laws and regulations of the Sussex Soil Conservation District.
6. Maximum hours of operation of the concrete batch plant and concrete masonry supply yard shall be limited to 6:00 A.M. to 7:00 P.M., Monday through Friday and 6:00 A.M. to 3:00 P.M. Saturday, and no Sunday hours.
7. Approval is limited to a period of five (5) years beginning on the date of filing of the decision with the Planning and Zoning Office.
8. The Applicant shall comply with all requirements of Del Dot regarding any portion of Route 380, its uses and also the entrance approval to its site.
9. If rail transportation becomes a possibility, delivery of materials by rail should be by way of rail siding and not from the main tracks.
10. Well on-site for restrooms for their own use.
11. The entrance to this facility from Route 380 will be built according to Del Dot regulations. Immediately behind the paved section, applicant will install large stone ballast for the purpose of cleaning the truck tires. The work area shall also be stoned.
12. No building permit to be issued until all agency approvals are obtained.
13. Applicant will create a tree buffer of white pine plantings along Route 380.
14. Applicant will fence his facility along Route 380 and the westerly side of his operation.
15. Applicant will water down all dry surfaces to control fugitive dust.
16. The special use exception shall be conducted at all times in such a manner so as not to adversely affect the public health, safety, morals, general welfare or create a public nuisance of safety hazard and with a view to protecting neighborhood property values.

Mr. DiMondi stated, in response to questions raised by the Board, that employee parking will be adjacent to the dispatch area and will not interfere with operations of the equipment; and that the height of the silos will not exceed Code.

Mr. Rickard read a letter of opposition from the Frankford Town Council.

Herman Waters was sworn in and Jim Griffin, Attorney, were present in opposition to the application stating that Mr. Waters owns property across the road from the site; that he has lived in the area for 28 years; that he has concerns about noise, dust, safety of children in the area, and air and water pollution; that on March 6, 2000, the Frankford Town Council denied Wyoming Concrete permission to apply for a change of zoning; that Mr. Waters has had health problems in the last 2 years with asthma and allergies and uses an inhaler; that Mr. Waters had a petition with 9 signatures who lived in the area along Road 380 that are opposed to the plant; that his well went dry and had to place a new well: that cement companies use a lot of water; that he has concerns with the plant decreasing his property value; that his wife and two grandchildren live with him; that his son, who has 4 adopted children, lives in a trailer behind him; that he works for perdue hatchery; that the appropriate place for a concrete plant should be in an industrial area; that the proposed use would adversely affect values of neighboring properties; that there is a conflict between the proposed use and the general purpose clause of the Zoning Ordinance; that the applicant has failed to prove a need for a plant in the area; that there are six plants in the County that can serve lower Sussex County and pointed out the locations on a map; that the applicant already has 2 existing plants in the area; that Road 380 would not be able to sustain the truck traffic; and that order, prosperity and general welfare does not exist.

Donald Pusey, adjacent property owner from the proposed use, was sworn in and stated that he is in opposition to the application; that he had a petition with 31 signatures living a ½ mile from the proposed cement plant; that he has concerns with the health hazards; that he was diagnosed in March with asthma; that he lives 1000-feet from Mr. Waters; that he has lived in the area for 31 years; that Hardwood Mills is a clean operation and that there has been no problems with dust and noise; that he is retired from Dupont; that he worked there for 34 years; that he is familiar with how cement batch plants work and stated that dust cannot be avoided.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be tabled until June 5, 2000. Vote carried 5 – 0.

Meeting Adjourned 8:30 P.M.