

Minutes of June 5, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, June 5, 1995 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 7:00 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of May 15, 1995 be approved as circulated.

Case No. 5664--Horace & Brenda Pepper - South side of Route 24,
one mile southeast of Route 74.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Horace Emerson Pepper, Jr. was sworn in and testified, requesting to place a 1979, 14'x 70' manufactured home on his property for his step-sons residence. He feels the manufactured home will not adversely affect surrounding properties.

Mr. Jones, Attorney, explained that it has been the policy of the Board, that the person living in the manufactured home must have their name on the deed and the manufactured home as part owner.

Mr. Pepper stated he had no problem with the step-sons name on the manufactured home, but he will not put his name on the deed to the property.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted, with the stipulation that occupancy of the manufactured home be limited to the step-son.

Case No. 5665--John R. Parks, Sr. - South side of Route 395, $\frac{1}{2}$ mile
southeast of Route 54, Lots 1 and 2, within
Bayview.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. John R. Parks, Sr. was sworn in and testified, requesting a $7\frac{1}{2}$ foot variance from the rear

yard setback requirement for an open deck. The applicant stated he purchased the property, Lots 1 and 2 within Bayview Subdivision, with an existing house with a deck on it. Mr. Parks removed the existing deck and wants to add a two tier deck to the house. The deck has not been completed, since a variance is needed. He wants the deck large enough to put furniture on it. It will be an open deck, no roof. Mr. Parks stated the Association approved his variance.

Mr. Betts explained that an open unenclosed deck can go into the setbacks five feet.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the variance be granted.

Case No. 5666--Nancy Hawkins & Charles C. Whaley - East side of Route 62, at the intersection on the north side of Route 437.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Nancy Hawkins and Charles Whaley were sworn in and testified, requesting to place a 1978, 12'x 70' manufactured home on their property for their personal use. They testified there are other manufactured homes in the area, the nearest across the road.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the special use exception be granted.

Case No. 5667--William & Bertha Parsons - Southeast side of Andrew Avenue, $\frac{1}{4}$ mile southwest of Route One, Lot 4, within Ann Acres.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Edward A. Parsons was sworn in and testified in behalf of the application. The applicants requested a 20' variance from the 30' front yard setback on Lot 4, within Ann Acres. The applicants propose to build a two-story, 2500 sq. ft. dwelling on the property. The property is triangular in shape. Mr. Parsons stated they could build a dwelling without a variance, but it would be 35' straight up and be an eyesore. It would also be placed very close to the rear property line. Mr. Parsons stated there are two other lots in the development that have been granted variances. Pictures were shown.

Mr. Betts read letters of opposition into the record from; George & Elizabeth Wursbacher, Sydney & Frayda Abel, Richard Goerner, Woodrow & Teresa Seamone, Owen W. & Ann K. Hendon, John & Joan Yost, Sharon Nelton, David Crandall, L.I. Wilson and Maureen & John Ebel.

Mr. Mills questioned if there is a rear yard.

Mr. Betts stated that there was no rear yard.

Mr. Parsons stated there is a two-story house, motel, & townhouses in the area. He also stated that the area is 80% rental. Mr. Parsons showed the development on a plot plan.

By a show of hands there were seven people present in opposition.

Bertha Parsons owner of the property, was sworn in and testified in behalf of the application. She stated that statements made in the letters read were not true. She stated the lot is the only buildable lot left in the section. She stated there are other two-story dwellings in the area. She stated that she is a year round resident. She stated she is building a dwelling elsewhere but is flexible about moving or staying. She lives next to the property where the variance is needed.

Mr. Parsons stated there will be off-street parking for four (4) vehicles when finished and the existing entrance will be used. He stated they will build a dwelling with or without the variance. Without the variance the house will be taller and closer to a neighbor.

John C. Ebel was sworn in and testified stating that the sign for the public hearing on the property was barely visible and he was not aware of what was going to happen on the applicants property. They (applicants) did not discuss what they were going to do with anyone. He stated his opposition was stated in his letter.

Woodrow Seamone was sworn in and testified in opposition, stating he is President of the Andrew Civic Association. He stated that more rentals will make it worse. He read a letter, dated March 8, 1994, from Lawrence Lank, Director of Planning and Zoning, referencing lots in Ann Acres. He favors whatever the applicants can build within zoning and stay with the setbacks.

Joanne Fuddy was sworn in and testified and read prepared material of opposition. She stated that people in the area own their houses, although some are rental. She feels if one variance is given, one must be given for everyone. She feels the applicants property will become rental and increase traffic.

Mr. Parsons stated he has been in the building business for 20 years. There will be a back hoe on the road and that will be the only heavy equipment. He stated other properties in the area have only two off-street parking spaces. There will be no safety problems and they are not changing the character of the neighborhood.

Mr. Mills questioned how many square feet are limited to meet the setbacks.

Mr. Parsons stated he had not determined other than a two-story frame dwelling.

Mr. Seamone stated that Mr. Parsons is the son of the applicants.

Mrs. Bertha Parsons stated their son was acting as their agent.

Maureen Ebel was sworn in and testified that the other house that was built on the triangle, there are no houses, its an island by itself no houses. It just sits by itself on an island.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the case be tabled.

Case No. 5668--Michael W. & Linda M. Miller - South side of Route 302A,
 $\frac{1}{2}$ mile west of Route 48, Lot 4, within
Avalon Park.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Michael & Linda Miller were sworn in and testified, requesting a 12" variance from the 10' side yard setback requirement, on Lot 4, within Avalon Park. The applicants propose to place a double-wide manufactured home on their property, but a variance is needed. The applicants stated that the Hud Code changed and the double-wide is longer than what they wanted to put on the property. They stated there is no Association formed yet in the development.

Mr. Mills questioned how the Hud Code changed.

Mr. Miller stated that 6" side walls increased the length.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the variance be granted, finding that the use will not adversely affect the neighborhood.

Case No. 5669--Duane F. & Jeannine A. Palmateer - North side of
Route 297A, on the south side of Basin Road
Drive, on the west side of the intersection
with Orchard Drive, Lot 59, within Delaware
Oyster Farms Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Jeannine Palmateer was sworn in and testified, requesting a 15' variance from the 30' front yard setback on Lot 59, Delaware Oyster Farms Subdivision, to place a 14'x 66' manufactured home. She testified the lot is too small for the size manufactured home she wants to place. She stated it is a nonconforming subdivision. Pictures were shown. She stated there are other manufactured homes in the area. Ms. Palmateer stated she plans to sell the property to a young couple. She testified there had been a 12'x 50' manufactured home on the property, but was removed. She stated she is not planning to develop the other four acres she owns.

Kim Miller, James Moyer and Sharon Luzier were sworn in and testified in behalf of the application. They stated they own property in the area and are in favor of the manufactured home. They feel it will be an improvement.

Mr. Betts read letters of opposition from Helen Kossek and Elizabeth Wallace.

John Yearsley was sworn in and testified stating others have asked for and been denied variances. He stated they have had to stick with the rules. He lives in Winding Creek Village, but owns property in the subdivision. He stated when the property was laid out by Mr. Fagan, there was deed restrictions, and no manufactured homes.

Mr. Betts stated the property is zoned GR General Residential.

Mrs. Palmateer showed papers for her septic and she stated there is no wetlands on her property.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the variance be granted, finding the use will not adversely affect neighboring properties.

Case No. 5670--R. W. & Linda V. Betts - West side of Route 562, 3/4 mile southwest of Route 404, Lot 3, within Wheatley Farms Subdivision.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Robert W. Betts was sworn in and testified, requesting to place a new 28'x 56' double-wide manufactured home on property he is purchasing for their own use. The property being Lot 3, within Wheatley Farms, Subdivision. He testified the lots on either side of him are vacant, but there are other double-wide manufactured homes in the development.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted.

Case No. 5671--Steve Handlin - South side of Route 291, 1/2 mile east of Route 5.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Steve Handlin was sworn in and testified, requesting to place a 28'x 60' manufactured home on his property for his own use. He stated there is a stick-built

home and a manufactured home on either side of his property.

Jess Erwin was sworn in and testified that he has a stick-built home on the property. He stated the manufactured home in the area is on five acres and the owner plans to build a home. Mr. Erwin stated his deed restrictions/contract states all stick-built homes on his side of the road. Manufactured homes are on the other side of the road. He feels the manufactured home will bring down property values.

Mr. Betts read a letter of opposition from John L. & G. Carol Kane.

Gerald Timothy Devine was sworn in and testified in opposition, stating he has five acres with a manufactured home on it. He plans to build a home on the property. He does not want a manufactured home in the area, he fears it will cause property values to go down.

Pedro J. Cardona was sworn in and testified in opposition, stating he owns property in the area. He understood his deed stated no manufactured homes. He fears property values will go down.

Vincent Daniel Lippman was sworn in and testified in behalf of the application, stating that he owns four acres with a manufactured home. He questioned what clarifies manufactured homes and modular homes. He stated a manufactured home could be made to look like a stick-built home.

Mr. Betts explained how the County views manufactured homes and modular homes.

Mr. Handlin stated he would have to remove trees to put a modular home on the property and a crane would have to be used to place it.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the special use exception be granted, finding the use will not adversely affect the neighboring properties.

Case No. 5672--Malone's Bayside Marina - North side of Route 22,
one mile east of Route 22C, Lot 8 Oyster,
within Malone's Bayside Marina.

A variance from the setback requirement between
units in a park and a variance from the minimum
square footage of a manufactured home in a park.

The case was presented by Mr. Betts. Mr. Betts stated that Cases 5672, 5673 and 5674 all are variances in Malone's Bayside Marina on different lots.

Mr. McCabe, Chairman stated they would hear all three cases together.

Mario S. Malone was sworn and testified, requesting an 8' variance from the 20' setback requirement between units in a park and a 4 sq. ft. variance from the 400 sq. ft. floor area of a manufactured home, on Lot 8, Case No. 5672. He requested a 12' variance from the 20' setback requirement between units in a park and a 4 sq. ft. variance from the 400 sq. ft. floor area for a manufactured home on Lot 10, Case No. 5673 (Clam St.). He requested a 4 sq. ft. variance from the 400 sq. ft. floor area of a manufactured home on Lot 10, (Harbor St.), Case No. 5674. Mr. Malone stated the park is one of the original parks if not the first park on Lond Neck Road. The structures were placed on the lot with no conformity. He purchased the park five years ago from Mr. Doughty. The manufactured homes he is requesting variances for are park models he has put in the park to sell to people. It is impossible to put larger units on the lots. The existing units are 50' with additions. He showed plot plans of the park. He stated variances will have to be applied for to put any new manufactured homes on the lots. Pictures were presented. He stated it would be a hardship to change the park.

Mr. Mills questioned if the occupants are permanent residents.

Mr. Malone stated that not all were permanent, 60% to 70% are retirees. He stated he has permission to go 5' to the property lines, but to replace, unit will require a variance approval.

Mr. Betts stated the setbacks in the manufactured home park are 5' from the lot lines, cannot occupy more than 35% of the property and must be 20' from any improvement on an adjacent lot.

Mr. Callaway stated that a plot plan of the park had previously been requested from the previous owner.

Mr. Malone explained the roads in the park and that the two center roads are to be closed.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the case be tabled, and requested a plot plan showing property lines of the lots in the park be presented.

Case No. 5673--Malone's Bayside Marina - North side of Route 22,
one mile east of Route 22C, Lot 10 Clam,
within Malone's Bayside Marina.

A variance from the setback requirement between units in a park and a variance from the minimum square footage of a manufactured home in a park.

All testimony pertaining to this case was incorporated into Case No. 5672.

The applicants requested a 12' variance from the 20' setback requirement between units in a park on Lot 10, Clam, within Malone's Bayside Marina, and a 4 sq. ft. from the 400 sq. ft. floor area for a manufactured home.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the case be tabled, and requested a plot plan showing property lines of the lots in the park be presented.

Case No. 5674--Malone's Bayside Marina - North side of Route 22, one mile east of Route 22C, Lot 10 Harbor, within Malone's Bayside Marina.

A variance from the minimum square footage of a manufactured home in a park.

All testimony pertaining to this case was incorporated into Case No. 5672.

The applicants requested a 4 sq. ft. variance from the 400 sq. ft. floor area for a manufactured home on Lot 10 Harbor, within Malone's Bayside Marina.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the case be tabled, and requested a plot plan showing property lines of the lots in the park be presented.

Case No. 5675--Roland E. & Marion Simons - South side of Route 18, $\frac{1}{4}$ mile west of Route 285.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Roland Simons was sworn in and testified, requesting to place a 1985 or 1986, 14'x 76' manufactured home on their property. They have not purchased the unit yet. They stated there is an old house on the property that will be torn down. They testified that there are other manufactured homes in the area, along with stick-built homes, and that family lives in the area.

Mr. Betts stated that no correspondence had been received pertaining to this case.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted.

Case No. 5676--Edwin Wallace - Northeast side of Route 5, $\frac{1}{4}$ mile northwest of Route 297A, Lot B-16, within Orchard Manor.

A variance from the side yard, the rear yard and the front yard setback requirements.

The case was presented by Mr. Betts. Edwin Wallace was sworn in and testified, requesting a 4' variance from the side yard setback requirement, a 3' variance from the rear yard setback and a 5' variance from the 30' front yard setback requirement for a 652 sq. ft. garage, with storage. The adjacent lot is vacant.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the variances be granted.

Case No. 5677--Ruth Roberts - South side of Route 426, $\frac{1}{4}$ mile west of Route 26.

A special use exception to place four (4) manufactured homes to be used for storage.

The case was presented by Mr. Betts. Ruth Roberts was sworn in and testified, requesting to use (4) manufactured homes on her property for storage. She stated she has a farm and a barn was destroyed by hurricane Charlie, so she needs the manufactured homes for storage. There is an old house on the property and her manufactured home that she lives in. She testified that she has 80.42 acres and has goats and raises produce. She stated that 70 acres of the property is woods. She stated she has a produce stand on Route 54. Ms. Roberts stated she sells strawberries, tomatoes, green beans and goes through the season. She testified the manufactured homes will not be used as residences. She stated she needs the manufactured homes for storing equipment, feed for animals and her son uses one for storage. She testified the old house is gutted-out and she is in the process of rewiring it, it is under construction. She testified to there being several cars on her property, with 4 or 5 being hers. She stated they are licensed, but unregistered. She registers them as she needs them.

Mr. Jones questioned if the sons storage is related to farming.

Ms. Roberts stated her son stores his belongings in it, but when her son moves it will be used for farm storage.

Beatrice Esham Melson was sworn in and testified in opposition, stating she owns property two houses down from the applicant, that her son lives on. She questioned the amount of manufactured homes to be used. She feels the use will depreciate her property. She feels there are too many manufactured homes and the purpose is not proper. She also stated there is no planting on the applicant's property and that the property is down grading. She is not against manufactured homes in general.

Jimmy Hitchens was sworn in and testified in opposition, stating he lives in the area and there is not tillable land on the applicant's property. He feels it depreciates his property.

Glenda Hitchens was sworn in and testified in opposition to the manufactured homes. She stated what is stored in them is highly questionable.

Robin Parkinson was sworn in and testified in opposition, stating the applicant's property is an eyesore, animals running around, not safe and depreciating to other properties.

Kimberly Esham was sworn in and testified in opposition to the manufactured homes being on the property. She questioned the farming supposed to be there and where the vegetables are.

Ms. Roberts stated she grows green beans & watermelons. She stated she does have a Country Market Produce Business and it is her way of making a living.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the special use exception be denied, finding the placement and condition of the manufactured homes will adversely affect the neighboring properties.

Case No. 5678--Richard L. Sharp - East side of Route One, 50 feet north of Seabreak Subdivision, Lot 15, within Admiral's Point Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Richard L. Sharp and Jeff Clark were sworn in. Mr. Sharp was requesting a 9.38' variance from the 10' side yard setback requirement to allow a deck to remain on the home on Lot 15, within Admiral's Point Subd. Mr. Sharp stated he owns 3 parcels near Bethany Beach. His house is under construction and he found he wanted to make changes and since he owns the property adjacent, he felt he did not have to conform to the setbacks. He wants to keep part of one of his parcels as a buffer.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the variance be granted, with the condition that the applicant maintain a 20' setback between the deck and any structure on the next lot.

OLD BUSINESS

Case No. 5660 (cont'd.)--Mark & Diana Smith - North side of Route 535, $\frac{1}{4}$ mile northeast of Route 534, within Indian Village.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

Mr. Betts reviewed the case and presented a copy of a survey of the applicants property as requested.

After some discussion, motion was made by Mrs. Hudson and seconded by Mr. Callaway that the special use exception be granted, finding the use will not substantially adversely affect the neighboring properties, with Mr. Mills voting nay. Motion carried with four voting in favor and one voting against.

Case No. 5662 (cont'd.)--John T. & Sandra L. Fisher - North side of Route 535, ½ mile northeast of Route 534, Lot 12, within Indian Village.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

Mr. Betts reviewed the case and presented a copy of a survey of the applicants property as requested.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted, finding the use will not substantially adversely affect the neighboring properties.

Case No. 5663 (cont'd.)--Melvin L. Joseph - North side of Route 322, 3,300 feet west of Route 432.

A special use exception to operate an asphalt batching plant.

The case was reviewed by Mr. Betts.

Mr. Jones, Attorney, stated that a couple of legal issues had come up at the hearing which he wanted to look at and had done so. An issue had been raised as to whether the Board should even be considering this application, because there was an application a year ago that was withdrawn and the Board permitted the application to be withdrawn, as long as a similar application wasn't applied for in a year. The maps that were introduced showed two different sites. This is a different site and Planning and Zoning felt they could not reject the application. Secondly, there was a question as far as the height is concerned, that it would violate the height requirement. Mr. Jones stated a section of the code provides an exception to the heights. He stated the last item, Mr. Malkiewicz made reference to various site plans that were not followed. Those types of site plans are not required before the Board of Adjustment, only Conditional Uses, Change of Zones and Subdivisions.

Mr. Mills stated he would like to make a motion. He stated in this case their responsibility is to determine if the proposed use of the property will substantially adversely affect the surrounding properties. In testimony they heard three basic issues; air quality

noise levels and public safety. He addressed the three issues. They heard testimony that the loudest part of the proposed asphalt plant would be 90 decibels. He stated an ordinary lawn mower produces 88 decibels of noise and sound. Given that most neighbors amongst each other, looking at a 100 ft. from the neighbor running a lawn mower, we are looking at over a thousand feet from the asphalt plant. As far as noise, he does not see where it will substantially adversely affect surrounding properties. As far as the air quality, the applicants testimony, that the EPA Particulate Emission right now is .04 grains per dry cubic foot of air. They also heard that they could show test results that particulate emission for the asphalt plant is .00 and they can show that. He feels certain that with EPA guide line requirements and what not, that the air quality will be held within non harmful emissions. However, he does feel that not only would the proposed use as an asphalt plant create substantially an adverse affect as far as public safety, but there exists right now a potential hazard because of the truck traffic, and he agrees with the opposition there. Truck traffic now goes on back roads. He agrees the proposed use would adversely affect the surrounding properties, not to approve the proposed use of the property with the condition that all truck traffic to and from the asphalt plant as well as all traffic to and from the sand plant be directed from those plants directly to Route 113, and only under that condition would the asphalt plant be allowed. Once the asphalt plant is, if the asphalt plant were to be constructed, and continue with that condition, then all other entrances would be closed down and truck traffic would cease to exist to any other road, other than directly to U.S. 113.

Mr. Jones stated that for clarification was he (Mr. Mills) talking about truck traffic to both asphalt plant and the existing sand plant operation would no longer use back roads and would access directly across the applicants property to 113, and would that be when the asphalt plant becomes operational.

Mr. Mills responded that the clarification Mr. Jones made is correct. He feels that at the present time there is nothing they can do about the current situation, however, once the asphalt plant is operational then the direct route from the plants to 113 will be the only access to those plants.

Mr. Jones questioned Mr. Betts as to whether enforcement of the roads could be done by the County.

Mr. Betts stated it would be impossible to enforce and recommended closing would be better.

Mr. Jones stated that is the basis of the reason, it would be impossible to enforce, once operational for 12 months (year) the trucks use Route 113. Mr. Jones stated the Board can only grant the use up to five (5) years.

Mr. Wheatley seconded Mr. Mills motion.

Mr. McCabe asked for a roll call:

Mr. Mills, yea - for the reasons previously stated.
Mrs. Hudson, yea - for the same reasons stated by Mr. Mills.

Mr. Wheatley, yea - for the same reasons stated by Mr. Mills.
Mr. Callaway, yea - for the same reasons stated by Mr. Mills.
Mr. McCabe, yea - for the same reasons stated by Mr. Mills.

Motion carried unanimously that the special use exception be granted with a condition, and for a period of five (5) years.
Vote 5-0.

OTHER BUSINESS

Case No. 5541 - Joseph & Karen Federer
Request for a re-hearing.

Mr. Jones reviewed the reasons for a re-hearing and read a letter from James Fuqua, Attorney for the applicants, stating the reasons for requesting a re-hearing.

After some discussion, it was the consensus of the Board that the applicants for Case No. 5541 had not met any requirements for a re-hearing.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the request for a re-hearing on Case No. 5541 be denied.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the meeting be adjourned.

Meeting adjourned at 9:47 P. M.