

Minutes of November 2, 1998

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, November 2, 1998 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:02 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Callaway, Mr. Mills, Mr. Hudson, Mr. Wheatley, Mr. Schrader-Esquire, Mr. Rickard-Chief Zoning Inspector and Mrs. Talley-Recording Secretary.

Mr. McCabe asked for any additions or changes to the agenda. Hearing none, motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the agenda for November 2, 1998 be adopted. Vote 5-0.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the minutes of October 19, 1998 be approved as circulated. Vote 5-0.

Case No. 6733--County Seat Materials, L.L.C. - South of Road 319,
3,000 feet south of Delaware Route 18.

A special use exception to build and operate a bituminous asphalt mixing plant (asphalt batching plant).

The case was presented by Mr. Rickard. Jim Fuqua, Esquire, represented the applicants who requested a special use exception to build and operate a bituminous asphalt mixing plant (asphalt batching plant). Mr. Fuqua stated that there were parties present who would testify in behalf of this case. Mr. Fuqua explained that the case had been before the Board at a previous hearing and was approved with conditions. He gave some of the history of the previous case. He stated that in late 1994, early 1995, some business men formed County Seat Materials. They are leasing land from the County providing they comply with all other Ordinances, Federal and State. Mr. Fuqua stated that the location is at the Sussex County Airpark; the property is currently zoned Light Industrial and a new road will be constructed within the Industrial Park to go directly to Industrial Blvd. rather than exiting back into Georgetown.. The terms of the lease were mentioned and he made reference to the Zoning Code pertaining to special use exceptions vs variances. He stated that the County does not have to zone itself, the property is zoned light industrial at the airpark. The use was challenged by neighbors and came before the Board. The Board thought it could be done without a public hearing. It was appealed to Court and the Court agreed that Board approval was needed.

Albert Page "Gus" Croll, III, was sworn in and testified, stating that he has a construction business outside of Georgetown and does work from Pocomoke, Maryland to Dover, and is one of the principle owners of County Seat Materials. County Seat Materials consist of five people, Kenny Kershaw, Butch & Joe Corrado and Leonard Iaccona and himself, all contractors who do paving. They do private and governmental work. At the present time they have to deal with other competitors such as Tilcon for their asphalt. Transporting is a key part of asphalt, the longer it takes to get to the project the more time and money is involved. Hot mix is a sensitive product and the shelf life is short one to two hours.. The site for the plant is important for the product and Georgetown is the center of the County and the center of their work base. The marjority of their work is done in Sussex County. They propose to build a road giving access to the east or west on Industrial Park Blvd., and east of the County will access Route 9 and go east. North and west will go around access Route 113 via the truck route. The industrial park blvd. is a designated truck route. There is no longer any delivery on Route 9. The new road will be built at the applicants expense and by State standards. At the previous hearing the applicants had requested a temporary period of time to use Route 9 to get to the site. They no longer are asking for that, and there will no delivery of asphalt until the new access is completed. There will be no trucks going into the Town of Georgetown. Rail service is also an important part of their operation and since there is a railroad there is another reason they chose this site. There are other industrial uses in the park plus an airport. The applicants are aware that there is a five year limitation for the use, if approved. Mr. Croll stated that the plant can be taken down and removed. He showed and explained the site plan and that it will not infringe upon any airport uses. Mr. Croll stated that they plan to construct a tree buffer to help eliminate any noise or visual site, and will pave the facility for maintenance and dust control. The use will not be involved in the cleared runway and they will check with the FFA to see if any permits are needed. The wetlands on the property will not be interfered with and storm water management will be under all regulations of Soil Conservation. There will be no discharge of industrial waste and one forced main is to be redirected. The height of the equipment is 68' and there are emergency operation towers in the area that are higher. The closest building is the Emergency Operations building and the closest home is the same distance away. Stone, agrigate, sand and liquid asphalt in silos will stored on the property. There will be a bag house and control house. The site will be locked every night, will be fenced in and the County has a patrol for security. The closest fire Company is Georgetown. Mr. Croll stated that the best time to pave is the summer time. There will be adaquate parking and approximately 5 to

7 people working on the site. They will have 10 to 15 independent truckers. Their target is to produce 100,000 tons, 40 weeks product, approximately 2500 tons per week depending on the economy. It will be produced on as needed basis, some days more than others. As soon as approval is obtained they will get the necessary permits and start the road. Operation of the plant is regulated by Department of Natural Resources through permits. Air quality permit regulates the amount of particulates that can be discharged. The hours of operation will be 6:00 A.M. to 6:00 P.M. and they would like to operate 8:00 A.M. to 2:00 P.M. on Saturdays. They will have on site water supply or have Town water. The actual asphalt mix, stone will be railed in and the other products are trucked in. The liquid asphalt is trucked in from Baltimore and Philadelphia where the refineries are located.

David Brashears of Orlando, Florida was sworn in and testified in behalf of the application. He gave a background of his credentials. He stated that he is with Gencor Industries who will manufacture the plant, which is called a skidded plant and can be disassembled. It will be a nice looking plant and is designed to be a highly efficient. He stated that they have industries in and out of the Country, and they have the most modern equipment. He presented brochures of the type of plant to be built which is designed to be highly efficient. He stated that their plants must meet DNREC and national standards. A layout of the equipment was shown. He explained how the plant will operate making reference to the aggregates, bins, dryer, heating and drying rock and odor. He explained how the liquid asphalt can cause some fumes, which can be drawn back and consumed. He explained that the bag house is a type of cleaner with less than 10 lbs. of particulate coming out of the stack when producing over 300 tons of asphalt. Once the product is produced it goes up the conveyor into the silo then out onto the trucks. There will be 200 ton silos to be used and the burner is the biggest source of noise, but the type of burner will muffle the noise. The size of the property to be used is 19 acres and the control room is self contained and completely tested before operation. Mr. Brashears submitted calenders with pictures of the plant. He stated that the plant will be substantially the same as presented at the previous meeting, with improvements. He stated that he has been involved with hundreds of plants. In answer to Mr. Mills questions he explained that the noise and sound ratings will depend on the arrangement of the plant, with the burner being the largest noise producer inside of a 1/2 inch steel drum. Noise 10' away 84 DBA. The drying equipment is a 300 ton drum 8'7", in diameter and 44' long which operates on a trunion and is very quiet. He stated that the noise level will be very minimal. At 170' the sound from the operation will be 65 decimal, a very low noise level. Normal office environment is 55 to 60 decimal.

Randall C. Handy, Jr. of Seaford, was sworn in and testified in behalf of the application, stating that he is a Commercial Real Estate Broker and Appraiser in Seaford. He stated that he had inspected the site and the site plan and feels there will no significant impact on neighbors property values. In the vicinity of the industrial park, property has already been affected by the airpark being there. He stated that he had read the uses permitted in a light industrial zoning and the use could be worse. He stated that the use will not have any greater affect than any other park and it is probably the best spot for the plant to be placed.

Mr. Fuqua in rebuttal presented exhibits to the Board and the Attorney, which contains the lease and amendment to the lease with the County. He made reference to several of the items in the exhibits. He stated that he feels the use will have no adverse affect on values or uses of neighboring properties. He asked that if approved the same conditions be put on this request with two new conditions which address the 1997 Land Use Plan. He submitted Finding of Facts for the previous application. He stated that everything is the same as before. He stated that the opposition at the previous hearing had legitimate concerns and they would not want something bad to affect the area. He stated that the plant is very self contained and highly computerized. He stated that they feel it to be the most logical place in Sussex County , at the Sussex County Airpark for this type of use. The County is the landlord and can make sure it is operated right.

Mr. Schrader stated that 25 exhibits had been presented for the record.

Judith M. Mitchell of Georgetown, was sworn in and testified stating that she lives next the E.O.C., Emergency Operations and is in agreement with the 18 conditions attached to the previous approval in 1996. She made reference to condition No. 7 pertaining to the road and expressed concerns about the truck traffic going over the railroad tracks jaring the road and causing vibrations.

Patricia VanAuken of Georgetown, was sworn in and testified expressing concern with the amount of truck traffic and how much more traffic the use will generate. She stated that it used to be a country road that she lives on and now it is a truck route.

Mr. Croll in answer stated that it depended on how much asphalt was to be used. The maximum production on a busy day is 24 tons, 25 trucks in one hour, every four to five minutes during peak production between 9:00 A.M. and 1:00 P.M.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the special use exception be granted with 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 an asphalt plant 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 19.37 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. Wooded area located on the westerly side of the site shall remain undisturbed except for necessary pruning in order to provide a natural buffer.

5. All site improvements and storm water management improvements will comply with applicable laws and regulations of the Army Corps of Engineers and Sussex Soil Conservation District.

6. Maximum hours of operation of the asphalt production facility shall be limited to 6:00 A.M. to 6:00 P.M., Monday through Friday and 6:00 A.M. to 2:00 P.M., Saturday, and no Sunday hours. There is to be no extension of these hours.

7. Utilization of County Route 319, by trucks accessing the site shall be limited to the portion of County Route 319 from the site, past the EOC and main entrance, to the airport tower and to the entrance to the proposed access road over the All American Engineering property (only that portion of 319, which runs along the front from the site to the proposed road bordering the Industrial Park). The trucks cannot utilize the section of Route 319 which runs from the site in a northerly direction to Route 9, nor may they use the portion of Route 319, which runs from the location of the proposed access road back into the Town of Georgetown. The Industrial Park Boulevard is an industrial highway

and trucks must utilize it. Trucks cannot use Route 9 through Georgetown as a through Route, except for local deliveries (except for that portion of Industrial Park Boulevard that runs through Georgetown).

8. The applicant cannot begin operations until it may utilize a direct access Route to County Road 318 (the Industrial Park Blvd.) which may include that portion of Route 319 which is directly in front of the Industrial Park. The design and construction of that road is at the total expense of the applicant and built to applicable State requirements for asphalt plant truck traffic.

9. 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.

10. The applicant shall comply with all requirements of Del.D.O.T. regarding any portion of Route 319 it uses and also the entrance approval to its site.

11. The proposed location of the use shall comply with all requirements and approval of F.A.A.

12. Delivery of materials by rail should be by way of a rail siding and not from the main tracks.

13. Cannot stockpile materials or locate structures over any sewer lines running through the property.

14. Well on-site for restrooms for their use.

15. Pave the processing area, to prevent contaminates from going into the soil.

16. No building permit to be issued until all agency approvals are obtained.

17. The plant built by the applicant shall be limited to that referenced at the public hearing (Gencor Industries) or its technological equivalent.

18. The special use exception shall be conducted at all times in such manner so as not to adversely affect the public health, safety, morals, general welfare or create a public nuisance or safety hazard and with a view to protecting neighboring property values.

19. According to the 1997 Comprehensive Land Use Plan Map, the site is located in the Development District - Town Center District and is identified as being an industrial district. The Plan recognizes that the site is zoned industrial and the use of rail access and access roads are encouraged. The plan encourages the use of existing underutilized sites.

20. The location of an asphalt batching plant at the proposed site in the Sussex County Industrial Park would not have any adverse affect on neighboring and adjacent properties and any effects would be less at this site than other sites in the County.

Vote 5-0.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the meeting be adjourned. Vote 5-0.

Meeting adjourned at 8:35 P. M.