

MINUTES OF NOVEMBER 3, 1999

The regular meeting of the Sussex County Board of Adjustment was held on Wednesday evening, November 3, 1999 in the County 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, Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector, Mr. Lank – Planning and Zoning Director, and Ms. Jackson – Recording Secretary.

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

Case No. 7005 – R. E. Pierson Construction Co. – east of Road 213, 1.2 miles North of Road 207.

A special use exception for an asphalt mixing/batching plant and aggregate crusher.

Mr. Rickard presented the case. David Rutt, Attorney, was present on behalf of the application and stated that the company's headquarters are in New Jersey; that there is a temporary facility in Odessa; that R.E. Pierson would like to relocate a permanent facility to Milford, Delaware; that since the 1970's the east side of the site was zoned HI-1; and that the west side of the site was rezoned HI-1 in April 1996. Mr. Rutt submitted exhibit #11, a site plan; that there were 7 letters in support of the rezoning in 1996; that R.E. Pierson is expecting to invest and have a payroll of \$5,000,000; that the truck traffic would not impact the properties north of the site; and that the applicant is in negotiation with the railroad company, "Norfolk Southern", to place rail siding.

Thomas Steven Dale was sworn in and stated that he sold the property to M.K.C. LLC; that he purchased the property in the mid 1970's; that originally an asphalt plant, operated by George and Lynch was on the east side of the site; and that a scrap recycling center using heavy equipment has been on the site for years.

Richard Everett Pierson was sworn and stated that he has been in business since the 1970's; that he has several facilities – an asphalt plant in Logan County Township, N.J., a sand wash facility, and a John Deere Dealership; and that he is willing to allow an inspection of the New Jersey site.

Robert Baccala was sworn in and stated that he has been the district manager for 3 years; that Tab #10 list all the projects referenced to sewer and roads; that Tab #11 shows the existing site with an office, storage building, maintenance facility and scales; that there would be a total of 50 new employees hired; that they chose the site due to the zoning, rail access, Sussex County land use guidelines for that type of use, and the site's central location; that Tab #13 a road map of area will show the deliveries to the site; that the asphalt plant would be west of the railroad tracks; that the crusher would be east of the railroad tracks to recycle waste products, concrete, and broken asphalt; that Tab #19 shows that the crusher is a self contained unit and powered by electric; that the crusher is sound proofed and that the noise comes from the loading; that the crusher will be in operation 60 days per year; that Tab #21 references the self imposed conditions and the hours of operation; that Tilcon and I-A construction companies are multi national companies; that a need exists for an asphalt plant due to the growth of population; that they are in negotiation with Norfolk Southern for a spur access and crossing; that Tab #14 estimates the annual average total of trips without the rail systems; that all roads will be paved; that a water truck will be on site for dust control; that Tab #16 references the Land Use Plan and the County Council Minutes; that Tab #17 references the anticipated annual revenues; that the underground storage tanks will be removed and that aboveground tanks would be placed; and that the site will be bermed, fenced, and have security lighting.

Jeff Clark, of Land Tech LLC, was sworn in and described the site plan, which referenced driveways, stock piled materials, new entrance location, new rail crossing location, and interior road movement pattern; that there would be no disturbance to the wetlands; that a berm will ne provided to the south side for screening; and that there would be minimal disturbance of the site by the entrance and the stormwater management pond.

Ron Clark, field representative for C.M.I. Corporation Oklahoma City, was sworn in and stated that C.M.I. is an equipment manufacturing plant ; that the plant proposed the C.M.I. triple drum; that the plant is controlled by computers and described the operation procedures from the aggregate bins to the triple drum; that the drum dries and heats the materials; blends material and heated asphalt, and is stored in the silo until it is ready for delivery; that any gaseous emissions are incinerated in the system; that the biggest noise maker is the burning of the materials; that the only noticeable odor comes from discharging material from the plant to the trucks; that if any problems are not corrected in a certain time the plant will automatically shut down through a telephone motum linked to Oklahoma; and discussed the Title 5 federal regulations.

Mr. Rickard read two letters from the City of Milford dated October 13, 1999 and November 2, 1999. Mr. Rickard also received a petition letter signed by 168 people in opposition.

Thomas Jester, Betty Evans, William Braswell, Charles Wissman, James Able, Lewis Wintjen, Lester Swain, Stuart Sadler, and Charles Harding, of the 32 parties present in opposition, stated that they were concerned with the number of trips per day; that the widening of the roads will require the taking of additional right of way; the truck noises, questioning if a berm will deaden the noises; the emissions from the trucks; questioning who will enforce the truck routes if the trucks are subcontracted out; questioning what type water and sewer will there be; the spillage from the trucks; questioning how many trips will the rail take; the seepage to deep branch; questioning when will the maintenance of the trucks take place compared to the hours of operation; questioning the noises from the equipment; that the community was mis-represented by the rezoning proposed by Steve Dale; questioning the noise and dust from the concrete crusher; questioning the filtration of the baghouse; questioning how the filters are cleaned; that if cars cannot burn 100% of emissions, how can the plant; submitted pictures with concerns to the entrance location, road damage made by trucks, Eastman Heights, and pictures of the agricultural lands; that it would be an impact on residential and agricultural neighbors, wildlife, and farm animals; that the community will take water samples now to compare in the future if the use is approved; that it would be an impact for the bike paths along Roads 213 and 225, children walking in the neighborhood, and for Lincoln School; that the rail use will stop and block intersections; that the use should not be in a residential area; and that the use would decrease their property values.

David Rutt, Ron Clark, Mr. Baccara, and Jeff Clark responded to the concerns expressed by those in opposition by repeating comments they stated earlier.

Motion made by Mr. Mills, seconded by Mr. Hudson and carried unanimously that the special use exception be tabled until the next meeting. Vote carried 5 – 0.

Old Business

Case No. 6985 – Dyer McCrea Ventures L.L.C. – northeast of Road 299, 800 feet southeast of Road 298.

A special use exception for an assisted living facility, convalescent home, and adult day care center.

Motion made by Mr. McCabe, and seconded by Mr. Wheatley and carried unanimously that the special use exception be tabled until the next meeting. Vote carried 5 – 0.

Meeting adjourned 10:07 P.M.