

MINUTES OF THE REGULAR MEETING OF AUGUST 10, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 10, 1995, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the minutes of July 27, 1995.

II. PUBLIC HEARINGS

1. RE: C/U #1126--Merrill R. Baker, Jr.

Merrill R. Baker, Jr. was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for an Auto Repair Shop and Towing Service lying on the south side of Route 527, 790 feet northeast of Route 18 on a parcel containing 28,835 square feet more or less.

Mr. Lank summarized comments received from the Department of Transportation, DelDOT.

Mr. Baker stated that he is an auto mechanic, that he works on cars and small trucks, that he does some towing of vehicles to get customers vehicles to his shop, that he obtained the building permit for the shop without advising anyone of his intent, that he has provided parking along the side and front of the lot, that he has a Delaware business license to operate the business, that he started the business as a part time business several years ago and only worked at night and on weekends, that he has operated the business full-time for approximately one and one-half years, that he has no employees, that there will be no junk cars stored on site, that the closest businesses are Granny's Kitchen and O'day's Market, that the building exceed the minimum setback requirements, and that his neighbors support the use.

William and Charmla Capanaro, John Hill, and Eda Edwards of the 23 people present in support of this application stated that Mr. Baker is a good mechanic that is reasonable, trustworthy and honest, and always available to assist when someone is in need of repair, that there are no good mechanics in the area and that there is a need for the use in the area. It was noted that Mrs. Edwards is an adjoining land owner.

No parties appeared in opposition.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from the DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found that the applicant was present and stated that he is an auto mechanic, that he works on cars and small trucks, that he does some towing of vehicles to get customers vehicles to his shop, that he obtained the building permit for the shop without advising anyone of his intent, that he has provided parking along the side and front of the lot, that he has a Delaware business license to operate the business, that he started the business as a part time business several years ago and only worked at night and on weekends, that he has operated the business full-time for approximately one and one-half years, that he has no employees, that there will be no junk cars stored on site, that the closest businesses are Granny's Kitchen and O'day's Market, that the building exceed the minimum setback requirements, and that his neighbors support the use.

The Commission found that the applicant submitted photographs of the site and a copy of his Delaware business license, and a letter from Short's Marine in support of the use.

The Commission found that 3 of the 23 people present in support of this application stated that the applicant is a good mechanic that is reasonable, trustworthy and honest, and always available to assist when someone is in need of repair, that there are no good mechanics in the area and that there is a need for the use in the area.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The site plan shall be subject to review and approval of the Planning and Zoning Commission.
2. Screening shall be required along the westerly southwesterly property line.
3. No parking shall be permitted in the front yard.
4. One on-premise unlighted ground sign, not exceeding 32 square feet per side, may be permitted.

2. RE: C/U #1127--Delaware Electrical Cooperative

Ronald Phillips, Jr. Attorney, and Larry Burgess, representative for Delaware Electrical Cooperative, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for an Electrical Substation lying on the southeast side of Road 277, across from the intersection of Road 287 on a parcel containing 3.94 acres more or less.

Mr. Lank summarized comments received from the County Engineering Department.

Ronald Phillips and Larry Burgess advised the Commission that the intent of the application is to establish additional facilities to increase electrical power to the Angola area, that this site is one of the most convenient locations for a power substation, that brownouts have occurred recently due to increases in the number of housing units in the area, that the substation will be fenced and landscaped, that the terminal towers may be as high as 70 to 80 feet, that buildings on the site are not planned to exceed 15 feet in height, that the site will be maintained, that the station is a remote un-manned station, that all improvements will be inside of the fenced enclosure, and that the fence will be chain-link fabric 7' high with wire across the top.

Barbara Maddox spoke in opposition and expressed concerns about the existing 90' weathered power poles and the impact on the residential area.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the area west of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District where County Council agreed to restrict zoning changes and conditional uses based on a memorandum of understanding with the State DNREC.

The Commission found that a Cooperative representative and an attorney were present and advised the Commission that the intent of the application is to establish additional facilities to increase electrical power to the Angola area, that this site is one of the most convenient locations for a power substation, that brownouts have occurred recently due to increases in the

number of housing units in the area, that the substation will be fenced and landscaped, that the terminal towers may be as high as 70 to 80 feet, that buildings on the site are not planned to exceed 15 feet in height, that the site will be maintained, that the station is a remote un-manned station, that all improvements will be inside of the fenced enclosure, and that the fence will be chain-link fabric 7' high with wire across the top.

The Commission found that an area resident spoke in opposition and expressed concerns about the existing 90' weathered power poles and the impact on the residential area, and questioned why the substation had to be placed in this area.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since a need exist for public utilities and since the use is reported to be necessary to serve the area, and with the following stipulations:

1. The site plan shall be subject to review and approval of the Planning and Zoning Commission.
2. Fencing and landscaping shall conform to the final site plan.

3. RE: C/U #1128--Mary O. Rizk

Charles Rizk and Mary Rizk were present on behalf of their application to consider the Conditional Use of land in a B-1 Neighborhood Business District in Baltimore Hundred for a Multi-Family Dwelling Structure (2 Units) lying on the southwest side of Route 54, 1.1 mile northwest of the Ditch near Fenwick Island and across from Treasure Beach Campgrounds on a parcel containing 29,476 square feet more or less.

Mr. Lank summarized comments received from DelDOT and the County Engineering Department.

Mr. and Mrs. Rizk stated that they intend to utilize the house for 2 rental units, that they live immediately adjacent, that they purchased the property last year so that no one could rebuild, that the apartment on the second floor is an efficiency type unit, that the majority of the homes along Route 54 in this area are rented, that they have slowly been improving the site by leveling the lot, seeding for grass, and improving the driveway, that the garage in the rear is for their private use, that the boat ramp is for the use of tenants only, that on-site water exist, and that the lot is served by the Fenwick Island Sanitary Sewer District.

No parties appeared in opposition.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the County Engineering Department, that capacity is available for 2 units, that the property is currently provided with a 6-inch lateral, and that system connection charges will be required before any additional building permits are issued.

The Commission found that the application was represented by the applicant and her husband who stated that they intend to utilize the house for 2 rental units, that they live immediately adjacent, that they purchased the property last year so that no one could rebuild, that the apartment on the second floor is an efficiency type unit, that the majority of the homes along Route 54 in this area are rented, that they have slowly been improving the site by leveling the lot, seeding for grass, and improving the driveway, that the garage in the rear is for their private use, that the boat ramp is for the use of tenants only, that on-site water exist, and that the lot is served by the Fenwick Island Sanitary Sewer District.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved.

III. OTHER BUSINESS

1. Gus & Jeanette Volkman

The Commission reviewed a concept to create two lots with access from a fifty (50) foot right of way off of Road 347.

Mr. Abbott advised the Commission that two lots were approved with access from a fifty foot right of way by the Commission on July 22, 1993, and that if this request is approved it would be a maximum of three lots on a fifty foot right of way.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to defer action.

2. American Health and Fitness Club

The Commission reviewed a commercial site plan for a health and fitness club on Blue Water Run West of Keenwick Sound subdivision and Route 54.

Mr. Abbott advised the Commission that the site plan received preliminary approval on July 27, 1995, with the stipulation that a fence or hedge be erected along the parking and driveway areas, that the site plan shows a six foot solid fence and that all required agency approvals have been received.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a final with the stipulation that a solid fence be erected along the driveway and parking area.

3. Hardy Self Storage and Parcel Center

The Commission reviewed a commercial site plan for mini storage on Route 54.

Mr. Abbott advised the Commission that the site has five proposed mini storage buildings each containing 4,500 square feet, a 10' x 30' office, that there is a thirty foot separation between each building, that all setbacks meet the requirements of the zoning code, and that at this time no agency approvals or permits have been received.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve as a preliminary.

4. Sea Colony West - RPC

The Commission reviewed a revised master plan for Sea Colony West - RPC.

Mr. Abbott advised the Commission that Lakeview Drive has been revised to show a circular street instead of the straight thru street.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried 4 to 0 with Mr. Wheatley not participating to approve the revised street design.

5. Randall Handy

The Commission reviewed a commercial site plan for an office building on Route 13.

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Mr. Abbott advised the Commission that this site plan received preliminary approval on July 27, 1995, that the final site plan is the same design and that all required agency approvals and permits have been received.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a final.

Meeting adjourned at 8:45 PM.