

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
January 2, 2003**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, January 2, 2003, beginning at 2:00 P.M. on the 4th Floor of the Fauquier County Court & Office Building, 40 Culpeper Street, Warrenton, Virginia. Members present were Mr. William Barr, Chairman; Mr. John Meadows, Vice Chairman; Mrs. Margaret Mailler, Mr. James Van Luven; Mr. Eugene Lofdahl; Mr. Maximilian A. Tufts, Jr. and Mrs. Sonja Addison. Also present were Mrs. Tracy Gallehr, Assistant County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator, Ms. Holly Meade, Zoning Planner and Ms. Nancy Albert, Office Associate III.

ELECTION OF OFFICERS: The following officers were elected for 2003:

Mrs. Mailler	Chairperson
Mr. Lofdahl	Vice Chairman
Mr. Meadows	Secretary

MINUTES: On motion made by Mr. Meadows and seconded by Mr. VanLuven the November minutes were amended to read the date of November 7, 2002. The motion carried unanimously.

LETTERS OF NOTIFICATIONS & PUBLIC NOTICE: The Zoning Administrator stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners. Ms. Albert read the Public Hearing Protocol.

SPECIAL PERMIT #50651 MARY C. DECARLO (OWNER) & DECARLO ENTERPRISES, INC. (LESSEE)

Applicants are requesting special permit approval to store propane fuel on 25 acres of 132.01 acres. The subject property is identified as PIN #6898-18-1549, located at 11271 Remington Road, Lee Magisterial District, Bealeton, Virginia.

Mr. Hodge stated that the BZA made a site visit this morning and reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Daniel O'Connell, attorney, appeared at the meeting representing the applicant and stated that in lieu of his making a formal presentation he had filed additional information with the application.

Mr. Tom Harris, a resident of the Center District and an employee of the Piedmont Environmental Council stated he has three concerns. Those concerns were that some of the tanks are located in the flood plain, safety on the site and surrounding area and the precautions that will be taken and the truck traffic on Lucky Hill Road. He recommended a scaled back version.

Ms. Mimi Moore, a resident of the Marshall District, stated she has several questions. She stated DeCarlo Enterprises will not be supplying most of the propane into Fauquier County, so why not store it in Fairfax or Loudoun County closer to where it will be delivered. She asked if the regulations in other counties prohibit a storage facility of this size and where the nearest facility of this size would be located. She stated she had spoken with the plant manager of Amerigas and stated their facilities in Culpeper, Bealeton and Catlett store 60,000 to 90,000 gallons of propane. She asked how many truck trips a day would be necessary for a facility of this size and how impacted it would be to area residents. She furthered questioned the impact and number of houses, schools and businesses, including Dominion Power, are within three miles of this facility.

Ms. Kitty Smith, a resident of Marshall District, stated that she did not think Fauquier County would want this type of industry. She stated her concerns were with regard to the flood plain on the property and safety issues.

Mr. Philip Myer, Director - Department of Emergency Services of Fauquier County, stated his department deals with propane emergencies on a fairly regular basis. He indicated that in a response to an emergency is to identify the leak and where it was going, a mandatory evacuation of the area would take place. He indicated the biggest risk occurs with the transfer of propane into and out of the tanks, should an explosion occur he would be required to evacuate a one half mile area and let the fire burn out.

Mr. Meadows asked if the 535 feet, which is the closest dwelling, is an adequate distance and Mr. Myer stated that if the wind were blowing in the direction of the dwelling an odor would be smelt.

Mr. Lofdahl asked if the previous propane emergencies were a fire or a leak and Mr. Myers indicated it was a leak.

Mr. Lofdahl asked when the last propane fire occurred and Mr. Myer reported it was this past summer at the Catlett facility. He stated he believed it was a lightning strike.

Mr. Meadows inquired what the procedure was in containing a leak and Mr. Myer reported the burden is on the fuel company to send in personnel and then Emergency Services.

Mr. Lofdahl asked if the Emergency Services would go in with scuba gear and was told that they would use fire protection gear with a breathing apparatus.

Mr. Barr asked how would an automatic monitoring system alert the operator of the facility?

Mr. Myer stated it would depend on how the system is engineered. Sensors with an automatic alarm could be near or at the opening of the valves. A representative to answer the alarm should be available 365 days a year.

Mr. Hodge stated that if the application is approved, site plan is mandatory. When the site plan is finalized and approved, a zoning and building permit application is submitted. The building permit would include the review of the building plans by a licensed engineer.

Mr. Lofdahl asked what would be the response time of the Emergency Services Department to an incident and Mr. Myer stated the average response time varies, usually it is 10 minutes, depending on if they are already out on a call and he felt it is very important for a company representative to be there since they know their system the best.

Mr. Meadows asked Mr. Myer if he would be part of the permitting process and look over the plans and he replied he would be involved.

Mr. Meadows asked if Emergency Services is comfortable with a facility of this size and he stated his concern as director with the proximity of the facility to the housing development.

Mr. Meadows asked does DEQ permit an application and Mr. Myers stated that would be a specific question to ask DEQ.

Mr. O'Connell introduced James Stannard, an engineer employed by DeCarlo enterprises, Mr. Standard indicated he had been in this business since 1947 and is on an industry technical committee.

Mr. Stannard discussed issues relating to the location of a large tank site such as this and stated that there were many rules and regulations that would have to be followed. He stated that during installation that a professional engineer would be required to be on site. He stated that he did not believe the site would have an affect on the housing development located across the railroad tracks and Remington Road. He stated that the tanks would be interconnected but the valving would prevent any fire from moving from tank to tank. He further stated that the tanks must correctly installed and meet all regulatory agencies requirements.

Mr. O'Connell asked what would happen if during loading or un-loading the truck driver would leave the valve open and Mr. Stannard said that all the valves would close.

Mr. Stannard addressed his thoughts with regards to truck traffic and his belief that it would be minimal.

Mr. O'Connell asked Mr. Stannard what the minimum code requirement was for a dwelling and above ground storage tanks and he replied 200 feet but if the tanks were buried 50 feet.

Mr. Lofdahl asked what material are the tanks and Mr. Stannard stated they are made of steel.

Mr. Lofdahl asked if there was any coating on the outside and Mr. Stannard stated yes there should be.

Mr. O'Connell asked if Mr. Stannard was aware of other facilities similar in size and Mr. Stannard said he believed there were two in Virginia, one in the Springfield area.

Mr. VanLuven asked if there would be an odor which could be detected at the housing development when the trucks are filling and Mr. Stannard stated he doubted there would be.

Mr. Lofdahl asked what are the most probably causes of any propane being ignited and Mr. Stannard said human error was the most probably cause.

Mr. Lofdahl asked what are the chances of one tank or truck burning on the plant affecting the valve of other equipment associated with disbursing of the propane and Mr. Stannard stated the valves are on the inside and the inventory is in the piping.

Mr. Meadows asked if the tanks are tied together and Mr. Stannard stated they are interconnected with the valves off.

Mr. Lofdahl asked while the plant is being constructed who would be the inspector and Mr. Stannard stated it would be the Fire Marshall and appropriate company personnel.

Mr. Meadows asked if during the installation of the system if it closely monitored on a daily basis and Mr. Stannard stated during construction it is monitored on a daily basis.

Ms. Addison stated she had heard one of the speakers raise the question of why would the propane be stored in Fauquier County and the majority be sold outside the County to which Mr. DeCarlo stated his family currently owns the property in Bealeton and it is economically more feasible to store it in Fauquier County.

Mr. O'Connell asked Mr. DeCarlo to address the concern about the size of the facility and his intention to limit the construction to ten tanks per year. Mr. DeCarlo he would agree to limit the construction to ten tanks per year.

Mr. O'Connell asked Mr. DeCarlo if he would reimburse the County for a consultant hired to assure compliance during the construction phase and Mr. DeCarlo said yes.

Mr. Lofdahl asked if building a railroad spur for use in receiving the proposed propane is an option and Mr. DeCarlo said it would a very viable option.

Mr. Lofdahl stated that using the railroad would make the truck traffic almost disappear.

Mr. Barr asked Mr. O'Connell if he would clarify his statement about phasing in the tanks and Mr. O'Connell responded he was contemplating a condition where Fairfax Propane would agree to build no more than ten tanks a year and have the facility reviewed on a regular basis.

Mr. Barr asked if Mr. DeCarlo would respond to the issues being discussed.

Mr. DeCarlo stated that he believed the truck traffic would not be greater than that of other propane facilities in the region and the design of the loading and off-loading facility could be built with a sprinkler system.

Mr. Lofdahl stated there was some discussion that when the facility is finished it may be leveled with dirt across the top or put up one to two feet of soil and Mr. Standard stated what he would visualize is that it would be flat across the tanks with a couple of mounds of dirt 1 to 1 ½ story high when the facility is complete.

Mr. Lofdahl asked where the propane sensor would be placed and Mr. Standard stated that combustible gas detectors may be used and not sensors.

Mr. Lofdahl asked what type of foliage or grass they would use and Mr. Standard stated they could use washed pea gravel or a close ground cover.

Mr. Meadows asked if company personnel would be available for emergency response around the clock on site and Mr. DeCarlo stated he did not believe the Code requires it, however he would work with the County to meet the needs of Emergency Services.

Mr. Meadows asked if the family is looking to keep or sell the facility and Mr. DeCarlo stated they are keeping the facility.

Mr. Meadows asked if there would be a problem with a condition that the special permit would not be transferable and Mr. DeCarlo stated no, however he may want a time limit.

Mr. Meadows asked if the existing rail siding is located on Luck Stone property and Mr. DeCarlo said yes.

Mr. DeCarlo stated if he did a rail siding it would come off the main line and not be associated with the Luck Stone siding.

Mrs. Bowen stated for the record that she believed Mr. O'Connell had volunteered conditions of construction of no more than 10 tanks per year, to pay for an independent consultant that Fauquier County would hire during construction and if viable he would use a rail spur to minimize the number of trucks.

Mr. O'Connell stated he agreed to those conditions except that maybe after a certain number of years it could be a requirement to have the propane delivered by rail.

Mr. Meadows asked if there is a traffic expert at the meeting and Mr. DeCarlo stated he did a traffic analysis.

Mr. Meadows asked if Mr. DeCarlo agreed with the traffic analysis done by VDOT and Mr. DeCarlo responded it seemed the analysis was based on an eight hour day divided by 15 minute increments to come up with the number of truck trips.

Mr. Meadows stated based on the analysis VDOT is showing there is a 166% increase in truck traffic and Mr. DeCarlo stated the analysis is off by a decimal, it should be an increase of 16.6%.

Mr. Meadows asked why Luck Stone representatives were present and Mr. Steve Owen stated they were here as an adjoining property owner to here the testimony.

Mr. Lofdahl asked if the Board of Zoning Appeals could obtain a copy of NFPA 58 and was told yes.

Mr. Lofdahl asked how long Amerigas has been in operation and Mr. Meadows stated he would guess 25 years.

Mr. DeCarlo stated he has been in operation since 1986.

Mr. Lofdahl asked if there have been any incidents involving Amerigas or DeCarlo.

Mr. Myer stated there was a small fire at Amerigas last summer, but upon arrival of Emergency Services company personnel had put the fire out.

Mr. Lofdahl asked if the fire had posed a threat to neighbors and was told no.

Mr. Lofdahl asked how long Mr. Myer has been with Emergency Services and he said 11 years.

Ms. Kitty Smith asked for clarification from VDOT of the analysis and Mr. O'Connell stated he would obtain clarification.

No one else spoke in favor or against the application.

On motion made by Mr. Meadows and seconded by Mr. Lofdahl, in application No. 50651, it was moved to close the public hearing and act on this application at the next meeting.

The motion carried unanimously.

On a motion made by Ms. Addison and seconded by Mr. Meadows it was moved to take a 5 minute break.

The motion carried unanimously.

VARIANCE #50739 EDNA M. & WILLIAM R. BLANTON, CO-TRUSTEES (OWNERS)

Applicants are requesting a variance of 10 feet from the centerline of Route 787 for an attached garage. The subject property is identified as PIN #6976-72-9670, containing approximately .57 acre, located at 6476 Corbin Lane, Marshall Magisterial District, Bealeton, Virginia.

Mr. Hodge stated that the BZA made a site visit this morning and he reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Lofdahl asked how far it was from the front door to the garage and Mr. Blanton stated it was 2 to 3 steps.

Mr. Don Bailey, adjoining property owner, voiced his concern with the variance and the existing bridge on Route 787. He stated he was concerned that the bridge was only 28 feet wide and the proposed variance would hinder traffic. Mr. Meadows explained the variance was only for ten feet and would not affect the width of the bridge.

Mr. Tufts asked the location of the well and Mr. Blanton stated it was next to the stairs.

Mr. Meadows then asked if there is room for a one car garage and Mr. Blanton stated no he would still need a variance.

No one else spoke in favor or against the application.

On motion made by Mr. Lofdahl and seconded by Mr. VanLuven, in application No. 50739, it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15-2.2204:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the location of the well and drainfield.
3. The hardship or restrictions on the use of the property are by reason of:
 - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
 - (b) exceptional topographic conditions or other extraordinary situation or condition of the property.
4. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are:
 - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
 - (b) exceptional topographic conditions or other extraordinary situation or condition of the property.
5. The minimum variance that is necessary to afford relief is:
 - (a) 10 feet from the centerline of Route 787

The motion was denied by a vote of 2 ayes and 5 nays.

Discussion then occurred regarding the variance request and the criteria for approving a variance.

On motion made by Mr. Meadows and seconded by Mr. Tufts, in application No. 50739, it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15-2.2204:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the location of the well and drainfield.
3. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
4. The strict application of the Ordinance will produce undue hardship.
5. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as amendment to the Ordinance.
6. The minimum variance that is necessary to afford relief is:
 - (a) 4 feet from the centerline of Route 787

The motion carried unanimously.

ADJOURNMENT: There being no further business before the Board, the meeting adjourned at 4:20 P.M.

Margaret Mailler, Chairman

John Meadows, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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