

BOARD OF APPEALS CASE NO. 4103 *
APPLICANT: Arundel Sand and *
Gravel Company *
REQUEST: Interpretation, Special *
Exception and modification of *
Condition No. 3, Board of Appeals *
Case No. 409; Quarry Road, *
Havre de Grace *
HEARING DATE: December 19, 1990 *

BEFORE THE
ZONING HEARING EXAMINER
OF HARFORD COUNTY
Hearing Advertised
Aegis: 11/14/90 & 11/21/90
Record: 11/14/90 & 11/21/90

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ZONING HEARING EXAMINER'S DECISION

The Applicant is Arundel Sand and Gravel Company. The Applicant is requesting a Special Exception, pursuant to Section 267-53(K) of the Harford County Code, to permit a private road in an Agricultural District, and a modification of Condition No. 3 in Board of Appeals Case No. 409, to permit the location of the Applicant's crusher operation in a different area.

The subject parcel is located north of MD Route 155, west of the Susquehanna River, and south of Interstate 95 in the Sixth Election District. The parcel contains 482 acres, more or less, and is identified as Parcel Nos. 21, 22, and 23, on Tax Map 44, and Parcel Nos. 1 and 3 on Tax Map 45.

Mr. Frank Yount appeared and testified that he was the Plant Manager at the Applicant's Havre de Grace facility for 13 years and is familiar with the day-to-day operation of the plant and with the traffic patterns used by vehicles entering and leaving the Applicant's location. Mr. Yount said that the present access to the quarry is across Graceview Drive, Quarry Road, and River Road, and that the vehicles pass the Meadowvale Elementary School. The witness said periodically school officials and the PTA have expressed concern about the noise generated by vehicles going to the Applicant's facility, as well as concern for safety, since school buses also use Graceview Drive to gain access to MD Route 155.

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Mr. Yount said that the Applicant proposes the construction of a new, private road from their facility to MD Route 155, thereby eliminating the need for vehicles coming to and leaving Arundel's facility from using Graceview Drive and Quarry Road. The witness said the proposed new road would have a security gate and that there would be a guard at the gate after the plant closed. The witness testified that the proposed road will be 24 feet wide, with a hard surface and will intersect MD Route 155 west of the Meadowvale subdivision.

Several area residents cross-examined Mr. Yount, who testified that he was not aware of any fatal accidents which occurred at the intersection of MD Route 155 and Graceview Drive, that he would propose weight-limit signs on Graceview Drive to eliminate the use of Graceview Drive by vehicles coming to the Arundel quarry and, also, would not be opposed to River Road being closed, and that the hours of operation of the quarry would not change from the present hours of operation.

Mr. Paul Muddiman appeared and testified that he is an associate with Morris & Ritchie Associates, Inc., and qualified as an expert in the field of road design. Mr. Muddiman testified that Morris & Ritchie Associates have designed the road which will access the quarry from MD Route 155. The witness described the road as being approximately 3,800 feet in length, 24 feet wide, with improved shoulders.

Mr. Ollie Mumpower, Jr., appeared as an expert in the field of traffic engineering. Mr. Mumpower prepared and introduced, as Petitioner's Exhibit No. 12, a traffic impact analysis in which he concluded that the vertical alignment of MD Route 155 in the vicinity of the proposed road provides for increased sight distance for vehicles entering and exiting the site. Mr. Mumpower also concluded that the proposal will eliminate traffic along Quarry Road which is adjacent to the Meadowvale Elementary School, thereby reducing traffic and enhancing the safety of pedestrians and children in the vicinity of the school.

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Mr. Mumpower expressed the opinion that the relocation of the access road to the Arundel facility would not have an adverse impact on the nearby road system and will have a positive impact on the nearby community.

Mr. Peter C. Bergmann appeared and testified as an expert in the field of environmental science. Mr. Bergmann testified he is familiar with the site and, after conducting a study of the Applicant's operation, prepared and introduced as Petitioner's Exhibit No. 13, a plat in which the 11 acres zoned plant site is shown in yellow, and proposed 11 acre plant site is outlined in purple. The witness testified it was his opinion that the area outlined in purple would be more appropriate for the plant site because it is several hundred feet further from the Susquehanna River and the area proposed for the plant has already been quarried. The witness said the present area approved for the plant site would require removal of substantial vegetation, and that removal of the vegetation could cause a water quality problem. Mr. Bergmann said that the proposed site is preferable from an environmental standpoint.

Ms. Jean Willan appeared and testified that she is co-president of the PTA for Meadowvale Elementary School. Ms. Willan testified that she supports movement of the access road to provide greater safety at the intersection of Graceview Drive and MD State Route 155. The witness testified that the noise from passing trucks has impacted the school because Meadowvale Elementary is not air conditioned, and when the windows are open in the spring and fall, teachers have been required to stop instruction while trucks passed on Quarry Road.

Mr. Roger Niles appeared and testified that he is the Assistant Superintendent of Schools for Administrative Services, and that the Board of Education is in favor of the relocation of the access road from a safety and noise standpoint because Meadowvale Elementary School is not air conditioned.

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The Staff Report recommends approval of the Special Exception for the access road and states:

"The County has been in favor of moving the access to the quarry operation from its present location for a number of years. Supporting this proposal are the residents in the area, the Board of Education, the City of Havre de Grace, and the Department of Public Works."

The Staff Report also recommends conditional approval of a modification to relocate the crushing operation and states:

"The Department supports the relocation of the crushing operation. This will move the operation away from the river and, due to the existing terrain, tree cover, etc., and screen it from residential uses and the river. The Applicant states that by locating the crusher operation inland closer to the rock face of the quarry will also help to reduce the noise level."

Several area residents appeared, but did not testify in opposition to either request. The area residents did request additional screening and also, that if the crusher operation is relocated, that it be kept as far as possible from Nena Avenue within the new proposed site for the crusher operation.

CONCLUSION:

The Applicant is requesting a Special Exception to Section 267-53(K) of the Harford County Code, to permit a private road in an Agricultural District, and modification of Condition No. 3 in Board of Appeals Case No. 409, to permit a crusher operation to be located in a different area on the subject parcel.

In dealing with the Applicant's first request, Section 267-53(K) of the Harford County Code states:

"Accessory parking areas, driveways, and private roads. These uses may be granted in any district to serve a use permitted and located in another district but not permitted in the subject district, provided that:

- (1) The parking area, driveway or private road shall be accessory to and for the use of one (1) or more agricultural, residential, business or industrial uses located in an adjoining or nearby district.

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- (2) No charge shall be made for the parking or storage of vehicles on any parking lot approved pursuant to this provision.
- (3) Any private road or driveway shall provide access to an approved private road, county road or state road or highway.
- (4) The number of parking spaces and total parking area approved in the subject district under this section shall not exceed thirty percent (30%) of the parking spaces and area required by this Part 1 for the permitted use."

The uncontradicted testimony of the Applicant's former plant manager, Frank Yount, is that the Applicant desires to relocate the entrance and exit road to Arundel's operation to minimize the impact on the Meadowvale Elementary School, where the PTA and School Administration have expressed concerns about traffic and high levels of noise and dust in the area. The Applicant's witness testified a second problem with the present access is with the steep grade at the intersection of Graceview Drive and Level Road, which causes heavily loaded trucks to move slowly getting into the flow of traffic, thereby creating traffic hazards. Additionally, the Applicant has introduced a traffic analysis and testimony from a representative of the Meadowvale Elementary School PTA, and an Assistant Superintendent of Schools, supporting the proposal to relocate the access road.

It is the recommendation of the Hearing Examiner that the Special Exception to relocate the access road as proposed be granted, based on the uncontradicted testimony of the Applicant's witnesses and the supporting testimony from the Meadowvale PTA and the Board of Education.

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The Applicant's second request is a modification of Condition No. 3, in Board of Appeals Case No. 409, which was decided on or about October 9, 1959. Condition No. 3 in that Case states:

"That the crusher operation be of the type described as a 'wet process crusher', and when operated as a 'dry crusher', it must employ a dust suppressing system; that it be operated only in the 11 acre tract as shown on the plat with the application, and during daylight hours only or between 8:00 a.m. and 5:00 p.m., whichever is longer."

The Applicant, through the testimony of Peter Bergmann, an expert witness who qualified as an environmental scientist, is requesting modification of Condition No. 3 in Board of Appeals Case No. 409 to the extent that the Applicant wishes to relocate the crusher operation to a different 11 acre tract from the tract designated in Case No. 409. Mr. Bergmann submitted, as Petitioner's Exhibit No. 11, a plat of the subject parcel in which the original 11 acre site is outlined in yellow and the proposed 11 acre site is outlined in purple. Approximately 30% of the proposed site overlaps the original site, as designated in Board of Appeals Case No. 409. Mr. Bergmann said the new site is several hundred feet further from the Susquehanna River and the area proposed for the crusher operation has already been quarried, and that relocation of the plant will not require removal of vegetation, which will provide water quality benefits. This witness testified he did not feel that the relocation would have an adverse impact on the neighborhood because the new location would be on the quarry floor close to the quarry wall, which would lessen the noise from the Applicant's operation and, further, that the new location is preferred from an environmental standpoint.

None of the area residents testified in opposition to the proposed relocation, but did request that when the crusher is located within the proposed area, that it be kept as far from Nena Avenue as practicable.

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It is the finding of the Hearing Examiner that the proposed modification of Condition No. 3 in Board of Appeals Case No. 409 will not have an adverse impact on the neighborhood or the purpose and intent of the Zoning Code. Therefore, it is the recommendation of the Hearing Examiner that Condition No. 3 in Board of Appeals Case No. 409 be modified to allow the Applicant to locate the crushing operation within the purple area, as shown on Petitioner's Exhibit No. 13.

The Special Exception to relocate the entry and exit road and modification of Condition No. 3 in Board of Appeals Case No. 409 shall be subject to the following conditions:

1. That the Applicant resurface the existing shoulder of MD Route 155 to conform to the existing paving and stripe for an acceleration/deceleration lane.
2. A detailed site plan for the relocation of the office and scale house operations be submitted to the Department of Planning and Zoning for review and approval. Said review shall include the Development Advisory Committee.
3. A detailed site plan for the relocation of the crushing operation be submitted to the Department of Planning and Zoning for review and approval. Said review shall include the Development Advisory Committee.
4. The crushing operation shall be located in the area outlined in purple on Petitioner's Exhibit No. 13, as far as possible, from Nena Avenue.

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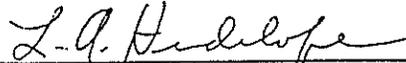
5. The Applicant has agreed to provide addition screening along the Bauer and Green properties as follows:

Bauer Property - The Applicant will plant three (3) rows of four (4) foot evergreen trees on the east side of Langenfelder Road. The planting shall begin approximately 700 feet north of the intersection of Langenfelder Road and MD Route 155 and shall be planted for a distance of approximately 400 feet, or in other words, from the woven fence on Langenfelder Road north to the first stream which crosses Langenfelder Road. The Applicant will plant the trees beginning on March 15, 1991 or, if this zoning decision is not final by March 15, 1991, then on March 15 of the year after this zoning decision becomes final.

Green Property - The Applicant will plant three (3) rows of four (4) foot evergreen trees on the Green Property as it adjoins the new access road to the west. The planting shall begin approximately 50 feet north of the intersection of the new access road and MD Route 155 for a distance of approximately 700 feet to the northeasterly boundary of the Green Property. The Applicant will begin planting the trees on March 15 of the year after it receives written notice from the Greens that they wish to have the trees planted. If this zoning decision is not final on March 15, 1991, then the first year the Greens may request that the planting of the trees begin shall be March 15 of the year after the zoning decision becomes final or, in the alternative, if the Applicant purchases from the Greens a portion of their property necessary for the planting of the three (3) rows of trees, the Applicant will begin planting the trees in the same configuration as described above on the March 15 after the date of the purchase of the property from the Greens.

6. The Applicant obtain all required permits.
7. All other conditions in Board of Appeals Case No. 409 and Board of Appeals Case No. 3303, not specifically herein modified, shall remain in force and effect, including Condition No. 3 in Board of Appeals Case No. 409, with the exception that the crushing operation may be located within the area outlined in purple on Petitioner's Exhibit No. 13.

Date JANUARY 24, 1991



L. A. Hinderhofer
Zoning Hearing Examiner