

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, APRIL 17, 2001, IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

Present: Fred S. Crittenden, Pinetop District
Kenneth W. Williams, Pinetop District
Lenora O. Weber, Saluda District
John D. Miller, Jr., Saluda District
Wayne Jessie, Jamaica District

Charles M. Culley, Jr., County Administrator
Michael T. Soberick, County Attorney

CALL TO ORDER

The Chairman, Mr. Williams, called the meeting to order at 7:30 p.m. in the Board Room and opened with a prayer. Mr. Williams and other Supervisors welcomed Wayne Jessie as interim member of the Board.

SITE PLAN APPLICATION # 2000-20, OSCAR BARBER

Mr. Soberick advised the Board that a recent decision by the Federal Aviation Administration (FAA) concerning this case was under appeal, with a final decision expected within 30 days. The motion to defer further action until May 15, 2001, provided a decision has been received from the FAA, was made by Mr. Miller, seconded by Mr. Crittenden and carried by vote of 4-0-1 (Weber abstained).

PUBLIC HEARING - AMENDMENT OF PROFFERS ASSOCIATED WITH REZONING OF PROPERTY APPLICATION 1994-06, JAMES FITZGERALD, SR.

Tim Wilson, Planning Director, presented a request from Mr. James Fitzgerald, Sr., to amend Proffer Number five (5), submitted and approved with Rezoning Application 1994-06. Approval of the Application in 1994 granted the conditional rezoning of Tax Parcels 41-54-1 and 2, from Village Community to General Business. Proffer 5 was approved at that time as follows: "Use of property: To use this property to display for sale motor vehicles and watercraft." Mr. Fitzgerald has requested this proffer be amended as follows: "Use of property: Customer parking; employer and employee parking; display and sale of motor vehicles, watercraft, trailers and other equipment." Mr. Wilson advised that this property had been sited to be in violation of proffer 5 in 1999 and again in 2000, both of which had been corrected.

Staff has recommended denial of the application. In its consideration of the application, the Planning Commission voted 6-3 recommending approval of the proffer amendment, with modification, as follows: "Use of property: Customer parking; employer and employee parking; display and sale of motor vehicles, watercraft, and boat and utility trailers." The Commission had expressed concern with including the term "other equipment".

Mr. Williams opened the hearing for comments from the public. James H. Ward, Jr., representing the applicant, explained that in 1994, Mr. Fitzgerald had presented proffers with consideration to the neighborhood, however, as his business has evolved, his needs had changed, requiring a change in the proffer. Mr. Ward added that Mr. Fitzgerald had proposed to screen the "other equipment" and put it to the back of the property. Mrs. Weber questioned what "other equipment" would include. Mr. Ward could not answer the question.

George Harris presented a letter from Leonard Scharf, who objected to current uses of the property. Mr. Scharf indicated that a variety of materials have been displayed on the property that were not in conformance with existing approvals. Mr. Scharf also questioned the storing of auto parts in an area adjacent to Fitzgerald's garage and the environmental impact. Mr. Ward noted that the storage of materials next to the garage area was a permitted use and that the Environmental Protection Agency was monitoring the site.

John England, Chairman of the Planning Commission, reminded the Board of the precedent that would be set if a proffer was changed, especially, when there has been no change in the surrounding area.

There being no further questions, the public portion of the hearing was closed. Mr. Miller noted that Fitzgerald had volunteered his proffers in 1994 and should be willing to abide by them, rather than creating violations. Mr. Miller noted screening would be paramount if "other equipment" is allowed to be stored. Mr. Crittenden suggested the Board express their concerns about the application and table action to see if any improvements were made. Mr. Williams noted that the Board did not want to hinder business, however, there were issues that needed to be addressed, such as sight distance and insuring the property is in compliance now. Mrs. Weber noted her objections to not knowing what would be included in "other equipment". Mr. Soberick agreed, noting that "other equipment" needed to be defined.

The motion to defer action on the issue until the June 19th meeting was made by Mr. Miller, seconded by Mr. Crittenden and carried unanimously. It was noted that this would give staff an opportunity to insure current compliance and give Mr. Fitzgerald an opportunity to address some of the Board's concern for screening and sight distance, should he desire to do so.

PUBLIC HEARING - SPECIAL EXCEPTION APPLICATION # 01-01, SAFONYA MARSH

Mr. Wilson presented a request for the replacement of a single-family dwelling with a double-wide manufactured home at Tax Map 19-272, zoned Village Community. According to Mr. Wilson, the existing dwelling is dilapidated beyond reasonable costs to renovate or repair, and replacement with a manufactured home will not be of any detriment to adjoining properties. As mandated by Ordinance, a \$500 surety would be required for the demolition and removal of the existing dwelling.

The Planning Commission recommended approval of the application. In addition, the Commission recommended that the Board of Supervisors consider amending the zoning ordinance to change the permitting of replacement manufactured homes in Village Community Districts from Special Exception Use Permit to being permitted by right, provided all zoning ordinance regulations specific to such use are met.

Mr. Williams opened the hearing for comments from the public. There being none, the public portion of the hearing was closed. Mrs. Weber noted the out-of-county address listed for the applicant and questioned whether the property would be a residence for the applicant or used as rental property. Mr. Wilson noted that Ms. Marsh represented the dwelling would be used as a dwelling for her. The motion to approve the application as submitted was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously. There was no action on the Planning Commission's recommendation for ordinance amendment.

REDISTRICTING

Mr. Culley presented the two proposals under consideration for redistricting of the county pursuant to the 2000 census data. Corresponding district and precinct ordinances were also presented. Mr. Culley explained the desire to keep the districts equal and compact. Mr. Williams recessed the meeting to allow time for the public to view maps of the proposals.

Mr. Williams opened the hearing for comments from the public. Reverend Chauncey Mann, a member of the Electoral Board, spoke in favor of Proposal 2, which looked like a "cleaner", easier to follow proposal. Ed Ruark also spoke in favor of Proposal 2, which, in his opinion, appeared more defined and had better continuity. There were no further comments from the public. Mr. Soberick noted that these changes would be effective for the November elections and would require approval by the Justice Department.

Mr. Williams proposed delaying action until the May 1st meeting.

MIDDLESEX HIGH SCHOOL

Randy Hester, School Board member, and Ed Ruark, former member of the Board of Supervisors, presented the latest proposal for renovation and an addition to the high school. This rendition has a hip roof on a majority of the building, except at the back where there is no option other than to have a flat roof. The plan shows the old roof remaining on the existing east wing and will address only new construction and renovation, no demolition. New windows for the front of the existing building will be included in the project.

The Board of Supervisors expressed the general agreement with the plan. Mr. Ruark submitted a time-line for the improvements along with an application for site-plan approval. Mr. Hester and Mr. Ruark encouraged public input on the proposal.

OLD BUSINESS

The following citizens of the Coves of Wilton Creek area expressed their concern with the reactivation of shooting activities on property belonging to Macey White, Jr.: Richard Edwards, Janet Kauffman, Tony Meushaw and Chester Kauffman. These citizens sited that the activities being promoted by Mr. White were in direct opposition to the denial issued by the Board in December for a sport shooting facility and did not meet the social and education activities normally associated with a hunt club. These citizens noted that the range was unsafe and Mr. White should not be allowed to continue to use the facility.

In a letter dated March 27, Tim Wilson, Zoning Administrator, had issued a denial for a shooting camp activity scheduled for April 21. Subsequent information submitted by Mr. White to Mr. Wilson caused Mr. Wilson to issue approval of the request on April 2nd. Mr. Soberick explained the process to appeal a decision of the zoning administrator, with appeal to the Board of Zoning Appeals, a court appointed body. Mr. Soberick explained that the Board of Supervisors or citizens could appeal a decision.

Mr. Crittenden commented that the Supervisors had voted not to allow shooting at this facility and he was disturbed that the Planning Commission had not come up with a definition for "hunt clubs".

Mr. Kauffman commented that the Zoning Administrator has approved a use that the Board of Supervisors has denied. Mr. Kauffman added that if an incident occurred where a neighbor of the range was injured because of a stray bullet, the Board of Supervisors would be involved in a lawsuit, not Mr. White. Mr. Edwards noted that public safety is the issue and that there were dwellings and a major highway in the impact area.

Mr. Crittenden made a motion, seconded by Mrs. Weber, requesting that the County Planning Director contact Mr. White and hand deliver a letter withdrawing the permission to conduct any shooting activities on his property, as granted in an April 2, 2001 letter from Mr. Wilson to Mr. White. This motion was carried by a unanimous approval of the Board.

FEES WAIVED

Mr. Ruark requested the Board's confirmation that the Board of Supervisors would waive all application fees associated with the construction/renovation project at the high school. This was the consensus of the Board.

PRESENTATION OF PLAQUE

Mr. Williams presented Wayne Jessie with a framed copy of the Resolution adopted by the Board of Supervisors at their April 3rd meeting in memory of Frank

Jessie, Mr. Jessie's father. A second copy of the Resolution will hang in the Board Room.

ADJOURN

The motion to adjourn until the regular meeting scheduled for May 1, 2001, was made by Mr. Miller, seconded by Mrs. Weber, and carried unanimously.

Kenneth W. Williams, Chairman
Board of Supervisors