

## **VIRGINIA:**

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, July 26, 2001.

Present: F. W. Jenkins, Jr., Chairman  
Cundiff H. Simmons, Vice Chair  
Donald O. Conaway, Board Member  
Patrick G. Frere, Board Member  
William H. Pennell, Jr., County Administrator

Others

Present: J.F. Staton, Carter White and C.C. Burgess, Virginia Department of Transportation, Jack Larson, Planning and Land Use, Robert Mason, Rappahannock Record

Mr. Beauchamp was unable to attend due to his recent surgery.

Mr. Jenkins called the meeting to order at 7:00 p.m.

## **PUBLIC INPUT**

Mr. Larry Lucas stated that the Board of Supervisors had approved the “pump and haul” system and when he arrived at the house today there was a letter stating all the work should stop. He said that both the Board of Supervisors and Health Department had approved the “pump and haul” system and he’s not sure what the problem would be. He stated he was in the final stages of getting the house completed and he was asking the board to reconsider.

Mr. Pennell said that Mr. Lucas and Ms. Johnson came to the Board of Supervisors and requested a “pump and haul” system. Their home burned down and they purchased a new double wide to put on the property, only to find that the soil would not

perk. He stated at the last meeting, he provided the Board of Supervisors with a copy of a Resolution that is required by the Health Department saying they provide “pump and haul” systems to the Board of Supervisors and not to individuals. The Board of Supervisors had a discussion about what that would mean and the Board of Supervisors decided not to approve the Resolution the Health Department required. He said that was the reason Mr. Lucas came back to the Board of Supervisors for reconsideration because he got both the Board of Supervisors and Health Department approval and now the process has changed.

Mr. Jenkins said the Health Department changed the requirements and process.

Mr. Pennell said he thought that the Board of Supervisors approved the “pump and haul” system and it was done, as the Health Department has done in the past.

Mr. Conaway asked Mr. Lucas if he received a letter from the Health Department that granted approval for the “pump and haul” system?

Mr. Lucas said yes.

Mr. Conaway said the Board of Supervisors approved the “pump and haul” system and the Health Department changed the requirements and process which was no fault of Mr. Lucas. The Board of Supervisors and Health Department have already granted approval for Mr. Lucas “pump and haul” systems and it would be unfair to deny the request.

Mr. Simmons asked Mr. Lucas if he would be prepared to pay \$15,000 to \$20,000 to put an alternative system in place when or if it becomes available?

Mr. Lucas said that Rev. Fowler with Interfaith stated that the alternative system would cost \$7,000.

Mr. Simmons asked if he knew what the new alternative system was and if the Health Department has approved it?

Mr. Lucas said he did not know the name of the new alternative system.

Mr. Pennell said that Mrs. Hollingsworth, Director of Housing has some familiarity with the alternative system and stated it has not been approved by the Health Department but was very close to being approved. He said it's a system similar to the puriflow system.

Mr. Lucas said he worked with Interfaith and helped install a system which had a tank for wastewater and one for the gray water. He informed the Health Department that he had purchased two tanks that hold 6000 gallons each to have the wastewater go into one tank and gray water into the other tank.

Mr. Simmons said he thought it would be a 750-gallon tank.

Mr. Lucas stated the Health Department required the tank to be over 1000 gallons. He said he spoke to David Fridley, and he approved the use of the two 6000 gallon tanks.

Mr. Simmons said the problem he has with the "pump and haul" system was that the permit would be issued to the county and the county then takes responsibility for that system. He said the county would be able to evict Mr. Lucas from premises if the "pump and haul" was not maintained.

Mr. Pennell said that Mr. Lucas' money was running out and there was a storage issue, therefore the Board of Supervisors allowed the home to be placed on the property but not live in the home.

Mr. Frere said there were some concerns expressed about the Resolution submitted by the Health Department. First of all if the Board of Supervisors approve the

Resolution it would set a precedent. We would have to treat all “pump and haul” requests the same and some of the members of Board of Supervisors were willing to approve the Resolution under those conditions. The Resolution did, however, set forth the conditions under which the county would allow a “pump and haul”. He thought the proposed resolution was going to be reworded, and would be reconsidered under certain conditions.

Mr. Pennell stated that Mr. Conaway made a motion to table the resolution for further rewording.

Mr. Frere stated there was going to be some exploring to tighten the wording to say what specific scenarios the county would allow “pump and haul” that might satisfy other people concerns.

Mr. Jenkins said the county had no idea about the requirements of the Health Department which they did not make clear on the permit.

Mr. Larson said he talked to David Fridley at the Health Department and told him the resolution was not approved at the July 19, 2001 meeting.

Mr. Jenkins said that this county has a great deal of low lying non-perkable properties. The Health Department now wanted the Board of Supervisors to become responsible. He said it throws a great burden on the taxpayers.

Mr. Pennell said why not specify that only Mr. Lucas would be permitted to do this.

Mr. Jenkins said he was willing to do that and state that the only reason this policy was put in place was because the Health Department regulations and requirements were not clear to the county when the board granted the approval of Mr. Lucas’ request.

John Hollowell said his understanding was that the regulations and requirements were across the board.

Mr. Pennell said he believes that the Board of Supervisors can make this Resolution for Mr. Lucas only.

Mr. Jenkins said that a “pump and haul” system should only be granted to those people whom homes were destroyed by Acts of God.

Mr. Frere said that the board would have to be specific and state that “pump and haul” systems would not be allowed for a new home. The Resolution should state “only if the home was destroyed by acts of god”.

Mr. Simmons said if it’s going to be written like that it should be temporary, and when a system does become available, that property owner be required to get that system installed regardless of cost.

Mr. Pennell stated that had been discussed and would be put in the contract.

Mr. Frere said the board might want to put a time limit on that.

Mr. Conaway said the problem with that language was that property owners might not be able to afford a \$25,000 or \$30,000 system. Otherwise, they would have purchased property somewhere that they would not have to spend that amount of money. He said that Mr. Lucas was a taxpayer too.

Mr. Jenkins said the board has some obligation in all cases. However, Mr. Lucas was the benefactor in this situation.

Mr. Simmons said that Mr. Lucas has a contract for “pump and haul” vendor with a cost of \$150.00 twice a month. He stated the Health Department requires 450-gallon

tank for a three-bedroom house. He said that \$300 could go toward purchasing another parcel of property.

Mr. Lucas stated at this point he was currently in the process of completing the work on the home and purchasing another parcel of property would be out of the question. He said that both the Board of Supervisors and the Health Department granted approval and he continues with the work.

Mr. Simmons stated he does not have a problem with Mr. Lucas' situation, but he has serious concerns with the county taking responsibility and liability.

Mr. Conaway said the resolution would have to be sent back to the Health Department with revision. He said the resolution was put in effect after the Board of Supervisors approved the "pump and haul" system for Mr. Lucas.

Mr. Pennell said Mr. Lucas had insurance on his home that burned down and went back to replace the house, only to find that the land was not perkable.

Mr. Frere made a motion to modify the Health Department Resolution to state that "pump and haul" systems would not be allowed for new homes. Only for the replacement of structures destroyed by fire or Acts of God.

VOTE: 3 Aye (Conaway, Frere, Jenkins) –1 Nay (Simmons)

Mr. Larson said the resolution would be specific for each person.

Mr. Jenkins made a motion for reconsideration of Mr. Frere previous motion.

VOTE: 3 Aye (Conaway, Frere, Jenkins) – 1 Nay (Simmons)

Mr. Frere said he does not know the legal standpoint of allowing this on a case by case bases or by passing a resolution each time for each specific case. He is not sure whether he would feel comfortable making a motion to do that without exploring that first.

Mr. Jenkins made a motion to amend so that each situation would have to come before the board.

VOTE: 3 Aye (Conaway, Frere, Jenkins) – 1 Nay (Simmons)

Mr. Jenkins made a motion to approve the Health Department Resolution for a Temporary Pump and Haul Permit allowing Mr. Lucas to continue with the work on his Individual Manufactured Home.

VOTE: 3 Aye (Conaway, Frere, Jenkins) –1 Nay (Simmons)

## **PRESENTATIONS**

NONE

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Staton said he wanted to thank everyone for the support at the Virginia Transportation Board meeting.

Route 600 Bridge Work Update - Mr. Staton apologized for not being able to attend the dedication of the Moran Bridge on Route 600 but he understood everything went well.

Route 3 from Kilmarnock to White Stone – Mr. Staton stated they have started to mill out the whole north side lane and the work was going well. He said there have been

some concerns about the rough ride, and the contractor would have to get the waves out at no additional cost to VDOT. The intersection of Route 3 and Harris Drive (Hospital Road) has also been repaired.

Mr. Burgess said that the grass cutting on the primary roads was finished and halfway through on the secondary roads.

Mr. Frere said he wanted to thank Mr. Burgess for responding to a safety issue in District 3 on Windmill Point Road that was promptly taken care of and also for the drainage work being done in Foxwells.

Route 600 Speed Limit (Bridge Area) - Mr. Conaway stated he has had complaints from the citizens about the speed limit. He said that the speed limit was lowered to 45 mph; however since the bridge reopened, the traffic was coming through the residential area at 55 mph.

Mr. Staton said the speed limit has been lowered and the key would be to talk to state and local police to get some people ticketed which would send a warning. He said there was already a sign with advance warning of speed reduction.

Mr. Conaway asked if the speed limit could be lowered to 35 mph in the residential area?

Mr. Staton said a study was performed and based on the study the speed limit was lowered to 45 mph. He does not believe that another study would lower the speed limit.

Mr. Pennell said he would write a letter to the Lancaster County Sheriff's Office and State Police to monitor that area.

Courthouse Speed Limit – Mr. Pennell stated he had a request from a citizen that was concerned about the current speed limit of 40 mph in front of the courthouse and asked if the speed limit could be lowered.

Mr. Jenkins said people are driving 45 mph and that was pretty quick when coming over that hill.

Mr. Staton asked if there was a pedestrian crosswalk there?

Mr. Jenkins stated that VDOT would not put a pedestrian crosswalk there, when it was requested some years ago, and he was not sure why.

Mrs. Hill stated the height of the hill was too high to see a pedestrian.

Mr. Staton said they could erect a pedestrian crossing sign.

Mr. White said they would look at putting the crosswalk further back.

The Board of Supervisors agreed by consensus to ask VDOT to perform a speed study in Lancaster Courthouse.

## **PUBLIC HEARINGS**

1. Lydia C. Cadden – Special Exception Application – Mr. Larson stated Ms. Cadden requested a special exception in order to allow the placement of an individual manufactured home on property located off VSH 626 and Meadows Drive near Bertrand, VA. This property described as Tax Map #31A-3-3 and 3A and is zoned R-1, Residential General. This property is in Voting District 1.

Mr. Larson said that Ms. Cadden has met all the requirements to place an individual manufactured home. This home would be placed on a concrete pad

originally planned for a single-family residence and would utilize the two-bedroom approved septic system that is in place. Ms. Cadden understands that the size of her home cannot exceed the approved capability of this system.

Mr. Larson said adjoining property owners have been notified and advertising as required by law has been conducted. The staff has received no phone calls from adjoining property owners; however, they have received four telephone calls from other interested members of the public in opposition to this application.

Mr. Larson stated the staff recommends approval of Ms. Cadden's special exception application. He said that Mr. and Mrs. Gallo were representatives for Mrs. Cadden if the board had any questions.

Mr. Simmons asked if the individual manufactured home was being placed in a subdivision.

Mr. Larson said no.

Mr. Frere said that according to the plans the concrete slab crosses the property line.

Mr. Larson said yes; however, Mrs. Cadden does own both pieces of property.

Mr. Frere said the problem was, even though there was a property line and Mrs. Cadden owns both properties, the homes has to cross the line or be 25' from the line. He asked if the individual manufactured home would be attached to the slab?

Mr. Larson said yes and according to the plans, it appears to be right on the line.

Mr. Frere said merge the two lots and do away with the property line.

Mr. Larson said that Mr. and Mrs. Gallos could better answer those questions.

Dean Pencing stated he purchased a lot in the Coles Points subdivision and built a house about twelve years ago, never expecting manufactured homes to be built in the neighborhood which consists of \$200,000 to \$300,000 houses. He said putting a manufactured home in subdivision would hurt all the property values and in the long run hurt the county tax receipts because there would be a number of undeveloped lots where people would not build nicer houses. There are a number of residents who oppose having a manufactured home in a subdivision, and this would be a big disappointment and a financial loss. He said the manufactured home would be the first thing you see as you enter the subdivision which was not in character with the subdivision.

Mrs. Lydia Brittle said that the property was part of an old parcel of property and was adjacent to her property. She does not believe that placing an individual manufactured home there would be a problem.

Mr. Gallos stated that this property has been in his family for 300 years and has been divided between the family, so they could move back to the area and build a home if they so desired. He stated his mother would be living in the home and at this time, this is what they could do financially. With landscaping the home should be attractions. He said this lot was approximately  $\frac{3}{4}$  of a mile before you get to the subdivision.

Mrs. Gallos stated the property was nearly a mile before the subdivision and that should not pose a problem. They simply want to do what's best for their mother.

Mr. Jenkins asked if this could be allowed because of the slab on the property line?

Mr. Conaway asked if the house would be placed on the slab and slab was across the line, would that slab be considered part of that structure?

Mr. Frere said the county has consistently allowed primary structures to cross commonly owned property.

Mr. Conaway made a motion to approve the special exception application request for Ms. Cadden on the zoning permit showing it crossing the property line.

VOTE: 4 – 0 Aye.

Gordon R. Smith – Request for Bay Act Waiver – Mr. Larson stated Mr. Smith requested a Chesapeake Bay Act waiver to allow an addition to a single family residence to be placed within 39' of tidal waters. The property on which this would occur is described as Tax Map 33-472A, located on Crab Point Road near White Stone, VA. The property is in Voting District 5.

Mr. Larson said the addition being proposed by Mr. Smith does not intrude any further into the 100' buffer area of the Resource Protection Area than has existing structure. As mitigation, Mr. Smith is proposing to remove approximately 70 square feet of existing impervious area, a brick walkway. He is also proposing an infiltration trench whose capacity exceeds that required by 63% without consideration of the removal of the brick walk. In summary, the impact

of the planned addition on Bay waters will be significantly less than that of the existing developed area.

Mr. Larson stated that adjoining property owners have been notified and advertising as required by law has been conducted. As of this date, staff has received one phone call from an interested member of the public requesting clarification of the application. No expression for or against the application was made.

Mr. Larson said that staff recommends approval of Mr. Smith's Bay Act Waiver request.

Mr. Simmons asked if the swimming pool was existing or proposed?

Mr. Pruitt stated the site plan was done in three stages and there was not an existing pool and it has been taken off of the proposed plans.

Mr. Larson stated that this was the second site plan submitted the first was approved administratively and did not allow intrusion into the 50 foot set back.

Mr. Simmons said if that has been approved administratively that would be an issue. He asked what was the proposed percentage of coverage for the entire lot above the high tide line?

Mr. Pruitt stated he did not have that information.

Mr. Simmons said if you are not going to put the swimming pool in, you still proposed a 100 feet of BMP in the area of the swimming pool. Would it be more feasible to put the BMP in front of house and the existing garage rather than in front of the addition?

Mr. Pruitt said the construction was there prior to the requirement. He said he agreed.

Mr. Frere said the only request he can recall within the last five to seven years that was similar where they have Pre-Bay Act existing structure was the McAden Project. He said that the Board of Zoning Appeals approved the request, and it would be consistent if the Board of Supervisors granted approval on this one.

Mr. Simmons made a motion to approve Gordon R. Smith's request for Bay Act Waiver.

VOTE: 4 – 0 Aye.

2. Charles R. Revere – Special Exception Application (Continuation) – Mr. Larson stated Mr. Revere requested a special exception in order to operate a petroleum product (bottled gas) storage facility on property located on VSH 790, near Kilmarnock, VA. This property is described as Tax Map #23-48C and zoned M-1, Industrial Limited. This property is in Voting District 2.

Mr. Larson said this request was continued from the June 28, 2001 meeting at Mr. Revere's request to permit him to address safety concerns that were raised. Since that meeting, Mr. Revere has transmitted to each member of the Board of Supervisors by separate correspondence National Fire Protection Association (NFPA) Codes and Standards governing the storage and handling of Liquefied Petroleum Gas. Additionally, he scheduled a tour, Monday, July 23, 2001 at 10:00 a.m. at his Warsaw plant for any interested or concerned person; the intent was to acquaint participants with any of the safety measures applied in a typical storage facility.

Mr. Larson said with respect to the proposed storage location it should be noted that the horizontal distance to any residence, or other structure/activity was far greater than the minimum set forth in Table 3.2.3.3 of the NFPA 58 Code.

Mr. Larson stated that staff recommends approval of Mr. Revere's special exception application.

Mr. Larson received two calls from Doris Dunaway-Aytes and Gilbert Dorman in opposition. Both stated they who would not be able to attend this meeting.

Mr. Frere asked if this was a permitted use in this zone?

Mr. Larson said yes, by special exception.

Mr. Frere asked if staff recommend any conditions? He read that NFPA 58 required fencing and security lighting.

Mr. Larson said he read though the manual and felt that requirements set forth in the NFPA 58 Code were more than sufficient.

Mr. Frere stated he believes this was a land use and zoning approval where the NFPA was more related to building codes. He would like this to be enforced through the county's land use and zoning ordinance should this request be approved.

Mr. Conaway asked if there were any plans for a welding business going into that area?

Mr. Larson said he was not aware of that and an application has not been filed.

Mr. Revere said that he sold welding supplies and he has no intention of selling welding supplies at this site.

Tim White stated he does not have a problem with Mr. Revere improving his business and said what troubles him most was that the property was zoned for industrial and a similar company already exists. His concerns are that there are homes in the area and that 50 feet from a residence was not enough. He said the two like companies are too close. He said the Board of Supervisors was going according to the regulations. However, the danger was there, and his fear was that something may happen. The residents in that location can smell the gas from the existing location. Should the Board of Supervisors approve this request, please make sure that it's spaced farther apart. He asked that this be done not just for him but for his community.

Kathleen Long stated she lives directly across the dual highway and because the weather has been so beautiful, she opened her window and could smell the gas fumes from existing site. She said the community would have to breathe an even stronger smell with two sites. No one knows if this would cause health problems or not. She said that Mr. Revere arranged a meeting for any of the interested public/community to attend, and unfortunately, it was not convenient for her. She stated she did not have the opportunity to see or read a NFPA 58 code. The site may meet the standards in the code; however, it may not be safe medically for the citizens in the area.

Mr. Revere said the closest resident was 500 or 600 feet away from the station. He said the purpose of the code was to ensure safety and the codes are very specific with the safety regulation.

Mr. Simmons asked if propane was heavier than air and exactly where the station would be located?

Mr. Revere said that propane was heavier than air and stated that the site would be level with the home across the dual highway.

Kathleen Long said that notification was given to adjoining property owners only, and unfortunately she does not read the local paper.

Mr. Larson said adjoining property owners were notified by certified mail and an ad placed in the local paper. However, property owners directly across the dual highway were also notified.

Mr. Frere said that legally they did not have to go across the line of the dual highway.

Mr. Simmons asked if there was opposition from adjoining property owners?

Mr. Larson said no.

Mr. Frere asked if the adjoining property was also zoned M-1 Industrial?

Mr. Larson said yes.

Mr. Conaway said this issue was located in District 2 which he represents and Mr. Revere met with him and some of residents. He said one of his major concerns was safety and the welfare of the citizens and according to Mr. Larson he has met all of the requirements.

Mr. Larson said there would be another opportunity to review the plans to ensure that the facility would have all the required safety measures.

Mr. Conaway asked how far back would the tanks be located on the property?

Mr. Revere said it would be 50+ feet because the septic system was there and it has to be 50 feet off the property lines. The tank would be up on a platform, which would be back beyond the Bay Auto building.

Mr. Conaway made a motion to approve Mr. Revere's special exception application request to operate a bottle gas storage facility with all the safety features required by NFPA 58 codes. He also recommended that Mr. Revere listen to the concerns of the citizens and try to meet some of the needs of those residents in the area.

VOTE: 4 - 0 Aye.

### **CONSENSUS DOCKET**

A. The motion was made by Mr. Frere to table the June 28, 2001 minutes until the August 30, 2001 meeting in order to meet with Mr. Pennell and listen to the tape and make some changes to reflect comments made about the proposed mixed use.

#### Minutes of June 28, 2001

Recommendation: Table the minutes until August 30, 2001 meeting

Mr. Pennell asked if there were grammatical errors.

Mr. Frere stated he attended the Planning Commission meeting and everything that was said at the June 28, 2001 meeting about the proposed mixed use and the concern of the Board of Supervisors were not in the minutes. He said the Planning Commission wanted specific directions from the board and how to go about amending the mixed use zoning classification that were sent back for them to study.

Mr. Pennell stated that minutes are supposed to be summary, and this was done a number of years ago. He said he does not mind changing to a more narrative format; however, he would like some direction from the board as to how to proceed.

Mr. Jenkins said he remembered when the discussion was made not to have the minutes in narrative form.

Mr. Frere stated sometimes the minutes need to be specific as in the case of something sent back to the Planning Commission which is looking for direction from this Board. He asked how the Planning Commission would get this information if it were not in the minutes.

Mr. Simmons said Mr. Frere did attend that Planning Commission meeting, and he made it clear as to what his comments were, so the Planning Commission had the information.

Mr. Frere said he wants his comments to be reflected in the minutes.

VOTE: 3 Aye (Frere, Conaway, Jenkins) 1 Nay (Simmons) 1 Absent

### **CONSIDERATION DOCKET**

The Board considered the following items on its Consideration Docket:

1. Approval of July 2001 Salaries and Invoice Listings

Motion was made by Mr. Simmons to approve the Salaries for July 2001 in the amount of \$136,386.42 and Invoice Listings for July 2001 in the amount of \$501,163.64

VOTE: 4 – 0 Aye.

2. Arthur Bryant Subdivision - Mr. Larson stated Mr. Bryant has requested to subdivide property encompassing approximately 37.74 acres into seven lots. This property is on the south side of VSH 650, Fleets Bay Road and is identified as Tax Maps 29-62, 62A and 62B. This property is in Voting District 3. Mr. Larson said given that it consists of seven lots, this subdivision was submitted for approval/disapproval of the Board of Supervisors as required by paragraph 3-7 of the Subdivision Ordinance. All requirements to include notification of adjoining property owners have been met except for the requirement to provide roads that can be brought into the state secondary road system. Mr. Larson stated that while the road easements within the subdivided properties are adequate to meet state standards, a portion of the access road leading from VHS 650, Mifarm Road, was not adequate. That portion, highlighted on the attached plat, provides for a 50' ingress/egress and utility easement. The portion that could be dedicated for road use only would be approximately 35'. In view of this, Mr. Bryant was requesting a private road exception as permitted by paragraph 7-1 of the Subdivision Ordinance. The subdivision plat has been annotated in accordance with the requirements of paragraph 5-19 dealing with private road exceptions. The intent is clearly documented that this road is a private road and there is no intention of having maintenance done by VDOT or Lancaster County. No public agency will be responsible for the cost involving having the road brought up to standards for acceptance in the state secondary system of highways. The only other issue that has come up with respect to this property was that Lot 3 there was not 10,000 feet of contiguous building space when considering the necessary setbacks from the adjoining property owners and also the space taken up by the drainfield. The applicant stated they would remove the optional primary drainfield site which would give the 10,000 contiguous feet of building space.

Mr. Frere said on the 35-foot section, why can only 35 feet of the 50 feet be dedicated for ingress/egress.

Mr. Larson said that the difference would be necessary for the utility easement.

Mr. Frere asked if anyone approached VDOT to see if it would be possible to allow the construction of road to state standards within the 50' easement provided, while reserving 15' for any proposed utilities.

Mr. Larson said VDOT has not been approached by him. However they have been consistent in requiring at least 40 feet and ideally 50 feet and have routinely denied anything less than 40 feet.

Mr. Frere said that the plat shows 50 feet on the section in question. What led you to believe that 15 feet was needed for proposed utilities, and are there no existing utilities?

Mr. Larson said there was a 50-foot easement but there has to be a portion dedicated to utilities.

Mr. Frere said with a lot of 50 foot easements that VDOT approves or sees, owns the existing right of ways.

Mr. Larson said that generally VDOT has wanted to have 50 feet of dedicated right of way to them in case they have issues or problems with road repairs.

Mr. Frere said he has no problem with the layout of the subdivision and it is very clean, it has all the approved drainfields, as it should. He said the only issue on private road exception, is that the county has very strictly looked at allowing private roads. He can't remember a private road being allowed since 1993. He believes that there is a precedence where the county has allowed and considered exceptions for decreased right of ways. It has to be something unusual or topography related. He cited the following passage from the Subdivision Ordinance, "Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this ordinance would result in substantial injustice or substantial hardship to the subdivider because of unusual topography or other situations or conditions which are not self-

inflicted, or that these conditions would result in inhibiting the achievement of the objectives of these regulations...” If those items applied, the Board of Supervisors would be able to waive the requirement and approve. His only concern was that he does not think there are injustices or hardships. He stated what’s being required of this subdivision is the same requirement of any other subdivision to construct a 50-foot road to state standards back thorough the subdivision. He said the board does not know if they have shown VDOT the road design and if it was denied because of non-sufficient right of way, then that might be a hardship but that has not been attempted yet.

Mr. Simmons said he believes that VDOT has had plans for this road for quite sometime and it has been denied because of policy that no longer allows public utilities within VDOT rights of way. It has been expensive for VDOT and the general public to relocate utilities every time road maintenance has to be done and VDOT needs those utilities outside the right of way. He said he does not believe that this was a self-imposed hardship and he believes that there needs to be a 50 foot right of away and Mr. Bryant was aware of this when he purchased the property. The adjoining property owners probably do not like what Mr. Bryant proposes to do with this property and he does believe that it is a hardship but not self-imposed.

Mr. Frere said he agreed with Mr. Simmons and does not want to set precedent and the plan looks very approvable.

Mr. Hollowell said he received a letter from Mr. Staton stating it doesn’t meet the requirements.

Mr. Frere moved to table this request until next month to have the opportunity to speak with VDOT and research further information, if it would not be a burden on Mr. Bryant.

Mr. Hollowell said that they could wait another 30 days in order to research further and obtain information from VDOT.

Mr. Frere asked what information was submitted to Mr. Staton?

Mr. Hollowell provided Mr. Frere with the information which was submitted.

VOTE: 4 – 0 Aye.

## **BOARD REPORTS**

### Special Exception Application

Mr. Conaway said the approval of special exception applications for Individual Manufactured Homes should be handled administratively. Unless there are extenuating circumstances, the special exception application should not have to come before the Board of Supervisors for approval.

Mr. Pennell said he agreed with Mr. Conaway however the Planning Commission continues to send it back without recommending this policy.

Mr. Conaway asked how the other board members felt?

Mr. Simmons said it would deny the adjoining property owners the right to speak and voice his or her opinion and he would be reluctant to take that away from the public.

Mr. Larson said that the board would have to amend the zoning ordinance.

Mr. Frere said the last time this was considered by the County, he as Planning Director recommended allowing individual manufactured homes. By right, if they follow the state code's requirements for conversion to real property. He said he would support a similar approach again.

Mr. Larson said that could be done.

Mr. Conaway stated that some of the Individual Manufactures Homes (double wides) in some cases cost just as much as a stick built home. However the person building that stick-built home does not have to go through the same process.

No action taken.

### Appointments

Mr. Conaway made a motion to appoint Weldon M. Howard to the Industrial Development Authority.

VOTE: 4 - 0 Aye.

Mr. Jenkins made a motion to reappoint Edna Revere to the Wetlands Board.

VOTE: 4 – 0 Aye.

Mr. Frere made a motion to appoint Donald McCann to the Historical Resources Commission.

VOTE: 4 - 0 Aye

### **COUNTY ADMINISTRATOR REPORT**

NONE

### **EXECUTIVE SESSION**

Motion was made by Mr. Jenkins to enter into a closed meeting to discuss matters exempt from the open meeting requirement of the Virginia Freedom of Information Act. The subject matter to be discussed in the closed meeting are real property matters, in accordance with provisions of Section 2.1-344A.3.

VOTE: 4 – 0 Aye.

### **RECONVENE**

Motion was made by Mr. Conaway to reconvene open session.

VOTE: 4 – 0 Aye.

### **CERTIFICATION**

**WHEREAS**, the Lancaster County Board of Supervisors convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss real property matters in accordance with the Virginia Freedom of Information Act.

**WHEREAS**, Section 2.1-344.1 of the Code of Virginia requires a certification by the board of supervisors that such closed meeting was conducted in conformity with Virginia law.

**NOW THEREFORE BE IT RESOLVED**, that the Lancaster County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

Motion was made by Mr. Jenkins to certify the closed meeting. A roll call vote was taken:

F. W. Jenkins, Jr.	Aye
Donald O. Conaway	Aye
Patrick G. Frere	Aye
Cundiff H. Simmons	Aye

This certification resolution is adopted.

### **ADJOURNMENT**

Motion was made by Mr. Conaway to adjourn the meeting until August 30, 2001 at 7:00 p.m. in the General District Courtroom.

VOTE: 4 – 0 Aye.