

Minutes of January 9, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, January 9, 1995 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 7:03 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of December 19, 1994 be approved as circulated.

Case No. 5555--Bayard W. Allmond, III - West side of Route One, on the east side of Belle Road, on the north side of Hassell Avenue, Lot 23A, within Bay View Park, Second Addition.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Bayard Allmond, III was sworn in and testified, requesting a 2.1' variance from the side yard setback requirement of 10' on Lot 23A, Bay View Park, Second Addition, for a deck where a roof was put over it. Mr. Allmond presented photo copies of documents. Mr. Allmond stated that he purchased the property with the structure existing. He obtained a building permit to put a roof over the deck. When he applied for a Certificate of Compliance, he found it was in violation from the Zoning Inspector.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the variance be granted.

Case No. 5556--Mollie J. Collins - South side of Route 24, 700 feet east of Route 497.

A special use exception to place second manufactured home on farm.

The case was presented by Mr. Betts. Mollie Collins and Paul Daniels Collins were sworn in and testified, requesting to place a second manufactured home on farm for Mr. Daniel's, Mrs. Collins son, to live in. Mr. Daniel's works for Nanticoke Homes, but will help tend the farm also. They stated that a farm tenant rents the existing manufactured home. Mr. Daniel's stated that the person living in the existing manufactured home will work on the farm in the summer.

Mr. Jones, Attorney, explained that an on farm manufactured home can only be occupied by an immediate family member or someone who works on the farm.

Elizabeth Collins was sworn in and testified in opposition, stating that she owns property adjoining the applicants and objects to two manufactured homes going on five acres. She fears the use will devalue her property. She stated that the existing manufactured home on the applicants property is being rented.

Dean B. Smith was sworn in and testified in opposition, stating he feels the manufactured home will devalue his property. He questioned how a farm tenant can be supervised or distinguished.

Bill Nack was sworn in and testified in opposition, stating he owns property across the street and he fears the area could become a manufactured home park in a few years. He stated that once a manufactured home is permitted it is hard to stop.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the case be tabled.

Case No. 5557--Virginia I. Matthews - East side of Route 26, 345 feet south of Route 427.

A special use exception to retain a manufactured home on a medical hardship basis.

The case was presented by Mr. Betts. Virginia Matthews and Charles West were sworn in and testified in behalf of this case. Ms. Matthews was approved two years ago (Case No. 4697), to place a manufactured home on her property on medical hardship, which has to be renewed every two years as long as the hardship continues to exist. Mr. West stated that Ms. Matthews would like to have her manufactured home remain on the property permanently, not as a hardship that has to be renewed. The existing house on the property will be burned down.

Mr. Betts read a letter from Ms. Matthews doctor.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the case be tabled, to give Mr. Betts time to look into the possibility of permanent placement.

Case No. 5558--Bob Bratt - South side of Route 54, on the west side of Maple Lane, Lot 39, within Keen Wik Subdivision-5.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Bob Bratt was sworn in and testified, requesting a 2.1' variance from the side yard setback requirement on Lot 39, Keen Wik, Subdivision 5. The applicant wishes to construct a covered landing, uncovered stairs and a 4'x 12'

walkway to a deck at the second floor level. He stated that when the home was built, 12 years ago, it was not positioned correctly on the lot to be able to build an addition and meet the setbacks. He would like his home to be similar to others in the development. The applicant stated he needs to contact the Keen Wik Association, but feels there will be no problem.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the variance be granted.

Case No. 5559--P. S. Treated Lumber Sales - East side of Route 13,
2,300 feet south of Route 40.

A special use exception to retain a manufactured home to be used as a sales office.

The case was presented by Mr. Betts. Paul Sheirer was sworn in and testified, requesting to retain a manufactured home for a sales office that was approved three years ago by the Board, Case No. 4580. He would like to continue the use of the manufactured home for a sales office for at least one year.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted for a period of three (3) years.

Case No. 5560--Merrill R. & Judith A. Baker - West side of Route 243,
1,100 feet east of North Bedford Street.

A special use exception to retain a manufactured home on a medical hardship basis.

The case was presented by Mr. Betts. Merrill Baker was sworn in and testified, requesting to retain a manufactured home on the basis of hardship that was approved by the Board two years ago (Case No. 4930). He stated that the hardship situation still exists.

Mr. Betts read a letter from a doctor referencing this case.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted on medical hardship basis for a period of two (2) years.

Case No. 5561--Maureen & Dwayne Purnell - South side of Route 392,
955 feet west of Route 382.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence and a variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Betty Pitts was sworn in and testified, requesting to place a manufactured home in an AR-1 District on less than five acres for the applicants to live in and a variance of 100' from the 150' width for a new lot. The property has not been subdivided as yet. She stated the property and manufactured home will for her granddaughter, Maureen and Dwayne Purnell.

Dwayne Purnell was present and affirmed, stating he wants to put the manufactured home on the property as shown. He stated that the location for the new lot is the only place that will perc.

The Board members asked if Mrs. Pitts could provide 150' of road frontage without having to have a variance. It was explained that by looking at the plot of the land, 150' could be provided even if the property is not entirely used.

Reese Hickman was sworn in and testified questioning where the access to the property will be located. He stated he has no objection, but is concerned about the access location.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled, to give Mr. Betts time to check the remaining property to make sure adequate frontage would remain.

Case No. 5562--Robert J. Jenkins - North side of Route 64, 100 feet east of Route 455B.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts.

There were no parties present in behalf of this application.

The Chairman kept the hearing open until the end of the meeting to give the applicant or a representative time to appear.

At the conclusion of the public hearings, the Chairman referred back to this case. There were no parties present representing the application. Since there were interested parties present the hearing was held.

It was explained to the parties present that according to the application, Mr. Jenkins wanted a variance from the minimum lot width to create three lots. He had converted 8 lots from Ruark Village Subdivision to one lot, unaware that only one dwelling was allowed. The use is to accommodate family members. A 20.10' variance from the 150' road frontage requirement to be 129.90', was to be requested.

Patricia Ryan, an interested party, was sworn in and testified, stating she wanted to hear what the applicant had to say and to know

what he proposed to do.

Ann Marie Owens was sworn in and testified in opposition, stating that she lives beside the applicants property.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be denied, due to the applicant or a representative not being present, and the applicant cannot apply for a period of one (1) year.

Case No. 5563--Carl W. Lewis - East side of Route 382, 175 feet north of Route 17.

A special use exception to retain a manufactured home on a medical hardship basis.

The case was presented by Mr. Betts. Leona Jean Lewis was sworn in and testified in behalf of the application, requesting to retain a manufactured home on medical hardship basis. This is a renewal of application Case No. 4947. Ms. Lewis stated that the situation still exists for her father, but her mother is deceased.

Mr. Betts read a letter from a doctor referencing Ms. Lewis father's health.

Ms. Lewis was reminded that if the hardship ceases the manufactured home would have to be removed and the case has to be renewed every two years for as long as the hardship exists.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be granted on medical hardship basis for a period of two (2) years.

Case No. 5564--Howard Mullins - West side of Route 594, on the north side of Glen Circle, Lot 30, within Country Glen.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joseph Podlaseck was sworn in and testified, requesting a 1'52" variance from the front yard setback of 30' for an open deck that is on the front of a double-wide manufactured home. Mr. Podlaseck stated that a permit that was obtained in 1988 had a 10' front yard setback on it. He stated he is now aware the front yard setback is 30'.

Mr. Betts stated that the copy of the permit Mr. Podlaseck had, shows manufactured home park setbacks of 10' and it should be GR setbacks which are greater. Mr. Betts stated that he could not give a reason as to why this was done. He also stated that there are other problems in the subdivision.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and

carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the variance be granted.

Case No. 5565--Frederick Episcopo - East side of Route 279, at the intersection of Route 277, Lot 124, within Angola Neck Park.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Frederick Episcopo was sworn in and testified, requesting a 1.1' variance from the rear yard setback of 10' for an existing house on Lot 124, Angola Neck Park. Mr. Episcopo stated he was unaware of the encroachment until he went to sell the house in December and a survey was done. He stated the house has been on the property since the mid 80's.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be granted.

Case No. 5566--Bernard Bowerman - South side of Route 54, Lot 27, within Cape Windsor.

A variance from the side yard and the rear yard setback requirements.

The case was presented by Mr. Betts. Bernard Bowerman was sworn in and testified, requesting a 5' variance from the side yard setback and a 7' variance from the rear yard setback requirement, on Lot 27, Cape Windsor. Mr. Bowerman stated that he wants to remove an existing manufactured home and replace it with a Nanticoke Home and a variance is needed. The house with deck/porch will go in the same location as the manufactured home. Cape Windsor at one time had manufactured home park setbacks and is now considered a subdivision which requires greater setbacks and a variance is needed for a house to go on the property. Mr. Bowerman stated his house will conform with others in Cape Windsor.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the variances be granted.

Case No. 5567--Joyce M. Williams - North side of Route 74, $\frac{1}{2}$ mile east of Route 442.

A special use exception to place a second manufactured home to be connected to the existing manufactured home to be used as one single family unit.

The case was presented by Mr. Betts. Joyce Williams affirmed and requested to place a second manufactured home on her property to be

connected to an existing manufactured home for one single family unit. She testified there will be one kitchen, concrete foundation, A-Roof, matching siding and to be completed by summer. She stated the unit will be for one family. She also stated that there are other manufactured homes in the area.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the special use exception be granted, with stipulations: that the units be placed on a permanent foundation, have matching siding, A-Roof and be completed within one (1) year.

Case No. 5568--Concrete Building Systems, Inc. - North side of Route 502, ¼ mile west of Route 13A.

A special use exception to retain a manufactured home to be used as an office.

The case was presented by Mr. Betts. Viren Sharma was sworn in and testified, requesting to retain a manufactured home as an office that was approved five years ago. Mr. Sharma stated he would like to continue to use the manufactured home for an office. He testified he plans to build if the economy improves.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the special use exception be granted for a period of five (5) years.

OLD BUSINESS

Case No. 5541 (cont'd.)--Joseph & Karen Federer - East side of Route 297A, on the south side of Riverview Avenue within Oak Orchard.

A variance from the side yard setback requirement.

The case was reviewed by Mr. Betts and Mr. Jones.

After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the variance be denied, finding the hardship was created by the applicant, the building permit obtained was not for what the applicant was doing, feels should have been aware of the proper setbacks, house could be placed to meet the setback requirements, the permit stated accurate setbacks, the applicant should have applied for the variance before building and the applicant did not meet the requirements for the granting of a variance.

Case No. 5545 (cont'd.)--Bobby & Diane Jones West side of Route 611, 1,426 feet south of Route 16.

A special use exception to place a second manufactured home on farm.

The case was reviewed by Mr. Betts.

After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, finding the Board cannot grant a second manufactured home on farm, since the existing unit does not meet on-farm requirements.

Case No. 5546 (cont'd.)--Tunnell Companies, L.P. - South side of Route 22, Pot Nets and Pot Nets East.

A determination of the existence of a nonconforming use.

The case was reviewed by Mr. Jones.

After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously to approve Pot Nets and Pot Nets East as nonconforming manufactured home parks, subject to a final plot being submitted showing the additional lots to be put on record.

Case No. 5551 (cont'd.)--Daniel W. Yost - West side of Route 113, 0.4 mile south of Route 213.

A special use exception to place a manufactured home on a medical hardship basis.

The case was reviewed by Mr. Betts.

After some discussion, motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted on the basis of hardship for a period of two (2) years.

Case No. 5552 (cont'd.)--Daniel W. & Ellen M. Magee - North side of Route 382, $\frac{1}{4}$ mile east of Route 388.

A special use exception to place an off-premise sign and a variance from the requirements for signs.

The case was reviewed by Mr. Betts.

After some discussion, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be denied, finding the use would have a negative impact on surrounding properties to put billboards where no others are located and the applicants had not met the requirements for granting a variance or special use exception.

Case No. 5554 (cont'd.)--Joseph & Antoinette Mongillo - West side of Route 16A, 400 feet south of Route 16, Lot 5 and part of Lot 9, within Old Broadkill Beach.

A variance from the side yard setback requirement.

The case was reviewed by Mr. Betts.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the meeting be adjourned.

Meeting adjourned at 8:43 P. M.