

Minutes of January 22, 1996

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, January 22, 1996 in the County Council Chambers, Room 115. Courthouse, Georgetown, Delaware.

The meeting was called to order at 7:00 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 Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of December 18, 1995 be approved as circulated.

Case No. 5901--Gerald & Emily Hocker - East side of Route 17, on the south side of Route 26.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Don Steiner and Charles Sockriter were sworn in and testified, representing Gerald & Emily Hocker who requested a 29' variance from the front yard setback requirement to be 11' for a new fuel pump canopy to be constructed over a gas island. There is a two pump island now and they will increase it to four. They feel this will help the flow of traffic, especially in the summer. It was stated the use will not affect visability and will help keep traffic off the road.

There were no parties present in opposition.

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

Case No. 5902--Joseph A. Trinkle - South side of Route 302A, 1/2 mile west of Route 48, Lot 172, within Avalon Park.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Joseph A. Trinkle was sworn in and testified, requesting a 3' variance from the left side property line and a 3' variance from the right side property line on Lot 172 in Avalon Park. The applicant proposes to place a 14'x 66' manufactured home on the property. He cannot meet the setbacks required due to a sand mound for his septic being on the property. He stated there are two other units in the development that have been granted variances. He stated the unit will not be on a solid foundation since it is a single-wide unit. He also stated that he meets all of the Homeowners Association requirements.

Mr. Betts stated that no correspondence had been received pertaining to this case.

There were no parties present in opposition.

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

Case No. 5903--Indian River Land Co. - North side of Route 22,
0.45 mile east of Road 298, Lot 42,
within Lingo Estates.

A variance from the setback requirement between units in a park and from lot lines.

The case was presented by Mr. Betts. Carlton R. Moore and Steven T. Tribbits were sworn in and testified representing Indian River Land Co., who requested a 2.5' variance at the rear of the existing manufactured home (side yard) and a 2.1' variance from the setback requirement between units on Lot 42 in Lingo Estates. Mr. Moore stated that during a routine survey two of the manufactured homes in Lingo Estates are not in compliance. The manufactured homes have been on the properties for years according to Mr. Moore. They want to bring the manufactured homes into compliance to be able to go co-op and sell the lots. It was stated that the Association in Lingo Estates has no problems with the variances.

Mr. Betts stated that the next case No. 5904 applies to Lingo Estates with a similar variance.

Mr. McCabe stated that the testimony in this case will be incorporated into Case No. 5904.

There were no parties present in opposition.

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

Case No. 5904--Indian River Land Co. - North side of Route 22,
0.45 mile east of Road 298, Lot 11,
within Lingo Estates.

A variance from the setback requirement between units in a park and from lot lines.

The case was presented by Mr. Betts. Carlton Moore and Steven Tribbits sworn in on the previous case also represented this case. A 2' variance is requested at the back of the manufactured home (side yard) and a 2.2' variance from the setback requirement between units, the property being Lot 11, Lingo Estates. The manufactured home has existed on the property for years according to Mr. Moore. They want to bring it into compliance.

Testimony from Case No. 5903 is incorporated into this case.

There were no parties present in opposition.

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

Case No. 5905--Robert I. & Linda S. Lekites - Northeast side of
Route One, at Red Mill Pond, Lot 1,
within Willow Creek.

A special use exception to operate a Bed and Breakfast.

The case was presented by Mr. Betts. Robert & Linda Lekites were sworn in and testified, requesting to operate a Bed and Breakfast on their property, Lot 1 in Willow Creek. The applicants presented material pertaining to this case. They propose to build a new home and operate a 3 bedroom Bed and Breakfast. They stated there are no other Bed and Breakfast facilities in the immediate area that they are aware of. They stated that the property is secluded and 1/2 mile from Route One. They stated that the closest neighbor is 600' away and there is hedgerow to the rear of the property. The applicants also stated there are no deed restrictions for having this type of business.

Mr. Betts stated no correspondence has been received pertaining to this case.

In answer to Mr. Jones question the applicants stated there will be no cooking facilities in the rooms.

Eleanor Rider was sworn in and testified in behalf of the application. She stated that she is the closest neighbor and has no objection to the requested Bed and Breakfast. She sees no problem and no congestion problems. She stated that both she and the applicants have large parcels of land.

L. Thomas Miller was sworn in and testified in opposition, stating hs is an adjoining property owner. He is opposed to any commercial use. He stated he has a substantial investment in his property and he does not want any commercial use in a residential area.

Joe Lobiondo, developer of the property, was sworn in and testified that he is not for or against the Bed and Breakfast, but has concerns and questions. He questioned if the applicants will live on the property and he is concerned about maintenance of the road. He stated every homeowner pays \$200.00 for road maintenance

and he questioned if the applicants should pay more and how it could be handled.

The applicants stated in answer to Mr. Lobiondo's question that they will live on the property.

Mr. McCabe explained that the Board has no control over cost of road maintenance.

Richard Sharp, owner of property in the area, was sworn in and testified in opposition, stating if one commercial Bed and Breakfast is allowed, he questioned how many more will come.

Donald Erickson who owns property in the area was sworn in and testified, questioning how the business will be advertised. He stated he duck hunts in the area and he questioned if the people staying in the Bed and Breakfast would be allowed to hunt.

The applicants replied that patrons of the Bed and Breakfast would not be allowed to hunt on the property.

John Myer was sworn in and testified in opposition, stating the area was never meant to be commercial, that it is a nice development and should stay that way.

John Nelson was sworn in and testified stating he has the same concerns as stated. He stated he is President of the Road Owners Association. He is concerned about traffic on the road, increase in traffic, people not having knowledge of the road curves, strange people in the area and concern about the children in the area with more traffic. He questioned if the special use exception stays with the property if sold. He also stated other people in the development will want to comment after hearing what has been stated tonight.

Mr. McCabe stated that the use would stay with the property.

Mr. Mills explained to Mr. Nelson that the public hearing was now being held and when the hearing is closed no further testimony would be heard.

Mrs. Lekites stated she feels the use will not generate a lot of traffic and that they are going to build a nice home that will fit in the development and they will live there.

Mr. Callaway questioned Mr. Erickson how hunters get onto the property.

Mr. Erickson explained that the hunters come in from their own

property.

In answer to Mr. Jones questions, the applicants stated they have not contacted Del D.O.T. about traffic. They will start off slow with the Bed and Breakfast. Mr. Lekites stated that he wants to retire there.

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 Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the case be tabled.

OLD BUSINESS

Case No. 5876 (cont'd)--David & Carolyn Wilson West side of Route
113, 2,300 feet south of Route 625.

A variance from the setback requirements for temporary pens for livestock at a livestock auction market.

The case was reviewed by Mr. Betts.

Mr. Jones read from the minutes of the original hearing pertaining to this case. He also reviewed the Ordinance in reference to things to be considered in the granting of a variance.

Mr. Betts stated that the pens will be 200' from all lot lines. The required setbacks are 300' from the front property line and 500' from the side and rear property lines.

After some discussion, motion was made by Mr. Callaway seconded by Mr. Wheatley and carried unanimously that the variance be granted, finding the use will not adversely affect the area due to the fact that livestock is already being sold there and due to the fact that the auction is already there this would give them some temporary relief of what he is seeking for the limited amount of time. The use is to be limited to not more than (3) three times a year and not more than (4) four days at a time on any one occasion, and no animals kept over night.

OTHER BUSINESS

Case No. 5882--Conrad & Linda Carter

Request for a rehearing.

Mr. Betts stated that he had received a letter (that was read into the record) from Mr. Carter requesting a rehearing on their application that was denied due to lack of representation.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that Mr. Carter be allowed to reapply and pay the fee required.

DISCUSSION

Mr. Wheatley requested that the meetings in April be changed from April 1 and April 15, the first and third Monday nights to April 8 and April 22, the second and fourth Monday nights.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the meetings in April be changed to April 8 and April 22, 1996.

It was stated that the public hearings scheduled for January 8, 1996 and postponed due to the snow storm, have been rescheduled for March 4 1996.

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

Meeting adjourned at 7:56 P. M.