

Minutes of January 23, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, January 23, 1995 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 6:57 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. Wheatley, seconded by Mr. Mills and carried unanimously that the minutes of January 9, 1995 be approved as circulated.

Case No. 5569--Ethel Breasure - South side of Route 321, $\frac{1}{2}$ mile south of Route 113.

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

The case was presented by Mr. Betts. Ethel Breasure was sworn in and testified, requesting to retain a manufactured home on her property on basis of medical hardship. The applicant applied two years ago (Case No. 4912) and was approved for two years. As long as the hardship continues the case must be applied for every two years. Ms. Breasure stated that nothing has changed and the medical hardship still exists.

Mr. Betts read a doctor's letter into the record referencing the medical hardship.

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 the basis of medical hardship for a period of two (2) years.

Case No. 5570--Lee C. Bailey - Northeast side of Route 297, $\frac{1}{4}$ mile east of Route 524, Lot 64, within River Village II.

A variance from the height requirement for a fence.

The case was presented by Mr. Betts. Lee C. Bailey was sworn in and testified, requesting a $2\frac{1}{2}'$ variance from the $3\frac{1}{2}'$ height requirement for a fence in the front yard. Mr. Bailey read a prepared statement, stating he purchased the property with the fence on it as it is. He stated the fence has been on the property for 11 years. He presented copies of documents pertaining to purchasing the property. Statements from his neighbors were presented voicing no objections. Pictures were shown.

Mr. Betts read the statements presented from neighbors, Margaret Benack & Kevin Roberts.

There were no parties present in opposition.

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

Case No. 5571--Ida Fillius & James McCallister - East side of Route 351, on the north side of Bridge Lane, Lot 6, within Whites Creek Manor.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Donald Hoffman, Sea Coast Realty, was sworn in and testified, representing the applicants, who requested a 2'7" variance from the side yard setback of 10', on Lot 6, Whites Creek Manor. A cantilevered overhang on the side of the house encroaches into the setback. Letters from the community stating no opposition were presented. He also stated there is no problem with the Whites Creek Manor Association.

Mr. Betts read a letter into the record from the Whites Creek Manor Association, Charles Hyatt, voicing no objections.

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. 5572--Marie Pierce - East side of Route 279, 800 feet north of Route 279A.

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

The case was presented by Mr. Betts. Dennis Reardon, Attorney, was present representing the applicant, Maire Pierce, who requested to retain the manufactured home on her property on medical hardship basis. The hardship case was approved by the Board two years ago. A medical hardship has to be reapplied for every two years.

Mr. Betts read doctor's letter referencing the medical problems.

Carol Sinclair and Walter Sinclair were sworn in and testified in opposition, stating they opposed the case two years ago at the original meeting. They still oppose the request, questioning the hardship. They stated that the grandson of the applicant was to live in the manufactured home, but Harry Miller lives there. They opposed the noise from the manufactured home, children and animals running around. They also testified they do not see any assistance to Mrs. Pierce.

Emily Waslyk and Marie Waslyk were sworn in and testified in opposition to rowdy, unruly children living in the manufactured home and noise and stated police have been to the manufactured home. They testified that Mrs. Pierce has been seen driving a car and seemed to be well.

Debbie Pierce, great-granddaughter of the applicant was sworn

in and testified in behalf of the request. She explained that she and her fiance, Harry Miller and their three children live in the manufactured home. She stated that she helps care for her great-grandmother and is sometimes needed during the night. It is more on an emergency basis and not constant.

Debra R. Pierce, granddaughter of the applicant and mother of Debbie Pierce, was sworn in and testified in behalf of the application. She stated that her grandmother is 82 years old and does need care, because she has cancer. She stated that her grandmother does some driving, but does not work.

The Board stated that if approved again for two years, and the hardship ceases, the manufactured home would have to be removed.

Debbie Pierce stated that the Sinclair's only have a summer residence.

Mrs. Sinclair stated they do have a summer home, but expect peace and quiet and they are at the property every weekend from May to October.

Motion was made by Mr. Mills, seconded by Mrs. Hudson 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 Mrs. Hudson and carried unanimously that the special use exception be granted on medical hardship basis for a period of two (2) years, finding that a medical hardship does exist, the applicant does need assistance and the manufactured home will not have a negative impact on the area.

Case No. 5573--David B. Webb, Jr. - Northwest side of Route 516,
200 feet south of the intersection with
Route 525.

A variance from the lot width requirement

The case was presented by Mr. Betts. David B. Webb, Jr. was sworn in and testified, requesting a 45' variance from the 150' lot width requirement to be able to subdivide a parcel of land. The applicant is subdividing a parcel of land and only one lot has less than 150' width. The property is zoned GR and will be for homes and manufactured homes.

There were no parties present in opposition.

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

Case No. 5574--John J., Sr. & Yvonne R. Parker - South side of Route 334, north of Route 113, Lots 74-78, within Houston Acres.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Tim P. Hodges was sworn in and testified representing the applicants, who requested a variance of 5' from the side yard setback to be "0" on the lot line, on Lot 75 and leave 20' zoning requirement on Lot 76, for warehouses or commercial buildings for retail. There will be a 20' buffer/easement provided on Lot 76 if needed.

Gerald A. Dorman was sworn in and testified, asking to have the request explained to him. He questioned if an access road is being considered and wanted to see the plan. He stated he has no objections to agriculture residential development.

Chuck Williams was sworn in and testified stating the applicants property will abut to the rear of his property. He questioned if the applicants building will come up to the line on the rear of the property.

Delores L. Dorman was sworn in and testified in opposition. She explained her property location and the road. She feels the applicant is edging more and more into a residential area, changing the life-style and creating more traffic. She stated her home has been there 30+ years. She feels the homes and children should be considered.

The Chairman explained that the applicant's property is already zoned commercial and he can build on it, he is just needing a variance.

Mr. Dorman stated if approved there will be commercial traffic around the building and will cause encroachment.

Motion was made by Mr. Callaway, seconded by Mr. Mills 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 variance be granted, with the condition that a 20' side yard setback be maintained on Lot 76 adjacent to Lot 75.

Case No. 5575--Francis E. Defelice - West side of Route One, on the south side of Andrew Drive, Lot 6, within Bay View Park.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Frank Keefe, neighbor, was sworn in and testified, representing the applicants, who requested a 4.66' variance from the 10' rear yard setback requirement to add a 10' addition with a 3.9' stair case. He stated that an existing deck will be removed.

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. 5576--Deborah, Michael & Darryl Harris - North side of Route 578, $\frac{1}{2}$ mile west of Route 34.

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. Darryl Harris was sworn in and testified, requesting to place a second manufactured home on his property to connect to an existing manufactured home to be used as a single family unit. There will be one kitchen and eventually siding, skirting and an A-Frame roof. Mr. Harris stated that he hopes to have everything completed by summer. The existing unit is a late 1960 or 1970, 12'x 65' unit and new one will an early 1980's, 14'x 70' unit. He testified that a carport or addition will added later to square off the units.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted, with the stipulation that skirting, matching siding and an A-Roof be added and to be completed within one (1) year.

Case No. 5577--Joan & David Whitney - West side of Monroe Street, 250 feet south of Route 54, Lot 8, within Edgewater Acres.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Daniel L. Smith was sworn in and testified, representing the applicants. The applicants were also represented by Joe Raskauskas, Attorney. The applicants requested a 5' variance from the 15' side yard setback on the corner side of their property for a new house they propose to build on Lot 8, within Edgewater Acres. There is a 40' easement between Lot 7 and 8. It was thought that they owned the easement. A 5' variance is needed for a garage constructed on the easement.

Pat Ficken and Chuck Phillips, President of Edgewater Acres Association, were sworn in and testified in support of the variance request. Mrs. Ficken stated she feels the use will be an improvement to the neighborhood.

Mr. Betts read a letter of opposition from Paul & Patricia Nishimoto.

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. 5578--Ann Marie Moor - North side of Route 297, 400 feet east of Route 24, Lot 60, within River Village II.

A variance from the height requirement for a fence.

The case was presented by Mr. Betts. Ann Marie Moor was sworn in and testified, requesting a variance in the height requirement for a fence that has been installed on her property on Lot 60, within River Village II. A 3½' fence height in the fence yard is allowed 30' back. The applicants have installed a 6' or 7' fence down one side of the property. She would like the fence to remain for the safety and well being of her children. She stated the neighbor has an above ground swimming pool and she is fearful her children will get in the pool. Pictures were presented. She referenced the Zoning Code pertaining to swimming pools.

Mr. Betts explained the Zoning Code requirement for swimming pools.

Robert Stanaitis, father of the applicant, was sworn in and testified in behalf of the application.

Robert Davis, adjoining property owner, was sworn in and testified in opposition, stating he is not aware of any problems with his pool. He also stated that the fence blocks his view and he cannot properly watch his children when they are out. He requested that the first 30' of fence be lowered. He stated that Ms. Moor is not a full time resident.

Ms. Moor presented a picture of the Davis property showing vehicles and a boat on his property.

Mr. Davis stated that his vehicles are not the problem, that Ms. Moor's fence should be considered.

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

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be reopened to hear more testimony.

Robert Moor, husband of the applicant, was sworn in and testified in behalf of the variance. He questioned why they should cut their fence down when there is another neighbor who has a fence up in his front yard.

Motion was made by Mr. Mills, seconded by Mr. Calloway 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. Wheatley that the variance be granted, with Mr. Calloway voting no. Motion carried with four voting in favor and one voting against.

Case No. 5579--Irma Lee Ellis - South side of Route 24, 100 feet east of Route 497.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Irma Lee Ellis was sworn in and testified, requesting to place a manufactured home on property for her grandson and his wife to live in. She has subdivided out a parcel of land for him.

It was explained to the applicant that if approved the grandson's name would have to be put on the deed and manufactured home.

Mrs. Ellis stated that she will deed the property to her grandson.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted.

OLD BUSINESS

Case No. 5554 (cont'd.)--Joseph & Antoinette Mongillo - West side of 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.

Mr. Betts reviewed the case and presented copies of a placement survey received from the applicant as requested by the Board. The applicants will remove the steps on their house and put them on the rear of the house. They need a 5' variance on one side and a 9.7' variance on the other side.

After some discussion, motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that a 5' variance and a 9.7' from the side property line be granted.

Case No. 5556 (cont'd.)--Mollie J. Collins - South side of Route 24, 700 feet east of Route 497.

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

Mr. Betts reviewed the case.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson that the special use exception be granted, with Mr. Mills, Mr. Wheatley and Mr. McCabe voting no. The special use exception was denied with three voting in favor of denial and two voting against denial. The vote being:

Mr. Callaway - voting yea
Mrs. Hudson - voting yea
Mr. Mills - voting nay, finding the use will adversely affect the community and all of the parcels there have a single family dwelling

on them.

Mr. McCabe - voting nay, finding the use will adversely affect the community, three people were in opposition and a gentleman said he would subdivide and put the manufactured home on the property anyway whether approved or not

Mr. Wheatley - voting nay, and adopted the statements made by Mr. Mills and Mr. McCabe.

Case No. 5557 (cont'd.)--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 reviewed by Mr. Betts. Mr. Betts reported to the Board as requested that the property is zoned C-1 General Commercial, therefore, the case would have to be considered as a medical hardship. He stated there is only (1) other manufactured home in the C-1 District. All others are in an AR-1 District. A manufactured home in a C-1 District would have to be considered by the Board for business or medical hardship, but cannot be considered as a permanent residence.

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

Case No. 5561 (cont'd.)--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 reviewed by Mr. Betts. Mr. Betts explained his findings pertaining to this case as requested by the Board. He presented copies of a tax map, and stated that the applicants will have enough road frontage to subdivide and maintain the 150' road frontage requirement for a new parcel, without needing a variance, but would still need a special use exception for the manufactured home.

After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted and the variance be denied.

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

Meeting adjourned at 9:12 P. M.