

Minutes of January 24, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, January 24, 1994 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, Mrs. Hudson, Mr. Mills, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the minutes of January 3, 1994 be approved as circulated.

Case No. 5265--Stephen Paul & Caroline McDaniel Lamphier - Southeast side of Maple Lane, 1,000 feet south of Cedar Road, Lot 21, within Keen Wik Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Stephen Lamphier was sworn in and testified, requesting a 2' variance from the 10' side yard setback, on Lot 21, in Keen Wik. Mr. Lamphier presented copies of a site plan and Finding of Facts from a previous meeting where Mr. Lamphier was granted a variance. Mr. Lamphier proposes to build a new home to replace the existing home. He proposes to place the new home in the same location as the existing one. Mr. Lamphier had been granted a variance of 3' for his existing home, but for the new home a variance of 2' is requested. Mr. Lamphier testified that due to the curve of the canal and the roadway he needs a variance.

David L. Jones was sworn in and testified in opposition, stating he owns neighboring property and had not seen the plans for the new home. He feels the homes are close enough. After viewing Mr. Lamphier's plans, he voiced no objection if the new home is placed in the same location with a lesser variance.

No other persons appeared in opposition.

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

Case No. 5266--William & Helen Swartz - Northeast side of Route 54,  $\frac{1}{4}$  mile east of Route 381, Lot 26, Block E, within Swann Keys subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. William & Helen Swartz were sworn in and testified, requesting a 3' variance from the 10' side yard setback on Lot 26, Swann Keys. The applicants propose to replace a manufactured home on their lot with a 20' wide unit. Their lot is 40'x 100' in size. They stated by placing the unit in the center of the lot the setbacks could be met, but would take away

their parking and also there is a shed on the property. They have not purchased the unit yet. Parking could be provided in the front but cars would be on the street.

Mr. Betts read a letter of opposition from Bettie Bozzi, Park Manager of Swann Keys Mobile Home Park Community, Swann Keys Civic Association, Inc.

There were no parties present in opposition.

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

Case No. 5267--Harry L. Justice Southwest side of Route 382, 753 feet southeast of Route 392.

A variance from the fence height requirements.

The case was presented by Mr. Betts. Harry & Dolores Justice were sworn in and testified, requesting a variance from the 3½' height requirement for a fence in the front yard to be 7' and to be 23' from the 40' setback requirement for a fence in the front yard, needing a variance of 17'. The applicants have placed a 70' long section of fence on their property that is 7' in height and in the front yard. The fence is 23' from the front property line. The applicants stated they wanted the fence for privacy. The fence does not go all the way to the rear property line. Their dwelling is located 150' from the fence.

Mr. Betts read a letter of opposition from William A. Hudson stating his view is blocked.

Mabel A. Hudson was sworn in, in opposition and was represented by Jim Yori, Attorney. A package of material with pictures was submitted. Mr. Yori testified that Mrs. Hudson is Mr. Justice's sister and lives adjacent and her home is within 25' to 30' of the fence. She feels the fence blocks her view, as well as the view from her driveway, which could be dangerous when going onto the highway. Mr. Yori explained the material and pictures presented. He also referenced the Zoning Code pertaining to the granting of a variance. Mr. Yori stated the applicants have room to move the fence back and cut it down to meet the 3½' height requirement. He feels the hardship has been created by the applicants. Mr. Yori stated that the fence is a detriment to public welfare. He stated that Mrs. Hudson does not oppose a fence, but feels it should comply with the Code by cutting it down or moving it back for visibility.

The applicant testified that the fence has been on the property approximately two months.

Kenneth Hudson was sworn in and stated he is opposed to the fence.

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

At the conclusion of the public hearings, the Chairman referred back to this case. Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variance be denied, finding the applicants have not met the requirements for the granting of a variance.

Case No. 5268--Robert Segletes - North side of Route 38, 350 feet west of Route 229.

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

The case was presented by Mr. Betts. Robert & Ruth Segletes were sworn in and testified, requesting to retain a manufactured home on their property on the basis of hardship. The unit has been on the property since 1988 as hardship. They stated that the hardship situation is the same and the manufactured home is still needed.

The Chairman explained that when the hardship ceases the manufactured home has to be removed.

There were no parties present in opposition.

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

Case No. 5269--Thomas Dennis - Southwest side of Route 298, 3,830 feet south of Route 299.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Thomas Dennis was sworn in and testified, requesting variances from the lot width requirement. Mr. Dennis stated that there are two parcels of land that he wants to subdivide into four parcels. He will obtain one parcel from his grandmother. His parcel is to the rear of the property, but if the variances are approved a 50' right-of-way will be provided. Mr. Dennis requested (2) 28' variances from the 150' road frontage requirement, a 100' variance from the 150' road frontage and a 35' variance from the 150' road frontage requirement to create (4) parcels.

There were no parties present in opposition.

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 Mr. Callaway and carried unanimously that the variance be granted, finding the use will not adversely affect the neighborhood.

Case No. 5270--Howard L. & Janice L. Willis - East side of Route 228,  
409 feet south of Route 212B.

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. Howard & Janice Willis and Robert Lamb, agent representing Bank of Delaware, owner of the property, were sworn in and testified. The applicants requested to place a 1994, 26'x 50' manufactured home on property they are purchasing for their residence. They testified that an existing dwelling will be removed/torn down, and replaced with the manufactured home. They feel the area will be upgraded.

Mr. Lamb stated the manufactured home will improve the neighborhood.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that that the special use exception be granted, finding the use will not adversely affect the neighborhood.

Case No. 5271--James L. Smith - North side of Route 26, at the  
intersection of Route 340, Lot 61, within  
Point Farm Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. James Smith was sworn in and testified, requesting two variances of 2' each from the 15' side yard setback to construct a dwelling with a garage with small shop area on Lot 61, Point Farm Subdivision. He testified that the neighbors have voiced no objections to his plans and that a party with the Association expressed no opposition. The dwelling has not been constructed.

Sue Carpenter, President of the Board of the Association was sworn in and testified, that she has not seen the plans for the dwelling. She is concerned that if one variance is granted many others could follow. She is also concerned with the size. Mrs. Carpenter stated after viewing the plans, that the home will be an addition to the development, but she has no stand on the request. She is concerned that a precedent will be set.

Joseph Fitzgerald, a Board Member for Point Farms, was sworn in and testified, questioning the width of the house and the criteria to be met for granting a variance. He is opposed to the requested variance. He feels the applicant was aware of the setbacks.

H. David Hastings was sworn in and asked Mr. Smith if he is aware that by placing his home in the proposed location, his view could be blocked, by other homes that could be built.

Mr. Smith stated that due to narrow part of the lot and septic location, he cannot build what he wants without a variance.

Motion was made by Mrs. Hudson, 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. Mills and carried unanimously that the variance be denied, finding the applicant has not met the criteria for granting a variance and the house is not built yet.

Case No. 5272--Freddie & Karen Rosen - West side of Route 502,  $\frac{1}{2}$  mile north of Route 512.

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

The case was presented by Mr. Betts.

There were no parties present in behalf of the application.

The Chairman tabled the case until the end of the meeting.

At the conclusion of the public hearings, the Chairman referred back to this case. There were no parties present representing the application.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, due to the fact no one was present representing the case.

Case No. 5273--Sharon White - South side of Route 471,  $\frac{1}{4}$  mile west of Route 432.

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. Sharon White was sworn in and testified, requesting to place a 1987-88, 28'x 64' double-wide manufactured home on her property for her residence. She testified that there is a manufactured home and vacant lot on either side of her property.

There were no parties present in opposition.

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

Case No. 5274--Timothy A. & Carol T. Kirkpatrick - North side of E. Mill Run, .4 mile south of Route 88, Lot 26, within Overbrook Shores Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Raymond McCabe, Jr. was sworn in and testified, representing the applicants who requested a  $1 \frac{1}{5}$ " variance from the 15' side yard setback on Lot 26, Overbrook Shores Subdivision for a house. Mr. McCabe stated the property had

been measured and staked out, but the mason tipped it when he did his work. It is a masonry error.

There were no parties present in opposition.

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

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

Meeting adjourned at 8:13 P. M.