

Minutes of January 25, 1993

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, January 25, 1993 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. Wheatley, Mrs. Hudson, Mr. Mills, Mr. Callaway, Mr. Berl-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of January 4, 1993 be approved as circulated.

Case No. 4988--Richard Evans - On a private road on the south side of Route 72, 75 feet southeast of Route 419.

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. Richard Evans and Jodie Smith were sworn in and testified, requesting to place a 1993, 14'x 76' manufactured home on Mr. Evans property for permanent residence. They testified that there are other manufactured homes in the area, the nearest on adjacent property.

There were no parties present in opposition.

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

Case No. 4989--George Albert Betts - North side of Route 241, $\frac{1}{4}$ mile west of Route 319.

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. George Albert Betts and Dolly May Moore were sworn in and testified, requesting to place a new 14'x 70' manufactured home on property Mr. Betts is subdividing from his 6.302 acres. Mr. Betts has a manufactured home on the property now that he plans to keep on the remaining acreage, after he subdivides out a one acre parcel for the new manufactured home he is requesting. Mr. Betts will live in the new manufactured home on the one acre parcel. He does not know who will live in the existing manufactured home that will be on the remaining acreage, he may rent it. They testified that there are 3 other manufactured homes in the area, the nearest approximately $\frac{1}{2}$ mile away.

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.

Case No. 4990--Madeline Lance - South side of Route 277, 1,300 feet south of Route 24, Lot 25, within Angola By The Bay.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Anthony Lance was sworn in and testified representing the application. The applicant requested a 5' variance from the front yard setback requirement of 30' on Lot 25 in Angola By The Bay for a porch/deck with roof. Mr. Lance stated that construction has started on the addition.

Mr. Betts read a letter of opposition from John Dow, General Manager of Angola By The Bay Property Owners Association. Mr. Betts also stated that the applicant does not have a County building permit.

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. Callaway, seconded by Mrs. Hudson and carried unanimously that the variance be denied, finding the applicant has no building permit and the Angola By The Bay Property Owners Association opposes the requested variance.

Case No. 4991--William A. McCray - West side of Route 369, 600 feet south of Route 54.

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

The case was presented by Mr. Betts. William McCray was sworn in and testified, requesting a 6.11' variance from the front yard setback requirement of 40' and a 4.3' variance from the side yard setback requirement of 15' for a dwelling that was placed on the property by Oakwood Homes. The job has been completed. Mr. McCray had the property surveyed and staked and felt Oakwood Homes knew the proper setbacks. Oakwood Homes never remeasured according to Mr. McCray. The error was discovered after the home was set-up. Mr. McCray stated that Oakwood Homes had the permit. He testified that he has an odd shaped lot, but the home could have been placed on the property to meet the setbacks.

Mr. Betts stated that the building permit was issued correctly.

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, due to the odd shape of the lot.

Case No. 4992--Cecil S. Long - Northeast side of Route 326A, 800 feet southeast of Route 82.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Cecil Long and Louis Chanley were sworn in and testified requesting an 8' variance from the front yard setback requirement of 40' for a sunporch addition. Construction has been started, but stopped until after the hearing. Pictures were presented.

Mr. Betts read letters that were received in behalf of the variance request from, Juanita and L.K. Bostic and John T. and Grace Wilkerson.

Juanita Bostic and Helen Bigler were sworn in and testified in opposition, stating the addition obstructs their view coming out of their drive and concerned that it will be a traffic hazard. Mrs. Bostic explained that in her letter she was in favor only if the applicant stayed within the law. Pictures were presented and the County permit was issued correctly.

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. Callaway and carried unanimously that the variance be granted.

Case No. 4993--North Shores, Inc. - East side of Route 300, Lots 187 - 186, within North Shores.

A variance from the lot width requirement.

The case was presented by Mr. Betts. Daniel G. Anderson was sworn in and testified representing North Shores, Inc. and was represented by Brian Shirey, Attorney. The applicants requested a 45' variance from the 100' lot width requirement and a 10' variance from the 100' lot width requirement to move lot lines on his property to provide wider beach access for emergency and normal vehicles. The easement access will be 20' wide.

Mr. Betts read a letter in behalf of the variance's requested from the North Shores Board of Governors, Pascal Girard, President.

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 Mr. Callaway and carried unanimously that the case be tabled.

Case No. 4994--Roy & Phyllis Hjlemar and James Williams - Northwest side of Mississippi Ave., 350 feet north-east of Bay Shore Drive, Lot 4, Blk. K, Sec. 1, within North Shores.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Greg Economos was sworn in and testified, representing the applicants who requested a 4.7' variance from the side yard setback requirement of 15' to place steps on the side of their proposed house. The lot is long and narrow and is also a corner lot, making it impossible to put the steps at the proposed location and meet the setbacks and have a large enough house. The house will be 24' wide. A plan was shown and explained for what is proposed.

There were no parties present in opposition.

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

Case No. 4995--David & Patsy Williams - Northwest side of Mississippi Ave., 350 feet northeast of Bay Shore Drive, Lot 3, Blk. K, Sec. 1, within North Shores.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Greg Economos sworn in on the previous case also represented this application. The applicants requested a 3.7' variance from the side yard setback requirement on Lot 3, North Shores. The variance request is for steps on a proposed dwelling. The situation is basically the same as was stated on Case No. 4994. The dwelling will be 33' in height.

There were no parties present in opposition.

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

Case No. 4996--Linwood A. Hayden, Sr. - North side of Route 54, one mile east of Route 381, Lot 36-E, Swann Keys.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Linwood Hayden, Sr. was sworn in and testified, requesting a 9" variance from the rear yard setback requirement of 5' on Lot 36E, Swann Keys. Mr. Hayden's addition is almost completed. It is being constructed by Resort Builders. There was some confusion about Swann Keys and County requirements. Mr. Hayden stated there are other similar situations in the park. Letters from six neighbors in favor, were presented. Pictures were shown.

Mr. Betts read letters from Don & Shirley Steger, Eugene Branagan, William Harper, James Thorpe, Alvin Truskowski and Stanley & Betty Kusak voicing no objections to the variance. Mr. Betts also stated that the building permit was issued correctly.

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. 4997--Timothy J. Smith - Route 273A, Lots 433, 434, 435, 436, within Bay Vista.

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

The case was presented by Mr. Betts. Timothy Smith and Gary Britton were sworn in and testified, requesting a 7'6" variance from the side yard setback of 10' for a deck and steps and a 5' variance from the front yard setback of 30' to be 25' for steps. There is an existing structure on the property and the applicant has started the addition. He testified that a front entrance is needed. A second floor deck for a 2nd. entrance is being constructed. It will be for fire safety as well. There is marshland to the rear of the property.

Richard Batchelor property owner in the area, was sworn in and testified, questioning what the applicant proposes. He stated he has no objections as long as the wetlands are not disturbed.

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. 4998--Clarence M. Gardner - West side of Route 536, at the intersection with Route 541.

A special use exception to operate a golf driving range and a putting green on a proposed golf course and a variance from the lot size requirement.

The case was presented by Mr. Betts. Clarence Gardner was sworn in and testified, requesting to operate a golf driving range and putting green on proposed golf course, on property he is purchasing. He is also requesting a variance from the property size for the uses. Mr. Gardner stated he is withdrawing his request for the driving range because he could not acquire enough land. He presented a plot showing what is proposed. The golf course will be 18 executive holes.

Burton Moore, Jr. was sworn in and testified, questioning where the golf balls will go in relation to his dwelling. He also mentioned wetlands in the area and questioned whether the existing farmhouse will stay on the property.

Mr. Gardner responded stating that there is a buffer of trees between Mr. Moore's house and the golf course. He also stated he is willing to work out screening with Mr. Moore.

Joseph Higgins was sworn in and testified stating he wanted to view the plans.

Mr. Betts explained that a golf course is permitted in an AR-1 District, but a variance is needed for the property size. He quoted from the Zoning Code the uses permitted on a golf course.

Susan Nancarrow was sworn in stating that there is poor drainage in the area. She also is concerned about the wetlands, impact on the property and traffic problems.

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

Case No. 4999--Rodney Allen Baker - Southeast side of Route 32,
1,900 feet east of Route 585.

A special use exception to place a manufactured home to be used for business purposes and operate a shooting range.

The case was presented by Mr. Betts. Rodney Allen Baker was sworn in and testified and was represented by Paul Enterline, Attorney. The applicant is requesting a special use exception to place a manufactured home to be used for business purposes and operate a shooting range. Mr. Enterline requested that a party in behalf of the request be heard first because he is a police officer for the Town of Laurel and needed to return to work. A Conditional Use was granted for a gun shop for Mr. Baker on March 5, 1992 by the Planning and Zoning Commission and County Council.

Officer Brian Kunkowski was sworn in and testified in behalf of the application. He gave testimony pertaining to his work and credentials. He testified that the Laurel Police Department acquires ammunition from Mr. Baker and they also use the range for firearm practice for training. He stated they have to have three sessions per year. He feels Mr. Baker's Change of the range and birms will be sufficient. He stated that the County nor the Towns have ranges for the police training. Mr. Kunkowski stated that the Delaware State Shooting range is in Smyrna.

Mr. Tommy Pepper was sworn in and asked questions pertaining to the police training.

John Cordrey, Attorney, asked if the V.F.W. in Bridgeville had a firing range that the police could use.

Officer Kunkowski stated it was his understanding that a person would have to join the V.F.W. and pay dues to use the range. He stated that there is no charge to use Mr. Baker's shooting range, that to his knowledge it is a non-profit range.

Mr. Baker testified that he is a poultry farmer and has a gun business. He and his wife live on the property. He is certified by U. S. Police Fire Arms Council and has all licenses required by the State. He uses a mobile type construction office for his business. His business is geared 80 to 90% towards law enforcement, he is a consultant for law enforcement and his range is a free/charge test

shooting range for law enforcement. He questioned the way the add for the public hearing was written with regards to the type of business he has. In changing his shooting range there will be no shooting after 8:00 P.M. or 1 hour after sunset. He is willing to limit the time to two days a week. He is willing to work with anyones schedule. There will be no rifle, no long range or high power weapon and no assault weapons. He presented a petition with signatures in favor of the request. Mr. Baker had a map showing his property and surrounding properties. He also had an aerial map showing his property. Mr. Baker testified that there is a chicken house 210 yards away on a neighbors property and the nearest building is approximately $3\frac{1}{2}$ miles away from the firing range. The backstop for the range will be 50' wide and 15' high and will be u-shaped. He testified that there are other people that hunt and have sporting purposes in the area.

Mr. Betts stated that the add for the public hearing was correctly advertised according to the Zoning Code. Mr. Betts read the petition with 16 signatures. He also read an afadavit signed by Howard Smith, with no objections.

Brian Keith Baker was sworn in and testified that if proper safety is implemented and hours followed, he feels the use should not be denied. He feels it is a needed service for the police.

Michael G. Fielding was sworn in and testified in favor stating he has purchased guns from Mr. Baker and feels Mr. Baker is very knowledgable about guns and safety.

Gary L. Davis was sworn in and testified in opposition, presenting a petition. He testified there are 51 houses within hearing distance even if Mr. Baker changes his range. He opposes the noise. He works nights and cannot sleep. He stated it is a noise nuisance.

John Cordrey questioned the manufactured home that is on the property, hand-gun firing and house location.

Henry Peters was sworn in and testified in opposition stating he owns 170 acres. He objects to the noise created by the shooting range. He does not object to the office/business use. He would not oppose occasional shots.

John Cordrey referenced the Conditional Use that was granted to Mr. Baker. He presented a copy of the conditions to the Board. He referenced the noise and stated he is not opposed to the manufactured home type structure for business.

James Robert Willis, Jr. was sworn in and testified that he has had to call police because of firing on Mr. Baker's range after 9:00 P.M. at night. He has no problem with small amount of firing.

Hugh Carroll was sworn in and testified that he has 85,000 chickens on his property across the road from Mr. Baker and the firing disturbs them. He does not oppose the firing on a limited basis.

Joanne Davis was sworn in and testified that she is concerned about noise, neighbors children, safety, can't sleep, her grandchildren

and stray bullets.

Mr. Cordrey stated that if approved there should be a limit with no night time shooting and guidelines for shootings.

Mr. Baker stated that there is 2,000 rounds, two days for police, but there is no set pattern.

In rebuttal Mr. Enterline feels the use is a valuable service to the County provided for police. He stated they are willing to cooperate with the community.

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

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

Meeting adjourned at 9:35 P. M.