

Minutes of January 27, 1997

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, January 27, 1997 in the County Council Administration Office Building, 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. Callaway, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Jones-Attorney, Mr. Betts-Zoning Inspector III and Mrs. Talley-Planning & Zoning Secretary.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of January 13, 1997 be approved as circulated.

Mr. Jones read a statement explaining how the Board of Adjustment meetings are conducted and the procedure for hearing the cases.

Case No. 6229--New Development Corp c/o David Lui - West side of Route 13, 2,933 feet north of Route 18.

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

The case was presented by Mr. Betts. Charles Towers with Tower Signs, was sworn in and testified representing the applicants who requested to place an off premise sign and a 200' variance from the 300' setback requirement for a sign from a dwelling. The sign will be 100' from an adjacent dwelling. Mr. Towers stated that the applicant owns several businesses and he wants to place an off premise sign to advertise a business that he owns in the city limits of Seaford. He stated that the property is only 500' wide and the applicant cannot meet the 300' setback requirement from a dwelling. The sign will be 10'x 30' in size. The applicant will put an office building on the property and the sign will be to the side of the property, but will advertise the business in Seaford. Mr. Towers stated that there will be no danger to traffic going in or out of the property. There is no intersection at the location. He stated that there is no other billboard nearby.

Mr. Wheatley stated that there is a billboard advertising the business near Bridgeville.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, 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 that the special use exception and variance be denied, finding to approve the use it will set a precedent, will substantially affect adversely the use of adjacent and neighboring property and the applicant had not shown the requirements for the granting of a variance under Article 115-211 of the Zoning Code. Vote 5-0.

Case No. 6230--Travis V. & Karen Brownlee - West side of Route 594,  
1/4 mile south of Route 545, Lot 42,  
within Country Glen.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Travis Brownlee was sworn in and testified, requesting a 4.7' variance from the front yard setback and a 9.81' variance from the rear yard setback on Lot 42, within Country Glen. A deck encroaches into the front yard setback and a garage encroaches into the rear yard setback. It was stated that the structures have been there for approximately five years.

Mr. Betts stated that when originally placed the setbacks given were for manufactured home parks and Country Glen is not a manufactured home park.

Joanne Moore, Property Manager, was sworn in and testified in behalf of the application, stating they are in favor of keeping the garage and deck there.

There were no parties present in opposition.

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

Case No. 6231--Bridgeville Rifle & Pistol Club, Ltd. - North side  
of Route 545, one mile east of U.S. Route  
13.

A special use exception to expand a nonconforming use.

The case was presented by Mr. Betts. Jeffrey William Hague was sworn in and testified representing the applicants who want to expand a nonconforming use to use a portion of an existing 100'x 40' storage building for an indoor pistol, small rifle, and archery range. The use will be for members only and would not be open to the public. Mr. Hague stated that the Bridgeville Rifle & Pistol Club, Ltd. has been in existence for over 50 years. They want a place to have indoor shooting. There is no other place a

private club can use. The club has 150 members and there is no membership drive, it is done by word of mouth and the member has to buy stock.

George Chaloupka was sworn in and asked questions about the amount of shooting that is to take place inside and outside. He stated that he is a neighbor to the applicants. He questioned matches to be held outside.

Mr. Hague questioned how they could be more neighborly. He stated that he has not heard any complaints himself.

Mr. Chaloupka questioned if the use would mean more irritation to the neighbors.

Mr. Hague stated that there would be no more noise since the shooting would be done inside. There would be no starting time other than matches.

Geri Coble was sworn in and testified that she lives two doors down from the club and has lived in the neighborhood all her life. She purchased the Blades property. She stated that there used to be four matches a year and she helped Mr. Blades when he was there, but when the the present organization took over things changed. The organization has not talked to the neighbors. They have asked that they not fire as early as 6:00 A.M. She stated that there has been firing at night time with scope. She stated that she has a deck on her house with a hot tub and she likes to enjoy it. She stated that if she tried to sell her property now she would lose money. She fears if the use is granted the organization will try to operate without rules and regulations. She stated that if approved she would appreciate no firing before 10:00 A.M. on weekends unless they have a match.

Mr. Mills questioned if she would be able to hear the shooting since it would be inside and not outside.

Ms. Coble stated that she can hear inside.

Mr. Hague stated that at the present time the building is only a shell and is not fired in now.

Mr. Mills asked Mr. Hague what kind of construction, and insulation the building would have.

Mr. Hague stated that he does not have the plans yet, because it has not been approved, but no fragments will go outside and the building will be insulated. He also stated that they do not allow night time firing and they do have rules and regulations. He

stated that the firing Ms. Coble heard could possibly have been the State Police. Mr. Hague stated that they have one match a month.

Ms. Coble stated that the police feels it is a situation they cannot become involved with. She stated that the Board should consider restrictions on the new building if approved and it is the consensus of the group opposed to the request, that they oppose anything new going there.

Mr. Mills asked Mr. Hague if there would be a problem if the hours were limited.

Mr. Hague stated that there will be no noise created and the neighbors are not close.

Mr. Mills asked if there would be a problem with the hours starting at 8:00 A.M. weekdays and 10:00 A.M. weekends.

Mr. Hague stated that the club would have no problems if there are sound reasons. He feels there will be no problems with the hours suggested.

Ms. Coble stated that 5:00 P.M. would be a reasonable hour to stop firing.

Mr. Hague stated that 5:00 P.M. would be unreasonable, since he does not get home from work until 5:00 P.M. He feels 9:00 P.M. would be better, since the noise will be reduced by being inside.

Mr. Chaloupka questioned if there will be outside shooting.

Mr. Hague stated that there will be some outside shooting, that pistol firing is now done in the woods in a pit that is 400 yards from the road and the birm is 600 yards from the road in back and 600 yards from the nearest house.

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

Ms. Coble stated that the pistol range the applicants are using now, there are no problems with, since it is further from their homes, but the new building will be closer.

By a showing of hands there were six (6) people present in opposition and four (4) people present in favor.

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. Mr. Wheatley questioned how much noise the new facility will make when completed. After some discussion, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the case be tabled until the next meeting.

Case No. 6232--Bethany Beach Development, LLC - West side of  
Foxfire Drive, at the intersection of  
Route 361, within Foxfire Meadows.

A special use exception to place a manufactured home to be used as a temporary sales and construction office for a development.

The case was presented by Mr. Betts. Troy Purnell was sworn in and testified representing Bethany Beach Development LLC, who requested to use a 12'x 36' manufactured home to be used as a temporary sales office for a development for a period of two years. Mr. Purnell stated that a construction trailer does not need a hearing. He stated that the unit is already on the property having been there 4 to 5 months. He stated that the unit was moved into the subdivision and he applied to the Board to use it as a sales office. He presented pictures.

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 for a period of two (2) years.

Case No. 6233--Nanticoke Homes, Inc. - South side of Route 36,  
165 feet east of Route 619A.

A variance from the minimum lot width requirement for four lots.

The case was presented by Mr. Betts. Karen Emory Brittingham and Paul David Johnson were sworn in representing the applicants. Ms. Brittingham stated that the property is owned by Nanticoke Homes. They are requesting a variance from the minimum lot width requirement of 150' for four lots, each to have 129.34' of width. She stated that the entrances have been approved by the State Highway Department. She stated that in 1992 the property was approved by the Planning and Zoning Commission for a 10 lot subdivision. Soils were suitable for septic systems by DNREC. She stated that the subdivision will create a Homeowners Association, and this is not usually done in a small subdivision. She presented a letter from Allen Redden with the Department of Transportation

pertaining to this case. Ms. Brittingham explained the subdivision by showing a site plan. She explained where the water would run too and that the lots would have on-site standard septic systems. She stated that she had a letter from Lisa Wood explaining the septic systems. She stated that the State would dig a ditch and maintain it.

Mr. Mills asked how much road frontage there is between the four parcels, and how many entrances there will be.

Ms. Brittingham stated that combined there is 390' of frontage, and there will be three entrances for all.

Mr. Betts stated that there had been no correspondence received other than what was presented pertaining to this case.

William R. Pike, Jr. was sworn in and testified in opposition, showing on the site plan where the water run-off will go. He stated that the property is very wet and when it rains a big pond lays on it. He stated that the culvert is 14" below the road. He stated that they will have to dig longer and deeper to make it work. He stated that when there was to be a 10 house subdivision they were to have a central mound and all have separate drains that would tie into the mound. He questioned where the water will go. He showed where his well is in front of his property and the water will go past and migrate into his well. He is also concerned about having a big ditch. He stated that water lays on the property because of poor drainage. He stated that none of the lots would perc, yet if the septic goes in the front yard thats where the water lays.

Phillip B. Elliott employed with Del, D.O.T., was sworn in and testified in opposition. He stated that he has lived in the area for 20 years and has called Allen Redden before. He stated that there has been four acres of water on the land some thought it was a pond. He stated that he cannot see approving the property with poor drainage. He stated that Mr. Redden cannot make water run up hill.

Ms. Brittingham stated that Mr. Redden has no problems with their plans. She stated that they can substantiate the borings that were done. She presented a plat showing that and referenced the Lisa Wood letter. She stated that they will have a Homeowners Association and the grading will be done by Nanticoke Homes to bring the water into the ditches.

Mr. Mills asked if the application for the four lot subdivision is not approved would the applicants make it a three lot subdivision, which is permitted.

Ms. Brittingham replied that they would.

Mr. Pike stated that the property will drain at him and he is concerned about the size of the ditch. He is opposed to the applicants request.

Mr. Mills explained that the applicants can develop three lots but they want four. He also questioned the drainage approval and Planning and Zoning approval.

Mr. Betts stated that the applicants have to meet the requirements and go to DNREC.

Mr. Pike stated that he is concerned about people buying the property and not knowing that it is wet land. He feels people should be aware and questioned who is going to protect the people.

Mr. Jones, Attorney, explained that the property can be subdivided into three lots and the applicants are requesting approval for one more lot.

Ms. Brittingham stated that there is full disclosure to the person who is buying the property and they will have to be a part of the Homeowners Association.

Mr. Elliott stated that there is property across the street that is higher and it did not perc.

Harry Green was sworn in and testified in opposition, stating that he has lived there since 1950 and the property is low. He stated that he has seen a tractor and trucks buried there and because of the amount of water a man husked corn from a row boat. He stated that he cannot imagine anyone letting a house go on the property.

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. Callaway, seconded by Mr. Mills and carried unanimously that the variance be granted with three (3) entrances.

Case No. 6234--William Snyder - South side of Route 26, 1/4 mile west of Route 347, Lot 14, within Roxford Trailer Park.

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

The case was presented by Mr. Betts. William Snyder was sworn in and testified, requesting a 4' variance from the rear property line for a shed, a 2' variance for second shed and a 11' variance from the 20' setback between units in a park, being Lot 14, Roxford Trailer Park. Mr. Snyder stated that the sheds are used for storage of tools and garden equipment. They were placed not knowing where the property lines are located. He stated that the Association in Roxford Park is aware of the variance request and has no objections. The encroachments were discovered by the Planning & Zoning Inspector.

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

Mrs. Hudson questioned if there are others in the park with a similar situation.

Mr. Snyder stated that he does not know.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, 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 Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the variances be granted, finding the use will not adversely affect the area.

Case No. 6235--Bessie V. West - Route 334, 1/2 mile southeast of Route 333.

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

Mrs. Hudson stated that she would not be participating in this case due to a conflict of interest.

The case was presented by Mr. Betts. Bessie V. West and Glenn Allen Reed, Manager of Oakwood Homes, were sworn in and testified. Ms. West requested to place a new 20'x 68' or smaller manufactured home on her property for her use. She does not have the unit yet. The existing dwelling on the property will be removed. Ms. West stated that the work could be completed within six months. Mr. Reed stated that there is cars and debris on the property that will be cleaned up. He stated that the manufactured home will be placed on a permanent foundation.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconde by Mr. Callaway that the special use exception be granted for a new double-wide manufactured home on a permanent foundation, that the old house be removed, the lot cleaned up and the work be completed within six (6) months, with Mrs. Hudson abstaining. The motion carried with four voting in favor and one not voting. Vote 4-0

The Board took a short break.

OLD BUSINESS

Case No. 6208 (cont'd'.)--Anne J. Kaylor - West side of Route 267,  
1/2 mile east of Lewes, Gills Neck Road.  
A variance from the minimum lot width requirement.

Mr. Betts reviewed the case. The case was left open to give Mr. Maull, Attorney, and his client, the applicant, time to discuss having only one entrance to the property. It was also left open to Mr. Griffin, Attorney for the opposition, to respond. Mr. Betts stated that nothing had been received from either the applicant or the opposition or their Attorney's.

After some discussion, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be granted, with a stipulation that there be only one entrance for both parcels.

Case No. 6210 (cont'd.)--Phillip B. Gordy - East side of Route 13,  
2,170 feet south of Route 451.  
A special use exception to place a third  
manufactured home on farm.

The case was reviewed by Mr. Betts. Mr. Betts stated that a permit was issued on this property on March 12, 1982 for another person and a permit was issued on February 24, 1983 for Elizabeth Elliott and then a replacement permit was issued for James Cunningham. It was Mr. Betts opinion that when the replacement permit was issued the applicant failed to remove one of the existing manufactured homes, therefore. leaving too many manufactured homes on the property. Mr. Betts stated that the applicant is permitted two manufactured homes on property 50 acres or more for employees or family members not for rentals as Mr. Gordy stated they are.

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

Case No. 6213 (cont'd.)--Ocean Wines & Spirits, Ltd. - West side of Route One, 250 feet northwest of Route 271.

A variance from the twenty foot landscaped buffer within the highway corridor overlay zone.

Mr. Betts reviewed the case stating that this is the first case to fall into the highway corridor overlay zone.

Mr. Jones, Attorney, stated that this is the first commercial site plan to fall within the highway corridor overlay zone requiring the twenty foot landscaped buffer, since it was adopted. The existing commercial businesses were there before the law. Planning and Zoning staff had pulled out the site plan and it shows there is a shared entrance with the store adjacent to the applicants business. The required buffer strip would not interfere with the ingress or egress. Mr. Jones stated that in granting a variance the Board must find that there are unique physical circumstances of lot size, that authorization of a variance is therefore necessary to enable the reasonable use of the property, that the hardship has not been created by the applicant, that the variance will not alter the essential character of the neighborhood or district in which the property is located and the variance will represent the minimum variance that will afford relief.

After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the variance be denied, finding that approval of the variance would set a precedent and the applicants had not met any of the requirements for the granting of a variance.

Case No. 6223 (cont'd.)--Dora L. Bell - East side of Route 54A, 1/2 mile northeast of Route 113.

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

The case was reviewed by Mr. Betts. Mr. Betts stated that on July 2, 1986 a replacement permit was issued for a one year time limit for an emergency. The manufactured home was never removed. He stated that he cannot be sure what is in the Town Limits of Frankford.

Mr. Jones, Attorney, stated that the applicant will have to comply with where the manufactured homes are located.

After some discussion, motion was made by Mr. Mills, 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 provided there be only one (1) other manufactured home on this parcel for a total of two (2).

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

Meeting adjourned at 9:05 P. M.