

Minutes of February 10, 1992

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, February 10, 1992 in the County Council Conference Room, 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. Carey, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector.

Motion was made by Mr. Carey, seconded by Mrs. Hudson and carried unanimously that the minutes of February 3, 1992 be approved as circulated.

Case No. 4639--Charles Houston, Jr. - West side of Route 30, 450 feet north of Route 216.

A variance from the lot width requirement.

The case was presented by Mr. Betts. Charles Houston, Jr. was sworn in and testified, requesting a variance from the lot width requirement to be able to subdivide a parcel, 5.45 acres, into two parcels. The property contains a frontage of 220' and 150' of width is required for each parcel across the front. Mr. Houston, Jr. requested a 50' variance from the 150' lot frontage requirements to be 100' for one lot and a 30' variance from the 150' lot frontage requirement to be 120' for another lot. Mr. Houston, Jr. testified that he proposes the subdividing of the property to sell one lot. The proposed lot will be 200' deep and contain a  $\frac{1}{2}$  acre. Mr. Houston, Jr.'s dwelling is on the remaining property.

There were no parties present in opposition.

Motion was made by Mr. Carey, 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. Carey and carried unanimously that the variance be denied, finding that the property can be subdivided by allowing a 50' right of way and move the lot back further and it is not the policy of the Board to create lots with frontage this small.

Case No. 4640--Tim-Beck Enterprises, Inc. - South side of Route 54, west of Route One, Lots 6 and 7, within Edgewater Acres.

A variance from the side yard setback requirement.

The Case was presented by Mr. Betts. Charles Irvin Beatty was sworn in and testified representing Tim-Beck Enterprises, Inc. who requested a 9'10" variance from the required 10' side yard setback to be 2" from the side lot line for an existing dwelling on Lot 7 in Edgewater Acres. The applicants are purchasing Lots 6 and 7 in the development. They would like to separate the lots that are of record,

but are presently used as one parcel. They propose to separate the lots for possible resale of Lot 6. They need the variance since the dwelling encroaches into the setback, on Lot 7.

It was explained to the applicant that even with the variance the eave on the existing house extends over the property line onto Lot 6. Should the variance be granted the eave would have to be removed. Mr. Jones, Attorney, explained that the Board could not approve or consider an application to encroach onto someone else's lot.

Charles E. Phillips was sworn in and testified in opposition. Mr. Phillips presented to the Board and read into the record a letter from the Executive Committee of Edgewater Acres, voicing their opposition, citing building over the property line and fire safety. Mr. Phillips stated there has been no favorable comments for the variance from anyone in the community. Nothing had been presented to the Committee showing what they propose to do.

Pat Ficken was sworn in and testified in opposition presenting a map showing locations of people in the development who oppose the variance request.

Richard Berry was sworn in and testified in opposition explaining the procedure he followed when he was granted a variance and what is expected of people in the development.

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

At the conclusion of the public hearings, the Chairman referred back to this case. Motion was made by Mrs. Hudson, seconded by Mr. Carey and carried unanimously that the variance be denied, finding the applicants have not proven hardship requirements for granting of a variance and can use the parcels as a single lot.

Case No. 4641--Valentine A. Fetisoff - South side of Rogers Avenue,  
650 feet southwest of route One, Lot 27-B,  
within Ann Acres.

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

The case was presented by Mr. Betts. James Waehler, Attorney was present representing the applicant, who requested a variance of 10' from the 10' side yard setback requirement and a variance of 8' from the 10' rear yard setback requirement to construct a 24'x 30' (approx.) garage. There is a common fence along the property that has to be removed to build the garage and then will be replaced. The location of the garage is due to the narrowness of the lot. Mr. Waehler stated that it is their feeling the variance will not alter the residential character of the property and to move the garage over prevents access to the garage. It was stated that there is no intent to put a 2nd. story over the garage. Pictures were presented. The applicant is a summer resident.

Diane Pringle, area resident, was sworn in and testified in opposition. She feels there is no hardship or a need for the garage.

She fears it may turn into a 2nd. residence, if not for the applicant, but a future owner if the property is sold.

Michael Kruk was sworn in and testified in opposition stating he lives behind the property. He questioned the garage location and agreed with comments made by Ms. Pringle.

Motion was made by Mr. Carey, 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. Carey, seconded by Mrs. Hudson and carried unanimously that the variance be denied, finding the applicant failed to meet the requirements under the Sussex County Code to meet a variance, can use the property without granting a variance and a smaller garage can be built to meet the required setbacks.

Case No. 4642--Albert B., Jr. & Darl R. Culver--Northwest side of Atlantic Street, 500 feet southeast of Route 14A, part of Lot 21, Block A, within Washington Heights.

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

The case was presented by Mr. Betts. Albert Culver, Jr. was sworn in and testified, requesting a 1'3" variance from the front property line of 30' requirement, a 3'6" variance from one side property line and a 5'4" variance from the other side property line. The sides requiring a 10' setback. The applicant has a patio that is cracked and he wants to replace it and screen it in. It will not be enclosed other than with screen. It will be even with the house.

Mr. Betts stated that there were four letters received in behalf of the request, one was read into the record. The letters were from: Sara Burton, Gail Sturdavant, Charlotte McDaniel and Roy Sturdavant.

There were no parties present in opposition.

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

Case No. 4643--Dallas Veasey - North side of Route 275A, 600 feet east of Route 274.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Dallas Veasey was sworn in and testified, requesting an 8' variance from the 40' setback requirement for an addition to his dwelling. Mr. Veasey stated he is going to replace his house roof and would like to make an addition of a kitchen and porch. He stated they will not extend out any further than what now exists. He will not cause anyone's view to be blocked.

There were no parties present in opposition.

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

Case No. 4644--Michael T. Evans - Northeast side of Route 410, 665 feet southeast of Route 433.

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. Michael T. Evans and Joseph R. May were sworn in and testified. Mr. Evans requested to place a 12'x 60', 1971 manufactured home on property he is purchasing from Mr. May for his permanent residence. They testified that there are other manufactured homes in the area.

There were no parties present in opposition.

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

Case No. 4645--Carolyn J. Tulowitzki - East side of Route 113, 700 feet north of Route 323.

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. Carolyn Tulowitzki was sworn in and testified, requesting to place a 1991, 14'x 76' manufactured home on her property for her permanent residence. There are no manufactured homes in front or adjacent to her property, but there are 2 or 3 located to the rear of her property.

Concetta LaVelle was sworn in and testified in behalf of the request. She testified that the applicant is her sister-in-law and a widow with children and needs to place her manufactured home on the property since she owns it and it will be more economical.

Mr. Betts stated that 4 letters of opposition had been received from St. John's Church, Merrill C. Moore, Trustee, Gary & Susan Davis, Providence UM Church, Connie E. Mears, spokesperson and Bethesda UM Church, James Marvel, Chairperson.

Mrs. Concetta LaVelle questioned the Churches opposition.

Merrill C. Moore was sworn in and testified in opposition stating he opposes a manufactured home going on the property though he is sympathetic to the applicant.

William Ellingsworth was sworn in and testified that he opposes a single-wide manufactured home, but in favor of a double-wide or Nanticoke Home type.

W. Paul Hearn, property owner across the road, was sworn in and testified in opposition. He opposes a manufactured home going in front of him.

Arthur L. Mears was sworn in and testified in opposition to a 90' lot even more than a larger lot.

Motion was made by Mrs. Hudson, seconded by Mr. Carey 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. Carey, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, finding the manufactured home would be out of character with the neighborhood, no other manufactured homes in the immediate area and will devalue existing property.

Case No. 4646--Robert L. & Ruth Segletes - North side of Route 38,  
300 feet west of Route 229.

A special use exception to place 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 continue the use of a manufactured home on the basis of hardship. They testified there have been no changes in the hardship.

There were no parties present in opposition.

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

Case No. 4647--Theodore F. Thompson - South side of Route 48, 126 feet  
east of Route 296.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Theodore Thompson was sworn in and testified and was represented by James B. Tyler, III, Attorney. Mr. Tyler asked that the variance request be amended from 2'11" to 3.6' from the 15' side yard setback requirement for a dwelling. Mr. Tyler stated that the change came when a location survey was done. A copy of the location survey was presented. The foundation for the dwelling has been started. The applicants live in a manufactured home on the property that will be removed when the dwelling is finished. There is an existing barn on the property that will hide the effect of the variance. Copies of septic system permits were presented. A survey of the lot was also presented. When the foundation was started the applicant did not realize he had made a mistake. A building permit with the setbacks on it had been obtained.

Mary Lou Revel was sworn in and testified in representing her Aunt Mary Bowden who is 83 years old and property owner in the area and opposes to the variance. She feels the variance will prevent her from putting something on her lot if it were sold.

Mr. Tyler in rebuttal stated that he feels the opposition is not a good reason to deny the request that it will improve the area to build a home there and because of the barn the variance will not be seen.

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

Case No. 4648--Owens Station Preserve, Inc. - On a private road on the east side of Route 602, 730 feet south of Route 611.

A special use exception to amend conditions of approval of Case No. 4362, to be able to operate the existing shooting preserve on Sunday.

The case was presented by Mr. Betts. William R. Wolter was sworn in and testified and was represented by Craig Karsnitz, Attorney. Mr. Karsnitz reviewed and summarized a previous hearing request for Mr. Wolters to operate a shooting preserve. The Board granted that request with the condition that it not be operated on Sunday. Mr. Wolter is tonight requesting to operate on Sunday since he has found there is a demand and need for it as well as an economical need. It was explained by Mr. Karsnitz and Mr. Wolter how the preserve operates. They addressed safety, noise, guides, where the shooting is contained to and the youth program provided. They stated that there has been a request for tournaments and charity shoots, but to be held on a two day weekend. It was stated that 40 to 60 people would shoot on Sunday. He would operate from 9:00 A.M. to 4:00 P.M. He does not want lights. It would also accommodate other people who cannot use it on other days. Copies of the safety course offered and a petition with signatures who want to use the facility on Sunday were presented.

George Long, Jr. was sworn in and testified and explained how he determined noise level.

Merrill Layton, Jr. , licensed Real Estate Broker, was sworn in and testified, stating that the request will not have a detrimental affect on other property in the neighborhood and he feels the use is cleaner than some agriculture businesses.

Willim Crew, Douglas Hudson, Billy Farlow, Jo Creamer, Winifred Willing, Harry Phillips, Harry Vannicola and Phillip Elliott were sworn in and testified in behalf of the request, citing need for use on Sunday, not economic without it, asset to County, childrens (good) program, named other sport activities held on weekends, good for people visiting from out of state to utilize, keeps money in Delaware and noise not loud to be bothersome. At least 50 people were present who are in favor of the application.

Ruth Ann Hamstead, Joyce Grimm, Jolene Tennefoss, (presenting a letter from Mennonite Church) and representing herself, Lawrence Pauli and Norman Hamstead were present in opposition, citing noise, the need to have one day a week without hearing gun fire, fear of shooting when walking, traffic, disturbing Church service, concern for children, safety, property values, annoyance and being a nuisance. They requested to keep one day free from the noise

since it operates now six days a week.

A letter from Anita Fisher in opposition was presented by Mr. Pauli.

Mr. Betts read the letter into the record from the Mennonite Church voicing their concerns.

Mr. Karsnitz stated that the actual hunting area is being sold, there will be only the clay shooting range. He feels Mr. Wolter won't be able to continue operating without shooting on Sunday.

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

Case No. 4649--Thomas A. & Carolyn Hill - On a private road on the north side of Route 509, 1600 feet northeast of Route 514.

A special use exception to continue a manufactured home on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Thomas & Carolyn Hill were sworn in and testified, requesting to continue the use of their manufactured home that has been on the property since 1984, as their permanent residence. The manufactured home was placed on the property as on farm. The applicants are now having a smaller parcel deeded to them, which voids the on farm status for the manufactured home. For it to remain on the smaller parcel Board approval is needed. They testified there are two other manufactured homes in the area.

There were no parties present in opposition.

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

Case No. 4650--Raymond Cook - East side of Route 550, 1.25 miles south of Route 20.

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

The case was presented by Mr. Betts. Raymond Cook was sworn in and testified, requesting an 18' variance from the rear property line where 20' is required and a 13' variance from the side property line where 15' is required, to add a lean-to, to an existing garage. He stated that it will not obstruct any view and there is no other place on the property to put it to make it look good and due to septic on one side.

There were no parties present in opposition.

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

Meeting adjourned at 9:26 P. M.