

Minutes of February 12, 1996

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, February 5, 1996 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, Mr. Mills, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the minutes of February 5, 1996 be approved as circulated.

Case No. 5915--Cape Henlopen Elks Lodge - North side of Route 285A,  
1/2 mile northeast of Route 261.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Sal Marino was sworn in and testified representing Cape Henlopen Elks Lodge, who requested a 2.2' variance from the 15' side yard setback requirement for an addition to their existing building. Mr. Marino stated that everything was constructed 14 months ago. The side yard setback was thought to be a 10' setback requirement, but 15' is required. It is felt a contractors error was made.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that a 2.2' variance be granted.

Case No. 5916--Olivia Blackwell - North side of Route 592, 1,200  
feet east of Route 42.

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. Rickard. Olivia Blackwell was sworn in and testified, requesting to temporarily place a manufactured home on her property until a house is built. The applicant stated that she owns property she is subdividing into two parcels to build two houses on. She wants to place a manufactured home on one of the lots for her son to live in to protect the property and building materials while the house is being built. When the house is built the manufactured home will be removed. She stated the property will not be deeded to her son and she does not know when she will start to build or when the house will be completed.

Mr. Jones, Attorney, questioned the subdividing of the property, who will live there and how long it will take to build the house. Mr. Jones stated that the way the applicant has requested her application, the law is not written to allow it to happen as presented.

There were no parties present in opposition.

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. Mills, seconded by Mr. Callaway and carried unanimously that the special use exception be granted, for a period of three (3) years, with the stipulation that the person living in the manufactured home must have their name on the deed to the land.

Case No. 5917--Linda Horsey - Northeast side of Route 627, 1,600 feet southeast of Route 636.

A special use exception to place a second manufactured home in a GR District on a medical hardship basis.

The case was presented by Mr. Rickard. Linda Horsey was sworn in and testified, requesting to place a second manufactured home on property for her residence, on medical hardship basis. She testified her mother lives in the existing manufactured home. The hardship pertains to her mother.

Mr. Rickard read a letter from a doctor pertaining to Ms. Horsey's mother's health.

Mr. McCabe explained that if approved, the application will have to be reapplied for every two years for as long as the hardship exists. If the hardship ceases to exist the manufactured home must be removed.

Mr. Rickard explained that a letter had been received without a proper signature pertaining to this case. The letter could not be considered without proper signature.

Ms. Horsey stated the existing manufactured home is 14'x 70' in size. She testified her manufactured home will be a used single-wide unit.

There were no parties present in opposition.

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

Case No. 5918--Linda & Dale Twilley - South side of Jackson Street,  
260 feet west of Route 24.

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

The case was presented by Mr. Rickard. Linda & Dale Robert Twilley were sworn in and testified, requesting a 11.6' variance from the side yard and a 17.2' variance from the rear yard setback requirements to build a 24'x 28' garage on their property. They cannot meet the setbacks due to the existing garage, lot size and drainage field. The applicants propose to build a new garage to replace the existing 23'x 22' garage. The new garage is larger, but they want the same setbacks as what exists.

Mr. Rickard read a letter from Wendy Dolby voicing no objections.

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. 5919--Charles P. Sewell - East side of Route 549, 560 feet  
north of Route 551.

A variance from the minimum lot width requirement.

The case was presented by Mr. Rickard. Charles P. Sewell was sworn in and testified, requesting a 56.33' variance from the 150' road frontage along a public road to create a new lot. Mr. Sewell stated that the owner of the property, William Street, proposes to subdivide the property and needs a variance. Mr. Sewell stated that the property had been surveyed. He explained, showing the survey, how the property will be subdivided.

Isaac Jerome Cannon was sworn in and testified in opposition to the application.

Edward Rayfield Lewis was sworn in and testified in opposition, stating he lives next to the property and that the property is owned by heirs.

Mr. Sewell stated that Mr. Street has purchased the property.

William Edward Street was sworn in and testified that the property was heired to four brothers and he bought the property from the oldest brother. He stated he bought the property three months ago and had a deed.

Frances West was sworn in and testified that her name is also on the deed to the property and she had not signed any deeds.

Mr. McCabe, Chairman, explained that ownership and deeds to the property is a legal matter and the Board cannot get involved.

Mr. Jones, Attorney, stated that the Board cannot get involved in a property dispute.

Mr. Mills explained that the only thing before them is a variance request to subdivide property with less than 150' road frontage.

Ms. West stated she cannot understand how the property could be sold without her knowledge.

Marjorie V. Lewis was sworn in and testified and explained how the property is supposed to be divided and owned. She stated she would like the decision held until she can see a lawyer to straighten out the property ownerships.

Mr. Street in answer to Mr. Mills question, stated he has no immediate plans to build on the property.

Mr. Sewell stated that all the lots have been surveyed.

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, 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 case be tabled until the next meeting, so they can see a recorded deed to the property.

Case No. 5920--Irma C. Pittman - East side of Route 351, 725 feet south of Route 349.

A special use exception to expand a non-conforming use and a variance from the setback requirements for a chicken house.

The case was presented by Mr. Rickard. John Pittman and Irma C. Pittman were sworn in and testified. The applicant requested a

15' variance from the 200' setback requirement from a dwelling of other ownership and to expand a non-conforming use not to exceed 25%. It was stated that the chicken house had blown down and they want to replace it with a new one in the same location, except the new one will be 15' wider. There are five (5) other chicken houses on the property. According to Mr. Pittman, the original chicken house was 20' wide and the new one will be 35' wide and will be no closer to the neighbors house than what existed.

John William Satterfield, Delmarva Poultry Industry, was sworn in and testified in favor of the application.

Harry Robert James, Jr., Housing Operations Manager with Allen's Hatchery in Seaford, was sworn in and testified in favor of the application. He testified that it is not economical to rebuild an A-Frame type chicken house.

Patrick Acri, nearest neighbor, was sworn in and testified questioning the distance to his house and where the doors of the chicken house will be located.

Mr. Pittman stated that the doors will be on the ends of the chicken house. It will be a drive-through chicken house. Pictures were shown.

Mr. Acri stated he had no opposition if the use will be as presented.

Mr. Pittman stated that the chicken house blew down the Saturday before Thanksgiving.

Mr. Jones questioned the request for an extension of a non-conforming use. He stated that according to the Zoning Code an extension shall have a floor area not to exceed 25% of the floor area of the existing building, and that the estimated cost of any extension does not exceed 50% of the replacement value. He questioned if these could be met since the applicant is building a new building. There was some question as to the reason he requested a non-conforming use.

Mr. Pittman stated the chicken house had been there approximately 25 years. He stated the new chicken house will cost approximately \$60,000 to \$70,000 to replace since the value of chicken houses vary.

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 case be tabled until the next meeting, to give Mr. Jones time to find out the reason for the non-conforming use request.

OLD BUSINESS

Case No. 5905 (cont'd.)--Robert I. & Linda S. Lekites - Northeast side of Route One, at Red Mill Pond, Lot 1, within Willow Creek.

A special use exception to operate a Bed and Breakfast.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the special use exception be granted, finding the use will not substantially adversely affect the adjacent properties and the use is not substantially different than other uses in the area.

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

Meeting adjourned at 8:15 P. M.