

Minutes of February 27, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, February 27, 1995 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 III.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the minutes of February 6, 1995 be approved as circulated.

Case No. 5589--Randall & Lisa Bowden West side of Route 367B,  
at the intersection of Route 370, Lot 3,  
within Bowden Subdivision.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Randall Bowden was sworn in and testified, requesting a 99.89' variance from the minimum lot width of 150' for a lot. Mr. Bowden is proposing to create three lots with a 50' wide access road to the lot in the rear. Mr. Bowden will build a home on one lot, a lot will be conveyed to his parents, who propose to put a home on it and one lot to his son. The 50' road will provide access to the remaining parcel in the rear with the option open to subdivide the rear parcel.

John Warren Henszey was sworn in and testified in opposition to too much housing being created that could devalue his home.

Amos Edward Collins was sworn in and testified in opposition, stating the rear of Mr. Bowden's property is wet. He also fears there will be a cluster of houses in the area with a new road going in. Mr. Collins stated he has no objection to one house on the property and in the \$80,000 to \$90,000 range to go with what is in the area.

Bonita West, who lives next door, was sworn in and testified in opposition, agreeing with testimony made by Mr. Collins. She stated she has been in the area since 1971. She opposes 3 or 4 homes. She wants a home to equal the homes already there.

Lucille Rickards was sworn in and testified in opposition. She agreed with the statements previously made. She opposes several homes or a development. She stated the property is low and there is a cemetery somewhere in the rear of the property.

Clifton R. Bennett was sworn in and testified and questioned the type of homes going on the property. He stated the homes in the area are over \$85,000. He stated he will go along with anything in the nature of \$85,000, as long as the homes are the same quality as the homes in the area. He opposes anything less.

Mr. Bowden responded, saying that he does not know the type of home his parents will put on the property, but his will be at least \$85,000 or over.

Paula Marvel who lives next door was sworn in and testified in opposition. She does not want anything to devalue her property.

George E. Green was sworn in and testified in opposition, stating he feels the same as the others. He also stated that he could not put a manufactured home on his property, he had to put a house.

Rita Darlene Rickards was sworn in and testified in opposition, stating that the property is too small for three homes.

Mr. Bowden stated that only two homes are going on the property.

It was stated in discussion that a manufactured home could go on the property as it exists.

Mr. Jones, Attorney, stated that if one of the parcels were combined with the rear parcel a variance would not be needed.

Mark West was sworn in and testified questioning the property becoming a subdivision. He also stated that his mother's property is all she has. His mother spoke earlier.

Catherine Green was sworn in and testified in opposition, questioning why a manufactured home could be permitted on the property when years ago she could not have one.

Motion was made by Mr. Callaway, 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. Mills, seconded by Mr. Callaway and carried unanimously that the variance be denied, finding the applicant had not met the requirements for granting a variance, there would be no need for a variance based on his intentions and the property can be used without a variance.

Case No. 5590--RBO Associates, L. P. - South side of Route One,  
1,200 feet southeast of Route 283.

A variance from the requirements for signs.

The case was presented by Mr. Betts. David Marschka, employed by Fisher Management Co., was sworn in and testified representing RBO Associates, L.P. and was represented by David Rutt, Attorney. The applicants requested a 10' variance from the maximum height requirement of 25' to be 35' in height for a sign, and a 66' variance from the square footage of an on-premise sign of 150 square feet to be 216 square feet. The sign to be located at the entrance to a shopping center for outlets. Mr. Marschka explained that there will be 32 tenants and named the anchor stores who have signage requirements. The sign will be 18' with pile on 17'. The 18' to accommodate the four tenants. The height is to be able to see the sign. There are

Delmarva Power poles plus a large billboard that will obstruct their view. It would cause a hardship without a variance. Mr. Marschka stated that other signs in the area are already this size. The variance will not impair adjacent properties. The minimum variance requested is needed, and the use will not be a detriment to the public welfare. The signs in the area are Burger King and two other property signs, that are the same size. He also stated that the stores will still come without the variance.

Mr. Mills asked if the sign could be made wider and not have the height.

Mr. Marschka stated he could make it work.

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 variance for the square footage be granted and the variance from the height requirement be denied.

Case No. 5591--Edna M. Sterner - South side of Route 336,  $\frac{1}{4}$  mile east of Route 335A.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Merrill Gary Sterner and Mark Sterner were sworn in and testified, representing Edna Sterner, who requested a 4' variance from the 15' side yard setbacks to build a house. They testified they are going to combine two parcels and put one house on the property for their mother and grandmother. They will remove two existing manufactured homes. They feel what they are proposing will improve the area.

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 variance be granted.

Case No. 5592--Lynn Doherty - East side of Route 357, Lot 12A, Ewing Road, within Bayside Hamlet.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Lynn Doherty was sworn in and testified, requesting a 4.8' variance from the front yard setback requirement of 30' to be 25.20' for an existing house. The property located on a curve was surveyed and the house located. The

house is now encroaching. He testified that the road is also in the wrong place and has to be redone. He presented letters from neighbors in support of the variance.

Mr. Betts read one of the letters, since they were all identical. There were four signatures.

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, due to the shape of the lot and the use will not adversely affect the surrounding area.

Case No. 5593--Francis B. Prekup, Jr. - South side of Route 238,  
1,045 feet west of Route 16.

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

The case was presented by Mr. Betts. Francis Prekup, Jr. was sworn in and testified, requesting to retain his manufactured home on his property for a permanent residence. The manufactured home was approved by the Board for three years on January 13, 1992 (Case No. 4618). The reason for the three year approval was to give Mr. Prekup time to build a home. Mr. Prekup stated that things have changed and he can no longer build a home. He would like to continue to live in the manufactured home permanently. He testified that there are other manufactured homes in the area.

Earl J. Orth was sworn in and testified in favor of the application. He testified that he owns property in the area and he, his son and his brother-in-law live in manufactured homes. He feels Mr. Prekup has done a nice job on the 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. 5594--Emory & Betty Culver - North side of Route 494,  
4,000 feet east of Route 498.

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

The case was presented by Mr. Betts. Mary Bryan was sworn in and testified in behalf of the application, requesting to retain a manufactured home on medical hardship basis. This is a renewal of Case No. 4845. The hardship was approved so that she may take care of her uncle and aunt who need medical care. Ms. Bryan asked if the manufactured home could be made permanent so they would not have to reapply every two years, since her aunt and uncle live on a fixed income.

Mr. Betts stated that since the aunt and uncle are not immediate relatives and are not permanently employed on the property the

manufactured home could not be made permanent.

The Board explained that a separate parcel could be created and the applicants could apply that way, but as it is, a medical hardship is the only way the manufactured home can remain.

Edward Downes who lives across the road was sworn in and testified in favor of the application. He stated the applicants keep the property nice.

Robert Bryan was sworn in and testified in favor of the request and questioned if there was a way the fee could be waived for renewal since the applicants are on a fixed income.

It was explained that no fees could be waived for any reason.

There were no parties present in opposition.

A letter was read by Mr. Betts from a doctor pertaining to the applicants.

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. 5595--Eva Phillips - North side of Route 231, 670 feet west of Route 5.

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. Eva Phillips was sworn in and testified, requesting to place a 1992, 28'x 48' double-wide manufactured home on property she is under sales contract to purchase for her residence. She testified that there is a double-wide manufactured home on the adjacent lot. The unit will be placed on a permanent foundation.

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.

Case No. 5596--Albert C. & Cornelia Clark - North side of Route 308, at the intersection with Route 309.

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

The case was presented by Mr. Betts. Albert Clark was sworn in and testified, requesting to retain a manufactured home on medical hardship. This is a renewal of Case No. 4625. He testified that nothing had changed, the medical hardship is still the same.

Mr. Betts read a letter from a doctor referencing Mr. Morris's condition. Mr. Morris occupies the manufactured home on medical hardship.

The Chairman explained that if the hardship ceases the manufactured home will have 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 medical hardship for a period of two (2) years.

Case No. 5597--Gregory R. & Patricia L. Shoemaker - West side of Route 610, .7 mile northwest of Route 42.

A special use exception to use a manufactured home as a shed.

The case was presented by Mr. Betts. Gregory Shoemaker was sworn in and testified requesting to use a 1968 manufactured home for a shed. They had previously lived in the manufactured home and have built a home. Since they are unable to sell the manufactured home they would like to use it for a shed. They propose to knock-out the interior walls and strip the unit. They will put it on blocks and put it back in the woods.

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.

Case No. 5598--Bruce W. & Dianne M. Pringle - North side of Dodd Avenue, 650 feet west of Route One, Lots 23 and 24, within Ann Acres.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Bruce & Dianne Pringle were sworn in and testified, requesting a 4' variance from the 10' side yard setback requirement for an addition to an existing house, on Lot 23 & 24 within Ann Acres. The existing house is only 6' from the side property line. The house existed before zoning. He stated there is no Homeowners Association in Ann Acres.

Mr. Betts read a letter in favor of the requested variance from neighbor Ellen W. Elliott.

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.

Case No. 5599--Neil A. Beahan - At the intersection of Route 347 and Route 349, Lot 2, within Whites Neck Village.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Neal Beahan was sworn in and testified, requesting a 8' variance from the 10' side yard

setback on Lot 2, Whites Neck Village to construct a carport on the side of the house, for a second car. He testified there is no other location on the property to put it due to the way the house is set-up and the driveway. He cannot put it on the rear of the property because of a porch. He stated there is a Homeowners Association, but there does not seem to be any restrictions.

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.

Case No. 5600--Donald G. & Hester S. Downes - Northwest side of Route 633, 800 feet north of Route 634.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Donald & Hester Downes were sworn in and testified, requesting a 100' variance from the 150' road frontage for a new lot. They propose to subdivide the property into four parcels. They plan to build a home on parcel one and sell parcels two and three to be able to have income to build their home. Parcel four has a house and manufactured home on it. Since the property is under five acres the manufactured home will be removed. The house is a rental.

There were no parties present in opposition.

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

Case No. 5601--Joseph & Amanda Consalo East side of Route 594, 2,641 feet south of Route 545.

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. Joseph Consalo was sworn in and testified and was represented by Michael McGroerty, Attorney. Mr. Consalo requested to place a manufactured home on property to be conveyed to his son Lendale J. Semans. Pictures were presented and explained. It was stated that there are other manufactured homes in the area plus GR General Residential Districts. The lot is to be conveyed to the son if approved.

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. 5602--Sharon & Michael Harmon - East side of Route 307,  
at the intersection of Route 297.

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 & Michael Harmon were sworn in and testified, requesting to place a 1995, 14'x 76' manufactured home on their property for their residence. They testified there are other manufactured homes in the area and adjacent to the property. Their mother and brother have homes across in front of their property.

Barbara Miller was sworn in and testified in favor of the application.

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.

Case No. 5603--Carl King, Inc. - West side of Route One, at the  
intersection with Route 272B.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Joseph Bothell, representing Carl King, Inc. was sworn in and testified. The applicant requested a 10' variance from the 20' side yard to construct a Texaco I.D. sign (from the south property line) to avoid blocking traffic flow on site as required by the entrance design by Del D.O.T. and utility easements.

Shirley & John Gerhold were sworn in and testified questioning what is going to be done by the applicant. They live behind the property and are not opposed.

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.

#### OLD BUSINESS

Case No. 5580 (cont'd.)--Thomas A. & Monica A. Wheatley - East side  
of Route 13A,  $\frac{1}{4}$  mile north of Route 502.

A variance from the rear yard setback requirement.

This case could not be voted on, since Mr. Callaway was not present at the public hearing and there were only two other members present.

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

DISCUSSION

Mr. Betts read a letter from Peter Jones, Esquire pertaining to the appeal made by Mr. Robert Raley. It was stated that Mr. Raley has dropped the appeal.

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

Meeting adjourned at 8:50 P. M.