

Minutes of March 2, 1992

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, March 2, 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. Wheatley, 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 10, 1992 be approved as circulated.

Case No. 4651--Michael Steele - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 11, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway of Consultants Unlimited was sworn in and testified representing Michael Steele who requested a variance from the front property line and a variance from the side property line for an existing manufactured home on Lot 11 in Driftwood Village. Mr. Conaway states that he will also be representing other cases on the agenda in the same development. Mr. Conaway gave a background summary of Driftwood Village. He presented a plot plan showing the lots in the development and DNREC material. There are several front yard violations in the development. It is believed the violations were created by incorrectly placing the first manufactured home in 1980. With the first manufactured home in error, the other placed afterwards followed the same pattern. There are 73 lots in Driftwood Village and 67 have been cited with violations. There were 8 before the Board at this meeting. Seven (7) others in the development have been corrected. Mr. Conaway testified that moving the manufactured homes will cause more problems and problems with existing septic systems, as well as creating an economic hardship. To move the manufactured homes further back from the front of the lot will place the manufactured home on the septic system, and too close to the drain fields. Mr. Conaway asked the Board to consider approving a variance for the whole park, rather than individual cases.

Mr. Jones, Attorney, explained that the Board wishes to hear each case separately and not as the whole park. He stated that all comments made during this case will be incorporated in the other cases presented at this meeting.

Mr. Conaway continued with the presentation of this case and the variance requested. He testified that there is a 1972, 12'x 65' manufactured home on this parcel, and it would be an economic hardship to the applicant to move it and to move it would affect the septic system, by the unit being on top or too close to it. The applicants request an 11' variance from the front property line and a 2' variance from the side property line for their existing manufactured home.

There were no parties present in opposition.

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

Case No. 4652--Harriett Wyatt - Northeast side of Route 5 (Route 297), 1,200 feet southeast of Route 24, Lot 16, within Driftwood Village.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway of Consultants Unlimited and sworn in on the previous case also represented this case. He testified that the applicant Harriett Wyatt, was requesting a 11' variance from the front yard setback of 30' on Lot 16, Driftwood Village for her 1983, 14'x 60' manufactured home which was on the lot when she purchased it. He stated that to move the unit back could affect the septic system.

Mr. Jones stated that all comments from Case No. 4651 be incorporated into this case.

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. 4653--Charles Williams - Northeast side of Route 5 (Route 297), 1,200 feet southeast of Route 24, Lot 28, within Driftwood Village.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway of Consultants Unlimited and sworn in on Case No. 4651 also represented this case. He testified that the applicant Charles Williams was requesting a 15' variance from the front yard setback of 30' on Lot 28, Driftwood Village for his 1987, 14'x 70' manufactured home that he has placed on the property as a replacement for an existing manufactured home. Moving the unit back could affect the septic system.

Mr. Jones stated that all comments from Case No. 4651 be incorporated into this case.

There were no parties present in opposition.

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

Case No. 4654--Kimberly Jackson - Northeast side of Route 5 (Route 297), 2,500 feet southeast of Route 24, Lot 32, within Driftwood Village.

A variance from the front yard setback requirement.

Mr. Conaway requested that this case be withdrawn.

Case No. 4655--Paula Copes - Northeast side of Route 5 (Route 297), 1,200 feet southeast of Route 24, Lot 33, within Driftwood Village.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway of Consultants Unlimited and sworn in on Case No. 4651 also represented this case. He testified that the applicant Paula Copes was requesting a 10' variance from the front yard setback requirement, on Lot 33 in Driftwood Village, of 30'. Ms. Copes bought the property with the manufactured home on it in 1989. The manufactured home is a 1981, 14'x 70' unit. Moving the unit back could affect the septic system.

Mr. Jones stated that all comments from Case No. 4651 be incorporated into this case.

There were no parties present in opposition.

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

Case No. 4656--George Hughey - Northeast side of Route 5 (Route 297), 1,200 feet southeast of Route 24, Lot 41, within Driftwood Village.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway of Consultants Unlimited and sworn in on Case No. 4651 also represented this case. He testified that the applicant George Hughey was requesting a 15' variance from the front yard setback requirement of 30' on Lot 41, Driftwood Village. The 1984, 14'x 80' manufactured home was moved on the property in 1984. Moving the unit back could affect the septic system.

Mr. Jones stated that all comments from Case No. 4651 be incorporated into this case.

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. 4657--Evelyn Ames - Northeast side of Route 5 (Route 297), $\frac{1}{4}$ mile southeast of Route 24, Lot 57, within Driftwood Village.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway of Consultants Unlimited and sworn in on Case No. 4651 also represented this case. He testified that the applicant Evelyn Ames was requesting a 11' variance from the front yard setback requirement of 30' for her manufactured home. She purchased the property with the manufactured home existing in 1990. The unit is a 1984, 14'x 70' manufactured home. Moving the unit back could affect the septic system.

Mr. Jones stated that all comments from case No. 4651 be incorporated into this case.

There were no parties present in opposition.

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

Case No. 4658--Robert Knight - Northeast side of Route 5 (Route 297), 1,200 feet southeast of Route 24, Lot 64, within Driftwood Village.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway of Consultants Unlimited and sworn in on Case No. 4651 also represented this case. He testified that the applicant Robert Knight was requesting a 10' variance from the front yard setback of 30' on Lot 64, Driftwood Village. Mr. Knight moved on the property in 1990 and replaced the existing manufactured home with a 1980, 14'x 70' unit. Moving the unit back could affect the septic system.

Mr. Jones stated that all comments from Case No. 4651 be incorporated into this case.

There were no parties present in opposition.

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

Case No. 4659--Terrance Hall - Northeast side of Route 5 (Route 292), 2,500 feet southeast of Route 24, Lot 66, within Driftwood Village.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway of Consultants Unlimited and sworn in on Case No. 4651 also represented this case. He testified that the applicant Terrance Hall was requesting a 5' variance from the front yard setback requirement of 30' on Lot 66, Driftwood for his manufactured home that he replaced in 1984 with a 1984, 14'x 70' unit. Moving the unit back could affect the septic system.

Mr. Jones stated that all comments from Case No. 4651 be incorporated into this case.

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. 4660--Route 13 Market - Southeast side of Route 462, 570 feet south of Route 13.

A variance from the maximum height and size requirements for signs.

The case was presented by Mr. Betts. Mike Beachum was sworn in and testified representing Route 13 Market who requested a variance of 42 square feet from the 150 square foot requirement for a ground on-premise sign to be 192 square feet and a variance of 13 feet from the 25 foot height requirement for a ground sign to be 38 feet, located in a Commercial (C-1) District. Mr. Beachum stated that his Flea Market Business has been hidden by warehouse/buildings that have been constructed on another property and he needs the signs to advertise his business as well as give direction to the entrance to his business. He estimated he has lost 70% of visibility since the structures have been built. Pictures were presented.

Johnny P. Janosik owner of adjacent property and the newly constructed buildings, was sworn in and testified in behalf of the variance. He admitted to dominating the applicant view, but not intentionally. He stated that the applicant needs the sign.

There were no parties present in opposition.

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

Case No. 4661--Cordonsal Walters - Northwest side of Route 305,
1,500 feet north of Route 24.

A special use exception to determine the nonconforming existence of a manufactured home.

The case was presented by Mr. Betts. Mr. Betts also stated that prior to the meeting a phone call representing Mrs. Decker, who is opposed to the application, was received asking that the case be tabled, since due to lack of transportation she is unable to attend.

Mr. Cordonsal Walters was sworn in and testified requesting the Board to make a determination of the existence of a manufactured home located on the same parcel as a dwelling. Mr. Walters has a manufactured home that he uses for storage, that he claims has been on his property with his dwelling since 1965. Complaints were made that the manufactured home is on the property without a permit.

Bruce a Wilkerson and Harrison H. Short were sworn in and testified in behalf of the applicant, stating that the manufactured home has been on the property for a number of years without any problems or complaints until now.

Mr. Betts, Zoning Inspector, stated that the manufactured home according to a survey done, projects 10' into the right of way and if approved would have to be moved entirely on Mr. Walters property.

Mr. Walters presented agreements from Townsends who own the right of way, that he claims gives him the right to keep the manufactured home at its present location.

Mr. Jones, Attorney, explained to the Board that they were to consider the case before them and he would look the agreement over to see if the manufactured home would have to be removed if approved.

There were no parties present in opposition.

Motion was made by Mr. Carey, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted, finding that no parties were present in opposition and anyone opposing the application should have been present or at least have sent something stating their opposition.

Case No. 4662--Thomas W. Hutson, Jr. - Southeast side of the end of Route 22C, 2,780 feet southeast of Route 22, Lot 241, Sassafras Road, within Pot Nets.

A variance from the setback requirement from lot lines in a manufactured home park.

The case was presented by Mr. Betts. Thomas Hutson, Jr. was sworn in and testified, requesting a 1' variance from the 5' side yard setback requirements to be 4', to build a 12'x 12' shed to replace an existing shed. The property being Lot 241 in Pot Nets. The existing shed is smaller than the proposed shed. Mr. Hutson, Jr. stated that he has approval from the park.

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.

OLD BUSINESS

Case No. 4642--Albert B., Jr. & Darl R. Culver (cont'd.) - 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.

Mr. Betts reviewed the case.

After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Carey and carried unanimously that the variance be granted.

Case No. 4647 (cont'd.)--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 reviewed by Mr. Betts, with Mr. Betts stating that the variance requested was for 3'8".

After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Carey and carried unanimously that the variance be denied, finding the structure will be too close to the neighbors property, will affect the sale of the neighbors property, applicant failed to meet reasons according to Zoning Code for granting a variance, failed to follow the terms of his building permit and the property can be

used in compliance with the setback requirements

Case No. 4648 (cont'd.)--Owens Station Shooting 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 reviewed by Mr. Betts.

Mr. Jones reviewed the previous hearing (Case No. 4362) and
the present hearing for the applicants.

After some discussion, motion was made by Mr. Carey and seconded
by Mrs. Hudson that the special use exception be denied, with Mr.
Wheatley voting in favor. Motion was carried with three voting in
favor of denial and one voting against denial. Findings for denial
being, it is still necessary to protect the residents from noise made
by the range for one day, newly generated traffic on Sunday, despite
noise level being checked the noise could still be heard, and the
applicants failed to present any additional evidence to warrant a
change in the Boards decision.

Meeting adjourned at 8:06 P. M.