

Minutes of March 15, 1993

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening, March 15, 1993 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 6:56 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Wheatley, Mrs. Hudson, Mr. Mills, Mr. Callaway, Mr. Jones-Attorney and Mr. Lank-Director.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of March 1, 1993 be approved as circulated.

Case No. 5009--Paul L. & Sheila M. Goldstein - Northeast side of Route One, 650 feet northwest of Route 272, Unit 6, Leeward Crest Condominium.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Ed Wyatt was sworn in and testified, representing Paul & Sheila Goldstein who requested a 3'4" variance from the 10' side yard setback requirement of 10' to enclose an existing 36"x 40" outside shower, for privacy, on Unit 6, Leeward Crest Condominium. He presented letters from a neighbor and the Leeward Crest Condominium Association who have no objections to the requested variance. Mr. Wyatt stated he also represents the next two cases.

Mr. Lank read the letters presented, into the record, from F. Eugene Donnelly, neighbor and Leeward Crest Condominium Assoc. voicing no objections.

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. 5010--G. Edward, Jr. & Jane E. Wyatt - Northeast side of Route One, 650 feet northwest of Route 272, Unit 5, Leeward Crest Condominium.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Ed Wyatt sworn in on Case No. 5009, requested a 3'4" variance from the 10' side yard setback requirement of 10' to enclose an existing 36"x 40" outside shower for privacy on Unit 5, Leeward Crest Condominium.

Mr. Jones, Attorney, stated that all testimony and letters from Case No. 5009 be incorporated into this case.

There were no parties present in opposition.

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

Case No. 5011--A. John & Mary E. Rottiers - Northeast side of Route One, 650 feet northwest of Route 272, Unit 7, Leeward Crest Condominium.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Ed Wyatt sworn in on Case No. 5009 also represented this case. The applicants requested a 3'4" variance from the 10' side yard setback requirement of 10' to enclose an existing 36"x 40" outside shower for privacy on Unit 7, Leeward Crest Condominium.

Mr. Jones, Attorney, stated that all testimony and letters from Case No. 5009 be incorporated into this case.

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

Case No. 5024--Mr. & Mrs. Robert Manier - South side of Route 351, 133 feet northeast of Route 349, Lot 9, within Rogers Haven.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Robert Manier and Timothy B. O'Hara were sworn in and testified, requesting a 5' variance from the 10' side yard requirement on Lot 9, in Rogers Haven. The applicant proposes to construct a carport with 12' roof on his property. The carport will not be enclosed. The applicant stated that the Association has no problem with the requested variance.

There were no parties present in opposition.

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

Case No. 5025--Barbara A. Fisher - South side of Route 54, at the intersection of Route 58C, Lot 26, within Keen Wik.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Barbara Fisher and Thomas Fisher, husband, were sworn in and testified, requesting a 1½' variance from the 10' side property line on each side of their property to be able to place a 48'x 28' dwelling, with an attached 14' garage on Lot 26, within Keen Wik. Mrs. Fisher testified that their lot is 80' wide and in order to place the size Nanticoke home they want, a variance is needed. She stated that the size home they propose to put on the property will be large enough to accommodate her elderly father also.

Mr. Lank read letters of opposition received from the Keen Wik Association, President William P. Wolfe, Joseph E. Ziekell, Virgil P. Quillen and Thomas & Rona Reis.

Mr. Jones, Attorney, explained to the applicant that she must meet both the County and Keen Wik requirements.

William Wolfe, President of the Keen Wik Association was sworn in and testified that the Association will not approve the variance requested. They feel that there is not a hardship to the applicant since their lot is 80' wide and the majority of the lots in Keen Wik are 75' wide. A petition of opposition signed by people on River Birch Drive was presented.

Motion was made by Mr. Wheatley, seconded by Mr. 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. Mills and carried unanimously that the variance be denied, finding the applicant can utilize the property without a variance and there is no actual need for a variance.

Case No. 5026--Clifton R. Parker - North side of Route 380, 3/4 mile northwest of Route 380A.

A variance from the setback requirements for a commercial poultry house.

The case was presented by Mr. Lank. Clifton Parker was sworn in and testified, requesting an 80' variance from the 200' setback requirement from a dwelling of other ownership. The dwelling nearest the chicken house is owned by his mother, Mary L. Parker. A letter from Mrs. Parker voicing no objections was read into the record by Mr. Lank. The area surrounding the property is primarily farmland.

There were no parties present in opposition.

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

Case No. 5027--Charles D. Murphy, Jr., Surveyors - South side of Route 206, at the intersection of Route 208.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Robert Nash, representing Charles Murphy, Jr., Surveyors, was sworn in and testified requesting on behalf of Paul & Barbara Mills, owners of the property, a 5.54' variance from the 15' side property line setback for an existing garage. The garage was placed on the property prior to 1986 and was built over the property line. Additional property was purchased but was unable to purchase enough to bring the garage into compliance with the side yard requirements, therefore, a variance is needed.

There were no parties present in opposition.

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

Case No. 5028--Frank & Roberta Dukes - East side of Route 16A
(Bay Shore Drive), one and $\frac{1}{2}$ miles
south of Route 16, Lot 12, Block A, Sec.
1, within Old Inlet Beach.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Raymond McCabe, Jr. was sworn in and testified, representing the applicants who requested a 2.5' variance from the 10' side yard setback requirement on Lot 12, Old Inlet Beach. The applicants propose to replace a manufactured home now on pilings with a Nanticoke modular home, with a deck/porch on it. The home will go in the same location as the manufactured home. Mr. McCabe submitted a 1977 survey of the property and stated that when the pilings for the manufactured home were placed on the property they were put too close to the side property line. They want to keep the pilings where they are and are requesting a variance to do so.

Burt Victor and Catherine Yost were sworn in and testified, questioning the use and whether they are going to be affected. Assured they are not affected, they did not object.

There were no parties present in opposition.

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

Case No. 5029--Lola Graves - Southwest side of Route 302A, 3,850
feet south of Route 47.

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

The case was presented by Mr. Lank. Barbara Sockriter was sworn in and testified, representing the application. Ms. Sockriter stated that she lives in a double-wide manufactured home on her mother, Lola Graves property and is requesting in behalf of her mother to place a 14'x 76' manufactured home on the property on medical hardship for her mother to live in. A letter referencing Mrs. Graves condition and need for care was read into the record by Mr. Lank from Dr. Susan Rogers.

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 on the basis of hardship for a period of two (2) years.

Case No. 5030--Joseph Williams & Denise Holder - Northeast side of
Frederick Douglas Drive, one mile south
of Route 18, Lot 6, Sec. I, Block A,
within Fisher Mill Park.

A special use exception to place a second manufactured home to be connected to the existing manufactured home to be used as one single-family residence.

The case was presented by Mr. Lank. Joseph Williams and Denise Holder were sworn in and testified, requesting to place a second manufactured home on Lot 6, Fisher Mill Park, to be connected to an existing manufactured home to become one unit. Both units are 14'x 70' in size and will have matching siding. A 3rd. manufactured home on the property will be removed or used for storage. They presented pictures of what they want the manufactured home to look like when they are completed. There will be only one kitchen and an A-Roof. Mr. Holder stated he hoped to complete the work in 1½ to 2 years.

Mr. Lank explained to the applicants that the 3rd. manufactured home on the property cannot be used for storage and will have to be removed.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted with stipulations that the units have matching siding and A-Roof and the work to be completed within 18 months.

Case No. 5031--Jonathan & Ada McNair - Southwest side of Route 326, ½ mile northwest of Route 318.

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. Lank. Jonathan & Ada McNair were sworn in and testified, requesting to place a 28'x 44' double-wide manufactured home on their property for their permanent residence. They testified that there are other manufactured homes in the area, the nearest on the adjacent property.

There were no parties present in opposition.

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

Case No. 5032--Emily A. Colmery - Southwest side of Route One, across from Route 271, Lot D-33, within Sea Air Mobile City.

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

The case was presented by Mr. Lank. Wallace Colmery was sworn in and testified, representing his mother Emily Colmery who requested a 3'3" variance from the 10' setback requirement between units in a park, being Lot D-33, Sea Air Mobile City. Mr. Colmery stated his mother proposes to add a deck on her property and will be closer than the 20' requirement between units. Mr. Colmery stated there had been a previous variance approval, but expired before the deck was built. He testified that Sea Air Mobile City has no objections.

There were no parties present in opposition.

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

OLD BUSINESS

Case No. 5014 (cont'd.)--David R. Hamm, "Parts Plus" - Northwest side of Route 26, approximately 200 feet northeast of the intersection of Route 54 and Route 20.

A variance from the side yard setback requirement.

Mr. McCabe reviewed the case. He stated that the fence on the property has been repaired and a survey of the property has been done.

After some discussion, motion was made by Mr. Mills that the variance be granted with stipulations.

Motion died due to lack of a second.

After more discussion, motion was made by Mr. Callaway and seconded by Mrs. Hudson that the variance be denied, with Mr. McCabe voting in favor. Motion carried with four voting against the variance and one voting in favor of the variance. The Board found that the applicant failed to meet the requirements for the granting of a variance under the Zoning Code and the property can be used without a variance.

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

Meeting adjourned at 8:25 P. M.