

Minutes of March 21, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, March 21, 1994 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. Wheatley, Mrs. Hudson, Mr. Mills, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the minutes of March 7, 1994 be approved as circulated.

Case No. 5303--Robert B. & Pamela Kernodle - East side of Route 422A, 2,190 feet north of Route 62.

A variance from the minimum lot width requirement and a special use exception to retain a manufactured home on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Robert & Pamela Kernodle were sworn in and testified, requesting a variance from the minimum lot width requirement and a special use exception to retain a manufactured home on less than five acres. The applicants testified that the manufactured home has been on the property on acreage for two years. They propose to subdivide out a parcel of land with the manufactured home on it that is less than five acres. The applicants propose to build a home on the rear portion of the property. A 50' right-of-way will be provided. They testified they will probably sell the lot in front with the manufactured home on it. They testified there is woods and another manufactured home on either side of the property. They will provide two entrances to the lots. The way the property is laid out they cannot have a shared driveway. They request a 100' variance from the 150' frontage required for a new lot and to be able to retain the manufactured home on the property. The variance is requested due to the location of the septic and well.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley 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. Wheatley and carried unanimously that the variance and special use exception be granted, with the stipulation that the variance and special use exception be owner occupied.

Case No. 5304--James Baumann - Southwest side of Route 5, 0.6 miles southeast of Route 292.

A special use exception to place a manufactured home for security purposes.

The case was presented by Mr. Betts. James Bauman was sworn in and testified, requesting to place a manufactured home on property he is leasing for security purposes for a proposed seafood market. Mr. Bauman testified that he will live in the manufactured home and operate the market. Mr. Bauman stated that he now operates a seafood market in Rehoboth (Captain Jim's), but this will be his last year at the Rehoboth location because his lease is up. Mr. Bauman stated he will operate the market year round, probably seven days a week in the summer and five days a week in the winter. He stated that the manufactured home is on the property and he is living in it.

Laura Ann Price was sworn in and testified in opposition, stating that she lives across the street. She testified that Mr. Bauman has been living in the manufactured home since February. She is concerned about the traffic problems and noise. She stated that the store was previously a liquor store. She questioned why a manufactured home for security is needed, why he could not get a burglar alarm. She is also concerned about the septic. She lives in a double-wide manufactured home. She presented pictures.

Judith Ann Weiland was sworn in and testified in opposition, stating she lives on Route 5. She has concerns that if it is going to be a market, time limits should be set when the business starts verses the manufactured home staying on the property. She feels it is a disruption to the area. She objects to the manufactured home, but not to a market.

Gladys Hughey was sworn in and testified in opposition, stating that the applicant did not go through the proper procedures to place the manufactured home. She testified that she had a liquor store there and went through the proper procedures. She questioned why he did not. She opposes the noise, traffic problems and feels the manufactured home is an eyesore to the area. She stated she opposes the manufactured home, but could live with the fish market. She also stated that the school bus turns around on the property when picking children up for school.

Joseph Dailey was sworn in and testified in favor of the application. He stated he bought the place two years ago in poor shape and cleaned the store up and then sold it. He stated he can see the need for security. He also stated that it is private property and the school bus does not have to turn around there.

Mr. Bauman in closing stated that he hopes to have the business open by April 15, 1994.

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. Wheatley and carried unanimously that the special use exception be denied, finding that a manufactured home is not needed for security.

Case No. 5305--Robert J. & Jeanne Thomas - South side of Oak Street, 100 feet northwest of Route 351, Lot 2, within Banks Acres Subdivision.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Robert & Jeanne Thomas were sworn in and testified, requesting a 1'3" variance from the rear yard property line where a 10' setback is required, located on Lot 2, Banks Acres. Mr. Thomas obtained a building permit to build a 24'x 24' unattached garage which would require a 5' setback. When the garage was built, Mr. Thomas added a workshop to the garage which brought the structure over 600 square feet in size. Since the structure is over 600 square feet a setback of 10' is required, and since it does not meet the 10' setback a variance is needed.

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. 5306--The Vessels Company - Off Bay Road and on the south side of Route One.

A variance from the minimum lot depth requirement.

The case was presented by Mr. Betts. Rhodes Vessels was sworn in and testified representing The Vessels Company who requested a 22.27' variance from the 100' depth to be 77.73' for a new parcel being subdivided. The property was purchased by the applicants in 1960. There is an existing easement to the property. The new parcel will be for a new residence.

J. Wesley Lynam who lives adjacent to the property was sworn in and testified asking for clarification of the property. He had concerns about drainage on his property being blocked.

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. 5307--Steven N. & Robin B. Twilley - North side of Adams Drive, 1,620 feet northeast of Route 225, Lot 34, Block B, within Eastman Heights.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Walter Feindt, Attorney was present representing the applicants, who requested a 4.5' variance from the side yard setback of 10' for an existing house and garage. Mr. Feindt stated that the property, Lot 34, Eastman Heights, was purchased with the house and garage on it in the 1990's by the applicants. The encroachment was discovered when the property next door was built on.

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. 5308--Larry W. & Oneida M. Brown - South side of Route 611,  
300 feet west of Route 44, Lot 13 and Lot  
14, within Wil-Ack Acres.

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. Oneida Brown was sworn in and testified, requesting to place a double-wide manufactured home on her property, being Lot 13 & 14, in Wil-Ack Acres. She stated this will be their permanent residence. They will place the unit on both lots. She testified that there are other manufactured homes in the area.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the special use exception be granted.

Case No. 5309--Michael & Betty Revel - North side of Route 505,  
3,400 feet west of Route 509.

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

The case was presented by Mr. Betts. Michael & Betty Revel were sworn in and testified, requesting to place a manufactured home on their property for their grandfather to live in on medical hardship. They testified that their grandfather needs medical attention daily. The applicants live on the property in a manufactured home. They testified that the unit for their grandfather will be at least 50' in length with two bedrooms. They have not purchased it as yet.

A letter from the doctor referencing their grandfather's (Walter Long) illness, was read into the record by Mr. Betts.

The Chairman explained to the applicants that if the special use exception is approved, the request must be reapplied for every two years and if the hardship ceases to exist the manufactured home will have to be removed.

There were no parties present in opposition.

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

Case No. 5310--Atlantic, Smith, Cropper & Deeley - Northeast side  
of Route One,  $\frac{1}{4}$  mile south of Route 283.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Dale L. McCalister was sworn in and testified, representing the applicants who requested a 15' variance from the 20' side yard setback for a ground sign. Mr. McCalister testified that the applicants want to erect a sign to advertise insurance. A house exists on the property that will be turned into an office. There are other business's and signs that surround the property making it hard to meet the setbacks. The applicants do not want to block neighboring signs. The sign will be under 20' in height.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded, by Mr. Wheatley 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 granted.

Case No. 5311--First State Motors - Southwest side of Route 113,  
at the intersection of Route 87.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Robert Hansen was sworn in and testified representing the application. The applicants request a variance for an additional ground sign to advertise used cars. Mr. Hansen stated the sign will be a 4'x 24', 3 post lighted sign, 16' high. The property now has four, 1 post signs existing that are factory signs that were previously approved, advertising the car business. He stated the new sign will go in the middle of the property to indicate the location of used cars. A drawing of what the sign will look like was shown.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, 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 variance be granted, finding the use will not have an adverse affect on the surrounding area.

Case No. 5312--Ronald J. & Glenda Jackson - South side of Route  
360, Lots 91 and 92, Canal Way East,  
within the Salt Pond Subdivision.

A variance from the requirements for swimming  
pools.

The case was presented by Mr. Betts. Ronald Jackson was sworn in and testified, requesting a variance from the requirements for swimming pools, located on Lots 91 & 92, in Salt Pond. Mr. Jackson requested to have the east side of the pool unprotected by a 4'

fence/barrier, since Salt Pond is the protected barrier. Mr. Jackson has built a home in Salt Pond. A plan was presented showing elevations and he explained where landscaping is to take place. He proposes to have a berm up to 12' on the side plus bayberry bushes and other shrubbery which is very dense. There will be a 7' high rip rap wall also around the area. He feels no one will be able to venture onto his property. He would not be opposed to gates if required. Mr. Jackson stated that the pool is under construction and the landscaping could start within the week pending the outcome of the hearing. The pool will be surrounded by berm, dense shrubbery and Salt Pond. Mr. Jackson feels this is adequate protection against anyone going in or around the pool.

Mr. Betts referenced the Zoning Code pertaining to fence and barriers around pools. He stated that a variance is needed on the Salt Pond side only.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the variance be granted without fence on backside, but stipulated that two (2) gates be placed on the front as described by Mr. Jackson.

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

Meeting adjourned at 8:37 P. M.