

Minutes of April 6, 1992

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, April 6, 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 members present were Mr. McCabe, Mr. Stuchlik, Mrs. Hudson, Mr. Carey, Mr. Wheatley, Mr. Jones-Attorney and Mr. Betts-Chief Zoning Inspector.

Motion was made by Mr. Carey, seconded by Mr. Stuchlik and carried unanimously that the minutes of March 16, 1992 be approved as circulated.

Case No. 4675--R. A. Bunting & Co., Inc. - East side of Route One, ½ mile north of Bethany Beach, Lot 30, within Ocean Ridge.

A variance from the maximum height requirement.

The case was presented by Mr. Betts. Robert A. Bunting was sworn in and testified, requesting a variance of 6.60' from the 35' maximum allowed height for a dwelling, on Lot 30, Ocean Ridge. Mr. Bunting testified that the house has already been constructed and the measurements were taken from the center of the road and not the center of the flood elevation. Mr. Bunting testified that the flood elevation is 9' lower than the road. The dwelling is three stories high and is on piling with parking underneath. He testified that to make the dwelling comply he would have to destroy the top (3rd.) floor.

Pete Loewenstein, Surveyor, was sworn in and testified in behalf of the application, stating that the lot is very unique in that the average is 9' below the road. Mr. Loewenstein stated that he had done the elevation of the lot for the applicant after construction. He feels an honest mistake was made by the applicant.

Richard Dundee, homeowner and on the Architectural Review Committee in Ocean Ridge, was sworn in and testified in behalf of the application. He testified that the committee had reviewed the applicants plans and felt he met all requirements. Mr. Dundee testified that the developments regulations require measuring from the center of the road. They felt they complied with County regulations. Mr. Dundee explained the lot and the way it is laid out.

Thomas R. Crowley, Realtor, was sworn in and testified in behalf of the variance, stating that he has the renting of the property and that the dwelling has been rented to October. To reconstruct the dwelling would create problems and an inconvenience to the renters.

Mr. Bunting in answer to questions from the Board stated that the dwelling could meet the height requirements if it were dropped down and the garage excluded.

Mr. Loewenstein stated that parking without the garage area underneath, would be difficult, because of the shape and slope of the lot.

There were no parties present in opposition.

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

Case No. 4676--Bruce W. Kern South side of Route One, $\frac{1}{2}$ mile southeast of Route 275A, Lot 13Q, within Sea Air Mobile City.

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

The case was presented by Mr. Betts. Bruce Kern and John Edward Hensley, Regional Manager of Sea Air Mobile City, were sworn in and testified. Mr. Kern requested a variance of 9 feet from the 20 foot requirement between units, a 7 foot variance from the 20 foot requirement between units and a variance of 1 foot 7 inches from the side yard setback of 5 feet, on Lot 13Q in Sea Air Mobile City. Mr. Kern was previously denied the variance requests (Case No. 4541), at a hearing before the Board. The applicant has a manufactured home with additions on the lot and it does not meet the proper setbacks.

Mr. Hensley explained to the Board the circumstances of Mr. Kern's manufactured home being placed on the property. He testified that he is in favor of the manufactured home remaining on the property at its present location. The unit was permitted in the travel trailer section in Sea Air. It was moved in from Shaw Park, which was closed down in the City of Rehoboth. There are travel trailers on either side of the unit.

A letter was received and read into the record from Debra Foglesong, who is in favor of the variance request.

Anthony L. Bryan, Superintendent of the park, was sworn in and testified in behalf of the applicant.

Sandra L. Stintsman, Office Manager, was sworn in and testified in behalf of the applicant, stating that he is a valued tenant.

Donald F. O'Lash a tenant in the park, was sworn in and testified in behalf of the applicant, stating that he (Mr. Kern) is an asset to the park.

There were no parties present in opposition.

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

Case No. 4677--Louis F. Fletcher, Jr. - West side of Route 13A, $\frac{1}{4}$ mile south of Route 488.

A variance from the setback requirements for signs.

The case was presented by Mr. Betts. Louis Fletcher, Jr. was sworn in and testified, requesting a variance of 61' from the 100' setback requirement from a dwelling for a ground sign and

a variance of 14' from the 20' side property line setback for a ground sign. Mr. Fletcher testified that he will have one 3'x 5' ground sign on a 20' high pole, that will be lighted. Mr. Fletcher stated that the sign will not obstruct any vision.

There were no parties present in opposition.

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

Case No. 4678--Robert Phillips - Northwest side of Route 468, 401 feet southwest of Route 13.

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

The case was presented by Mr. Betts. Robert Phillips was sworn in and testified, requesting to place a 1982, 12'x 56' manufactured home on property where he has a bus business, to be used as an office and residence. The unit will have kitchen and sleeping facilities.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for a period of five (5) years.

Case No. 4679--Robert T. & Betty C. Groton - West side of Route 13, 158 feet north of Route 468.

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

The case was presented by Mr. Betts. Robert Groton was sworn in and testified, requesting to continue the use of a manufactured home on his property for security purposes. The manufactured home is 28'x 56' with a 20' addition and is the residence of he and his wife. It is used as security for his automobile parts business. The use was previously approved for five years and since that time is up, Mr. Groton is reapplying.

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, for a period of five (5) years.

Case No. 4680--Jack Lingo, Inc. - North side of Route 273, 600 feet west of Route One, on Patriot's Way within King's Creek Country Club.

A special use exception to place a manufactured home to be used as a temporary sales office.

The case was presented by Mr. Betts. T. William Lingo was sworn in and testified, requesting to continue the use of a manufactured home type structure as an office for sales in King's Creek Country Club. The applicant had previously applied for a 2 year period, but they now

find the manufactured home is needed for a longer period of time.

There were no parties present in opposition.

Motion was made by Mr. Stuchlik, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for a period of five (5) years.

Case No. 4681--John H. Stradling - At the end of Route 39A, on the northeast side of Front Street, on the northwest side of the intersection with Cedar Street, Lot 3, Blk. A, within Joseph Short Lots, Prime Hook Beach.

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

The case was presented by Mr. Betts. John H. Stradling was sworn in and testified and was represented by Norman Barnett, Attorney. Mr. Stradling requested a 5'11" variance from the front property line setback of 30', a 7' variance from the side yard setback of 15' and a 8'9" variance from the side yard setback of 10'. The lot is a corner lot, making one side yard setback 10' and the corner side 15'. Mr. Barnett explained to the Board that the house existed before zoning and does not conform to the setbacks, a garage and other improvements were added that do not meet the setbacks. He had obtained a permit for the added construction. The construction was done by a friend and builder, Mr. Landon. The building permit was also obtained by the builder and Mr. Stradling stated he never received a copy of the permit. When a survey was done to refinance the property, the encroachments were discovered. Mr. Landon was not present and Mr. Barnett stated certified mail to him (Mr. Landon) had been returned. Copies of letter sent to Mr. Landon, copy of building permit and a copy of approval from D.N.R.E.C. (for the garage) were presented. Mr. Barnett stated that refinancing of the property cannot be obtained without the variance. Mr. Stradling stated that the 22'x 40' garage with utility room could have been situated on the property to meet the setbacks. The construction was left to the builder who had the garage size on the permit as 22'x 30' and it is 22'x 40'. Mr. Stradling purchased the property in March, 1988, the deck and garage were added. The lot is irregular in size.

Mr. Betts stated that a letter had been received with no signature referencing this case. The Board did not consider the letter.

Mr. Betts read and referenced 3 letters of opposition, received from Robert J. Voshell, Belinda H. Voshell and Amanda E. Birmingham Voshell. Also a letter of opposition from John R. Stoeckel.

There were no parties present in opposition.

Motion was made by Mr. Stuchlik, seconded by Mrs. 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 Mr. Stuchlik, seconded by Mr. Carey and carried unanimously that the variances be granted, due to there being space on Cedar Street.

Case No. 4682--Willie M. & Patricia L. Taylor - North side of Route 24, $\frac{1}{4}$ mile east of Millsboro, and 1,000 feet east of Route 30.

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

The case was presented by Mr. Betts. Willie & Patricia Taylor were sworn in and testified, requesting to place a 28'x 70' manufactured home on solid foundation to be used for security purposes. The applicants have a manufactured home supply business, T/A T & C Enterprises, on the property, with supplies being stored outside. The applicants testified they need the manufactured home for security. They will live in the manufactured home. The unit will be placed approximately 400' from the road. They testified that there are other manufactured homes located in the area. In answer to questions from the Board, they do not have fencing because of the trucks coming in and out and causing traffic problems. The trucks cannot set on the property because all available space is needed for supplies.

There were no parties present in opposition.

Motion was made by Mr. Carey, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted, for a period of five (5) years.

Case No. 4683--Katherine & Phillip Disabattino - North side of Route 346, Mallard Drive, Lot 23, within Gander Woods Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Katherine Disabattino and Ted Stevens were sworn in and testified. The applicants requested a 2.5' variance from the 30' front yard setback requirement for a dwelling that has been constructed by Mr. Stevens. Mr. Stevens testified that he did not consider the radius on the cul-de-sac when he laid the house out. He has been a builder for three years. The property being Lot 23, Gander Woods Subdivision.

Shirley and Dick Stevens were sworn in and testified in behalf of the variance. They testified that they are the owners of the subdivision and this is the first variance request and the 4th. house in the subdivision. They do not feel a precedent will be set.

Mr. Ted Stevens stated that he is the only builder for the subdivision and that there will be no other variances requested.

There were no parties present in opposition.

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

Case No. 4684--Sharyn C. Warwick - Northwest side of Route 293, $\frac{1}{2}$ mile 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. Sharyn Warwick was sworn in and testified, requesting to place a new 26'x 52' manufactured home on her property for her residence. The manufactured home will be placed on a foundation. There are other manufactured homes in the area.

Vincent D. Lickman, a neighbor, was sworn in and testified, questioning the subdivision of the property where the applicant has her lot. He was under the impression the property was not to be subdivided. Mr. Lickman testified he has a \$150,000.00 home on his property. He also referenced deed restrictions.

Mr. Jones, Attorney, explained to Mr. Lickman that the subdivision, back when it was approved, did not require a public hearing and the County does not honor or have control over deed restrictions.

Mr. Lickman stated he does not object to the manufactured home.

Richard Stack was sworn in and testified in behalf of the application. He read a note pertaining to his owning property across the road, as well as his mother-in-law and sister-in-law, and they do not object to another manufactured home going in the area. They also feel it will not affect their property values.

Ron Hughes was sworn in and testified representing his mother who lives across the road and has no objection.

Alfred Morgan was sworn in and testified in behalf of the manufactured home, but questioned when the subdivision was recorded.

Michael Schroeder was sworn in and testified in opposition, questioning whether the unit is a mobile home or manufactured home. He opposes the manufactured home for fear more single wide manufactured homes will come in the area on less than five acres. He stated that a manufactured home park in the area has been rumored.

William Elwood Bingham was sworn in and testified in opposition. He feels the manufactured home should be on five acres and feels it is a wedge to get more in the area.

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

Case No. 4685--George Bender - On a private road off Route 345,
within West Beach.

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

The case was presented by Mr. Betts. George Bender and Donald Bell, son-in-law, were sworn in and testified, requesting a 5.11' variance

from the front property line and 9.06' variance from the 10' side yard setback requirements for a dwelling. Mr. Bell stated that Mr. Bender has a beach house located in West Beach that was in need of remodeling and repairs, for which a permit was obtained. When the repairs were started it was found the dwelling had termite damage, so they proceeded to tear down some areas and build new additions in some. It is virtually a new dwelling. Mr. Bender thought the permit he obtained covered an addition when in fact it only stated remodeling. The work done on the house was considered a new dwelling. The dwelling is 60% completed and to be able to complete it a variance and new permit is needed. When measuring they also assumed the front yard was the river. A petition with 14 signatures in behalf of the request was presented.

Theodore Bender was sworn in and testified in behalf of the variance.

There were no parties present in opposition.

Motion was made by Mr. Stuchlik, seconded by Mr. Carey and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearing, the Chairman referred back to this case. After some discussion, motion was made by Mr. Wheatley and seconded by Mrs. Hudson that the variances be granted, with Mr. Stuchlik and Mr. Carey voting no. Motion carried with three voting in favor and two voting against.

Case No. 4686--John & Pearl Wilson - North side of Route 451, 900 feet east of Route 13.

A special use exception to place third manufactured home on farm.

Presented by Mr. Betts. John Wilson and Roland Willey, Jr. were sworn in and testified, requesting to place a 3rd. manufactured home on his farm for his granddaughter and her husband to live in. Mr. Wilson and a daughter live in the two existing manufactured homes. The farm is tilled by persons other than himself. The applicants will not work on the farm, but are there to provide help if it is needed.

There were no parties present in opposition.

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

DISCUSSION

Letter from Vincent Calabrese.

Mr. Betts stated that he had received a letter from Mr. Calabrese in reference to a previous Board of Adjustment Case for a variance on his property.

Mr. Jones stated that he and Mr. Betts would compile a letter in answer to Mr. Calabrese's letter and send it to him.

Case No. 4675 - Discussion

The Board at this time further discussed Case No. 4675. Motion was made by Mr. Carey, seconded by Mrs. Hudson and carried unanimously that the case be tabled.

Meeting Adjourned at 9:26 P. M.