

Minutes of April 7, 1997

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, February 7, 1997 in the County Council Administration Office Building, 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. Callaway, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Jones-Attorney, Mr. Betts-Zoning Inspector III and Mrs. Talley-Planning & Zoning Secretary.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of March 17, 1997 be approved as circulated.

Mr. Jones read a statement explaining how the Board of Adjustment meetings are conducted and the procedure for hearing the cases.

Mr. Betts announced that Case No. 6275, 6277 and Case No. 6284 had been cancelled due to a change in the Zoning Code adopted by County Council.

Case No. 6273--Gerald H. Smith - Northwest side of Cannon Street and Basin Road Drive, Lots 29, 31, 84 and 85 within Delaware Oyster Farm Subdivison.
A variance from the rear yard setback requirement and a variance from the lot depth requirement.

The case was presented by Mr. Betts. Gerald H. Smith was sworn in and testified, requesting a variance from the rear yard setback requirement and a variance from the lot depth requirement. Mr. Smith stated that the four Lots 29 and 31 are on Cannon St. and Lots 84 and 85 are on Basin Road, with a common rear boundry. Prior to Mr. Smith owning the property, a manufactured home was placed and positioned so that it infringes on all four lots. Mr. Smith stated that his proposal is to move the common boundry 10' toward Basin Rd. and this will clear the encroachment on Lots 84 and 85 and make all four lots more equal in depth. Mr. Smith requested a variance of 10' from the lot depth requirement of 100' to be 90' and a variance of 6' from the 10' rear yard setback requirement. Mr. Smith proposes to remove the old existing manufactured home and replace it with three manufactured homes that will be properly placed. A plot plan was submitted.

Mr. Betts stated that the 6' variance would be from the new lot line proposed. He stated that no correspondence had been received pertaining to this case.

Margaret Pierce was sworn in and testified in opposition, stating that she lives next door on Basis Road. She stated that the applicants property is not taken care of and when she bought her property she was told there would be no manufactured homes on

Basin Road.

Fred Averill was sworn in and testified in opposition, stating that he is a member of the Homeowners & Civic Association and lives next door on Cannon St. Mr. Averill stated that he feels the applicant can do what he wants now if he removes the old manufactured home that straddles two lots. He feels it will make things worse if the applicant puts more manufactured homes on the lots. He feels the development is too congested now. He does not object to what is there now, but feels it is getting too crowded.

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. Wheatley and carried unanimously that the variances be granted, finding that the uses will not adversely affect the area.

Case No. 6274--Joseph M. Clark--East side of Route 273A, 1.5 miles south of Route One, Lots C20-C23 within Bay Vista.

A variance from the rear yard setback requirement.

Taylor Hudson, builder, was sworn in and testified representing the applicant, who requested a 20' variance from the rear yard setback requirement of 20' to be 0', on Lots C-20-C23 within Bay Vista. Mr. Hudson stated that the applicant wants to make an addition to his dwelling that will not go out any further than what exists. He wants to conform to the present rear yard setback. He stated that the Association is aware of the proposed addition. Pictures were presented.

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.

Case No. 6275--Mike & Cleo Fooks - Northwest side of Route 24, 497 feet east of Route 493.

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

This case was cancelled due to a change in the Zoning Code adopted by County Council.

Case No. 6276--Joseph W. Messick, Jr. - East side of Route 62.
2,300 feet north of Road 66 and Road 421.
A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

Joseph W. Messick, Jr. was sworn in and testified requesting to place a 14'x 56' single-wide manufactured home on property he is purchasing for his residence. The property is owned by his father, but will be put in his name. His father is building a home next to the property where he proposes to put his manufactured home.

Joseph W. Messick, Sr. was sworn in and testified in behalf of his son. He stated that his property completely encloses his sons property and the plot will be in both of their names. He is helping his son to get a start.

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. 6277--Raymond L. & Billie L. H. Lawson - North side of Route 407, 2,640 feet northeast of Route 405.
A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

This case was cancelled due to a change in the Zoning Code adopted by County Council.

Case No. 6278--Billy & Jean Mitchell - South side of Route 292, 400 feet west of Route 293.
A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Billy Mitchell was sworn in and testified, requesting a 7' variance from the 150' lot width requirement to give his son a portion of land. The surrounding property is owned by family. The variance is needed so that the remaining property will not be land locked. The property will meet the required depth.

Mr. Mills questioned if the applicant's son planned to build a home on the property.

Mr. Mitchell stated that his son is trying to buy a farm and

has no plans to build at the present time.

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.

Case No. 6279--Louis A. & Dagne Camp - South side of Route 360,
at Route 357, Lot 229, within The Salt
Pond.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Louis Camp was sworn in and testified, requesting a 2' variance from the 10' rear yard setback requirement on Lot 229, within Salt Pond, to enclose a deck. Mr. Camp stated that he has a screened porch and a deck out behind it and wants to enclose the deck, that is only 8' from the rear property line. He stated that there is no Association.

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. 6280--Chris Showard - West side of Route 422A, 1/4 mile
south of Route 24.

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.

There were no parties present representing this case. The Chairman held the case open until the end of the hearings.

At the end of the hearings, the Chairman referred back to this case. There were no parties present representing this case and no interested parties present.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, due to no parties being present to represent the case.

Case No. 6281--Marsha F. & Barry Lituski - South side of Route 527,
1,400 feet north of Route 18.

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

The case was presented by Mr. Betts. Marsha & Barry Lituski were sworn in and testified, requesting to place a 1980, 12'x 60' manufactured home on their property for their medically disabled mother, who needs care. They live on the property in a manufactured home. They stated that they have neighbors on one side of their property and an open field on the other side.

Mr. Betts read a Doctor's letter pertaining to the applicants mother's condition.

Mr. Lituski stated that his daughter will stay with his mother.

Mr. McCabe explained to the applicants that if approved the application will have to be reapplied for every two years for as long as the hardship exists and when the hardship ceases, the manufactured home will have to be removed.

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

Case No. 6282--Earl S. Wells, Jr. - East side of Route 455B, 1,200 feet south of Route 64.

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

The case was presented by Mr. Betts. Earl Wells, Jr. was sworn in and testified, requesting to retain a manufactured home on property on the basis of hardship. He stated that this is a renewal of a case approved two years ago. He stated that the medical hardship still exists.

Mr. Betts read a Doctor's letter pertaining to the illness of the person with the medical hardship.

Barbara Pearl Workman was sworn in and testified in behalf of the application, stating that the hardship is for her and she is still medically disabled, more so than when applied for two years ago.

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. 6283--Cynthia Brown - West side of Route 226, 260 feet south of Route 224, Lot 2, within Railroad Meadows.

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. Cynthia Brown was sworn in and testified, requesting to place a 1990, 14'x 70' manufactured home on property she is purchasing for her use. She stated that she lives in a manufactured home park and would like to move her unit on land she can own and not pay park rent. She stated that there are other manufactured homes in the area.

There were no parties present in opposition.

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

Case No. 6284--Phyllis A. Hackett - South side of Route 451, 25 feet east of U. S. Route 13A.

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

This case was cancelled due to a change in the Zoning Code adopted by County Council.

Case No. 6285--Charles & Roma O'Donnell - North side of Route 54, 1/4 mile west of Route One, Lot 6, within Mason-Dixon Annex.

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

The case was presented by Mr. Betts. Charles O'Donnell and Glenn Reed were sworn in and testified in behalf of this application. The applicants requested a 9' variance from the side yard setback requirement and a 3' variance from the 20' setback requirement between units in a park, being Lot 6, within Mason-Dixon Annex. The applicant wants to replace an existing manufactured home with a larger one and variances are needed to be able to place the unit. Mr. Reed stated that the new manufactured home will be a 1997 unit. Mr. O'Donnell stated that there is no Homeowners Association and the park owners and neighbors are aware of his intent.

There were no parties present in opposition.

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

Case No. 6286--Vincent Lobo - East side of Bunting Avenue, 200
feet south of Maryland Avenue, Lot 2.

A variance from the square footage requirement for multi-family structures.

The case was presented by Mr. Betts. Steven Lobo was sworn in and testified representing the application, and was represented by John Cordrey, Attorney. The applicant requested a 1130 sq. ft. variance per unit from the requirement of 3630 sq. ft. of lot area per unit for multi-family structures on Lot 2, Maryland Avenue. Mr. Cordrey presented copies of letters from adjacent neighbors voicing no objections. Steve Lobo stated that he is the builder for his parents, who have owned the property since 1965. It is the only single family residence in the area at the present time. Pictures were presented showing what is in the area. It was stated that they will bring the rear yard in compliance and reduce the footprint from ocean to road side. It was stated that the property is completely surrounded by duplex's. The property is zoned C-1 General Commercial and the applicant will create townhouses and will live in one of them.

Mr. Mills questioned if there would be adequate parking.

Mr. Lobo stated that there would be parking provided underneath the units.

Mr. Betts stated that the letters presented were in favor, with four being identical. He read one of the four letters into the record and also read the fifth letter that was presented.

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. 6287--Clyde & Dorothy Tuggle - East side of Route 212,
147 feet north of Route 212B.

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

The case was presented by Mr. Betts. Clyde Tuggle was sworn in and testified, requesting a 25' variance from the 40' front yard

setback requirement and a 3' variance from the 10' side yard setback requirement for a porch. Mr. Tuggle stated that the 3' variance request is wrong, he only needs 1/2' from the side yard. Pictures and a plot were presented. He stated that he has restored a country house that is only 15' from the road. He wants to construct a country porch around the house to make it look better. He needs the variances to be able to do this. He stated that the house looks bland without the porch.

There were no parties present in opposition.

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

OLD BUSINESS

Case No. 6268 (cont'd.)--Charles J. & Mildred G. Reid - West side of Route 5, 1,215 feet north of Route 290.
A special use exception to place a manufactured home on a medical hardship basis.

Mr. Betts reviewed the case.

Mr. Callaway stated that he visited the property again, and he does not feel there is a hardship based on the testimony given at the public hearing.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the special use exception be denied, finding that the testimony presented did not justify the hardship.

DISCUSSION

A person asked for verification of the cases that had been cancelled, since he was in opposition to Case No. 6284.

Mr. Jones, Attorney, explained that due to an Ordinance change by the County Council, the Board could not act on the cases and the people who had applied no longer had to come before the Board to place their manufactured homes.

Mr. Jones explained the new manufactured home Ordinance to the Board pertaining to single-wide and double-wide manufactured homes.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously to have someone ask Mr. Stickels to provide the

County Council Chambers with air conditioning when the Board holds their meetings.

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

Meeting adjourned at 8:13 P. M.