

Minutes of April 17, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, April 17, 1995 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, Mrs. Hudson, Mr. Wheatley and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the minutes of April 3, 1995 be approved as circulated.

Mr. McCabe, Chairman, announced at the beginning of the public hearings, for the benefit of interested parties on old business Case No. 5626, the case would be tabled until the next meeting due to the absence of two Board members.

Case No. 5627--Donna Rollo - North side of Route 18, 2,700 feet west of Road 528.

A variance from the minimum lot size for commercial kennels, a variance from the setback requirements for commercial kennels and a special use exception to operate commercial kennels on less than five acres.

The case was presented by Mr. Betts. Bonnie Benson, Attorney, was sworn in and testified representing Donna Rollo. Ms. Benson stated that the applicant requested a special use exception to operate a kennel, a variance from the minimum lot size for commercial kennels and a variance from the setback requirements for commercial kennels. She explained that the applicant has purchased an additional four acres from Mr. Baxter to add to her one acre to make five acres, so now the special use exception and the variance from the minimum lot size for a commercial kennel is no longer needed. The applicant needs only a variance of 155' from the required 200' setback required for a kennel. The request for special use exception and variance from the minimum lot size were withdrawn. Ms. Benson stated that the width of the property does not permit the 200' setback requirement. The additional property purchased is to the rear of the property. She feels the variance will not impair adjacent property. She stated there is vacant farmland on either side of the property.

Ruth Briggs King was sworn in and testified in opposition, concerned about the access to the kennel, due to the dense traffic on the road. She questioned putting a commercial use in an agriculture area. She stated that road frontage is inadequate now. She owns property in the area.

Ms. Benson stated that no more than one or two people will be at the kennel at one time. There will be no considerable traffic and there is parking for four or five cars. She stated that the kennel is not a heavy traffic type business. Ms. Benson stated that there will

be no more than 20 animals at any given time. The kennel will be 20'x 40', heated and air conditioned. The animals will be kept inside for no noise. It will be a state of the art kennel. The kennel will be close to the house to accommodate Ms. Rollo who has a disability.

Rosemary Beaver was sworn in and testified in behalf of the application stating the applicant is a toy poodle breeder and shows dogs.

Mary Alice Grimes was sworn in and testified in behalf of the application stating that the dogs weigh 3 to 5 pounds and have one puppy a year.

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

Case No. 5628--Earl & Faye Hudson, Trustees - North side of Route  
54,  $\frac{1}{2}$  mile west of Route 453.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Earl and Faye Hudson were sworn in and testified, requesting a 5' variance from the side property line. They propose to construct a new 36'x 36' farm building and attach it to an existing 36'x 60' farm building, for equipment. A letter from neighbors Paul and Rose Krouse was presented voicing no objections.

Mr. Betts read the letter presented into the record.

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, finding the use will not adversely affect the neighborhood.

Case No. 5629--Donovan-Smith Mobile Park, Inc. - Southwest side of  
Route 263, 200 feet northwest of Route 18  
(Savannah Road), Lot G-5, within Donovan-  
Smith Mobile Home Park.

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

The case was presented by Mr. Betts. William D. Smith was sworn in and testified, representing the application. The applicants requested a 6'8 $\frac{1}{2}$ " variance from the 20' setback requirement between units in a manufactured home park. Mr. Smith stated they want to place at least a 14'x 62' manufactured home on Lot G-5 in the park, to replace an old manufactured home already on the lot. He stated there is no problem with park.

Mr. Betts stated that no correspondence had been received pertaining to 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. 5630--Carol Callaway - Southwest side of Route 481, 1.2 mile northwest of Route 488.

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

The case was presented by Mr. Betts. Carol Callaway was sworn in and testified, requesting to retain a manufactured home on basis of medical hardship. She stated that nothing had changed, it just gets worse every year.

The applicant was reminded that if the hardship ceases the manufactured home would have to be removed.

Mr. Betts read an updated letter from Dr. Richard Dushuttle.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson 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. 5631--Nieves Zaldivar - North side of Route 266,  $\frac{1}{2}$  mile northeast of Route One.

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

The case was presented by Mr. Betts. Michael Cooksey was sworn in and testified, representing the applicant who requested a 3' variance from the side and rear yard setbacks to construct a 14'x 22' garage. Mr. Cooksey presented copies of a survey to the Board members. He stated that a garage had been on the property and was damaged. The applicant proposes to build a smaller garage than what had existed. He testified that there is woods and farmland on adjacent property.

Mr. Betts stated that the applicant only needs a 2' variance because the garage will be under 600 sq. ft. in size.

Alfred George Best was sworn in and testified that he owns property behind and next too the applicants property. He stated that the applicants previous garage had encroached onto his property and when entering the garage they came on to his property. His concerns were the access to and from the garage and whether it would be on his property at all.

Mr. Cooksey explained that the applicant is changing the entrance to the garage to go in straight off the driveway.

Mr. Best stated he had no objections.

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. 5632--Karen C. Doakes - North side of Route 545, 650 feet west of Route 594, Lot 11, within Morningside Village.

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. Wendy Adams was sworn in and testified, representing Karen Doakes who requested to place a manufactured home on Lot 11, within Morningside Village for her permanent residence. Ms. Doakes is purchasing the property. She testified there are other manufactured homes in the area, plus a manufactured home development.

Mr. Betts stated that no correspondence had been received pertaining to this case. He also stated that deed restrictions in the development require a double-wide manufactured home to be placed on the property on a permanent foundation.

Ms. Adams stated that the applicant will put a double-wide manufactured home on the property on a permanent foundation.

Steve Cooper was sworn in and testified in behalf of the application. He stated that the applicant could not be present at the hearing, because she is expecting a baby anytime.

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.

Case No. 5633--Joyce M. Collins - West side of Route 309A, 400 feet 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. William Street was sworn in and testified, representing the applicant who requested to place a 1976, 12'x 60' manufactured home on her property for her use. He stated that there are other manufactured homes in the area.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted, finding the use will not affect the adjoining properties.

Case No. 5634--Lester Cole & Dawn Johnson - South side of Route 231,  
510 feet west of Route 226.

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. Lester Cole and Dawn Johnson were sworn in and testified, requesting to place a new 1994, 14'x 70' manufactured home on property they are purchasing for their use. They stated there are other manufactured homes in the area.

Mr. Betts stated that no correspondence had been received pertaining to this case.

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, finding the use will not adversely affect the neighborhood.

Case No. 5635--Guy Phillips - West side of Route 30, 1,500 feet north  
of Route 9.

A variance from the minimum lot size for commercial poultry houses and a variance from the setback requirements for commercial poultry houses and a variance from the minimum lot width.

The case was presented by Mr. Betts. Guy Phillips was sworn in and testified requesting variances from the minimum lot size, minimum lot width and from the requirements for commercial poultry houses. Mr. Phillips stated that Donna Short is the present owner of the property and Mr. Phillips proposes to buy it. Ms Short wishes to retain property with the house on it. Mr. Phillips requested a 0.7 acre variance from the required five acres for a poultry house (existing), an 80' variance from the required 200' setback requirement from a residence for a poultry house, a 30' variance from the 50' setback for a poultry house and a 45' variance from the required 150' lot width along a public road. He stated its all family related.

Harold Short, father-in-law of the applicant, was sworn in and testified in behalf of the application. He stated that he owns property on three sides and has no objections.

Donna Baker Short was sworn in and testified in behalf of the application. She stated she wants to reside in the home.

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. 5636--Pamela Brodersen - South side of Route 284,  $\frac{1}{4}$  mile  
northwest of Route 24.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Pamela Brodersen and David Racine were sworn in and testified, requesting a 2' variance to be 8' from the side yard setback to construct an addition to the house for more bedroom space. The addition will be a second story addition, extend 6' back and follow the line of the house.

Mr. Betts stated that no correspondence had been received pertaining to this case.

Erma Donovan was sworn in and testified that she had not understood the application until the meeting. She voiced no opposition.

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. 5637--William Tunnell - North side of Route 381, one mile west of Route 364A.

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. Mr. Betts stated that the old house existing on the property will be removed.

William Tunnell was sworn in and testified requesting to place a 1983, 14'x 70' manufactured home on property for his own use. He stated there are (5) other manufactured homes in the area.

Mr. Betts stated that Curtis Mercer is the owner of the property, but Mr. Tunnell's name will be placed on the deed.

There were no parties present in opposition.

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

Case No. 5638--Robert Reeping - Northeast side of Route 361, 400 feet north of Route 362.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Robert Reeping was sworn in and testified, requesting a variance of 16 sq. ft. from the maximum square footage for a ground sign, to incorporate all of the wording pertaining to his business. Mr. Reeping has a new golf driving range. The sign will be 2' off the ground and illuminated from inside. He presented two letters from people nearest the property.

Mr. Betts read the letters presented from Benny J. Wharton and John W. Hall, voicing no opposition.

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. 5639--Judy Weiland - Northeast side of Route 5, 2,990 feet northwest of Route 292.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Judy Weiland was sworn in and testified, requesting a 46.11' variance from the 150' lot width to create a new parcel. One parcel will contain a frontage of 100' and one parcel will contain a frontage of 103'. She testified she is unable to purchase anymore property to meet the 300' frontage required for two lots. They want the second parcel with 103' of frontage in the event they want to use it later to build a home.

There were no parties present in opposition.

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

Case No. 5640--Michael Davidson - West side of Route 26, 1,140 feet south of Route 426.

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. Michael Davidson was sworn in and testified, requesting to place a new 26'x 48' double-wide manufactured home on property for her use. She stated there are other manufactured homes in the area. She stated the manufactured home will be put on a block foundation.

Mr. Betts stated that no correspondence had been received pertaining to this case.

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.

Case No. 5641--Emillo & Joseph Iannaccone - West side of Route 46, 2,200 feet south of Route 524, on a private easement.

A special use exception to place a manufactured home to be used as a storage shed.

The case was presented by Mr. Betts. Emillo & Frances Iannaccone were sworn in and testified, requesting to use a manufactured home for a shed. They do not reside on the property, but live 3 or 4 miles away. He wants to be able to keep his tools in it.

Jeff Mitchell was sworn in and testified that he lives across the road in a \$120,000 home. He questioned why he wants to use a manufactured home for a shed, and especially since they do not live there. He expressed concern that the manufactured home is to be near their home.

Mr. Betts states that the sign advertising the public hearings was posted where it could be seen, not where the unit is being placed.

Mr. Mitchell stated he assumed the manufactured home/shed was going to be placed where the sign is located.

Mr. Iaccaccone stated that where the manufactured home/shed is going to be placed, it cannot be seen by anyone.

Mike Erickson was sworn in and testified stating concern he was not notified of the hearing.

Mr. Betts stated Mr. Ericksons property is not within 200' of the applicants property.

Mr. Mitchell stated if the manufactured home is going where described, he had no opposition.

There were no parties present in opposition.

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

Case No. 5642--James G. Reynolds - West side of Route 607, 2,100 feet southwest of Route 113.

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

The case was presented by Mr. Betts. James Reynolds was sworn in and testified, requesting to retain a manufactured home on medical hardship basis, the original hearing Case No. being 4791. He stated that this is a renewal. Mr. Reynolds stated nothing has changed, just gets worse.

Mr. Betts stated that no correspondence had been received pertaining to this case.

Mr. McCabe reminded the applicant that if 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.

#### OLD BUSINESS

Case No. 5626(cont'd.)--Alvin & Josephine Kruger, Linwood & Arvella Sirman, IA Construction Corporation, Atlantic Concrete Co., Inc., Thoro-Good's Concrete Co., Inc., David G. Horsey & Sons, and Del-Mar Va- Paving Co., Inc.

An appeal of the Director's decision that property owned by Sussex County Government at the Sussex County Airport and Industrial Park is exempt from the jurisdiction of the Zoning Ordinance.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the case be tabled until the next meeting.

OTHER BUSINESS

Case No. 5541--Joseph & Karen Federer

Request for a re-hearing.

Mr. Betts stated that a letter had been received from James Fuqua, Attorney, representing Joseph & Karen Federer, who were denied a variance by the Board at a previous meeting, requesting a re-hearing.

The Board decided to table their discussion until the next meeting when council is present.

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

Meeting adjourned at 8:06 P. M.