

Minutes of April 18, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, April 18, 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. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the minutes of April 4, 1994 be approved as circulated.

Case No. 5325--Richard L. Brown - East side of Route 30, 550 feet north of Route 637.

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. Richard Brown was sworn in and testified, requesting to place a 1993, 28'x 70' manufactured home on his property. He testified that there are other manufactured homes located in the area.

There were no parties present in opposition.

Motion was made by Mr. Callaway, 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 Mrs. Hudson and carried unanimously that the special use exception be granted, finding the use will not have a negative impact on the surrounding area.

Case No. 5326--Jessica Stevens - North side of Route 22, ½ mile east of Route 22C.

A special use exception to operate a Day Care Center.

The case was presented by Mr. Betts. Mark Andrew Stevens was sworn in and testified in behalf of the application, stating the applicant was unable to attend. Mr. Stevens testified that the applicant was requesting to operate a Day Nursery and Day Care Center. He states that they are allowed a maximum of 63 children. He feels there is a need for the center in the area. He testified that there is a new elementary school being built in the area. There will be fenced in play yard in the rear of the property. The center will operate Monday through Saturday, from 8:00 A.M. to 8:00 P. M. for children ages 3 years to 12 years old. There will be one (1) employee per 12 children. Some of the children will be at

the center after school.

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

Case No. 5327--Herbert A. Woodland - East side of Route 113, and on the north side of Route 432.

A special use exception to have outdoor display and promotion of objects for sale.

The case was presented by Mr. Betts. Herbert Woodland was sworn in and testified and was represented by Robert Witsil, Attorney. Mr. Woodland requested to have an outdoor display and promotion of objects for sale. Mr. Woodland sells sheds, outdoor furniture and miscellaneous items. Mr. Witsil referenced a survey with parking that had been submitted with the application. Mr. Woodland stated that he will operate mostly on weekends, but wants the time limit for a year round operation. He will operate from 8:00 A. M. to 5:00 P. M. (during daylight hours), which could be later in the summer months. Mr. Woodland stated he was not requesting any blimp type advertising for his business.

Mr. Betts stated that Mr. Woodland was notified that anything other than sheds must be enclosed. He also stated that a 40' setback must be maintained.

Mr. Woodland stated that there are three sheds on the property in front now (permanently), he uses to sell things from and for storage. He also sells the sheds.

Mr. Woodland stated he has a tenant who runs the business for home. He also stated there would be no table renting to other people.

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 Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be granted for a period of five (5) years with the following stipulations:

1. Must meet all setback requirements.
2. Must be a one business operation only.
3. Operate in daylight hours only.
4. Must meet all off-street parking requirements.

Case No. 5328--Rodney McBroom - South side of Route 220, 0.4 mile north of Route 221.

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. Rodney McBroom was sworn in and testified, requesting to place a manufactured home, at least 14'x 70' in size, on property he is under sales contract to purchase for his residence. Mr. McBroom stated he is purchasing the property from Mr. O. Joseph Penuel and will be removing two old manufactured homes that exist on the property. There will be only one manufactured home on the property. Mr. McBroom stated there are two other manufactured homes located in the area approximately $\frac{1}{4}$ mile away. He believes they are on property less than five acres. There are two conventional homes and farm fields in the area. Mr. McBroom stated he is purchasing more than one acre of the property.

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

Cynthia McBroom was sworn in and testified in favor of the application. She stated that she and her husband (the applicant) and their daughter will live on the property. They want to clean the property up since it is in a run down condition and have contacted Eastern Waste to do the job. She testified that she and her husband had saved to purchase the property and at this time it is not financially feasible to build a home. Maybe in the future they can. She stated they would not be able to move on the property until it is cleaned up.

V. George Carey was sworn in, in opposition and presented a petition of opposition and a letter of opposition he had written.

Mr. Betts read into the record the letter of opposition from Mr. Carey and the petition of opposition with 23 signatures.

Karen Carey Wilkerson was sworn in and testified in opposition and presented pictures of the existing manufactured homes and property the applicants propose to purchase. Mrs. Wilkerson feels if the property is to be cleaned up, the owner should have done it, before selling it. She stated she has lived in the area for nine years and is concerned about rats, disease and waste, because of the condition of the property.

Francis Clifton Drury was sworn in and testified that the two manufactured homes referred to by the applicant are probably the units on his property. He stated that when he purchased the property the manufactured homes were there with life time rights for the occupants, but will be removed when the occupants leave. He is opposed to other manufactured homes coming into the area and to strip development.

James H. Wilkerson was sworn in and testified in opposition referencing septic systems in the area owned by Mr. Penuel.

Mr. McBroom stated that they want to remove the run-down trailers on the property and put a better one there to improve the property.

Mr. Carey expressed concern that to permit the manufactured home could present problems years from now and could become a trailer park. He stated that once the manufactured homes are on the property it could become a continuous chain process down the road. He opposed the manufactured home request.

Mrs. McBroom stated that they would not purchase the property without being able to have a proper septic and well. She expressed amazement to the opposition when their intent is to clean-up the property.

Otis Joseph Penuel was sworn in and testified in behalf of the application. He stated he wants to see the property cleaned up. He stated that previous tenants were responsible for the condition of the property. He testified the property existed before the Wilkerson's moved in the area. He had moved one of the units on the property to replace one burned out, thinking he could replace it under the circumstances. He testified that he wants the property cleaned up to improve the area.

Mr. Drury stated that what Mr. Penuel is doing with his property is out of keeping with the area.

Mr. Carey questioned what would happen if the applicants were to sell the property to someone else. He stated the farming done in the area disturbs some people.

Mrs. McBroom stated that they are used to farming and they plan to live on the property and not sell it.

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. Callaway that the special use exception be granted.

Due to lack of a second the motion died.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley that the special use exception be denied, with Mr. Callaway voting in favor. Motion carried with three voting in favor of denial and one voting against denial. Reasons for denial: It will decrease property values of adjoining property; the area is basically a farming area; the older manufactured homes in the area are being removed and not replaced with newer ones and the area is primarily stick built homes.

Case No. 5329--Jimmy Wooters - North side of Route 17, one mile north of Route 365.

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

The case was presented by Mr. Betts. Jimmy Wooters and Pamela Tocyloski were sworn in and testified, requesting to place a 28'x 70' double-wide manufactured home on property on the basis of medical hardship, to care for their 84 year old grandmother, who presently lives on the property in a single-wide manufactured home. They

testified she is fragile and needs medical care.

Mr. Betts read a letter into the record from a physician referencing Mary Wooters (the grandmother's) condition.

Mr. McCabe explained that if the application is approved it would have to be reapplied for every two years and once the hardship ceases the manufactured home would have to be removed.

Debbie Hastings was sworn in and testified in behalf of the application, stating her grandmother needs case.

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 hardship for a period of two (2) years.

Case No. 5330--Debbie Hastings - West side of Route 348, 500 feet north of Route 349.

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. Debbie Hastings sworn in on the previous case, testified that she was requesting to place a 1994, 28'x 70' manufactured home on her property for her use. She stated that manufactured homes are located on either side of her property.

Jimmy Wooters sworn in on the previous case testified in behalf of this application. He stated he owns the property next door and is in favor of Ms. Hastings request.

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.

Case No. 5331--W. T. & Margaret Faye Walker - West side of Route 571, 1.28 miles south of Route 577.

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

The case was presented by Mr. Betts. W. T. Walker and Margaret Faye Link-Walker were sworn in and testified, requesting to place a second manufactured home on their property on medical hardship basis. Mr. Walker presently lives on the property in a double-wide manufactured home. Ms. Link-Walker (daughter) will move a manufactured home on the property to care for him.

Mr. Betts read a letter into the record from a doctor referencing Mr. Walkers health.

Mr. McCabe explained that if approved they would have to reapply every two years and if the hardship ceases the manufactured home would have to be removed.

Ms. Link-Walker questioned if there was any way two manufactured homes could be kept on the property.

Mr. Betts explained that the property would have to be subdivided and each lot would require a 150' road frontage, which the applicants do not have. He explained it may be possible to subdivide providing a 50' right-of-way. If the property cannot be subdivided one manufactured home would have to be removed.

George Joe Jordan was sworn in and testified in behalf of the application, stating he is a neighbor and helps look after Mr. Walker when his daughter works.

There were no parties present in opposition.

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

OLD BUSINESS

Case No. 5253 (cont'd.)--Clara D. Holloman - South side of Route 283,
900 feet west of Route 283A.

A variance from the lot width requirement.

Mr. Betts reviewed the case, stating a survey was to be presented by the applicant.

Mr. Jones, Attorney, explained that a continuation of the public hearing was agreed upon so that a survey could be done that both parties agree on.

Ms. Holloman was present and represented by Bob Dolan, Attorney, who presented a survey and explained the structures and parking on the property. Mr. Dolan stated that Ms. Holloman's dwelling will have to be removed without the variance. He explained that a settlement agreement will be made pending the outcome of the Board's decision. The settlement is to cover a debt made by Ms. Holloman's deceased husband.

Jim Yori, Attorney, was present representing Mr. Nennstiehl, the other party involved in the property settlement. Mr. Yori stated that without the parking being provided Mr. Nennstiehl would not be able to operate his business. They would not be opposed to the Board's decision since an agreement between the two parties has been made.

There were no parties present in opposition.

Motion was made by Mr. Callaway, 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. Callaway, seconded by Mrs. Hudson and carried unanimously that the variance be denied, finding that the business could not operate as presented; would be a definite hardship; both lots undersized and that the requirements for the granting of a variance according to the Zoning Code have not been met.

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

Meeting adjourned at 8:30 P. M.