

Minutes of May 1, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, May 1, 1995 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 6:59 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Karsnitz-Attorney (until 7:03 P. M.), Mr. Jones-Attorney and Mr. Rickard-Zoning Inspector.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley that the minutes of April 17, 1995 be approved as circulated, with Mr. Mills abstaining. Motion carried with three voting in favor and one not voting.

Mr. McCabe announced that the old business would be heard first.

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.

Mr. Rickard announced the case.

Motion was made by Mr. Mills that the appeal of the Director's decision be denied, stating he felt that both sides had a very close argument, both ways, but he felt that the decision of the Director was along the lines of what's been the policy for the County for the past 25 years. The motion was seconded by Mrs. Hudson, with Mr. Wheatley voting in favor of the appeal. Motion carried with three voting in favor of denial and one voting against denial.

The Chairman asked for a roll call.

Mr. Mills voted to deny, for the reasons previously given.

Mrs. Hudson voted with Mr. Mills to deny, she stated she feels the decision made by Mr. Lank is correct.

Mr. Wheatley voted in favor of the appeal, stating he thinks the Zoning Code 115-18 leaves a lot to be desired.

Mr. McCabe voted to deny the appeal, stating he feels the question is not whether the move was bad policy, but whether or not the Director made the right decision and considering everything he had to go on he thinks the Director did the right thing, made the right decision at the time.

Vote 3 nays  
1 yea

The appeal was denied.

Case No. 5643--Robert & Phyllis Worthington - South side of Route 437A,  $\frac{1}{2}$  mile west of Route 62.

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. Rickard. Phyllis Worthington and Kenneth Whaley were sworn in and testified. Mrs. Worthington requested to keep a manufactured home on property for her residence. The manufactured home has been on the property since the 70's. The previous owner was Mr. Whaley. Mr. Whaley showed a plot plan of the property. The survey done by Walter Todd showed a 1.81 acre lot has existed since November 5, 1975.

Carl D. Pepper was sworn in and testified in behalf of the application. He stated he has no problems with a manufactured home being on the property.

Mrs. Worthington stated she plans to put a new manufactured home on the property.

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.

Case No. 5644--G. Robert Berry - South side of Route 9, 1,600 feet west of Road 281.

A variance from the requirements for signs.

The case was presented by Mr. Rickard. G. Robert Berry and Mary Lou Berry were sworn in and testified, requesting a variance of 10 sq.ft. from the 6 square foot sign for a home occupation. They propose to keep a 4'x 4' sign on their property. The sign was constructed in March, 1995. There had been a smaller sign on the property that was destroyed. They replaced it with a larger sign. They stated the sign will not obstruct any view. Pictures were presented.

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. 5645--Francis & Rose Stilling - East side of Route 350, Lot 4, within Denton Woods.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Francis & Rose Stilling were sworn in and testified, requesting a 9' variance from the front yard setback of 40' to accommodate an 80' manufactured home to be placed on Lot 4, within Denton Woods. The property is vacant now. The lot is a through lot with two frontages. There is woods to the rear of the property. They stated there is no problem with the Homeowners Association. The applicant's already have the manufactured home.

Delores Curcio was sworn in and testified stating she lives next door and is in favor of the variance request.

Richard J. Hutchinson, President of the Property Owners Association was sworn in and testified in behalf of the application.

William O. Cole, Secretary of the Property Owners Association, was sworn in and testified in favor of the variance.

There were no parties present in opposition.

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

Case No. 5646--Harlee, Jr. & Joann Potter - East side of Route 350, Lot 1, within Denton Woods.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Elwood Paul Curcio was sworn in and testified, representing the applicants who requested a 9' variance from the front yard setback of 40', to accommodate an 80' manufactured home. He testified that this application is the same situation as the previous Case No. 5645. The applicants already have the unit picked out. Their property is also a through lot with two frontages, being Lot 1, within Denton Woods.

Mr. McCabe, Chairman, stated that testimony from the previous Case No. 5645 will be incorporated into this case.

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.

Case No. 5647--Paul Collins, Sr. - South side of Route 24, 250 feet southwest of Route 510A.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Paul Collins, Sr. was sworn in and testified, requesting a 2.78' variance from the 15' side yard setback for a 14'x 16' addition. The addition is currently 12.22' from the side property line. There is farmland adjacent to the property. Mr. Collins stated when he shot the line to where he thought the side property line was, there was corn on the property. It was after the corn was gone and a survey done, the encroachment was found.

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. 5648--Bryan Hurd & Traci Walls - East side of Route 621, at the intersection on the east side of Route 635.

A variance from the minimum lot width requirement.

The case was presented by Mr. Rickard. Bryan Hurd and Traci Walls were sworn in and testified, requesting a variance of 125' from the required 150' of road frontage for a new parcel to be 25'. A survey and property transfer is pending Board of Adjustment approval. The applicants plan to build a home on the new parcel which is to the rear of her parents property. They are purchasing the property from Ms. Walls parents. The present site has 145' frontage.

Georgia Hicks and Wellington Hicks, Jr. were sworn in and questioned the location of the property and where the access will be. After hearing the answers to their questions they stated they have no objections.

Steve Dutton was sworn in and testified in opposition stating his property is located next to the driveway on the applicants property. He testified he had not been informed as to what the applicants want to do. He opposed to the driveway being too close to his property.

Ms. Walls stated that the driveway has always been there for access to the existing property. It will be a common driveway for both properties.

Mr. Mills, questioned the need for a variance for the frontage of the remaining parcel since it is less than 150' in width.

Thelma Dutton, Ms. Walls mother, was sworn in and testified in behalf of the application. She stated she could not understand the opposition of Steve Dutton, because he is her son.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled to give time to clarify if the existing property also needs a variance.

Case No. 5649--Ida Mae Willing - East side of Route 569, 2,400 feet south of Route 404.

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. Rickard. Ida Mae Willing and Joseph Willing, Jr. were sworn in and testified, requesting to place a 1970, 12'x 50' manufactured home on Mrs. Willing's property for Joseph Willing, Jr. to reside in. Mrs. Willing lives in a home on adjacent property. She testified there are other manufactured home in the area.

Mr. Jones, Attorney, explained to Mrs. Willing that it has been a policy of the Board that the person living in the manufactured home must also have their name on the deed to the property and the manufactured home.

Mrs. Willing stated that his name would be put on the deed.

There were no parties present in opposition.

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

Case No. 5650--Carlton & Shirley Seward - Northeast side of Route One, approximately  $\frac{1}{2}$  mile east of Route 258.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Carlton and Shirley Seward were sworn in and testified, requesting a 5' variance from the 15' side yard setback to be 10' for a storage building over 600 sq.ft. in size. The 42'x 40' shed is already on the property. The error was made when the shed was erected. It has been on the property for  $1\frac{1}{2}$  years.

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.

Case No. 5651--Michael & Gail Bucher - South side of Route 357, at Route 360, on the west side of Erie Avenue, Lot 42, within Lynn Lee Village.

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

The case was presented by Mr. Rickard. Michael and Gail Bucher were sworn in and testified, requesting a 6' variance from the 20' requirement between units in a manufactured home park, being Lot 42, within Lynn Lee Village. The applicants want to replace a 12' wide manufactured home with a 14' wide manufactured home. The 14' wide unit will not meet the 20' requirement. They stated there is no problem with the Association in Lynn Lee Village.

William G. Lloyd, one of the park owners, was sworn in and testified in behalf of the requested variance. He stated the applicants will set the unit where the old one is, that it is the only way to put the new unit on the lot.

Kathleen McCormick, park owner, was sworn in and testified in favor of the notion. She stated that the Board had previously denied a variance for the whole park. She stated that if this variance is approved she will again ask for a variance for the whole park.

Motion was made by Mr. Mills, seconded by Mrs. Hudson that the case be taken under advisement, with Mr. Wheatley abstaining. Motion was carried with three voting in favor and one not voting.

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 that the variance be granted, with Mr. Wheatley abstaining. Mr. Wheatley did not participate in the voting. Motion carried with three voting in favor and one not voting.

Case No. 5652--Evelyn Gibson - West side of Route 533, 1.4 mile south of Route 18.

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

The case was presented by Mr. Rickard. Mr. Rickard read a doctors letter referencing the applicants medical problems.

Lois A. Newman and Grace Helen Casper, daughters of the applicant, were sworn in and testified in behalf of the application. The applicant requested to place a 1992, 14'x 70' manufactured home on the her property on medical hardship basis. Mr. Newman stated that her sister Ms. Casper and her children have been living with and caring for their mother, but needs more room. She testified that her mother will live in the house and her sister in the manufactured home. The applicant also has a son with a medical problem.

It was explained that if approved the hardship has to be reapplied for every two years and when the hardship ceases the manufactured home must be removed.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Mills 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. 5653--John I. Hoar - South side of Route One,  $\frac{1}{4}$  mile east of Route 275A, Lot D-89, within Sea Air Village.

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

The case was presented by Mr. Rickard. Sandra D.Hoar was sworn in and testified, requesting an 8.7' variance from the 20' setback between units in a park, being Lot D-89, Sea Air Village. The applicant wishes to build a screened-in room on his manufactured home. The addition will be like others in the park. Mrs. Hoar stated there is no other place to build the addition.

Sandra Stintsman, Park Manager for Sea Air Village, was sworn in and testified in behalf of the application. She stated the park has no objections. A picture was presented.

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. 5654--R. D. M., Inc. - South side of Winward Way, 1,260 feet east of Route 348, Lot 7, within The Greens at Indian River.

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

The case was presented by Mr. Rickard. Joseph T. Conaway, President of Consultants Unlimited and Michael F. Lynn, President of R. D. M., Inc. were sworn in and testified in behalf of this case. The applicants request to place a manufactured home on property to be used as a temporary sales office for real estate sales for a subdivision, The Greens at Indian River. The unit will not be used as a residence. Mr. Conaway stated the unit will be removed when the properties are sold. There are 40 lots in the subdivision. The unit will be connected to water and sewer.

Mr. Lynn stated the unit will be instrumental in sales of the project. He stated they will need the unit for three years.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley that the special use exception be granted for a period of three (3) years, with Mr. Mills abstaining due to personal conflict. Motion carried with three voting in favor and one not voting.

Case No. 5655--Larry & Carol Agsten - West side of Route 347,  
 $\frac{1}{2}$  mile north of Route 26.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Larry Agsten was sworn in and testified, requesting a 5' variance from the 10' side yard setback for an accessory structure over 600 sq. ft. in size. The applicants plan to build a garage to the rear of the property. They would like room to maneuver the vehicles. Mr. Agsten stated he is President of the Homeowners Association and they have no problem with the variance.

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.

Case No. 5656--Claratta Roberts - North side of Route 24, 530 feet  
west of Route 76.

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. Rickard. Claratta Roberts and Virginia Jackson were sworn in and testified, requesting to keep a manufactured home on property that they own as a permanent residence. The manufactured home was placed on the property January, 1993 on an emergency permit due to fire. They would like to keep the unit on the property permanently. The burned house has been 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.

Case No. 5657--Calvin Adams - East side of Route 113, 770 feet  
north of Route 244.

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. Rickard. Donald Adams was sworn  
in and testified, representing the applicant his father, who requested  
to place a manufactured home on property he is purchasing for his  
permanent residence. He stated the lot is in existence.

There were no parties present in opposition.

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

Case No. 5658--RBO Associates, L.P. - South side of Route One,  
1,200 feet southeast of Route 283.

A variance from the requirements for signs.

The case was presented by Mr. Rickard. David Marschka, employed  
by Fisher Dev. and handles corporate and business affairs, was sworn  
in and testified representing RBO Associates, L.P. and was also  
represented by David Rutt, Attorney. The applicants requested  
variances from the requirements for signs. The signs to be located  
on outlet center buildings. They are permitted (1) ground sign, 150  
sq. ft. per ground sign and 100 sq. ft. per wall sign. They requested  
for L. L. Bean store a 138 sq. ft. sign, for Nautica store 3 signs each  
108.6 sq. ft. and Liz Clairbourne store 3 signs each 108.6 sq. ft. For  
other various tenants, front towers: 2 front towers each with three  
faces with signs. Each face can accommodate 3 signs each being 1.5'x 15'.  
The signage on each face will be 67.5 sq. ft. and on each tower a total  
of 202.50 sq. ft. On both front towers the total will be 405 sq. ft.  
Rear towers: 2 rear towers with one face with signs. Each sign will  
accommodate 3 signs each being 1.5'x 11.5'. The signage on each face  
will be 51.75 sq. ft. or 103.5 sq. ft. on each tower. The variances  
requested were: to have 4 ground signs, 2 ground signs to be 202.5  
sq. ft., 1 wall sign to be 138 sq. ft., 1 wall sign to be 110 sq. ft.  
and 1 wall sign to be 108.6 sq. ft. A site plan was shown where the  
stores are to be located. Mr. Rutt stated that the shopping center is  
for upscale outlet stores. The variances are needed for visibility  
and recognition of the stores, also due to the configuration of the  
buildings and requirements of certain national tenants. Copies of  
what some of the signs will look like were presented. It was stated  
that the use will not alter the character of the area, they are  
requesting the minimal amount of variance needed and will not be  
detrimental to public welfare. There will be a total of 35 stores.  
Mr. Marschka adopted all remarks made by Mr. Rutt.

There were no parties present in opposition.

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

OTHER BUSINESS

Case No. 5302--DeCoy, Inc.

Request for an extension.

Mr. Rickard read a letter received from DeCoy, Inc., requesting an extension of their application.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously to grant a one (1) year extension to Case No. 5302.

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

Meeting adjourned at 8:26 P. M.