

Minutes of May 4, 1992

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, May 4, 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. Stuchlik, seconded by Mr. Carey and carried unanimously that the minutes of April 20, 1992 be approved as circulated.

Case No. 4699--Samuel S. Yoder - North side of Route 64, .3 miles east of Route 456.

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

The case was presented by Mr. Betts. Jason & Bernice Yoder were present and affirmed. The applicant requested to continue the use of his manufactured home on property for his permanent residence. Mr. & Mrs. Yoder representing the applicant stated that the manufactured home was previously approved as a hardship case for the care of their mother, who is now deceased. They would like the manufactured home for their father as a permanent residence on a lot to be deeded to him with life time rights. Mr. & Mrs. Yoder stated they would prefer to have the manufactured home approved as a permanent residence, rather than apply every two years for hardship.

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. It was the consensus of the Board that if the manufactured home were approved on a permanent basis it could be in the future used as a rental unit. Motion was made by Mr. Carey, seconded by Mr. Stuchlik and carried unanimously that the special use exception be granted on the basis of hardship for a period of two (2) years.

Case No. 4700--Edward & Joan Rowland - Southwest side of Route One, $\frac{1}{4}$ mile northwest of Route 273, Lot B-89, within Sea Air Mobile City.

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

The case was presented by Mr. Betts. Edward & Joan Rowland were sworn in and testified, requesting a 8'4" variance from the 20' requirement between units in a park, being Lot B-89, Sea Air

Mobile City. The applicants propose to construct a shower and screen porch on the manufactured home. A letter of approval from Sea Air Mobile City was presented.

Mr. Betts read the letter submitted from Sea Air Mobile City management, Sandra Stintsman.

Anthony Bryan, Park Superintendent, was sworn in and testified in behalf of the variance request, stating there are similar additions in the park. In response to questions concerning the possibility of fire in the park, he testified that there are two fire hydrants in the park.

There were no parties present in opposition.

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

Case No. 4701--Joseph E. Calhoun, Jr. - North side of Route 341,
136 feet east of Route 341B.

A variance from the setback requirements for a commercial poultry house.

The case was presented by Mr. Betts. Joseph Calhoun, Jr. was sworn in and testified, requesting a 20' variance from the 50' setback from the property lines for a chicken house and a 130' variance from the 200' setback requirement from a dwelling on an adjacent property. Mr. Calhoun, Jr. is replacing an existing chicken house that has been on the property for many years.

There were no parties present in opposition.

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

Case No. 4702--Ronald, Mary, Michael and Darlene Bisson - West side
of Route 312, 3,016 feet northeast of Route
312A.

A variance from the side yard setback requirement, a variance from the lot width requirement and a variance from the lot size requirement.

The case was presented by Mr. Betts. Michael Bisson was sworn in and testified, requesting a variance of 13,918 sq. ft. from the 21,280 sq. ft. for a lot to be 7,762 sq. ft., a variance of 99.76' from the 150' width requirement to be 50.24' for a lot, and a variance of 1' and 2'4" from the 10' side yard setback requirement to be 9' and 7'8". A 100'x 177' lot exists with two dwellings on it. The applicants propose to separate the parcel into two lots, each with a dwelling on it, to settle an estate. Mr. Bisson, his wife and parents will own the property. It was stated that there are other 50' lots in the area.

Beatrice Johnson was sworn in and testified concerned about the affect the variances will have on her property or what she might

propose to do on her property, since she is next door.

Mr. Jones, Attorney, stated the applicants request would not interfere with what she does on her property.

There were no parties present in opposition.

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 variances be denied, finding the property can be used as it exists, as one parcel and too many variances on one parcel.

Case No. 4703--Wayne K. Fritz - Northeast side of Route 297, one mile southeast of Route 113, Lot 34, within Bowden Acres.

A variance from the front yard setback requirement on a through lot.

The case was presented by Mr. Betts. Wayne Fritz was sworn in and testified, requesting a 11' variance from the 30' front yard setback on a through lot to be 19', to construct a garage. The applicant stated there is no other location on the property for the garage, due to drain fields and the lot shape. The lot is a corner and a through lot.

There were no parties present in opposition.

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

Case No. 4704--Scott Lindblad - West side of Route 70, 2,000 feet north of Route 64, Lot 1, within Nero's Acres.

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. Antonio Nero was sworn in and testified representing the applicant, who requested to place a new 76'x 28' double-wide manufactured home on property he is purchasing from Mr. Nero, being Lot 1 in Nero Acres, for his permanent residence. Mr. Nero testified that there are other manufactured homes in the development.

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.

Case No. 4705--Robert F. Davis - East side of Route 13A, one mile south of Route 454A.

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. Robert Davis was sworn in and testified, requesting to place a manufactured home on his property for his permanent residence. The property being Lot 15-26 in the J. William Freeney Subdivision. Mr. Davis testified that he does not have the unit yet, but is considering a double-wide. He stated that there are other manufactured homes in the area as well as a manufactured home park nearby. Pictures were presented.

Barry T. Holland and James E. Beauchamp were sworn in and testified in opposition. They fear property values will be brought down. They oppose single-wide manufactured homes, but do not oppose a double-wide on a permanent foundation.

Mr. Davis stated the manufactured home will be on a permanent foundation.

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 Mrs. Hudson, seconded by Mr. Carey and carried unanimously that the special use exception be granted, with the stipulations that the unit be a double-wide at least 24' in width and placed on a permanent foundation.

Case No. 4706--Kinder Haus % Kathy Jackson - South side of Route 24, 1,000 feet west of Route 305.

A special use exception to operate a Day Care Center.

The case was presented by Mr. Betts. Kathy Jackson was sworn in and testified, requesting to operate a Day Care Center on property she is leasing from Mr. & Mrs. Jack Hallman. The use will be for pre-school, after school training and employment of early childhood professionals and parenting classes to mainstream children. There will be no more than 24 children at any given time. Ms. Jackson operates a Child Care Center in the town of Millsboro and will continue its operation. The Center will have a 4' high fenced area. The children's ages will be 3,4,5, pre-school and 6 to 12 years.

Ethel Oney was sworn in and testified in behalf of the Day Care Center. She feels it will be an asset to the County.

Jack C. Hallman was sworn in and testified in behalf of the request, stating he owns the building to be leased for the Day Care Center.

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. 4707--Robert & Paula Albert - South side of Route 361A,
400 feet west of Route 14, Lot 6, within
Ocean Pines.

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

The case was presented by Mr. Betts. Paula & Clara Albert were sworn in and testified, requesting a variance of 1'7" from the 30' front yard setback requirement to be 28.3', a variance of 2'6" from the 10' side yard setback to be 7'6" and a variance of 1' from 8' side yard to be 7' for the overhang of a roof for a dwelling that has been constructed on the property being Lot 6, Ocean Pines Subdivision. The applicant testified that they contracted to have a dwelling built by John Schroers on their property. They were not aware there is a violation on the property until they went for settlement. The builder obtained the permit and they did not get a copy. They testified that the builder was not present and they were unable to contact or find him. The foundation of the dwelling is in compliance, but the overhang and porch are encroaching.

There were no parties present in opposition.

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

Case No. 4708--Richard E. & Janet E. Phillips - North side of Route
493, 50 feet east of Route 492.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Richard Phillips was sworn in and testified, requesting an 8' variance from the 10' side yard setback to be 2' to construct an addition to his existing garage. The existing garage is 1' from the side property line. The addition will be used for storage.

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. 4709--James & Sandra Garrity - West side of Route One,
 $\frac{1}{4}$ mile south of South Bethany, Lot 25,
within Bay View Park Second Addition.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. James & Sandra Garrity were sworn in and testified, requesting a 6'5" variance from the rear property line of 10' on Lot 25 in Bay View Park. The applicants purchased the property with an existing dwelling on it. They propose to enclose a portion of an existing open deck, with screen. They testified it will not change the appearance of the dwelling and will not obstruct any view.

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. 4710--Neil O. Cole - East side of Route One, the north side of Fifth St., Lot 8 within Bethany Beach.

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

The case was presented by Mr. Betts. Neil & Barbara Cole were sworn in and testified, requesting a 7.83' variance from the 10' side yard setback and a 4.70' variance from the rear property line of 10', on Lot 8 near Bethany Beach. The applicants have an existing dwelling and unattached garage on the property. They put an addition between the dwelling and garage making the garage attached, causing the setbacks to change and creating the encroachment. They testified it does not obstruct anyone's view. Mr. Cole testified they live in the dwelling and do not rent it out. They have an apartment that has existed for 30 years or more that they rent. A letter was presented. They designed the construction as they built.

Mr. Betts, Zoning Inspector, stated that 17 letters in behalf of the application had been received.

Kitty Cole Regard was sworn in and testified in behalf of the request, stating she is Mr. Cole's mother and owns the lot next to his.

Bozenna Eastburn and Curt Jeschke were sworn in and testified in opposition questioning permit procedure, product being completed and coming to the Board for relief, and not adhering to the permit.

Mr. Cole stated the overhang could be removed if he took 5' off of the garage.

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 discussion, motion was made by Mr. Carey, seconded by Mr. Wheatley and carried unanimously that the variances be granted.

OLD BUSINESS

Case No. 4695 (cont'd.)--Robert Harris, Jr. & Joseph M. Zduriencik - West side of Route One, 3 miles south of

the Town of South Bethany, Lot 1, within
Maisons Sur-Mer Subdivision.

A special use exception to operate a Bed and
Breakfast.

There were no parties present at the original meeting, the
case was tabled until tonite.

The case was presented by Mr. Betts. Robert Harris, Jr. and
Jeff Clark, Planner, were sworn in and testified. The applicants
requested to operate a Bed and Breakfast on Lot 1, in Maisons Sur-
Mer Subdivision. They propose to build a single-family dwelling
and operate it as a Bed and Breakfast. There are no buildings in
the subdivision as yet. The Bed and Breakfast will not exceed
6 sleep areas, consisting of guest rooms and master suite for Inn
Keeper. The cooking facilities will be as in any single-family
home. The Bed and Breakfast will be open year round and they feel
will be a positive benefit to the Community.

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.

OTHER BUSINESS

Letter from Thomas Wells (Case No. 4688)

Mr. Betts stated a letter has been received from Mr. Wells
stating he wants to re-apply with new evidence.

Case No. 4435--George V., Sr. & Grace F. Custins

Request for an extension.

Mr. Betts stated that a letter had been received from Mr. &
Mrs. Custins requesting an extension for Case No. 4435, approval
for a manufactured home, until December 30, 1992. The extension
is needed due to delay in getting their septic approval.

Motion was made by Mrs. Hudson, seconded by Mr. Carey and
carried unanimously that the request for an extension on Case No.
4435 until December 30, 1992 be granted.

Meeting adjourned at 8:38 P. M.