

Minutes of June 7, 1993

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, June 7, 1993 in the County Council Chambers Room 115, 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. Mills, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of May 24, 1993 be approved as circulated.

Case No. 5093--William P. Bressi - East side of Route 270A, 350 feet northeast of Route One, Lot 18, within Beachfield Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. William Bressi was sworn in and testified, requesting a 3' variance from the 10' side yard setback requirement on Lot 18, Beachfield Subdivision for an existing dwelling. Mr. Bressi purchased his property with the dwelling on it approximately 10 years ago. The encroachment was discovered when Mr. Bressi applied to make an addition to his home. He testified that no visibility will be affected.

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. 5094--Salt Pond Associates - South side of Route 360, at Route 357, Units 22-25 and 26-33, Salt Pond, Schooner Village.

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

The case was presented by Mr. Betts. Joanne Quillen, in charge of marketing, was sworn in and testified, representing Salt Pond Associates and was represented by Mr. Fuqua, Attorney. The applicants requested a variance from the 40' rear and front property line requirements for townhouse units in Schooner Village, Salt Pond. The variance will be 29.6' from high water line or 34.6' low water line, whichever is measured from. Mr. Fuqua stated that the development is a MR-RPC with 639 units, 25% of which is multi-family, with the majority being single-family. A site plan was shown and explained. The variance request is located at the extreme east portion of the development. There are 8 different buildings that contain 53 units. The variance is needed on two

buildings D and E. He explained the layout of the land and the location of wetlands. The variance will make them consistent with other units. A plot and restrictions were submitted. Pictures were presented and explained. Mr. Fuqua stated that the buildings could be developed into condominiums, but they prefer to have them remain as townhouses to conform with the rest of the units. A copy of Mr. Fuqua's Finding of Facts were presented.

Ms Quillen testified that she was in agreement with what Mr. Fuqua presented.

Mr. Fuqua stated that there are no other problems in the development.

The Finding of Facts presented by Mr. Fuqua were adopted.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Mills 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 Mr. Mills and carried unanimously that the variance be granted, due to the shape of the area and wetlands.

Case No. 5095--Sussex Country Club, Inc. - South side of Route 324,
1/4 mile east of the railroad and Road
321.

A special use exception to place a manufactured home as a temporary office and to place a tent for special functions.

The case was presented by Mr. Betts. Hank Rosenberg was sworn in and testified representing Sussex County Club, Inc.

Mr. Jones, Attorney, did not participate in this case, due to a conflict of interest.

The applicants requested to place a manufactured home on Country Club property to be used as an office and to place a tent on the property for special functions, exceeding (3) days. The manufactured home office will be temporary while renovations are going on. The renovating should be completed in July. The unit is already on the property.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for a period of six (6) months.

Case No. 5096--Owens Station Shooting Preserve, Inc. - East side of Route 602, 730 feet south of Route 611.

A special use exception to amend Case No. 4362 by deleting Condition No. 2 "Due to concerns of noise, there will be no Sunday hours of operation."

The case was presented by Mr. Betts. William R. Wolter was sworn in and testified representing Owens Station Shooting Preserve, Inc. and was represented by Craig Karsnitz, Attorney. The applicant was granted, by the Board of Adjustment at a previous meeting, permission to use their property for sporting clay shooting with a condition that there be no Sunday hours of operation. The applicants are now requesting to delete the condition attached to their approval and to be able to operate on Sunday from 10:00 A.M to 4:00 P.M. Mr. Karsnitz stated that most people and organizations prefer to shoot on weekends. Most tournaments are also held on Sunday. With Mr. Wolters not being able to operate on Sunday he is suffering a financial loss to his business according to Mr. Karsnitz. It would also supply employment for young people. Sound tests were done on the property. It is their feeling that the Sunday operation will not affect surrounding property. Mr. Wolter's agreed with all statements made by Mr. Karsnitz. A letter prepared by Mr. Wolters was submitted. Also a petition with signatures in favor of the request was presented along with trap shooting schedules from other operations. Noise test results were presented. It is their feeling that trucks passing on Route 16 make more noise than the shooting. Mr. Wolter's stated that competition cannot be competitive with other shooting ranges without a weekend operation.

William Alegretti, Administrator for Hunters Education, was sworn in and testified in behalf of the application, stating he feels it would be advantageous to have the Preserve operate on Sunday. He stated that New Castle County operates 10:00 A.M. to 5:00 P.M. on Sunday with classes of 40 to 50 during the busy season.

Edward Montague was sworn in representing himself and Ducks Unlimited. They are in favor of operating on Sunday. He testified that he now has to go to Maryland to shoot on Sunday and that Ducks Unlimited runs six shooting events a year and they cannot schedule with Mr. Wolter because of no Sunday operation. He feels attendance is more successful on Sunday. He also stated that they would use the Owen Station Shooting Preserve if it were open on

Sunday. They usually start shooting around 10:00 A.M. and finish around 3:00 P.M.

Jill Kramer, Secretary for Quail Unlimited, was sworn in and testified in favor of the application, stating they would have events one or two times a year at Owens Station if they were open on Sunday.

Millard Benner, neighbor and retired Pastor of a Church in the area, was present and affirmed. He testified that Church land adjoins the Preserve and he has always found Mr. Wolters very considerate about disrupting Church services that begin at 10:00 A.M. and has found him to be a good neighbor. He testified that he cannot state Sunday operation is right, that it would have to be up to the Board.

Ruth Ann Hamstead was sworn in and testified in opposition stating that she has lived on her property for 33 years. She stated that she has no objection to shooting noise and has listened to it everyday even on holidays. She is opposed to Sunday operation as she stated at the previous hearing. She requested to have one day a week (Sunday) for peace, quiet and tranquility. She also stated that at the previous meeting the Church was also opposed to Sunday operation. She presented a petition of opposition to shooting on Sunday. Also a letter from a lady who owns land adjacent to the Preserve. Mrs Hamstead feels having Sunday as a day of no operation will not hinder Mr. Wolter from earning a living. She feels Sunday operation disturbs the tranquility in the neighborhood. The Community is not opposed to the operation, just shooting on Sunday. She feels Sunday is a day for families to enjoy. She is not opposed to having another day of no operation but prefers it to be Sunday. She stated that the noise is irritating and consistant. Mrs. Hamstead also stated that Route 16 has been re-surfaced and there is very little noise from it now.

Lloyd Edwin Schlabach, neighbor, was present and affirmed. He is opposed to operating on Sunday. He wants one day without shooting and that day to be Sunday.

Brent Schrock was present and affirmed, stating that he lives adjacent to the Preserve property and wants peace and quiet on Sunday. He stated that he is not opposed to listening to shooting during the week, but would like to have it quiet on Sunday. He stated that it is a nuisance to listen to the noise everyday. He is going to raise his family in the area and would like peace and quiet on Sunday.

Mr. Wolter stated that there is a thin woods buffer on the

property. He stated that firing consists of 4 rounds at each station, 50 shots per man.

Mr. Betts read the letter presented from Ruth Anita Fischer in opposition to the request. He also read a letter from Gene Bookhammer who owns property in the area, and is in favor of the request. Mr. Betts also read a petition in favor with 86 signatures, 13 of which live adjacent to the Preserve. He also read a petition of opposition with 56 signatures.

Mr. Karsnitz in rebuttal stated that Mr. Wolters does not object to another day during the week other than Sunday to be closed, but needs Saturday and Sunday days of operation.

Mr. Wolter stated that being closed one other day during the week and holidays will have no affect. He also stated that the Preserve is open all year.

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 Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception to amend Case No. 4362 be granted to allow sporting clay shooting on Sunday from 10:00 A.M to 4:00 P.M. and to disallow shooting on Monday, for the remaining three (3) year period of the special use exception (Case No. 4362).

Case No. 5097--William D. & Joan E. King - North side of Route 64,
1/4 mile east of Route 70.

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 D. King was sworn in and testified, requesting to place a new 1992, 28'x 56' double-wide manufactured home on property for his residence. The manufactured home will be placed on a 24'x 24' slab and enclosed with skirting. He testified that there are other manufactured homes in the area.

Norris Niblett, seller of the property, was sworn in and testified in behalf of the application. He testified that there are other manufactured homes in the area. He also stated that he owns the remaining 58 acres of land and will develop it into lots, hopefully for manufactured homes. The lots will be less than 5 acres in size. He is also creating lots for conventional homes.

There were no parties present in opposition.

Motion was made by Mr. Mills, 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. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, finding that the applicant does not meet the requirements for a special use exception, it would have an adverse affect on neighboring properties and would be creating a very small strip development fronting on a highway. It was also the consensus of the Board to suggest that Mr. Niblett go through the process for changing the zoning to accommodate manufactured homes or apply for a manufactured home park.

Case No. 5098--Ellen Dolby - North side of Route 26, 1,400 feet east of Route 349A, Lots 15, 16, 17 & 18, within Harmon Lots Subdivision.

A special use exception to operate a Day Car Center.

The case was presented by Mr. Betts. Ellen Dolby was sworn in and testified, requesting to operate a Day Care Center, on Lots 15, 16, 17 & 18, Harmon Lots Subdivision. Ms. Dolby stated that she wants to operate a pre-school and not a Day Care. She will start with half day sessions, 5 days a week, from 8:30 A.M. to 11:30 A.M. The ages of the children will be 3 and 4 years of age. She will be the only person at the pre-school since she will not have any employees.

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. 5099--Jack Verica - North side of Route One, 1/4 mile west of Route 266.

A variance from the requirements for signs.

The case was presented by Mr. Betts. There were no parties present in behalf of this case. The Chairman held the hearing open until the end of the meeting.

After the public hearings, the Chairman referred back to this case. There were no parties present representing the application.

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

applicant or a representative failed to appear.

Case No. 5100--Saint Louis & Alaine Lacroix - North side of Route
451, 1,678 feet wet of Route 68.

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. Alaine Lacroix and Edward Blatchley, Realtor, were sworn in and testified. Ms. Lacroix requested to place a 1984, 14'x 70' manufactured home on a parcel of land she is co-purchasing for her residence. It was stated that there are other manufactured homes in the area. There are vacant 5 acre parcels on either side of the lot Ms. Lacroix proposes to buy.

Tom Vincent was sworn in and testified in opposition, stating that he is a farmer in the area and he gets complaints from residents when he farms, such as tills the land. He feels more density can be a problem. He wants to keep the area rural and the area permitted for manufactured homes to continue to be 5 acres. A letter of opposition signed by people in the area was presented.

Lori K. Bredbenner was sworn in and testified in opposition stating she owns approximately 17 acres of land across the road from the applicants proposed lot, and that she needed 5 acres to place her manufactured home. She hopes to build home in the future.

Mr. Blatchley stated that there are other parcels in the area smaller than five acres.

Mr. Betts read the letter of opposition that was presented with 19 signatures.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the case be taken under advisement. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exception be denied, finding that the request does not meet the requirements for a special use exception, it would not be compatible with the area and the parcel was created solely for profit.

Case No. 5101--Shore Best Foods - North side of Route 17, across
from Route 561.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Gary Walters, with an Engineering Firm, was sworn in and testified, representing Shore Best Foods, who requested a 16'2" variance from the 20' side yard setback to construct a Treatment Facility. The Town of Bridgeville has required them to install a system to pretreat its process wastewater prior to discharging into the Town's sewer system. The system to be installed will consist of a 20,000 gallon steel tank to be placed on a 24'x 24' cement slab. The system will be enclosed within a prefabricated building which will provide security, temperature control and enhance the appearance and minimize odors. The location proposed is the only viable place for the system. A letter was presented from Mr. Walter to Mr. Don Breeding, Shark's Service Center, referencing the Treatment Facility. Also presented were documents from the Town of Bridgeville.

Ray Clapperton, neighbor in the area, was sworn in and testified, questioning the location of the variance. He did not object if it does not affect his property.

There were no parties present in opposition.

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

Case No. 5102--Oliver & Teresa Cooper - A private road on the east side of Route 42, 1/4 mile northeast of Route 595.

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. Oliver Cooper was sworn in and testified, requesting to continue the use of his manufactured home on property less than five acres for his residence. The manufactured home has been on the property for three years as an on farm permit. The property was subdivided with the manufactured home on a parcel 1.01 acres in size, which voids the on farm status. Board approval is needed to keep the manufactured home on less than five acres.

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. 5103--Craig & Tammy Mears - North side of Route 54, 650

feet southwest of Route 418.
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. Tammy Mears was sworn in and testified, requesting to place a 1994, 14'x 80' manufactured home on property they are having conveyed to them for their permanent residence. There is a house and woods on lots next to their property. She testified that there are other manufactured homes in the area.

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. 5104--Thomas J., Jr. & Gennetta E. Dykes - South side of Route 78, 1/2 mile east of Route 487, Lot 13, within Patty Cannon Estates.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Thomas Dykes, Jr. was sworn in and testified, requesting a 1'6" variance from the 15' side yard setback requirement for a garage on Lot 13, Patty Cannon Estates. The garage has been on the property for approximately seven years when the property was purchased. The applicant added onto the garage five to six years ago. They were not aware of the encroachments until the applicants sold the property.

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.

OLD BUSINESS

Case No. 5075 (cont'd.)--Carlton Fountain & Cynthia Nock - Northeast side of Route 541, 600 feet southeast of Route 428.

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

Mr. Betts reviewed the case.

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

Page 10
Minutes
6/7/93

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

Meeting adjourned at 9:13 P. M.