

Minutes of June 19, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, June 19, 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, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Callaway, 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 June 9, 1995 be approved as circulated.

Case No. 5679--Workmans Store - North side of Route 20, at the intersection with Route 431.

A special use exception to expand a non-conforming use.

The case was presented by Mr. Betts. William Jones was sworn in and testified, representing Workmans Store, who requested to expand a non-conforming use. They propose to build a 5'x 20' addition to their store. It will be 7.5% of the maximum 25% allowed for a non-conforming use. The addition will be a breezeway/hall to connect the existing store to an adjoining building.

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. 5680--Frances H. Haley - South side of Route One, at the intersection with Route 271, Lot E-94, within Sea Air Mobile City.

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

The case was presented by Mr. Betts. Sandra Stintsman was sworn in and testified, representing Frances Haley. Ms. Haley requested a 9' variance from the 20' setback requirement between units in a manufactured home park, on Lot E-94, Sea Air Mobile City. Ms. Stintsman stated that the applicant, an elderly lady, built a porch without the parks knowledge. She had a permit with the correct setbacks on it. The permit was obtained in February of this year. She stated there are several others in the park that are similar to the applicants request.

There were no parties present in opposition.

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

Case No. 5681--Glen Singleton - West side of Route 232B, $\frac{1}{4}$ mile north of Route 232.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence and a variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Glen Singleton was sworn in and testified, requesting to place a 1973, 14'x 70' manufactured home on property he is purchasing for his own use, and a 19.08' variance from the 150' lot width requirement for a lot. He stated there are no other manufactured homes in the immediate area. There is a house on an adjacent lot and the area is basically farmland. He testified the property has been surveyed for him.

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 case be tabled.

Case No. 5682--Donald G. & Hester S. Downes - Northwest side of Route 633, 800 feet north of Road 634.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Donald & Hester Downes were sworn in and testified, requesting a 37' variance from the 150' lot width requirement to subdivide property. They propose to create four lots, three will have 150' of road frontage and one will have 113' of frontage. There is an existing entrance on the property. The property consists of 10 acres with 2 acres in the water. They propose to eventually build a home on Lot 1. There is an existing manufactured home on the property that will be removed.

There were no parties present in opposition.

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

Case No. 5683--Nick DelCampo & Jay Konesey - Southwest side of Route 272, $\frac{1}{4}$ mile north of Route One.

A variance from the minimum square footage requirement for a 4 unit multi-family dwelling structure.

The case was presented by Mr. Betts. Nick DelCampo and Jay Konesey were sworn in and testified requesting a variance from the minimum square footage requirement for a 4 unit multi-family dwelling structure. Mr. DelCampo stated he had been unable to purchase more property without a variance. He feels the property is right for the use they propose. He stated there will be two parking spaces per unit provided.

Mr. Betts read a letter from the Rehoboth Beach Planning Commission pertaining to this case. They did not voice any opposition. Mr. Betts stated that 3630 sq. ft. per unit is required for the multi-family structure and the applicants will have 3511 sq. ft. per unit, making them short 473 sq.ft.

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

Case No. 5684--Kenneth R. Walsh - East side of Route 371, 1,405 feet west of Route 17.

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. Kenneth Walsh was sworn in and testified and was represented by Vince Robertson, Attorney. Mr. Walsh requested to place a 14'x 70' manufactured home on his property for his use. It was stated there are other manufactured homes in the area. Mr. Robertson feels the use will not affect neighbors properties.

Mr. Walsh stated there are 20 or 30 other manufactured homes located in the area.

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. 5685--Ted J. Liszewski - East side of Route 600, at the intersection with Route 597, Lot 13, within Doe Run Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Ted Liszewski was sworn in and testified and was represented by Ned Maull, Attorney. The applicant requested a 2'3" variance from the side yard setback of 15' to be 12'7", located on Lot 13, Doe Run Subdivision. Mr. Maull presented a survey. He stated the applicant has lived on the property since 1992. The encroachment was discovered when his neighbor had his property surveyed. The contractor had built too close to the side property line. A Certificate of Compliance from the County was issued in 1992. Mr. Maull stated that the property is unique and in the rear there is 404 wetlands. He feels the variance will be no hardship to neighbors and will not adversely affect property values.

Mr. Liszewski stated that his neighbor does not oppose the variance. He stated he is the developer of the neighborhood.

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. 5686--Ronald J. & Abby E. Masi - East side of Route 365,
at the intersection with Route 367A.

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. Steve Billibrand was sworn in and testified, representing the applicants who requested to place a 24'x 36' double-wide manufactured home on property they are purchasing for their use. He testified there is an older house on the property that will be removed. The new manufactured home will be put on a foundation and have a pitched roof.

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, with the stipulation that the old house be removed.

Case No. 5687--Howard L. Foskey - North side of Route 64, 775 feet southeast 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. Howard Foskey was sworn in and testified, requesting to place a 1995, 28'x 70' double-wide manufactured home or smaller on property he is purchasing for his use. He testified there are 5 or 6 other manufactured homes in the area.

Mr. Betts stated that the applicants property adjoins Nero Acres, that has manufactured homes.

Raymond Strick was sworn in and testified in behalf of the application, stating he lives adjacent to the applicants property. He would like to see Mr. Foskey's request be approved.

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. 5688--Sidney Davis & Tomekia Mills - West side of Route 505A, 1,896 feet south of Route 505.

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. Sidney Davis and Tomekia Mills were sworn in and testified, requesting to place a 1979 or 1980, 14'x 70' manufactured home on property they are purchasing for their use. They testified there are other manufactured homes in the area, and on either side of 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.

Case No. 5689--Frank & Helene Vadakin - South side of Route 214,
472 feet northwest of Route 216.

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. Frank & Helene Vadakin were sworn in and testified, requesting to place a 1995, 16'x 80' manufactured home on property they are purchasing for their own use. They testified there is vacant property adjacent to their property, and there are other manufactured homes in the area.

There were no parties present in opposition.

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

Case No. 5690--Robert Harris, Jr. & Joseph M. Dzuriencki - South
side of Route One, Lot 2, within Maisons
Sur-Mer Subdivision.

A special use exception to operate a Bed and Breakfast.

The case was presented by Mr. Betts. Robert Harris was sworn in and testified, requesting to operate a Bed and Breakfast on Lot 2, Maisons Sur-Mer Subdivision. Mr. Harris stated that a Bed and Breakfast had previously been approved for Lot 1, but the property was sold and the new owners chose not to build it. Now, Mr. Harris requests to do the same thing on Lot 2. He testified he is limited to 6 rooms. There will be no cooking facilities in the rooms. Parking will be provided. Mr. Harris stated there is wetlands to the west of the property.

In response to Mr. Mills question, Mr. Betts stated that the approval for the Bed and Breakfast on Lot 1 has expired.

Frank Mooney and Tom Welch were sworn in and testified in opposition. Mr. Mooney stated he resides in and represented Kings Grant who is opposed to the Bed and Breakfast. They feel it is commercialization of the property and not a proper setting for a Bed and Breakfast.

Mr. Welch stated he lives at the Narrows and is President of the Homeowners Assoc. and they are opposed to the Bed and Breakfast. He feels the use will destroy the character of the area and attract transients to come and go. He also stated he owns property in Queens Quest and they also oppose the use. He feels it will detract from property values. He made reference to notification of the public hearing and property posting.

In answer to Mr. Mills question, Mr. Betts stated there was no opposition to the previous application on Lot 1. Mr. Betts also stated that proper notification was done and property owners within 200' of the site were notified, and the property was properly posted.

Mr. Harris stated that the Narrows is 900' from his property.

Mr. Betts read a letter of opposition from Alex Karlin, Unit #12, The Narrows.

Mr. Mills questioned the architectural style of the Bed and Breakfast.

Mr. Harris stated that the property is single family, but the lots surrounding are multi-family. His property is the only single family in the area.

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 Mr. Wheatley and carried unanimously that the special use exception be granted, finding the use will not adversely affect surrounding properties and will be in character with surrounding neighborhood.

Case No. 5691--Patricia & Carlton James - Northwest side of Route 24, 200 feet southeast of Route 30.

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. Patricia and Carlton James were sworn in and testified, requesting to place a 1987, 14'x 70' manufactured home on property for their use. They testified there are no other manufactured homes in the immediate area, the nearest may be $\frac{1}{2}$ mile away.

Dean Daisey was sworn in and testified and presented a petition with 26 signatures in opposition. Mr. Daisey feels a manufactured home is not in keeping with the housing area. He testified there is nothing against the applicants, just the placement of the manufactured home. He feels it will devalue properties in the area. He stated they have tried to keep manufactured homes out of their housing area and that there have been other people apply for manufactured homes in the area and were denied. He feels if one manufactured home goes through, it opens the door for others.

Lloyd George Daisey was sworn in and testified in opposition, stating he would not oppose a stick-built home, but does oppose a manufactured home. He stated he moved in the area in 1960 and a saw mill, chicken house and manufactured home have moved out of the area. Pictures were presented. He testified he is not opposed to manufactured homes, but feels there are other places for them.

By a show of hands there were 11 people present in opposition.

Mr. Betts read the petition of opposition presented with 26 signatures. Most of the signatures were adjacent property owners.

Earl Deck was sworn in and testified in opposition concerned that the Board allows variance requests in the area. He feels there is no need to listen to the requests.

Mr. Betts stated that the request is a special use exception and not a variance. He explained.

Mr. Jones explained that anyone has the right to file.

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 denied, finding that placement of a manufactured home will have a negative impact on property values.

Case No. 5692--Dean & Brenda Kestner - South side of Route One, at the intersection with Route 271, Lot D-91, within Sea Air Mobile City.

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

The case was presented by Mr. Betts. Dean and Brenda Kestner were sworn in and testified, requesting a 10' variance from the 20' setback between units in a park and a 1' variance from the 5' side yard setback, to construct a screen porch on Lot D-91, Sea Air Mobile City. They testified there are others in the area, with porches that have been approved.

Sandra Stintzman, Park Manager, sworn in on a previous case testified in behalf of this case. She stated that the applicant's plans have been approved by the park and will not affect the adjacent 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.

Case No. 5693--Paul R. & Linda H. Miller - North side of Route 496, on Broadk Creek Drive.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Paul Miller was sworn in and testified, requesting a variance from the 150' frontage requirement for a new lot in a conservation zone. Mr. Miller stated

the property was already 3 lots when he purchased it, but the frontage was 100' and since then the frontage has changed and requires 150'. The plan is to change Parcel 2 from 150' to 187' frontage. Parcel 3 would be reduced from 137' to 100'. This parcel is for sale and has 100' road frontage. The 404 wetlands reduced the amount of building area. By moving the lot line, Parcel 2 has room for a house to be built out of the 404 wetlands. He has talked to Army Corp. of Engineers about a well permit.

Mr. Betts read from the Zoning Code pertaining to Conservation Zone requirements for lot size.

Norman Parsons and Douglas Lineweaver were sworn in and testified. Mr. Parsons feels the applicant should go by the requirement if it is 150'. He feels the applicant is doing the change for profit and to sell the land and then leave. He feels it is a small area to get a road in and the lot would be small for a house. He questioned just what will be there.

Mr. Miller felt Mr. Parsons was discussing the wrong property.

Mr. Lineweaver stated he had not been sent a notice. He opposed the application, because he feels the applicant is doing it for a business venture and not himself. He feels the rules should be abided by. Mr. Miller stated he is building a home on Lot 3, but will not live in it. He stated he may rent it, but not sell it. He had planned to live there, but his plans changed. He stated the approximate value of the home will be \$140,000.00 and will be comparable to what exists in the area.

Shirley Parsons was sworn in and questioned if the value has to be a certain amount or can the applicant change the value.

Mr. Jones explained that the applicant can put any value he wants on the property.

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. Callaway and carried unanimously that the variance be granted, finding the applicant is not creating any additional lots, he has a loss of square footage because of the wetlands and the use will not adversely affect the neighborhood.

Case No. 5694--Joan Hudson - West side of Route 113, $\frac{1}{4}$ mile northwest of Route 82, Lot 14, within Oak Drive Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Steve Parsons, Attorney, was present in behalf of this case, representing Joan Hudson. Ms. Hudson requested a 2.3' variance from the 30' front yard setback requirement. Mr. Parsons stated that at settlement to sell the property an encroachment was discovered. A petition from the people

in the area was presented. He testified that the house has been on the property, Lot 14, within Oak Drive Subd., since May, 1990 and a Certificate of Compliance was issued by the County. He feels the house was measured from the wrong line. He stated there are houses on both sides of the property.

There were no parties present in opposition.

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

OLD BUSINESS

Case No. 5667 (cont'd.)--William & Bertha Parsons - Southeast side of Andrew Avenue, $\frac{1}{4}$ mile southwest of Route One, Lot 4, within Ann Acres.

A variance from the front yard setback requirement.

The case was reviewed by Mr. Betts.

After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the variance be granted, finding the use will not adversely affect the neighborhood, it is an odd shaped lot, hardship was not created by the applicant, will not alter the essential character of the neighborhood and the applicant is going to build anyway, so the variance will allow a more presentable house.

Case No. 5672 (cont'd.)--Malones Bayside Marina - North side of Route 22, one mile east of Route 22C, Lot 8 Oyster, within Malone's Bayside Marina.

A variance from the setback requirement between units in a park and a variance from the minimum square footage of a manufactured home in a park.

The case was reviewed by Mr. Betts. He read a letter from Stephen D.M. Robinson, Attorney, representing the applicants, requesting that the Board lift the table and act on the variance for 8 Oyster Road, this case, because the tenants are anxious to build their addition. They agree to continue Cases 5673 and 5674, until the survey plan is presented. They agree to provide a plan within a 60 day period, subject to the surveyors schedule.

After some discussion, it was the consensus of the Board that the three Cases, 5672, 5673 and 5674 remain tabled until a survey is presented. Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the cases be tabled.

Case No. 5673 (cont'd.)--Malone's Bayside Marina - North side of Route 22, one mile east of Route 22C, Lot 10 Clam, within Malone's Bayside Marina.

A variance from the setback requirement between units in a park and a variance from the minimum square footage of a manufactured home in a park.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled until a survey is presented.

Case No. 5674 (cont'd.)--Malone's Bayside Marina - North side of Route 22, one mile east of Route 22C, Lot 10 Harbor, within Malone's Bayside Marina.

A variance from the minimum square footage of a manufactured home in a park.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled until a survey is presented.

DISCUSSION

Mr. Jones reported to the Board that the Court Case against the Board of Adjustment pertaining to Allen's Hatchery, by the opponents had been dropped, and the Court had allowed the Change of Zone granted by the County Council.

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

Meeting adjourned at 8:36 P. M.