

Minutes of June 26, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, June 26, 1995 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 6:58 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Mills, Mr. Wheatley, Mrs. Hudson, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the minutes of June 19, 1995 be approved as circulated.

Case No. 5695--David L. & Margie L. Johnson - North side of Route 277, 800 feet west of Route 229B.

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. David & Margie Johnson were sworn in and testified, requesting to place a 1985, 14'x 76' manufactured home on their property for their use. A picture was presented. They stated that there are other manufactured homes in the area.

There were no parties present in opposition.

Motion was made by Mr. Mills, 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. After some discussion, motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, finding the manufactured home will have an adverse affect on the surrounding area.

Case No. 5696--Ross E., Jr. & Maureen Coleman - North side of Route 32, across from Route 590.

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. Ross E., Jr. & Maureen Coleman were sworn in and testified, requesting to place a 1978, 12'x 60' manufactured home on their property for Mrs. Coleman's Cousin, William Ventura, (whom she calls Uncle), to live in. Mr. Coleman stated he has bought the manufactured home and has had the septic system installed on the property. They stated that the cousin is disabled. They also stated that the cousins name will not be on the deed or the manufactured home. Mr. Coleman stated he had, had an 80 acre parcel and had sold all except (1)

acre for which he kept and wants to put the manufactured home on. He testified that there are other manufactured homes in the area, two being on the acreage he previously owned.

Mr. Jones, Attorney, explained to the applicants that it has been the policy of the Board that the person living in the manufactured home, must also have their name on the deed as well as the manufactured home, to provide a home for someone and not used as a rental unit. Mr. Jones questioned what size lots are in the area with manufactured homes on them.

Mr. Coleman stated that the lots are more than small lots. Mr. Coleman also stated that if something should change and their cousin decides not to live in the manufactured home, there is a neighbor's boy that wants to rent it.

James Thomas Tucker was sworn in and testified in behalf of the application, stating he bought the property from Mr. Coleman and has two manufactured homes on it. He feels that if Mr. Coleman sells the property they would not know what kind of neighbors they will get.

Douglas Griffin was sworn in and testified in opposition, stating that Mr. Coleman has stated that if the manufactured home does not go through he will put hogs on the property. He stated that Mr. Coleman has other property that is 5 acres or larger that he could put the manufactured home on. He stated he would not object to the applicants living in the unit, but he feels it is going to be a rental, because of the expense he has gone through to put the septic in. He testified he has no objection to manufactured homes, but opposes one used for capital gain.

Daniel Kramer was sworn in and testified in opposition, he feels Mr. Coleman is not truthful and the septic was just put in. He stated that Mr. Coleman holds the mortgage to the land he sold Mr. Tucker.

Kathleen S. Tull was sworn in and testified in opposition, she feels Mr. Coleman has more property that he could put the manufactured home on. She feels Mr. Coleman has a bad attitude with neighbors. She feels the property will be a rental for assets for he and his wife.

Ann C. Hurst was sworn in and testified in opposition, stating she is not opposed to the uncle living in the manufactured home but what will happen if the uncle ceases to live there. She feels the manufactured home will be a rental unit at some time.

Mr. Mills questioned how many people present would still be in opposition if it were granted just for the uncle.

The response was, they all would still be in opposition.

Mrs. Coleman stated they can not say how long someone will live in the manufactured home. Other property mentioned, Mr. Coleman only has life time rights to.

Mr. Mills questioned if the applicants would put their cousins name on the deed and manufactured home.

Mr. Coleman stated no, that the cousin has no money and lives in Meadowbrook Acres now.

Mr. Mills explained to the applicants that if the case is approved the manufactured home would have to be removed if the uncle ceases to live in it.

Mr. Coleman stated he was not aware approval was needed when he purchased the manufactured home.

Kathleen Tull questioned how the property would be checked to make sure the uncle is living there.

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. Callaway, seconded by Mr. Mills and carried unanimously that the special use exception be denied, finding the use will negatively affect surrounding properties and the applicants intend to use the manufactured home as a rental now or in the future.

Case No. 5697--Donald J. Warrington - East side of Route 70, at the corner of Route 13.

A special use exception to place a manufactured home to be used as a storage shed.

The case was presented by Mr. Betts. Donald J. Warrington was sworn in and testified, requesting to place a 14'x 80' manufactured home on his property to be used as a storage shed for carpenters tools. The manufactured home has been placed on the property without a permit. He testified the unit will be painted to match his barn, will have electric, but no septic or water. He testified there are other manufactured homes in the area.

Mr. Betts stated there has been no correspondence 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. After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson, and carried unanimously that the special use exception be granted, with the stipulation that the manufactured home/shed be painted to blend with other surrounding structures on the property.

Case No. 5798--James E. & Belinda L. Pusey - West side of Route 62, 500 feet north of Route 66.

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. James E. & Belinda Pusey were sworn in and testified, requesting to place a 1985, 14'x 70' manufactured home on property they are purchasing for their use. They stated there are other manufactured homes in the area, the nearest on adjacent property. They feel the manufactured home will not negatively impact surrounding properties.

Arthur Thawley was sworn in and testified in behalf of the application, stating he is the seller of the property. He stated that there are three other manufactured homes in the area, on larger parcels. He stated the property is a wooded lot and the manufactured home will be secluded.

Christine Mitchell was sworn in and testified in opposition, stating she lives in the area and they are trying to do away with manufactured homes in the area. She has a manufactured home, but plans to build a home. Some manufactured homes are being moved to build houses.

Mr. Pusey stated they would like to build a house, but have no immediate plans. They preferred to buy a double-wide manufactured home but could not financially.

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 granted, finding the use will not adversely affect the surrounding area.

Case No. 5699--Robert L. Steele - North side of Route 58, on the west side of Bunting Avenue.

A variance from the side yard and the front yard setback requirements for signs.

The case was presented by Mr. Betts. John Selby was sworn in and testified, representing the applicant who requested a 17' variance from the 25' side yard setback requirement for signs at the intersection to be 8' and a 1' variance from the front yard setback of 5' for signs. The applicant proposes to replace a non-conforming sign that does not meet the setbacks. Mr. Steele presented a drawing showing the sign that will advertise Sea Charm Motel & Apts. and Ric Mar Apts. & Cottages. The sign will be slightly larger than what exists, but he feels it will improve the corner.

There were no parties present in opposition.

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

Case No. 5700--Harvey, Jr. & Yvonne Collins - West side of Route 357, 200 feet south of Route 359.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Yvonne Collins was sworn in and testified, requesting a 21' variance from the 30' front yard setback requirement to place a 12'x 16' storage building. The property being Lot 5, Piney Point Subd. She testified it is the only location on the property to place it. She stated they had a manufactured home on the property and replaced it with a house. She stated a shed had been on the property before. She also said the neighbors have sheds. She stated there will be no problem with visability for vehicles going in and out.

Margaret Snow was sworn in and testified in behalf of the application, stating she lives next door to the applicant and has no objection. She stated there are many non-conforming structures in the area.

There were no parties present in opposition.

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

Case No. 5701--Juanita Cason - South side of Route 641, 300 feet northeast of Route 113.

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. Juanita Cason was sworn in and testified, requesting to keep a manufactured home on property she is purchasing for tenants. The manufactured home is already on the property, has been there for months and is being occupied. The unit is a 1973, 12'x 72' manufactured home.

Mr. McCabe explained that the Board's policy is the name of the person living in the manufactured home must be on the deed to the land and the manufactured home, and not used as a rental.

Ms. Cason testified that there are other manufactured homes in the area. She stated the property was previously owned by Johnny Walker and the manufactured home was already on the property. She is under sales contract to purchase the land with the unit on it.

Harold Short was sworn in and testified in opposition. He questioned the property she is buying. He stated the applicants manufactured home is on the property illegally and since 1987. He stated three manufactured homes have been there illegally since 1987, paying no taxes, no septic or water and with sewage running out on the ground. Mr. Short stated he had been before the Board in opposition on another hearing in the same vacinity. He stated his house has been devalued \$15,000.00 because of what is there. The property of Mr. Short was appraised by a Certified Appraiser.

Ms. Cason stated that the property she is purchasing has a well and septic.

Loretta Rash was sworn in and testified questioning the property. She stated she is not opposed if everything is up to par.

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 Mrs. Hudson, seconded by Mr. Mills, and carried unanimously that the special use exception be denied, finding the manufactured home will be used as a rental & will negatively affect other surrounding properties.

Case No. 5702--Mark Rowe - South side of Route 471, 1,100 feet west of Route 432.

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. Mark Rowe was sworn in and testified, requesting to place a new 28'x 60' double-wide manufactured home on property he is purchasing. He testified there are three manufactured homes on adjacent lots and modular homes across the road. He stated he will have a block foundation under the unit.

Mr. Betts read a letter of opposition from Ronald J. & Patricia Oliphant, who recently built a home in the area.

Mr. Rowe stated that there were existing manufactured homes in the area before the Oliphant's built their home.

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. After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, based on previous findings for many parcels across the street, they feel to continuously approve manufactured homes would create a manufactured home development.

Case No. 5703--Jay & Elizabeth Armwood - Northwest side of Route 525, on the northeast side of Mill Park Drive, Lots 1 and 2, within Fisher Mill Park.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Elizabeth Armwood was sworn in and testified, requesting a 7.42' variance from the 15' side yard setback requirement, on Lots 1 and 2 in Fisher Mill Park, to keep a manufactured home on her property. She stated that she had, had a manufactured home on the property that burned in December. She bought another manufactured home to replace it and put it on a cement foundation. She stated it would be too hard to move it now. She bought the manufactured home from Luv's Mobile Homes and Robert Hughes did the foundation.

Mr. Betts read a letter in favor from Brad Temple, Surveyor.

Margaret Armwood & Jesse Armwood, Jr. were sworn in and testified in favor of the application. They feel it would be too much expense to redo the foundation. They would like the manufactured home to stay as it is on the property.

There were no parties present in opposition.

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

Case No. 5704--Robert G. Bishop - Route 360 and Route 357, Lot 149,
within The Salt Pond.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Theodore B. Simpler was sworn in and testified, representing Robert Bishop, who requested a 0.3' variance from the side yard setback for a chimney. A chimney is allowed to encroach into the setback 2'. The present chimney is located at 2.3'. Mr. Simpler stated that when the preliminary plan was done the measurement was done from the house not the foundation or fireplace/chimney. The structure was built by Zonko Builders and people are living in the house. He testified the Salt Pond Dev. has basically agreed with the variance. The property is Lot 149, Salt Pond.

There were no parties present in opposition.

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

Case No. 5705--Lori A. Donophan - 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. Lori & George William Donophan were sworn in and testified, requesting to place a 1995, 14'x 76' manufactured home on property they are purchasing for their own use. Mr. Donophan stated that there are three or four other manufactured homes in the area.

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. 5706--Edward & Florence Herbert - Route 274, Lot F16,
within Rehoboth Bay Mobile Home Park.

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

The case was presented by Mr. Betts. Florence Herbert was sworn in and testified, requesting a 4' variance from the 20' setback requirements between units in a park on Lot F-16, Rehoboth Bay Mobile Home Park. She testified that the shed has been on the property 9 years. She was not aware of the encroachment. The violation was discovered when the Inspector went to the property to check an addition.

Mr. Betts read a letter from Catherine Dubinski, Manager of the park, voicing no objections.

There were no parties present in opposition.

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

Case No. 5707--Harry J. & Paula K. Wright - North side of Route 265A,
1,120 feet north of Route One.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Harry & Paula Wright were sworn in and testified, requesting an 8' variance from the 150' lot width requirement to be 142' to be able to subdivide 1.27 acres into two parcels. They will build a house on the parcel for Mrs. Wright's 80 year old father, so he can be near them. The applicants live on one parcel.

Margaret Wright, mother of the applicant Harry Wright, was sworn in and testified in behalf of the variance. She testified she wants to deed 50' to them.

Mr. Wright presented sketches of what he intends to do. He will add the 50' to his property and put the access in the center of both parcels. There will be only one entrance.

There were no parties present in opposition.

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

Case No. 5708--Douglas A. Willey & Sandra D. Thomas - West side of
Route 562, one mile 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. Betts.

Mr. Mills refrained from taking part in this case due to a conflict of interest.

Douglas Willey was sworn in and testified, requesting to place a manufactured home on property he is under sales contract to purchase for his use. The property being Lot 7, Wheatley Farms. He testified

there are several other manufactured homes in the area.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson that the special use exception be granted, with Mr. Mills abstaining. Motion carried with four voting in favor and one not voting.

Case No. 5709--Rolf M. & Susana Iverson - West side of Route 562,
1,750 feet north of Route 31.

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. Yolanda Sanchez Marine, sister of the applicant, was sworn in and testified in behalf of the applicants. The applicants requested to place a 1995, 60'x 28' manufactured home on Lot 6, Wheatley Farms, for Ms. Marine to live in. She testified that her sisters name, Susana Iverson, will be on the deed and the manufactured home, but she and her two children will live in the unit and it will not be a rental.

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 granted, with the stipulation that an immediate family member or owner be the only occupants or the manufactured home will be removed.

OLD BUSINESS

Case No. 5672 (cont'd.)--Malone's 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.

Mr. Betts stated that the three Cases, No. 5672, 5673 and 5674 for Malone's Bayside Marina, should remain tabled, since the applicants have not as yet submitted a survey as was requested by the Board.

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.