

MINUTES OF JUNE 29, 1992

A special meeting of the Sussex County Board of Adjustment was held Monday evening, June 29, 1992 in the County Council Chambers, Room 115, the 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. Stuchlik, Mrs. Hudson, Mr. Carey, Mr. Wheatley, Mr. Berl - Attorney, Mr. Lank - Director, and Mr. Betts - Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Carey and carried unanimously to approve the minutes of June 15, 1992 as circulated.

Case No. 4759 -- Ocean Outlets Limited Partnership No. 1 - Southwest side of Route One, 50 feet southeast of Route 271.

A special use exception to place a non-accessory tent for outdoor sales.

The case was presented by Mr. Betts.

Andrew Beck was sworn in and testified representing this case.

Mr. Beck advised the Board that two (2) stores are temporary closed for renovation, that the stores contain approximately 7,200 square feet total, that the stores have been closed for approximately 10 days, that a 2,000 square feet tent is proposed for temporary use by Bass Shoes, that the tent will be located on the lawn area in the center of the parking area, that the tent will not be placed in the parking lot, and that no impact is anticipated on parking.

There were no parties present in opposition.

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

Case No. 4760 -- Richard and Carolyn Tosti - South side of Route 373, 3,000 feet west of Route 365.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts.

Richard and Carolyn Tosti were sworn in and testified requesting a 1'4" variance from the 15 foot side yard setback in the AR-1 Agricultural Residential District so that they may construct a two car garage addition to their dwelling, that the garage will be 24' wide and 34' deep, that an existing shed will be removed upon completion of the garage.

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. 4761 -- David Eaton - South side of Route 246, 196 feet east of Route 243.

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.

Lenora and William Taylor, grandparents of the applicant, were sworn in and testified requesting permission for their grandson to place a 14' by 65' 1984 manufactured home on the subject property for his permanent residence. They stated that several manufactured homes exist in close proximity along Route 346, and that another grandson recently was granted a special exception for his manufactured home.

There were no parties present in opposition.

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

Case No. 4762 -- William Keefer - North side of Route 349, on the east side of the intersection with Route 351.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts.

William Keefer was sworn in and testified requesting a twenty-seven (27) foot variance from the rear of his lot on Route 349 so that he may build a two (2) car garage.

Mr. Betts advised the Board that the lot is a through lot with two frontages, one on Naomi Drive and one on Route 349, and that both frontages are required to meet front yards setbacks.

Mr. Keefer stated that he has no room on the lot for the garage unless a variance is granted, that trees separate the area of the garage from Route 349, that the garage will match the house siding and shingles, that he needs the garage for storage of yard maintenance equipment, and that if he had known that he had to be 40' from Route 349 when he built his home he would have located the home accordingly.

Finlay Petrie was sworn in and testified in opposition and expressed concerns on the impact on property values and that a precedent may be set for more variances which will create a hodgepodge of structures along Route 349. Mr. Petrie added that 11 homes of the 16 homes bordering Route 349 have garages that conform to regulations and that all 11 garages blend in with the development.

Mr. Betts advised the Board that two (2) variances have been applied for in Whites Creek Manor, that a front yard variance was granted, and that a front and side yard variance was denied.

Motion was made by Mr. Carey, 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. Carey, seconded by Mrs. Hudson, and carried unanimously that action be tabled until the next meeting.

Case No. 4763 -- Emma L. Tucker - East side of Route 113, 1,100 feet north of Route 224.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts.

Peter Schrock was sworn in and testified on behalf of Mrs. Tucker who is requesting a 8.88' variance from the required front yard setback of 40' for an addition to an existing dwelling, that the addition will be even with the front of the existing dwelling and that there will be no further encroachment into the setback requirement, that a building permit was obtained and the correct setbacks were noted, that he had measured from the centerline of Route 113 to establish the setback, and that the septic designer had also measured from the centerline of Route 113.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Carey, and carried unanimously that this 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. Stuchlik, seconded by Mrs. Hudson, and carried unanimously that the variance be granted since no further encroachments into the setback are being created and since the addition will be built in line with the front of the existing dwelling.

Case No. 4764 -- Norman and Annabelle Webb - West side of Route 463, on the north side of the intersection with Route 451.

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.

Norman and Annabelle Webb were sworn in and testified requesting permission to place a manufactured home on the subject property for their permanent residence. They stated that almost all of the units in the area are manufactured homes, and that the majority of the units are on 5 acre parcels.

Robert Durham of Laurel Realty was sworn in and testified in support of the application. Mr. Durham submitted a map of the area which designated the location of manufactured homes in the immediate area on lots sold by the same developer, and stated that 22 manufactured homes are in place and that 3 additional manufactured homes have permits and are awaiting delivery, that 8 owners in the area have supported this application, that the developer, Norris Niblett, reviews and inspects manufactured homes prior to placement, that people who have purchased 5 acre parcels were aware that manufactured homes were permissible and that a special use exception would be required for manufactured homes on smaller lots, and that the lot is already improved by a well and septic system.

Mr. Durham submitted a copy of a petition containing 13 signatures in support.

Elison Skidmore was sworn in and testified in opposition to smaller lots for manufactured homes since he purchased 5 acres with the understanding that 5 acres was required for a manufactured home, that the majority of the parcels contain a minimum of 5 acres, that the lot size is not in character with other lots in the area, and questioned who the parties were who signed the petition.

Richard H. Harris was sworn in and testified that he also understood that a manufactured home is permitted if the parcel contains 5 acres, and that he agrees with the comments stated by Mr. Skidmore.

Nancy Chenowitz was sworn in and testified that she agrees with the comments stated by Mr. Skidmore, and that she opposes the appearance of a row of manufactured homes on small lots since it will appear that a manufactured home park is being created.

Anne Skidmore was sworn in and testified that she agrees with others in opposition, that everyone bought 5 acre tracts knowing that they needed 5 acres for a manufactured home, and questioned if this is approved can others apply for smaller lots for manufactured homes.

Ron Price was sworn in and testified that he agrees with others in opposition.

Rita Matthews was sworn in and testified that she agrees with others in opposition and expressed a concern that smaller lots with manufactured homes may devalue property values.

Donna K. Harris was sworn in and testified that she agrees with others in opposition, that farmland is being bought up for smaller lots, that approval of this application will cause approval of additional lots, and that some of the parties who signed the petition in support did not understand the reasons for the petition.

Motion 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. Stuchlik, seconded by Mr. Carey, and carried unanimously that the special use exception be denied since the lot does not conform to the adjacent development of the area.

Case No. 4765 -- Dennis Klein - Withdrawn

Case No. 4766 -- William N. Harmon and Ida A. Harmon - North side of Route 302, 3,218 feet east of Route 48.

A variance from the lot width requirement.

The case was presented by Mr. Betts.

The Board noted that no parties were present on behalf of the application.

There was a consensus of the Board that the case be placed at the end of the agenda.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Board again noted that no parties were present on behalf of the application.

Motion was made by Mr. Carey, seconded by Mr. Stuchlik, and carried unanimously that this case be denied for the lack of a record of support since no one appeared on behalf of the case.

Case No. 4767 -- Steven W. Smith and Arthur J. Defonzo - Southwest side of Route 273, 1/4 mile southwest of Route One.

A special use exception to operate a golf driving range.

The case was presented by Mr. Betts.

Steven W. Smith and Arthur J. Defonzo were sworn in and testified requesting permission to place a golf driving range on a 23.5 acre parcel across from the State Park and Ride Facility, that the site is between Rehoboth Beach Yacht and Country Club and Kings Creek Country Club and should be an appropriate location for a driving range, that Mr. Smith is a golf professional and will be providing golf instruction at the site, that the use will serve the area, that the farmhouse on the site will serve as a restroom facility for the patrons, that approximately 20 acres of the site will be maintained in grass, that typical hours will be 10:00 AM till evening seven days per week, that lights will be installed for night practice, that a double decker tee structure will be built on the site, that no immediate neighbors will be impacted, that the lighting will not impact the neighborhood anymore than the existing lighting at the State Park and Ride Facility, that a large volume of traffic will not be generated at any given time, and that traffic will be staggered throughout the day and evenings.

Geraldine Marsh was sworn in and testified in opposition since she is an owner of an adjoining parcel and expressed concerns in reference to additional traffic and traffic hazards.

Motion by Mr. Wheatley, 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. Wheatley, seconded by Mrs. Hudson, and carried unanimously that the special use exception be granted.

Case No. 4768 -- William and Jacqueline Hearn - West side of Route 463, 150 feet north of Route 451.

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 and Jacqueline Hearn were sworn in and testified requesting permission to place a manufactured home on the subject property for their permanent residence, that they propose a 28' by 60' doublewide on a permanent foundation, and that they have no need or desire for a parcel of acreages over the size of the proposed lot.

Mr. McCabe asked all parties present if they desired that their comments, made in reference to Case No. 4764, be made a part of the record of this case.

No parties objected to inclusion of the comments into the record.

Norris Niblett, developer, was sworn in and testified in support of the application and stated that sometimes 5 acres is an excessive amount of land, that lots will dwelling houses could be developed in a row, and that the lots exceed the minimum square footage for lots in AR-1 District.

Richard L. Harris was sworn in and testified that he agreed with the comments in opposition to Case No. 4764 for this case, and added that most of the owners purchased 5 acre parcel for manufactured home use.

Anne Skidmore, sworn in on Case No. 4764, confirmed her comments on Case 4764 as they relate to this application, and added that all lots should be the same size unless there is a severe hardship.

Debbie Brittingham was sworn in and testified in support and stated that she had sold 2 of the parcels and the buyers were aware of their choice of purchasing a 5 acre parcel for a manufactured home or purchasing a lot and then applying for a special use exception for a manufactured home.

Elison Skidmore, sworn in on Case No. 4764, confirmed his comments on Case No. 4764 as they relate to this application, and added that the County regulations are very clear that a manufactured home may be placed on a 5 acre tract, and that it may not be fair to the general public to require 5 acres.

Wanda D. Harris was sworn in and testified in opposition and added that the area is a quiet agricultural area with large lots, limited traffic, and still feels like country due to the existance of larger parcels, rather than lots.

Motion 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. Wheatley, seconded by Mrs. Hudson, and carried unanimously that the special use exception be denied since the lot does not conform to the adjacent development of the area.

Case No. 4769 -- Edward and Vivian Niblett - North side of Route 451, 800 feet west of Route 463.

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.

Norris Niblett, sworn in on Case No. 4768, was present on behalf of the applicants, and testified that a 14' by 70' manufactured home is proposed for a permanent residence.

Nancy Chenowitz, sworn in on Case No. 4764, questioned if Mr. Niblett has inspected all of the manufactured homes in the area, and referenced an older poorly maintained mobile home that is located on one of the parcels.

Robert Durham, sworn in on Case No. 4764, advised the Board that since the referenced older mobile home was placed Mr. Niblett started to review and inspect the manufactured homes proposed to be placed on the lots and that 2 manufactured homes have been rejected.

Rita Matthews, sworn in on Case No. 4764, stated that Edward and Vivian Niblett recently purchased 5 acres and a manufactured home was being placed on the acreage today.

Motion by Mrs. Hudson, seconded by Mr. Carey, and carried unanimously that this 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 denied since the lot does not conform to the adjacent development of the area.

Case No. 4770 -- Helen M. Watson Zook and Eugene - North side of Route 54, one mile east of Route 381.

A variance from the setback requirement between units in a park, Lot 37D, within Swann Keys.

The case was presented by Mr. Betts.

Eugene and Helen Zook were sworn in and testified requesting a 3'6" variance from the required 20 foot setback between units in Swann Keys Community so that they may replace a 12' by 60' manufactured home with a new 14' by 70' manufactured home, that the variance is needed from a porch on lot 38D, that if the application is denied and they have to meet the requirements for 20 feet setback it may be necessary for them to remove their deck and porch.

There were no parties present in opposition.

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

Case No. 4283 -- Martha Hitchens - West side of Route 375, 1,600 feet north of Route 92.

A special use exception to place a manufactured home in an AR-1 District.

Mr. Betts advised the Board that Ms. Hitchens has requested a time extension to get appropriate agency permits.

Motion made by Mrs. Hudson, seconded by Mr. Wheatley, and carried unanimously to grant a 6 month time extension.

Lynn Lee Village Manufactured Home Park

Mr. Lank advised the Board that the developers of Lynn Lee Village have requested consideration by the Board to accept an application for the park to permit a reduced setback on all of the right side lot lines within the park, that it appears during an on-site inspection of the site that all the lots have been developed in this manner since the project was first started prior to the County having zoning jurisdiction.

There was a consensus of the Board to request Peter B. Jones, Attorney, to research a variance for an overall project rather than individual applications.

Mr. Berl suggested that Mr. Jones be allowed at least 2 weeks to respond.

Meeting adjourned at 8:30 PM.