

Minutes of July 11, 1994

Prior to the regular meeting, the Board met to reorganize.

Mr. McCabe appointed Mr. Betts as acting Chairman for the purpose of holding an election of officers.

Mr. Betts opened the nominations for Chairman.

Motion was made by Mrs. Hudson, seconded by Mr. Mills to nominate Mr. McCabe.

Motion adopted; 3 yea

Vote by roll call: Mr. Callaway; yea
Mrs. Hudson; yea
Mr. Mills; yea

Mr. Betts opened nominations for Vice Chairman.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson to nominate Mr. Mills.

Motion adopted; 3 yea

Vote by roll call: Mr. Callaway; yea
Mrs. Hudson; yea
Mr. McCabe; yea

Mr. Betts turned the meeting over to the re-elected Chairman Mr. McCabe.

The Chairman appointed Mr. Betts as Secretary.

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, July 11, 1994 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. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of June 20, 1994 be approved as circulated.

Case No. 5374--WCCV - West side of Route One, 1.3 miles south of the Indian River Inlet Bridge, part of Lots 14 and 15, within Zacharias Cove.

A variance from the lot depth requirement.

The case was presented by Mr. Betts. Joe Conaway and Michael Lynn were sworn in and testified representing WCCV, who requested

a 7' variance from the 100' requirement from the lot depth to create Lots 14A and 15A in Zacharias Cove. They are revising a 21 lot subdivision to create two interior lots and put the recreation area where the lots were previously. Mr. Lynn stated he feels they have created a better plan. He showed and explained plots. A copy of the plot plan showing the proposed subdivision was submitted. The lots will meet and exceed the 10,000 sq. ft. in size. The narrowest point will be 90'.

Mary Louise Caravatti of Indian Harbor Villas Condos was sworn in and testified in opposition. She feels the applicants fail to meet the criteria for a practical hardship and that a precedent will be set.

Richard Penkamble of Indian Harbor Villas Condos was sworn in and testified in opposition. He voiced concerns about using the lots in front for recreation, traffic difficulty, out of character with the area and density.

Mr. Conaway stated he feels Indian Harbor Villas may have more density because they are condos.

Mr. Lynn stated that the recreation area is private.

Mr. Conaway stated that the 21 unit subdivision has been approved except for the variance on the two lots requested.

Ms. Caravatti stated she is against bending the law. She also questioned the run-off.

Mr. Penkamble questioned the boat slips, open space and nature preserve.

Mr. Lynn stated that there are wetlands on the property, but they will not encroach on them.

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 variance be granted, finding there are unique physical circumstances or conditions, will not alter the essential character of neighborhood, requested minimum variance, location of the canal has eroded and created property irregularities which caused a hardship, the hardship was not created by the applicant and this will be a reasonable use of the property.

Case No. 5375--Candy Kitchen - East side of Route One, at the intersection of Delaware Avenue.

A variance from the requirements for signs.

The case was presented by Mr. Betts. David Carter Selby was sworn in and testified, requesting a 42 sq. ft. variance from the 100 sq. ft. requirement for an awning and a variance in the number

of wall signs. Mr. Selby stated that existing prior to installing an awning there were four signs, 3'x 16', 3'x 10', 30"x 6' and 4'x 8'. When the awning was placed they removed the 3'x 16', 3'x 10' and 30"x 6' signs. Existing will be the awning and one sign on each side of the awning. Mr. Selby feels this will improve the aesthetics and appearance of the building.

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. 5376--Bryan Doughty - North side of Route 26, at the intersection of Route 17.

A special use exception to operate a Golf Driving Range.

The case was presented by Mr. Betts. Bryan Doughty and John T. Spinelli were sworn in and testified, requesting to operate a Golf Driving Range, with lights possible in the future, covered tee off area, batting cages in the future and basketball. Mr. Doughty presented a proposed layout. He will not build any new buildings, but will use all pre-existing buildings. He anticipates there will be 40 to 50 cars per day. He feels the batting cages will be added approximately 14 months from now. He will operate from 9:00 A.M. to 8:30 P.M. (dark) until the days get shorter. There will be no lighting at this time. He will operate year round depending on the weather. He will remove the bar-be-cue pit he was granted approval for. Mr. Doughty stated there would be no danger from balls, since he will install a 10' barrier netting. He testified that there are two residents in the area, the closest 1/3 mile away.

Mr. Betts read a letter addressed to Jeff Clark from the Department of Transportation, Johnson M. Hermes, Project Engineer, pertaining to this case.

Mr. Jones and Mr. Betts explained that the Board could not act on the basketball and batting cages, because a Conditional Use is needed for those uses.

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 Mr. Callaway and carried unanimously that the special use exception be granted for a period of five (5) years and the bar-be-cue cease to exist.

Case No. 5377--Virgil & Alice Chaffinch - Northwest side of Front Street Extended, 200 feet southwest of Hurley St. Lots 24 and 25, within Hurley and Allen Subdivision.

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

The case was presented by Mr. Betts. Virgil and Alice Chaffinch were sworn in and testified, requesting a 12' variance from the 30' front yard setback requirement and a 2' variance from the 10' side yard setback requirement to build an addition to an existing house, on Lot 24-25, Hurley & Allen Subdivision. The house was built before 1964. Petitions in favor were presented from neighbors. The applicants lot width is 41'.

Mr. Betts read one of the seven petition letters (they were all the same, with different signatures), in favor. They were signed and witnessed.

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. 5378--Joseph Palenik & Pauline Pettitt-Palenik - West side of Route 290, one mile south of Route 9.

A special use exception to operate a Bed and Breakfast Inn.

The case was presented by Mr. Betts. Joseph Palenik and Pauline Pettitt-Palenik were sworn in and testified, requesting to operate a Bed and Breakfast on property they are under sales contract to purchase. The property consists of 5 acres. They propose to start with one room and go up to four rooms, the fourth being a handicapped room. The property will also be their residence. There will be no cooking facilities in the room. They feel the use will not negatively affect surrounding properties. They feel the use may upgrade the value of property.

Mr. Betts read a letter from Kenneth E. Schuler in opposition. He wants the area to remain the same as it is now.

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. 5379--Raymond Foreman - South side of Route 595A, 200 feet north of Route 595.

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

The case was presented by Mr. Betts. Betty and Raymond Foreman were sworn in and testified, requesting to place a second manufactured home on property for Mrs. Foreman's son to live in on medical hardship basis. She lives on the property in a manufactured home. Mrs. Foreman stated that her 21 year old son is border line mentally retarded. He graduated from Ennis School and she wants him to live independently, but where she can be near him. She testified that she will get a two bedroom unit for herself and will use her existing manufactured home for her son to live in.

Mr. Betts read a letter from Dr. Lorraine Wray, Principle of Howard F. Ennis School referencing Mr. Foreman's capability.

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 on the basis of hardship for a period of two years.

Case No. 5380--Kenneth James & Emma Diann Pawlowski - North side of Route 471, ¼ mile 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. Kenneth James & Diann Pawlowski were sworn in and testified, requesting to place a double-wide manufactured home on property they are purchasing for their residence. The adjacent properties are vacant, but there are other manufactured homes in the area, the nearest across the road. The existing manufactured homes in the area are on one acre lots.

Gary Conaway was sworn in and testified in opposition, stating he feels the remaining vacant parcels will be sold for manufactured homes. Mr. Conaway does farming and he feels more manufactured homes will devalue his property.

Patricia Oliphant was sworn in and testified in opposition, stating she and her sister own property across the road. She feels there are strip lots being created. She is concerned about having a manufactured home park in the area. She plans to build a home in the area and is opposed to the manufactured home. Mrs. Oliphant also stated there are two manufactured home parks not too far away.

Roger William Mitchell was sworn in and testified in opposition, stating he owns 20 acres adjoining the property and has a horse training track. He is opposed to the manufactured home. He is concerned about the number of lots for manufactured home use.

Robert Timmons was sworn in and testified in opposition, stating he owns a farm north of the property with his brother. He does not oppose 5 acres for a manufactured home, but opposes a smaller parcel. He states that he has been before the Board in opposition to the existing manufactured homes, but they were approved.

James Marvel was sworn in and testified in opposition, stating he and his brother own 110 acres near the property of the applicants. They are reserving their land for farmland. He feels if 5 acres is the law the existing manufactured homes should not have been approved. He does not want a manufactured home park.

Donna Lisa Wootten was sworn in and testified in opposition, stating she has nothing against the applicants, just the manufactured home. She made reference to having lived in a manufactured home park and the noise that is created. She is concerned about what will happen down the road with the remaining lots.

Mike Betts was sworn in and testified in opposition, stating he owns land 1/3 mile away. He stated that there are 8 nice stick built homes in the area, 3 single-wide manufactured homes and 1 double-wide. Mr. Betts stated he has a home valued at \$100,000.00. Mr. Betts feels if approved there should be stipulation to build a home within 5 years.

Dean Allen Wootten was sworn in and testified in opposition, stating he thought the people in the existing manufactured homes had to build within 5 years. He is opposed to the manufactured home. He stated he may go along with a 5 year stipulation to build.

Granville Conaway was sworn in and testified in opposition, stating lots he has sold in the area were for stick built homes. He owns and tills a lot of property in the area, and he does not want a trailer park.

Judith Hickman Mitchell was sworn in and testified in opposition. She stated there are 4 manufactured home parks within a 5 mile radius.

Timothy Wade Miler was sworn in and testified in opposition, stating that he was told houses would be put on the properties in 5 years. He is concerned about his property values.

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 Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the special use exception be denied, finding strip development of manufactured homes would have a negative affect on the area and could devalue the surrounding area.

Case No. 5381--John R. Low - West side of Route 575, 1/2 mile north of Route 18.

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. John & Barbara Ann Low were sworn in and testified, requesting to place a manufactured home on property they are under sales contract to purchase for their daughter and her children to live in. The property and manufactured home will be owned by Mr. & Mrs. Low. They are looking for a 14'x 70' unit. There are other manufactured homes in the area.

Mr. Jones explained to the applicant that the property and manufactured home would have to be in the name of the person living in the manufactured home or jointly with the applicant.

Mr. Low stated that they will have the property and manufactured home put jointly in their name and their daughters.

Joseph W. Schorah was sworn in and testified in behalf of the application. He lives two blocks away and feels it will be an

improvement to have someone on the property.

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. 5382--Gordon Lee Serman - East side of Route 30, one mile north of Route 24.

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.

There were no parties present representing the application.

Mr. Betts stated that Mr. Serman phoned the office in the afternoon prior to the meeting and stated that he would not appear at the meeting.

By a show of hands there were 7 people present in opposition.

There were no parties present in favor of the application.

Mr. Jones made reference to the Zoning Code and what it states when an applicant fails to withdraw his application in the time allotted prior to the hearing and failure to appear.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, for failure of the applicant to appear and the applicant cannot reapply for a period of one (1) year.

Case No. 5383--James F. Cook, Jr. - Southeast side of Route 36, 800 feet north of Route 620.

A special use exception to place a second manufactured home on farm.

The case was presented by Mr. Betts. James Cook, Jr. was sworn in and testified, requesting to place a 2nd. manufactured home on farm for his son, to live in. They have not purchased the manufactured home as yet, but will be new unit. He testified that his son will help on the farm.

Betty Jean Evick was sworn in and testified in favor of the request. She lives in the area. Joseph Urash was sworn in and testified that he owns two lots adjacent to Mr. Cook. He explained that he had tried to purchase the property now owned by Mr. Cook and wanted a 2nd. dwelling or manufactured home and could not without a 50' right-of-way.

It was explained to Mr. Urash that his circumstances were different.

Shirley Urash was sworn in and testified, questioning the high powered line on the property.

Mr. Betts stated the D.P. & L. owns property in the area.

Karen Ann Renkowski, heir to the property, was sworn in and testified that there are no plans to subdivide the property and help will be provided on the farm.

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

Case No. 5384--Wayne Passwaters - Southeast side of Route 224, $\frac{1}{2}$ mile southwest 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. Wayne and Connie Passwaters were sworn in and testified, requesting to retain a manufactured home on less than five acres. The property contains 13.61 acres and is being subdivided among three people. The manufactured home has been on the property for sometime. The applicants wish to retain the unit on a one acre parcel being subdivided for them. Mr. Passwaters will own the property. The property being less than 5 acres needs Board approval.

Bill Eastburn was sworn in and testified in behalf of the application stating they are good neighbors.

There were no parties present in opposition.

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

Case No. 5385--Norma & Ludwig Possenti - West side of Route One, Sea Air Avenue, Lot B-71, within Sea Air Village.

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

The case was presented by Mr. Betts. Norma and Ludwig Possenti were sworn in and testified, requesting a 10' variance from the 20' setback requirement between units in a park, being Lot B-71, Sea Air Village. The applicants are placing a 14'x 66' manufactured home with a 11'x 26' porch and 6'x 8' shed on the property. A variance is needed.

Mr. Betts read a letter from Sandra Stintsman, Sea Air Management, voicing no opposition.

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.

OTHER BUSINESS

Mr. Jones presented the Board with material related to the opponents request for a re-hearing on Wyoming Concrete.

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

Meeting adjourned at 9:06 P. M.