

Minutes of July 12, 1993

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 Mr. Wheatley, seconded by Mrs. Hudson to nominate Mr. McCabe.

Motion adopted; 5 yea

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

Mr. Betts opened nominations for Vice Chairman.

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

Motion adopted; 5 yea

Vote by roll call: Mr. McCabe; yea
Mr. Callaway; yea
Mrs. Hudson; yea
Mr. Mills; yea
Mr. Wheatley; 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 12, 1993 in the County Council Chambers, Room 115, Georgetown, Delaware.

The meeting was called to order at 6:57 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Wheatley, Mrs. Hudson, Mr. Mills, 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 21, 1993 be approved as circulated.

Case No. 5117--Dennis & Roxanne Dietrich - Northwest side of Route 565, 3/4 mile southwest of Route 239.

A special use exception to retain a manufactured home in an AR-1 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. Dennis & Roxanne Dietrich were sworn in and testified, requesting to retain a manufactured home on property they are purchasing. The manufactured home a 1972, 12'x 60' with a 12'x 30' addition has been on the property for a long time as an on farm permit. The applicants are purchasing a 1.61 acre lot with the manufactured home on it. They testified that there are other manufactured homes in the area.

June O'Day was sworn in and testified in behalf of the request, stating that she lives in a manufactured home across the road. She feels the applicants have been a plus in the neighborhood. She also 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. 5118--Charles R. & Marlena S. Smith - Northwest side of
Route 575, 1,850 feet west 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. Charles & Marlena Smith were sworn in and testified, requesting to place a manufactured home on their property for the residence of one of their three sons. They testified that it will probably be a 3 bedroom unit, but they do not have it as yet. They testified that there are approximately seven other manufactured homes in the area.

Mr. Jones, Attorney, explained to the applicants that the name of the person living in the manufactured home must also be on the deed to the land and not be used as a rental unit.

The applicants testified that they would consider putting their sons name on the deed if they place the manufactured home.

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 with the condition that the occupant of the manufactured home have their name put on the deed to the land.

Case No. 5119--William H. & Patricia D. McCormick - Southwest side
of Route 382, 1,110 feet northwest of
Route 54, Lot 1, Wanmar Lakes.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Joseph Martelini was sworn in and testified representing the applicants who were requesting a 6" variance from the side yard setback of 15' on Lot 1, Wanmar Lakes, for a dwelling. He testified that there was a building error. The encroachment was discovered when a location survey was done.

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. 5120--Gus & Eoanna Skidas - West side of Route 270, Lot C-14, within Breakwater Estates.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Gus & Eoanna Skidas were sworn in and testified, requesting a $2\frac{1}{2}'$ variance from the 10' side yard setback on Lot C-14, Breakwater Estates to be $7\frac{1}{2}'$. The applicant had a unit placed on the property approximately 7 years ago and was placed in error. Mr. Skidas had placed property markers on his lot, but he did not place the manufactured home and the markers were not followed.

Mr. Betts read a letter presented in favor of the request, from Rodney L. Hearn.

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.

Case No. 5121--Michael Joseph - East side of Route 413, at the intersection of Route 54.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Edison Smith & Joseph M. Parson were sworn in and testified representing Michael Joseph, who requested a 10' variance from the 40' front yard setback requirement for a shed that exists on the property. They testified that there is no other place on the property to put the shed.

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. 5122--Hogan's Flaming Pitt c/o Jack Hogan - North side of Route 26, directly across from Route 17.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Jack Allen Hogan was present and affirmed, requesting a 17' variance from the 40' front yard setback requirement to be 23'. The property being Lot 5, Holt's Acres. The applicant has a two year lease on the property that had an existing building. He has placed a bar-be-que stand (screened-in slab) on the property. The bar-be-que stand is 4' further back on the property than the existing building. There is a drop-off of the land on the property and to go back further on the property would not help his business. He improved the building and opened the stand. Mr. Hogan stated he plans to move after two years.

Mr. Betts stated that a permit was issued to Mr. Hogan with the 40' front yard setback on it. He was violated by the Zoning Inspector.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway that the variance be granted for a period of two (2) years, with Mr. Wheatley voting against. Motion carried with four voting in favor and one voting against.

Case No. 5123--Martha C. Watts - East side of Route 277, 1,300 feet north of Route 287.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Martha Watts was sworn in and testified and was represented by Bill Schab, Attorney. Ms. Watts requested an 8.8' variance from the 20' rear yard setback requirement for a dwelling, with a deck, that was built too close to the rear property line. The encroachment was discovered when a survey was done when Ms. Watts purchased the property.

Mr. Betts stated that a building permit was issued June 26, 1989 with the proper setbacks on it.

Mr. Jones, Attorney, stated that according to the location survey a 8.6' variance is needed and not 8.8' as stated on the application.

Ms. Watts stated that it would be expensive to correct the encroachment.

Mr. Schab stated that the problem was not caused by the applicant.

There were no parties present in opposition.

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

Case No. 5124--John L. & Maria S. Metzger - East side of Pine Lane, 800 feet northwest of Lake Dr., Lot K, within Silver Lake Heights.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. John L. Metzger was sworn in and testified and was represented by Bill Schab, Attorney. The applicants requested a .5' variance from the 5' side yard setback requirement for a garage that is existing on the property, on Lot K, Silver Lake Heights. The applicants purchased the property with the existing garage on it, not aware of the encroachment until a survey was done for settlement. Mr. Metzger stated he would have to tear down a portion of the garage to meet the setbacks.

Mr. Betts stated that the building permit was issued around 1987.

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.

Case No. 5125--Gregory A. & Patricia A. Manhard - East side of
Route 274, 2,300 feet south of Route One,
Lot 4, Blk. 7, within Breezewood At
Rehoboth.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Gregory Manhard was sworn in and testified and was represented by Bill Schab, Attorney. Mr. Manhard requested a 4' variance from the side yard setback requirement to be 9.6' for a dwelling on Lot 4 in Breezewood. Mr. Schab stated that he believes two variances are needed according to the survey. A 1' variance from Loganbury Lane and a 4' variance from Lot 5.

Mr. Manhard stated that he purchased the property with the existing dwelling on it and was unaware of the encroachments until a location survey was done.

Lucille Koon was sworn in and testified that she was the previous owner of the property. She stated that the property had been surveyed by Bill Mann of Mann Associates. She feels the stakes could have been moved or the foundation could have been placed wrong. She stated that the house had been built approximately one year. She testified that it is an odd shaped lot.

Mr. Betts stated that the building permit was issued May 29, 1992.

There were no parties present in opposition.

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

Case No. 5126--William H. & Nancy J. Rehder - East side of Route 13A,
1,300 feet northwest of Route 488.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. William Rehder was sworn in and testified and was represented by Bill Schab, Attorney. Mr. Rehder requested a 9.3' variance (corrected from 9.5' on the application) from the 20' rear yard setback requirement for a shed that is on the property. The encroachment was discovered when a location survey was done prior to settlement.

Mr. Rehder learned before settlement that the shed was in error. He testified that the shed is compatible with other structures on the property. The shed has a concrete foundation and he would have to hire someone to move it. Since the shed is attached to the garage, repair to the garage would have to be done.

Mr. Betts stated that since the shed is attached to the garage the size is over 600 square feet and the greater setbacks are required.

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. 5127--Gardner & Elsie Jarman - North side of Route 402,
 $\frac{1}{4}$ mile west of Route 402B.

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. Gardner & Elsie Jarman were sworn in and testified, requesting to place a 1989 or 90 (2) bedroom manufactured home on their property for their residence. There is a house on the property to be burned down. There will be only one unit on the property. The manufactured home has already been placed on the property.

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. 5128--Leonia Tucker - East side of Route 228, 1450 feet
north of Route 38.

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

The case was presented by Mr. Betts. James M. Larrimore, son-in-law of the applicant was sworn in and testified, representing the applicant, who requested to continue the use of a manufactured home on the basis of hardship. He explained Ms. Tucker's illness and stated she still needs care. This is a renewal of a previous application.

Mr. Betts read a letter from a doctor referencing Ms. Tucker's health.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted on the basis of hardship for a period of two (2) years.

OTHER BUSINESS

Case No. 4795--Delaware National Guard

Request for an extension.

Mr. Betts stated that a letter had been received requesting an extension for placement of their manufactured homes, which was approved by the Board. They request a six month extension.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that a six (6) month extension be granted for Case No. 4795.

Case No. 4783-Michael & Sandra James

Request for an extension.

Mr. Betts stated taht a letter had been received requesting an extension for Case No. 4783 for a farm pond.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that a one (1) year extension be granted for Case No. 4783.

Case No. 5099-Jack Verica

Mr. Mills stated that at a previous meeting a rehearing request was made for Case No. 5099, that was denied due to no one being present representing the case. At that time he made a motion to have the case reheard and the filing fee repaid. Mr. Mills stated that he wishes to rescind the fee requirement.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the fee requirement for Case No. 5099 be rescinded.

Meeting adjourned at 8:21 P. M.