

Minutes of July 13, 1992

A special meeting of the Sussex County Board of Adjustment was held Monday evening, July 13, 1992 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. 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 July 6, 1992 be approved as corrected.

Case No. 4787--DMDY Limited - Southeast side of Route 350, $\frac{1}{2}$ mile east of Route 349, Lot 7, within Denton Woods.

A variance from the front yard setback requirement for a through lot.

The case was presented by Mr. Betts. Mary Lou Blades was sworn in and testified, representing DMDY Limited, who requested a variance of 10 feet from the 40 foot front yard setback for a through lot, being Lot 7, Denton Woods. A through lot has frontage on two streets. A 30' setback is required from the subdivision street and a 40' setback is required from Route 350. A permit was obtained to construct a home on the lot and the setbacks were recorded wrong on the permit. A 10' setback was given and a 40' setback is required. The home constructed by the developer is near completion.

A letter of opposition from William O. Cole and Richard J. Hutchison, with attachments, was read into the record by Mr. Betts.

Ms. Blades stated she feels the variance should be considered and not whether a home should be placed on the lot.

Virgil Bullis was sworn in and testified in opposition stating that he owns property in the development and is concerned feeling the developer knew the setbacks.

Ted Klecko was sworn in and testified in opposition, stating he feels the property if sold, a future owner would need a shed and there would be no room to put it.

Ms. Blades in response stated that they were not aware of the 40' setback on the rear of the property. She feels there would be plenty of space for a shed.

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

variance be denied., finding that the applicant did not meet the statutory requirements for granting a variance and the developer should have been aware of the setbacks.

Case No. 4788--Ruth H. Allen - Southeast side of Route 535, 1,500 feet northeast of Route 13.

A variance from the lot width requirements.

The case was presented by Mr. Betts. Hans Mulford was sworn in and testified, representing Ruth Allen who requested a variance of 25' from the 150' lot width requirement for a new lot. The applicant wants to subdivide her property into two lots to provide a lot for her daughter to place a home on and be near to help her. She will live, as she does now, on the remaining property. Mrs. Allen's property currently has a 300' width, but 26' is under water. She would like to subdivide the lot to be 125'x 275'. There are other lots in the area with 97' to 111' frontage. With 300' of road frontage, Mrs. Allen can subdivide and meet the 150' lot width requirement.

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. 4789--Joseph & Marie L. Aceto - South side of Route 277, $\frac{1}{4}$ mile east of Route 24, Lot 18 and part of Lot 17, Angola By The Bay.

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

The case was presented by Mr. Betts. Jack Daggett, Real Estate Agent, was sworn in and testified on behalf of the application and was represented by Mr. Robert Witsil, Attorney. The applicants requested a variance of .52' from the front yard setback, a 2.54' variance from the side yard setback and a 3.5' variance from the rear property setback requirements, for an existing dwelling. The property being Lot 17, Angola By The Bay. The dwelling has existed for a period of time and each time it was sold the dwelling encroachments were not picked up until the most recent survey was done for the current owners. They feel there will be no detriment to the area property owners, nor will it cause devaluation of other properties. It will be a hardship to the applicants if the variances are not granted.

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. Wheatley, seconded by Mr. Mills and carried unanimously that the variances be granted.

Case No. 4790--Fulmer Enterprises, Inc. - South side of Route 22,
¼ mile east of Route 298.

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

The case was presented by Mr. Betts. Frank Fulmer was sworn in and testified and was represented by Bill Wilgus, Attorney. The applicants requested to place a non-accessory tent on their property for special purposes. Mr. Wilgus stated that there is a business on the property known as Crab Barn Restaurant. They propose to put a tent up to cover a bar-be-que and beer sales they have at least twice a year, in relation to their restaurant. It is usually done in July and August in front of the restaurant. A tent would shield against rain. It will be at least 200 to 300 feet away from the road (Long Neck Road). There will be no parking on the road, because there is ample parking on the property. The tent size will be 12'x 20' or 20'x 20' and will be approximately 200' from nearest neighbor. It will be held within an area surrounded by snow fence. The time is on Sunday starting at noon and ending the same day. The tent will be taken down after each use.

L. Thomas Harmon was sworn in and questioned the time it will be used. He would like to see it used only certain times a year.

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 stipulations that the tent be used no more than three (3) times per year, erected for each occasion and removed the same day, for a period of five (5) years.

Case No. 4791--Elsie Reynolds - West side of Route 607, 2,100 feet south of Route 113.

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

The case was presented by Mr. Betts. Elsie Reynolds was sworn in and testified, requesting to place a manufactured home on her property for her son to live in on medical hardship basis. Her son has just recently undergone a heart transplant and needs care, but is in the opinion of his doctor that he should maintain his own residence. That this would be beneficial for him medically. She lives in a 12'x 70' manufactured home with an addition. Her son's manufactured home will be 10'x 50' in size.

Mr. Betts read correspondence received from University of Pennsylvania Hospital, referencing the sons condition.

There were no parties present in opposition.

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

Case No. 4792--Herbert L. & Tammy L. Mitchell - West side of Route 436, 1,580 feet north of Route 472.

A special use exception to place a second manufactured home to be attached to the existing manufactured home to be combined into one single-family unit.

The case was presented by Mr. Betts. Herbert & Tammy Mitchell were sworn in and testified, requesting to place and attach a 10'x 52' manufactured home to an existing 14'x 52' manufactured home to become one single-family unit, containing one kitchen. They propose to attach them this year and enclose next spring. The units will have an A-Roof, foundation and siding the same on both units. They feel an 18 month time period will be sufficient to complete the work. On adjacent property there is a manufactured home and a vacant lot.

Bonnie L. Thomas, neighbor, was sworn in and testified in favor of the request. She feels the additional space is needed.

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. 4793--Sussex Land Co. - Northeast side of Route 329, 935 feet southeast of Route 9.

A variance from the lot width requirement.

The case was presented by Mr. Betts. Donald Ward and Wayne Pepper were sworn in and testified, representing Sussex Land Co. who requested a variance from the lot width requirement. They request a variance of 60' from the 150' lot requirement to be 90.03' on Lot 8. Lot 8 was to be sold to an adjacent property owner, but it did not materialize. They now have a prospective buyer for the property, but a lot width variance is needed. The buyer proposes to build a home on the property.

Rebecca Lynn Davis was sworn in and testified in behalf of the variance, stating she is in favor because she and her boy friend want to purchase Lot 7 which is adjoining.

Karen Reed Phillips was sworn in and testified that she wants to purchase the property (Lot 8). She stated that she proposes to build a home, have animals and pasture. She has no plans to subdivide the property.

Robert Allen Turpin was sworn in and testified that he lives across the road and is in favor of the variance as long as the easement is left open.

Bonnie Messick was sworn in and testified that she owns adjoining property and is concerned about the pasture and how many animals they propose to put on the property. She does not want animals right up to her home.

Mr. Pepper stated that there are property restrictions about what animals can be put on the property.

Mr. Betts read the requirements from the Zoning Code about setbacks for buildings and feed lots, but there are no requirements for a pasture.

Ms. Phillips stated she would have horses for her own personal enjoyment. She will not board horses. She will provide fence and some buffer on the property.

Mr. Jones, Attorney, explained that the Board could only consider the variance requested.

There were no parties present in opposition.

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

Case No. 4794--Shirley & Edwin Pennington - South side of Route One, $1\frac{1}{2}$ miles north of Rehoboth, Lot A-18, within Sea Air Mobile City.

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

The case was presented by Mr. Betts. Shirley Pennington was sworn in and testified, requesting a 5'8" variance from the 20' setback requirement between units in a park being Lot A-18, Sea Air Mobile City. She proposes to enclose an existing patio to make a screen porch. The patio existed when she purchased the unit in December. She testified that there will be no affect on vision.

Mr. Betts read a letter in favor of the variance from Sandra Stintsman, Manager and Anthony Bryan, Maintenance Supervisor of Sea Air Mobile City.

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. 4795--Delaware National Guard - West side of Route One, $\frac{1}{2}$ mile north of Route 26.

A special use exception to place additional manufactured homes and obtain a variance from the required flood elevation.

The case was presented by Mr. Betts. Mr. Betts stated that there is no zoning district for the military site that has existed for years, so they are under County jurrisdiction.

Elliott Workman and Robert F. DelCampo were sworn in and testified, that they are requesting to place additional manufactured homes on military property that are needed for training. They presently have 16 manufactured homes and they propose to place 25 units .

They propose to give the existing units to Sussex County for the homeless. They are also requesting a variance from the 7' flood elevation to be 3'8". A plot was shown showing where the manufactured homes are and will go.

Joseph M. Lank, adjacent property owner, was sworn in and testified in favor of the request. He feels it will upgrade the area.

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.

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

Case No. 4796--S. Mark Melson - Northeast side of Route 572, on the northwest side of the intersection with Route 31.

A variance from the setback requirements for a commercial poultry house.

The case was presented by Mr. Betts. S. Mark Melson was sworn in and testified, requesting a 70.25' variance from the 200' setback requirement from a dwelling of other ownership to place a poultry house. There is an existing poultry house on the property and they want to construct an additional poultry house on the property they are purchasing. The new poultry house will be back further than the existing one. The applicant's grandmother lives in the dwelling closest to where the new poultry house will be. She has no objection according to the applicant.

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. 4797--Thomas J. & Teresa A. Bailey - North side of Route 451, 500 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.

There were no parties present in behalf of or representing this case.

Since there were parties present in opposition the Chairman opened the hearing.

Ellison Skidmore was sworn in and testified in opposition and acted as spokesman for himself and others present in opposition. Mr. Skidmore stated that the law requires 5 acres for a manufactured home and to reduce the lot size makes it closer to a manufactured home park.

There were 8 people present in opposition.

Ann Truitt Skidmore was sworn in and testified in opposition, questioning how the septic and well were obtained.

Richard H. Harris was sworn in and testified in opposition, also questioning the septic and wells that are in.

Donna Kay Harris was sworn in and testified in opposition questioning placement permits and septic systems.

Richard Harris was sworn in and testified in opposition asking how the hearing notifications are sent out.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be denied, due the applicant failing to appear, and the applicant cannot apply again for one (1) year.

Case No. 4798--Richard J. & Paula Wells - South side of Route 417B, 1,200 feet southeast of Route 417.

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 this case.

The Chairman held the hearing open until the end of the meeting to give the applicant time to appear.

At the end of the public hearings, the Chairman referred back to this case. There were still no parties present representing the application.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the special use exception be denied, as directed by County Council when the applicant fails to appear, and the applicant cannot reapply for one (1) year.

Case No. 4799--Warren & Lea Anne Edwards - Northwest side of Route 575A, 0.33 mile southwest of Route 573.

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. Warren Edwards was sworn in and testified, requesting to place a manufactured home on property for their permanent residence. He testified 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. Wheatley and carried unanimously that the special use exception be granted.

Case No. 4800--Withdrawn.

Case No. 4801--Short's Marine, Inc. - North side of Route 22 (Long Neck), 500 feet east of Route 298.

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

The case was presented by Mr. Betts. Dave Dumus was sworn in and testified, representing Short's Marine, Inc., who requested to place a non-accessory tent for special purposes. Mr. Dumus stated that they have a rental company put (6 tents) of variance sizes - 40'x80', 40'x 40' and (4) 20'x 20' tents up for promotion during Labor Day weekend. Some tents are used by civic organizations. They are up about 7 days and taken down. They would like to keep their options open to use the tents 6 time a year, but they are usually put up over Labor Day weekend. The tents are all placed within a fenced in area. They request the use for five years.

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 for six (6) ten (10) day periods in twelve (12) months, for a period of five (5) years.

Case No. 4802--Joseph Hindle - Northwest side of Route 351, 380 feet southwest of Route 349, Lot 38, within Banks Acres.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joseph Hindle was sworn in and testified, requesting a 3'4" variance from the front yard setback requirement of 30' to be 26'8" for his manufactured home that is too close to the front property line. He can not go back further on the property because of septic system. He was told his front yard setback was measured from the utility pole, when it should have been from the front property line.

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.

OLD BUSINESS

Case No. 4784 (cont'd.)--Robert L. Thompson - West side of Route 357, 360 feet southwest of Route 360, Lot 23, within Collins Park.

A variance from the side yard setback requirement.

Mr. McCabe reviewed the case.

After some discussion, motion was made by Mr. Wheatley and seconded by Mr. Mills that the variance be granted, with Mr. McCabe voting no. Motion was carried with four voting in favor and one against.

Meeting adjourned at 9:07 P. M.