

Minutes of July 15, 1996

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, July 15, 1996 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. Callaway, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Jones-Attorney, Mr. Betts-Zoning Inspector III and Mrs. Talley-Planning & Zoning Secretary.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of July 1, 1996 be approved as circulated.

Mr. McCabe read a statement pertaining to how the Board of Adjustment meetings are conducted.

Case No. 6047--Margaret J. Brown - Northeast side of Route 497,  
750 feet south of Route 495, Lot 9,  
within May's Delight.

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. Margaret J. Brown and Henry Simpson were sworn in and testified. Ms. Brown requested to place a 1996, 28'x 48' double-wide manufactured home on property she is purchasing for her permanent residence, being Lot 9 within May's Delight. She testified that there are other manufactured homes in the area. On the nine lots in the development there are four manufactured homes.

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 for a new double-wide manufactured home on a permanent foundation.

Case No. 6048--Dayman B. & Carolyn R. McMasters - North and south  
side of Route 538, 1,820 feet north of  
Route 78.

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. Dayman & Carolyn McMasters were sworn in and testified, requesting to place a new 14'x 80' manufactured home on their property for their use. They testified that there are other manufactured homes in the area, one on the adjacent parcel and others within 1/4 mile.

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. 6049--Eugene L. & Edna M. Ely - South side of Route 361,  
1/2 mile west of Route 363, Lot 69,  
within North Hampton Cottages.

A variance from the setback requirement between buildings in a Residential Planned Community.

The case was presented by Mr. Betts. Eugene L. & Edna M. Ely were sworn in and testified, requesting a 1' variance from the 10' setback of imaginary line and a 1' variance from the 20' spacing requirement for a proposed shed on Lot 69, within North Hampton Cottages. They testified that there is a vacant buildable lot next door. They stated that the Association is aware of the requested variance.

Mr. Betts read a letter voicing no objections from the Clearwater and North Hampton Cottages Association, Robert J. Harris, Jr., President.

Mr. Mills questioned the imaginary line.

It was stated that it is a lot line.

Mr. Betts stated that the homes are already planned in a Residential Planned Community and that is the reason for the spacing requirement.

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. 6050--Russell C. & Susan B. Trout - East side of Route 357, one mile north of Route 358, Lot 90, within Quillen's Point.

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

The case was presented by Mr. Betts. Russell and Susan Trout were sworn in and testified and were represented by Steve Parsons, Attorney. Mr. & Mrs. Trout requested a variance from the front property line on a through lot which has two frontages, being Lot 90, Quillen's Point. Mr. Parsons questioned the applicants and it

was stated that they live in Pennsylvania and have a contract to purchase the property. They wish to construct a house on the lot and need a variance from the front yard setback since it is a through lot. The lot has a 30' setback from the two frontages and they request a 10' variance from the north side of the property and a 10' variance from the south side of the property. Since it is a corner lot with two frontages it is difficult to build the house they want on the property without a variance. It limits the size of the house. Mr. Trout stated he feels to build a house smaller than what is in the neighborhood could cause other property values to decrease. Mr. Parsons stated the applicants request the variance due to the unique lot, the hardship was not created by the applicants, it will not impair the appropriate use or development of the adjacent property nor be detrimental to the public welfare, the variance requested is the minimum variance that will afford relief and will not alter the character of the neighborhood. Mr. Parsons stated that the Association is aware of the variance request.

Mr. Betts stated that no correspondence had been received from the Association.

Walter J. Soha and Arthur C. Goodwin were sworn in and testified in opposition. Mr. Goodwin feels the applicants are moving out closer to the road and it will be the first variance in the development and will change the character of the neighborhood. He wants the character to stay the same and to keep within the setbacks.

Mr. Soha stated that the house will face differently than the other homes in the development and he will only see the back of the applicants house, since his property abuts up to it. He stated that his house had to stay within the setbacks. He stated that the applicants can build and stay within the setbacks and the character of the neighborhood.

Mr. Soha feels the variance will harm the values of the neighborhood. The house will be a two-story house and the garage will extend out and that will not be esthetically good for the neighborhood.

J. H. Adams, Jr. was sworn in and testified in opposition stating the Architectural Review Committee of Quillen's Point has not seen the construction plans for the house. He testified that he has lived in the area for 13 years and has been President of the Association for 7 years and there has not been a variance granted within the development in that time. He stated that there are other unusual shaped lots in the development. He stated that the variance will affect the esthetics of the neighborhood.

Mr. Goodwin stated that his concerns were about the community and not the applicants. He hopes that they will re-orient their facility and reconsider the layout to meet their needs and their desires.

Mr. Parsons stated that they are not under obligation to the review committee since the applicants do not own the lot yet. He feels the proposed location will be ok. He also stated that the house cannot be properly located due to the septic system that is already installed. He feels values will be enhanced.

Mr. Trout stated that he feels any house that goes on the lot will affect the neighbors view, whether it be side or rear.

Mr. Mills questioned where the entrance to the garage will be.

It was stated the entrance to the garage will be on the south side. Mr. Trout also stated that he had talked to DNREC and they feel it would be difficult to put a new septic somewhere else on the property. He stated that the seller had the septic installed and told him it was working.

Mr. Soha stated that he is aware and was aware when he purchased his lot that someone could build on the applicants lot and block his view. He is concerned about the esthetics and building towards the road.

Mr. Goodwin stated that when someone buys a lot in the development they must meet the covenants. He had no knowledge of the septic system being on the lot.

Mr. McCabe stated that according to the paperwork for DNREC it has been there since 1982.

Mr. Trout stated that the lot had been on the market for sometime and the reason is that it is difficult to build on it without a variance.

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. Wheatley, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting to give the applicants and interested parties time to work something out to benefit them all.

Case No. 6051--Gap Outlet - Northeast side of Route One, at the intersection with Route 271.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Lynn Rogers was sworn in and testified representing the applicants, who requested a variance from the requirements of one (1) wall sign to have two (2) wall signs. The Gap Outlet is within the Ocean Outlets Shopping Center and the way the store is located two wall signs will better advertise the store from more than one location. Mr. Rogers presented drawings of how the signs will look. The wall signs will face inside the shopping center. The signs will be 16 sq. ft. in size.

Mr. Betts stated that it is another corner store within the outlets with only one entrance. If there had been two entrances two signs would have been permitted.

Mr. Rogers stated that the signs will be on the building and not free standing.

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. 6052--J.E.B. Enterprises, Inc. - Northeast side of Route 13, 1/2 mile south of Route 40.

A variance from the requirements for signs.

The case was presented by Mr. Betts. J. Edward Banning was sworn in and testified representing the applicants, who requested to erect an off-premise sign. He stated that they have an office located midway of the property, Trinity Transportation, and there are two fields. It will be a standard billboard, 12' high by 24' wide, with two sides for advertising. One side on the north and one side on the south. He will use one side for himself.

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.

Mr. Jones questioned the case being advertised as a variance and not a special use exception, since that is what is requested

on the application, and should be for a billboard.

Mr. Betts in checking found the application and the notice for advertising wrong. It stated that it was a variance and should have been a special use exception and the location of the property was advertised wrong.

Mr. Jones stated that the application has to be readvertised at the County's expense and a new hearing rescheduled.

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

Case No. 6053--Marcella M. Reed - Northwest side of Route 24,  
792 feet northeast of Route 494.

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 J. Reed was sworn in and testified representing Marcella Reed, who requested to place a 14'x 70' manufactured home on her property for her residence. He testified that it would not be economical to fix up the house and his mother needs a place to live. He testified that there are other manufactured homes in the area and an airport on the adjacent property.

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 a manufactured home no smaller than a 14'x 70'.

Case No. 6054--Papillion Island Trust - West side of Road 50A,  
west of Route One, adjacent to Indian  
River State Park.

A special use exception to place a manufactured home to be used as a Real Estate Office.

The case was presented by Mr. Betts. Letisha S. Lloyd, Realtor was sworn in and testified representing Papillion Island Trust, who requested to place a manufactured home to be used as a Real Estate Office to sell townhomes. She stated that the unit will be a 14'x 60' standard mobile office. She stated that they will only need the unit for approximately 24 months for the sales, but to be sure three years would be appropriate.

Mr. Betts stated that this is in a high velocity area.

Ms. Lloyd stated that she will adhere to the regulations.

There were no parties present in opposition.

Motion was made by Mr. Callway, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for a period of three (3) years.

Case No. 6055--Devene B. & Hazel D. Spence - North side of Route 454, 270 feet east of Route 13A.

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. Devene & Hazel Spence were sworn in and testified, requesting to place a new 24'x 60' double-wide manufactured home on a permanent foundation on property they are purchasing for their use. They testified that there are other manufactured homes in the area.

Phyllis Parker was sworn in and testified in behalf of the application, stating that there are other manufactured homes in the general area and there is a septic and well on the property. There are others in the area approved by the Board.

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 for a 1996 double-wide manufactured home on a permanent foundation.

Case No. 6056--Michael S. & Bonnie N. Topolski - South side of Route 565, 2,000 feet west of Route 605.

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. Michael & Bonnie Topolski were sworn in and testified, requesting to place a 1995, 14'x 70' manufactured home on their property for their use. They testified that there are other manufactured homes in the area.

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, for a 1995, 14'x 70' manufactured home.

Case No. 6057--Marlene & Stephanie Roca - Southeast side of Route 358, 1/4 mile west of Route 357, Lots 2 and 3, within Elmer Cox Subdivision.

A special use exception to place a second manufactured home to be connected to the existing manufactured home as one single-family unit.

The case was presented by Mr. Betts. Marlene & Stephanie Roca were sworn in and testified, requesting to connect two manufactured homes together to become one single-family unit, to create more living space. The property Lots 2 and 3, within Elmer Cox Subdivision, will be combined to become one parcel. The manufactured homes are now on each lot, but with the combining of the lots they will connect the two units together. They are 14'x 52' and 14'x 50' in size. There will be one kitchen and one living unit when completed. They will put an A-Frame roof over the two units and vinyl siding on both to match.

Mr. Jones asked how long the applicants thought it would take to complete the project.

They stated that they felt six months would be enough time but one year would be better.

There were no parties present in opposition.

Mr. Betts stated that no correspondence had been received pertaining to this case.

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

Case No. 6058--Ryan P. Collins - East side of Route 546, 500 feet north of Route 18, Cannon.

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. Ryan Collins was sworn in and testified, requesting to place a new 24'x 62' double-wide manufactured home on property for his use. It was stated that there are other manufactured homes in the area, the closest is an older manufactured home on the adjacent property.

Diane Demerest, owner of adjacent property, was sworn in and testified in opposition. She stated that the older manufactured home mentioned is on the property without a permit, windows broken out and should be moved. The other manufactured homes mentioned are 1/4 mile down the road. She testified that she has her home on the market for sale and the Realtor said a manufactured home being put on the adjacent property would hurt her sale. She feels they do not need a manufactured home in the area and that the unit could go in a manufactured home park.

Kenneth Williams was sworn in and testified in opposition, stating that where the property is being subdivided is on land he has tilled and planted. He stated that he has rented the land for 35 years and has not been told that what he has planted will be destroyed. He stated that he has rights to the property until January. He also stated that the old manufactured home should be removed.

Catherine Brewington, owner of the land, was sworn in and testified, that there had been a manufactured home on the property for her sister. She does not know who has the old manufactured home but she will have it removed.

Mr. Williams questioned where the sign was posted advertising the public hearing since it is on the property he is tilling.

Mr. Betts stated that he thought the property was located where the sign was posted. There was no stake on the property to help identify it. The application also stated the property was on the northerly side of the road and should have been the southerly side.

Richard Williams was sworn in and testified in opposition, stating that in Cannons Crossing Community all of the homes are old but have been fixed up. The proposed manufactured home will be 600 feet from Cannon's Crossing and will destroy the value in the Crossing. He stated that the closest manufactured home in the area is 1/2 mile away.

There were five (5) people present in opposition by a show of hands.

Motion was made by Mr. Wheatley, 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 Mr. Mills and carried unanimously that the special use exception be denied, finding the use would

adversely affect the neighborhood, be out of character with the surrounding area and would substantially adversely affect the area. Vote being 5-0.

Case No. 6059--Diana M. Collins - North side of Route 297, 480 feet west of Route 296.

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. Diana M. Collins was sworn in and testified, requesting to place a 1991, 14'x 70' manufactured home that has never been lived in, on property she owns for her use. There is a vacant lot and a manufactured home next to the property, woods in front and a pulpwood farm on one side.

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, for a 1991, 14'x 70' manufactured home.

Case No. 6060--John R. Bridgeman, Jr. - Northwest side of Route 17. 60 feet northeast of Route 52C.

A variance from the height requirement for a fence.

The case was presented by Mr. Betts. John R. Bridgeman, Jr. was sworn in and testified, requesting a 16' variance from the 40' setback for a 3 1/2' high fence. Mr. Bridgeman stated that he had the fence put on the property by Shore Fencing, not aware a permit was needed. Mr. Rickard, Zoning Inspector notified him and he purchased a permit, but the fence in the front yard setback is too high. He put the fence up for privacy to keep people next door from encroaching onto his property. He is making the property into a retirement property and feels the fence will enhance it. There is 8' between the posts, the fence is 6' in height in the front yard in the 40' setback. He would like to keep it as it is on the property now.

It was decided that the applicant had asked for the wrong amount of variance. It should state the first 24' be 3 1/2 feet in the front yard and then 6' from there back.

Mr. Jones stated that the Board had to act on what was presented and requested, but the applicant can pay the fee and reapply to keep the fence as it is now, which would be a different

variance amount.

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 as requested.

Case No. 6061--John & Judith Baine - South side of Route 492,  
700 feet west of Laurel Town Limits,  
Lot 5, within Little Creek Acres.

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 and Judith Baine and Gregg Sizemore were sworn in and testified. The applicants requested to place a 28'x 48' double-wide manufactured home on property they are purchasing for their use. Mr. Sizemore presented prepared material and pictures pertaining to this case. It was stated that the manufactured home will be placed on a permanent foundation. It was stated that there are other manufactured homes, one double-wide with Board approval, and modulars in the area.

Mr. Betts read correspondence addressed to Lawrence Lank, Director of Planning & Zoning pertaining to this case, from Nancy E. Schlicker and a letter from Joanne Czernik voicing opposition to the application.

Delores L. Elliott who lives in a double-wide and owns property in the area, was sworn in and testified that she has no problems with anyone if the same criteria is followed as she has.

Nancy L. Schlicker was sworn in and testified that the law states five acres and questioned why it is not upheld.

Mr. Jones explained the procedure for filing a special use exception for permission to place the manufactured home on less than five acres. The standard decision for the Board is if the use will substantially affect adversely the area.

Joanne Czernik was sworn in and testified showing and presenting pictures. She also submitted a copy of a letter sent out from Mr. Sizemore prior to the hearing. She testified that there were no manufactured homes in the development prior to the Board approving one at a previous hearing. She pointed out that there is a double-wide manufactured home illegal as a modular in the development. She reviewed the pictures submitted by Mr. Sizemore and stated that she could not identify most of them. She feels that things are being misrepresented by the Developer,

Realtor and Law Firm representing them. She feels if variances are allowed to pass without investigating what's going on they are perpetrators as well. She stated a decision cannot be appealed unless you have \$6,000.00.

Mr. Baine stated that he respects the serenity of the property. He stated that he cannot distinguish the difference between a modular and a double-wide. He feels the unit will enhance the area, and they will live in accordance with the neighbors.

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

#### OLD BUSINESS

Case No. 6017 (cont'd.)--Annette Wynder - East side of Route 638,  
1/2 mile south of Route 40.

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 reviewed by Mr. Betts. He reported his findings on the deed to the property, as requested by the Board. He stated that in checking the deed and the prior deed as well, there is nothing in the deeds pertaining to manufactured homes.

Mr. Jones explained to the Board that they are not bound by deed restrictions.

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 would be out of character with other uses in the area and would substantially affect adversely the area. Vote 5-0.

Case No. 6038 (cont'd.)--Martha A. Russell - East side of Route  
273A, one mile south of Route One, Lots  
33 and 34, within Bay Vista.

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

The case was reviewed by Mr. Betts.

Mrs. Hudson stated that the applicants had previously been granted one variance and she feels that should be sufficient.

After some discussion, motion was made by Mrs. Hudson and seconded by Mr. Callaway that the variance be denied, with Mr. Mills abstaining. Motion carried with four voting in favor of denial and one not voting. It was the findings of the Board that there was nothing unique to support the variance, the property can be built on without a variance, the hardship was created by the applicant and the variance would alter the character of the neighborhood.

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

Meeting adjourned at 9:22 P.M.