

Minutes of July 18, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, July 18, 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, Mr. Wheatley, Mrs. Hudson, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the minutes of July 11, 1994 be approved as circulated.

Case No. 5386--Thomas H. Shelar - North side of Route 224, 1,600 feet southwest of Route 38.

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. Thomas Shelar was sworn in and testified, and was represented by Tom Stumpf, Attorney. Mr. Shelar requested to place a 28'x 56' double-wide manufactured home on his property for his residence. Mr. Shelar placed the manufactured home on the property in April, not aware he needed approval from the Board. He plans to retire to the property in 1995. He feels it will improve values in the neighborhood. He has owned the property since 1992. He stated that there are other manufactured homes in the area. Pictures were presented. Letters in favor were presented from Mr. & Mrs. Conley and James Wells.

The letters presented from Mr. & Mrs. William Conley and J. C. Wells and Son were read into the record by Mr. Betts. A letter of opposition sent to Mr. Stickels, County Administrator, from Craig Mills, was also read into the record by Mr. Betts.

Paul Bessert was sworn in and testified in opposition. He presented a packet of information. He testified when he purchased the property from Mr. Penuel he was told there would be no manufactured homes in the area. He read a statement with his deed. A affidavit with 12 signatures in opposition was presented with Mr. Bessert's material. A petition in opposition with 5 signatures was also presented and read by Mr. Betts. Mr. Bessert is concerned the manufactured home will devalue his property.

Mr. Stumpf questioned how the double-wide would devalue Mr. Bessert's home, since he lives in a modular.

Mr. Bessert stated he has a 28'x 48' Nanticoke home on the property.

Mr. Joseph Schedivy was sworn in and testified in opposition explaining there is a difference between double-wide manufactured homes and a modular home in the construction. He testified he inquired

about manufactured homes when he bought his property.

Donald Custer was sworn in and testified in opposition. He purchased his property from Mr. Penuel also with the same understanding as the previous people who testified. He was told no more manufactured homes. He built his home in 1983. He stated there were 2 manufactured homes in the area and Mr. Penuel allowed 3 more to come.

Mr. Shelar stated he did not discuss manufactured homes with Mr. Penuel when he bought his land. He has no statement with his deed. He feels his unit will not devalue the neighborhood.

Mr. Stumpf stated that Mr. Shelar's unit will not resemble a manufactured home when finished.

Howard Hitchens was sworn in and testified in opposition stating that manufactured homes are cheap built and that property values go down when they are put next to conventional homes. A petition of opposition with 12 signatures was presented.

Mr. Betts read the petition with 12 signatures into the record.

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

Case No. 5387--Marie A. & Paul A. Higley - North side of Route 74, one mile west of Route 62, Lot 8, within Pinewoods II.

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. Marie and Paul Higley was sworn in and testified, requesting to place a new 28'x 66' double-wide manufactured home on property they are purchasing for their use. The property is located on Lot 8, Pinewoods II. They stated there are other manufactured homes in the area. The manufactured home will have a permanent foundation and pitched roof.

Adrian Davis was sworn in and testified and questioned the amount of double-wides in the area. She stated she lives on Lot 10 in a stick-built home. She stated she feels the Higley's manufactured home will not have a negative impact on her property.

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. Callway and carried unanimously that the special use exception be granted.

Case No. 5388--Michael Townsend, Sr. - North side of Route 471,
 $\frac{1}{4}$ mile west of Route 432, Lot No. 5.

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, Sr. and Theresa Townsend were sworn in and testified, requesting to place a 1989, 14'x 70' manufactured home on property they are purchasing for their use. They testified there are other manufactured homes in the area, two across the street. They propose to build an addition on the manufactured home.

Mr. Betts read a letter of opposition from the Milan's.

Harry E. Townsend, Jr. was sworn in and testified in favor. He feels it will give the applicant's an opportunity to have a home.

Rose Marie Lowe was sworn in and testified in favor, stating she lives across the road in a manufactured home. Pictures were presented.

Brett Ryan was sworn in and testified in favor stating he lives in a manufactured home across the road also. Pictures were presented.

Virginia Lee Pepper was sworn in and testified in favor. She feels the applicants should be given a chance. Pictures of the applicants manufactured home were presented. She testified she does not live in the area.

Judith Mitchell was sworn in and testified in opposition stating there are 4 parks in the area. There is farmland and nice stick-built homes in the area.

Gary L. Conaway was sworn in and testified in opposition stating he lives to the rear of the property. He farms and has a poultry operation, which could cause problems with odors, with a lot of people around.

Roger W. Mitchell was sworn in and testified in opposition. His property adjoins the applicants. He stated he has a training track and is concerned about people coming onto his property. He is concerned about safety.

Robert T. Timmons sworn in and testified in opposition, stated he has appeared in opposition, as the other people present, before the Board at other hearings. He feels that manufactured homes should have 5 acres.

Michael A. Betts was sworn in and testified in opposition. He too has appeared before the Board at hearings. When he bought his property and put a manufactured home on it he had the understanding a home had to be built within 5 years. He has built his home. He

feels the value will decrease if a tremendous amount of manufactured homes are permitted down the road.

Dean Allen Wootten was sworn in and testified in opposition stating he too has appeared before the Board in opposition to other hearings. He stated that the area is farmland with live stock.

Donna L. Wootten was sworn in and testified in opposition stating that there are no stipulations or conditions to provide maintenance for the properties, such as a manufactured home park has. She feels the area could end up with a bad unsafe situation and could devalue property.

Bruce Edward Killen was sworn in and testified in opposition, stating he is building a home and does not want to see the quality of his home depreciate.

Patricia Oliphant was sworn in and testified in opposition stating she and her sister own property in the area and she and her husband are considering moving to the area to live. She was laboring under the impression that the approved manufactured homes would build homes. She feels the County has made stride to have land use design and feels they should stick to the plan. She is concerned about the environmental impact.

Granville Conaway was sworn in and testified in opposition, having appeared in opposition before, stating he owns a 200 acre farm and tills 300 acres. He sold property for stick-built homes only. He believed the manufactured homes approved were to build homes. He feels when the property is sold there will be no one to over see it.

James L. Marvel was sworn in and testified in opposition having appeared in opposition to other hearings. He stated that with poultry growers in the area there will be more and more odors and people will be concerned, which could cause problems. He and his brother own 109 acres. He also wants to preserve his farmland.

Tammy Betts was sworn in and testified in opposition stating that when he placed his manufactured home he had to build within 5 years. They have built their home

Gary Conaway stated that if Mr. Mears wants to sell the land for stick-built homes, he would have no objections.

Mr. Betts stated he feels Mr. Mears has misled them, since he was told a home had to be built within 5 years. He feels homes should be built. He values his home at \$100,000.00 and feels the value will decrease.

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

Case No. 5389--Amy Marie Smith - North side of Route 456, $\frac{1}{2}$ mile north of Route 54.

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. Amy Marie Smith was sworn in and testified, requesting to place a manufactured home on property she is purchasing for her residence. The property is adjacent to property her parents own. She stated there is another manufactured home around the corner from her property. She will purchase a double-wide unit.

Mr. Betts read a letter from Michelle Keidel and Sharon Brittingham voicing no objections.

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. 5390--John N. & Gerry Radick - Southwest side of Route 279. 1.2 miles south of Route 277.

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 Radick was sworn in and testified and was represented by Jim Fuqua, Attorney. Mr. Radick requested to place a double-wide manufactured home on his property for his use. Mr. Radick purchased the property in 1993 and appeared before the Board last year to place a manufactured home on the property. The Board approved the manufactured home with the stipulation that the existing house on the property be removed. Since that time Mr. Radick changed his mind and renovated the house for his daughter to live in. He now requests to have the manufactured home approved on another lot. Mr. Radick purchased the property as two separate parcels under one parcel number. A plot was presented showing the property separated as two separate parcels. There are other manufactured homes in the area. He feels it is not out of character with the area.

Frances Mae Clifton was sworn in and testified in opposition, stating there are stick-built homes in the area. She questioned the frontage of the property, the survey and why the property was made smaller. She disputed what was proposed and made mention that at the previous hearing the applicant referred to the existing house as being condemned.

Mr. Betts stated that the property was bought as separate parcels years ago.

Mr. Fuqua stated that there are manufactured homes and a manufactured home park in the area. Mr. Radick had previous intentions to remove the home, but changed his mind. There are two non-conforming lots.

Motion was made by Mrs. Hudson, seconded by Mr. Mills 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 Mrs. Hudson and carried unanimously that the special use exception be granted, finding that the use will not adversely affect the adjacent and neighboring properties.

Case No. 5391--Wilson B. Catts - South side of Route 277, $\frac{1}{4}$ mile east of Route 24.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Wilson B. Catts and John W. Phillips (step-son) were sworn in and testified requesting a 10' variance from the 20' rear yard setback requirement for their dwelling that is to be placed on the property in Angola By The Bay. The lot size is 50'x 100' and the house is 60'x 28'. Mr. Catts went to the Planning & Zoning Office for setbacks and was told the rear yard setback could be 10' for an undersized lot. The home has been built for his step-son by the Vocational School, built according to the lot size and setbacks as he knew. A mistake was made during the inquiry. The house must stay 20' from the rear, but need be only 10' from the sides and 30' from the front. He stated that there is common land to the rear of the property. Mr. Catts read a letter from Angola By The Bay Assoc. stating that there is common land to the rear of the property and they have no objections to the variance. Mr. Catts stated that the house has to be removed from the school. Pictures were presented.

Mr. Betts explained an undersized lot with reference to the Zoning Code.

Craig P. Moore, Clerk in the Planning & Zoning Office, was sworn in and testified that he had told Mr. Catts that the setback was 10' from the rear property line, not realizing the setback law had been changed since he previously worked in the Planning and Zoning Office, a few years ago.

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. 5392--Bruce & Janice Justice - West side of Route 536 (Woodland Road), 650 feet north of Route 78.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Bruce & Janice Justice were sworn in and testified and were represented by Jim Fuqua, Attorney. Mr. Fuqua, explained that the applicants addition was built and when a mortgage survey was done an encroachment was found. They are requesting a 13.5' variance from the 40' front yard setback requirement. A permit had been obtained with the proper setbacks. Pictures were presented. Mr. Fuqua stated that there is a possibility a variance is not needed since they could possibly go with an average setback. He feels there is no negative impact to the area.

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. 5393--Thomas C. Rogenski - South side of Route 18, 0.7 mile east of Route 484.

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

The case was presented by Mr. Betts.

There were no parties present in behalf of this case. The Chairman left the hearing open until the end of the meeting.

At the conclusion of the public hearings, the Chairman referred back to this case. There were no parties present in behalf of the case.

There were no interested parties present.

Mr. Jones explained the action that the Board must take in accordance with the Zoning Code when the applicant or a representative fails to appear.

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

Case No. 5394--Wanda Young - North side of Route 214, 700 feet west of Route 216.

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. Wanda Young was sworn in and testified, requesting to place a 1968, 12'x 65' manufactured home on property she has inherited for her use. She stated there are other manufactured homes in the area.

Inez Felicia Daniels was sworn in and testified in favor of the application.

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. 5395--Patricia A. Toomey - South side of Route 472, 450 feet east of Route 434A.

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. Patricia Toomey was sworn in and testified, requesting to place a new 26'x 56' manufactured home on property she is under sales contract to purchase for her use. She stated that there is vacant property around her, but there are other manufactured homes in the area. She stated she will own the property.

Sue Toomey was sworn in and testified in favor of the application. She stated it is a beautiful home and will be on a solid foundation.

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. 5396--WGCV - West side of Route One, 1.3 miles south of Indian River Inlet.

A special use exception to place a manufactured home to be used as an office.

The case was presented by Mr. Betts. Michael Lynn was sworn in and testified, representing WGCV and was represented by Jim Fuqua, Attorney. The applicants requested to use a 8'x 20' manufactured home for an office for supervision and sales in their subdivision. The unit is currently used for construction, but will be converted to an office, with an awning and possible shrubbery to dress it up. They will use it temporary until other quarters are constructed. They requested a 3 year period of time.

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 for a period of three (3) years.

Case No. 5397--Manford J. Oney, Sr. - South side of Route 462, one mile east of Route 461.

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

The case was presented by Mr. Betts. Manford Oney, Sr. and Shirley Caldwell were sworn in and testified, requesting to place a 1984, 14'x 56' manufactured home on her property for her father (Mr. Oney) to live in on medical hardship basis. He currently is on the property in a travel trailer, but needs more room. He needs care for medical reasons.

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

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 (2) years.

Case No. 5398--Richard Derrickson - West side of Route 342, 705 feet north of Route 54.

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. Richard Derrickson was sworn in and testified, requesting to place a 1995, 24'x 48' manufactured home on his property for his use. There is open land and a Nanticoke Home in the area according to Mr. Derrickson.

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. 5399--Lewis Douglas Lowe - North side of Route 72, 250 feet east of Route 70.

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

The case was presented by Mr. Betts. Lewis Douglas Lowe was sworn in and testified, requesting to place a 2nd. and 3rd. manufactured home on his father's farm. The two manufactured homes are for tenants who work on the farm, the 3rd. manufactured home will be for himself. He too will help out on the farm as well as work elsewhere. His unit is on the property under a 30 day approval from Planning & Zoning.

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. 5400--St. John's U.M. Church - East side of Route 30, on the south side of the intersection of Route 47.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Merrill Charles Moore was sworn in and testified, requesting a variance of 40' from the 40' setback requirement from the front property line to erect a handi-capped ramp. Mr. Moore stated the ramp will have brick steps and brick veneer on the sides and will be valued at \$10,000.00. He stated the ramp will not project out further than the existing steps.

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.

OTHER BUSINESS

Case No. 5324 - Wyoming Concrete, Inc., William J. DeMondi - West side

of Route 113, 1,460 feet north of Route 623.

Opponents request for a re-hearing.

Mr. Jones, Attorney, reviewed the material presented by the opponents requesting a re-hearing and material received in response from Jim Fuqua, Attorney for Wyoming Concrete, requesting denial of the re-hearing. Mr. Jones also explained to the Board the reasons according to the Zoning Code, that they must consider for a re-hearing.

The Board having had and received all the material, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the opponents request to re-hear Case No. 5324 be denied, finding there was not sufficient newly discovered evidence and lack of diligence.

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

Meeting adjourned at 9:25 P. M.