

Minutes of July 19, 1993

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, July 19, 1993 in the County Council Chambers, Room 115, 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. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the minutes of July 12, 1993 be approved as circulated.

Case No. 5129--Carl Steven Wilkens - East side of Route 453, 3/4 mile south of Route 64.

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

The case was presented by Mr. Betts. Carl Steven Wilkens was sworn in and testified, requesting a 4' variance from the side yard setback requirement for a utility shed. Mr. Wilkens had also requested a rear yard variance, but no longer needs it. He is only requesting a side yard variance. The encroachment was discovered when Mr. Wilkens refinanced his property.

Kevin C. Maloney was sworn in and testified in favor of the variance. He testified that he owns property on both sides of Mr. Wilkens property and has no objections.

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. 5130--Kevin Bonneville - North side of Route 40B, 1,100 feet south of Route 40.

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

The case was presented by Mr. Betts. Kevin Bonneville was sworn in and testified, requesting to place a second manufactured home on his property to be connected to the existing manufactured home to be used as one single family unit, with only one kitchen. Both manufactured homes are on the property. He is going to put vinyl siding and an A-Roof on the manufactured homes. He feels he can have the siding on the manufactured homes within one year and the units completed with the A-Roof within two years. The manufactured homes will have piers and skirting.

Mr. Bonneville was questioned about the numerous unlicensed vehicles on his property since only two unlicensed vehicles are

permitted.

In response, Mr. Bonneville stated that he owns two of the vehicles and his father owns the remaining vehicles.

It was explained to Mr. Bonneville that the vehicles would have to be removed to comply with the County Zoning Code.

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, with the stipulations that the manufactured homes be completed within two (2) years and the vehicles on the property be brought into compliance with the County Zoning Code.

Case No. 5131--Lawrence & Dorothy Leftwich - South side of Route 277, 1,300 feet east of Route 24, Lot 19, Section 4, within Angola By The Bay.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Lawrence & Dorothy Leftwich were sworn in and testified, requesting a 3.9' variance from the front yard setback for a deck, located on Lot 19, in Angola By The Bay. The deck will be attached to the dwelling and will not obstruct the view of neighbors. Mr. Leftwich stated that the Angola By The Bay Homeowners Association is in favor if the Board of Adjustment approves it.

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. 5132--Kathy Lingo - North side of Route 18, 3,415 feet southwest of Route 527.

A special use exception to place a manufactured home to be used for a business.

The case was presented by Mr. Betts. Kathy Lingo was sworn in and testified, requesting to place a 7'x 14' mobile food unit (hot dog stand) at Elmer's Market. The unit has no bathroom in it. It will be a seasonal use. She testified that the State Health Department has approved it.

John Hamstead, owner of Elmer's Market, was sworn in and testified in behalf of the food unit. He feels the use goes hand-in-hand with his existing business.

D. Norris Givens, owner of property in the area, was sworn in and testified in behalf of the application.

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 five (5) years.

Case No. 5133--Clyde W. Schafer - South side of Route 54, one mile west of Route One, Lot 24, Blk. 5, within Cape Windsor.

A variance from the maximum lot coverage requirement and from the setback requirement between units in a park.

The case was presented by Mr. Betts. Clyde Schafer was sworn in and testified, requesting a variance from the 35% lot coverage and a variance from the setback requirements in a manufactured home park on Lot 24, Cape Windsor. The applicant is allowed 1680 sq. ft. of lot coverage, he proposes 2301 sq. ft., therefore, he needs a 621 sq. ft. variance. Mr. Schafer also requested a 4' variance from the 20' setback requirement between units in a park. Mr. Schafer proposes to build a 24'x 26' garage on his property. An existing small building will be removed and replaced with the garage.

Mr. Betts read a letter of concern into the record from Richard K. Johnson.

Angeline Mack was sworn in and testified, questioning the property line and voicing concern about the affect on other properties.

Charles Lampe was sworn in and testified in opposition stating he lives up the street from the property of Mr. Schafer. He voiced concern about others in the park and the amount of the variance requested.

By a show of hands there were nine (9) people present in opposition.

Mr. Schafer stated that the garage will run in line with the main structure.

Mr. Jones, Attorney, stated that he would like to research the development and the manufactured home setbacks.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the case be tabled to give Mr. Jones time to do research.

Case No. 5134--Gary William & Michelle Yokois - West side of Route 70, 2,000 feet north of Route 64.

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. Gary William and Michelle Yokois were sworn in and testified, requesting to place a 28'x 48' double-wide manufactured home on property they are purchasing for their permanent residence. The applicants stated that there are other manufactured homes in the area with a double-wide manufactured home on both sides of the property. The property was previously approved for a manufactured home (Case No. 4590) but was never placed.

Tony Nero, owner of the property, was sworn in and testified in behalf of the application, stating he has other property in the area, but no plans at this time to place 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.

Case No. 5135--Wayne James Brzoska - East side of Route 273A, 3,500 feet south of Route One, Units 67-69, within Bay Vista.

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

The case was presented by Mr. Betts. Wayne James Brzoska was sworn in and testified, requesting a 14.11' variance from the rear yard property line and a 7'7" variance from the front property line, on Lot 67-69, Bay Vista, for a house and attached garage. Mr. Brzoska has a house on the property and an unattached garage, with proper setbacks. He wants to attach the house to the garage making the garage too close to the property lines. Two letters from neighbors were presented who are in favor of the variances.

Mr. Betts stated that the garage meets the setbacks as long as it remains unattached, but once it is attached to the house, the greater setbacks are required. Mr. Betts also read the letters presented into the record from Lawrence Suda & Gerald Alexander.

Mr. Jones stated that the setback according to the plot requires a rear yard variance of 14.9'.

There were no parties present in opposition.

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. Mills, seconded by Mrs. Hudson and carried unanimously that the variances be granted.

Case No. 5136--Tracy & Duane Hutton - North side of Route 306, 1,1800 feet west of Route 303.

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. Tracy & Duane Hutton were sworn in and testified, requesting to place a 14'x 70' manufactured home on property they are purchasing for their residence. The property was approved for a manufactured home at a previous hearing (Case No. 4111), but was never placed by the applicants due to an economical hardship. They are ready now to proceed with the placement of the manufactured home. They 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. Wheatley and carried unanimously that the special use exception be granted.

Case No. 5137--John L. & Elinor J. Barry - North side of Route 485,
one mile west of Route 13A.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway was sworn in and testified representing the applicants who requested a 9.9' variance from the rear yard setback requirement to correct a placement error of an existing deck. Mr. & Mrs. Barry are the previous owners of the property who sold it to Allen & Mary Booth. The owners believed the structure met the County setback requirements. The encroachment was discovered when the property was sold. The previous owners had a pool attached to a deck which was removed and the deck was rebuilt. There was some confusion about the setbacks. There is a farm field to the rear of the property and wooded areas on either side of the property.

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. 5138--Ivan Miller & Mark Yoder - South side of Route 16,
375 feet east of Route 585.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Titus Slaybaugh was sworn in and testified, representing the applicants, who requested a 6' variance from the 40' front yard setback requirement for a deck. The dwelling has been on the property for 75 years. The deck will have a roof over it. The deck will be on the side of the house, but will extend out into the front. The deck will be further back than the dwelling.

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. 5139--Irene F. Duffy North side of Route 270, 915 feet
east of Route 270A.

A variance from the lot width requirement.

The case was presented by Mr. Betts. Irene Duffy was sworn in and testified, and was represented by Mr. Maull, Attorney. Mr. Maull stated that the applicant is requesting a variance of 41.73' from the 150' minimum road frontage required to create a parcel of land. A plot of land was shown by Mr. Maull where the applicant

had approval for three lots. She wants to eliminate one lot and increase the size of the remaining lots. She will be reducing the density, but to do this, her lot where she lives, will have less than 150' of frontage.

By a show of hands there were 6 people other than Ms. Duffy present in favor of the application.

There were no parties present in opposition.

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

Case No. 5140--Donald & Patricia Dailey - Southwest side of Cleveland Avenue, 320 feet south of Lincoln Drive, Lot 40, Block 4, within Cape Windsor Sub-division, south of Route 54.

A variance from the maximum lot coverage requirement.

The case was presented by Mr. Betts. Donald Dailey, Jr. was sworn in and testified and was represented by Robert Witsil, Attorney. The applicant requested a 674 sq.ft. variance from the 35% lot coverage on Lot 40, Cape Windsor for a deck to be added to his double-wide manufactured home that already exceeds the 35% (he had approval from the Board for the manufactured home). The lot coverage allowed is 1575 sq.ft. and the proposed coverage is 2249 sq. ft. A document from John Mack to Lawrence Lank was presented referencing Cape Windsor and the setbacks required by the County vs the setbacks required in a AR-1 and GR District. Mr. Witsil questioned whether a variance is needed since an AR-1 District does not require the 35% coverage requirement. Cape Windsor is not a manufactured home park, but the policy has been that they go by manufactured home setbacks due to the lot sizes in the development. Mr. Witsil read the letter presented. A sketch, survey and pictures were also presented.

Mr. Dailey, Jr. stated he got information from members of the Planning and Zoning Office pertaining to the deck setbacks. It was stated that the deck would also benefit Mr. Dailey's son who is recovering from a back injury. A building permit was obtained and the plans were reviewed and approved by Mr. Mack and Mr. Muckle of Cape Windsor. Construction was stopped when Mr. Dailey was violated by the Zoning Inspector. Mr. Dailey had been previously denied placement of a shed on his lot by the Board.

Mr. Witsil referenced other Board cases, another violation on another lot and portions of the Zoning Code. He questioned the need for the variance since it has only been a policy followed using manufactured home park setbacks.

Mr. Betts stated that a building permit was obtained on May 21, 1993. He read the zoning setback requirements on the permit.

Angeline Mack who lives nearby was sworn in and testified in behalf of the application. She feels others in the development have decks and Mr. Dailey should be allowed to have one too.

James L. Desmond was sworn in and testified in opposition. He stated that Cape Windsor does not have an Architectural Board and the plot should not have been signed by Mr. Muckle.

Mr. Jones, Attorney, questioned what Mr. Mack and Mr. Muckle approved and how Mr. Dailey would know it was not approved.

Charles Lampe, previously sworn in on Case No. 5133, testified that he has been a builder in Cape Windsor for 8 years and has always stayed within the requirements. He wants to see control and a clean-up done in Cape Windsor. He also wants to stick with the present 35% lot coverage requirement in Cape Windsor.

Donald Francis Muckle was sworn in and testified that the setback on the plot plan he signed was an oversight on his part. He stated that the Cape Windsor Board must sign plans/drawings. He questioned what supersedes deed restrictions.

Earl Palmer, former member of the Board of Directors of Cape Windsor Association, Inc., was sworn in and testified and requested his letter be read into the record.

Mr. Betts read Mr. Palmer's letter into the record. There were copies of a drawing and covenants also.

Mr. Witsil and Mr. Dailey in rebuttal made comments about statements made, the deck height and the 35% lot coverage. It was stated that Mr. Dailey's application fee had been waived which could mean an office mistake was made, according to Mr. Witsil.

Mr. Betts stated that the fee was waived by the Director, Mr. Lank, because of the confusion between the office and Mr. Dailey.

Anita Wisowaty was sworn in and testified that she has been in Cape Windsor for 25 years and has seen improvements and destruction. She feels there is too much jealousy in the development.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the case be tabled to give Mr. Jones time to research Cape Windsor.

Meeting adjourned at 9:15 P. M.