

Minutes of July 24, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, July 24, 1995 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, Mrs. Hudson, Mr. Wheatley, Mr. Callaway, Mr. Jones-Attorney, Mr. Betts-Zoning Inspector III and Mr. Lank-Director.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of July 10, 1995 be approved as circulated.

Case No. 5726--Michael J. Vonthenen - North side of Route 493,
700 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 and a variance from the lot width requirement.

The case was presented by Mr. Betts. Verna and Michael J. Vonthenen were sworn in and testified that the manufactured home was placed as an on farm unit, that the lot is proposed to be subdivided off of the farm, that they proposed to retain the manufactured home with the lot, that the 14'x 60' manufactured home has been on the site for 4½ years, and that the lot immediately adjacent to the lot has a 98' lot width.

Edith Vonthenen was sworn in and testified that she supports the application.

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 and variance be granted, finding that the use is already established and that the lot is consistent in width to the adjoining lot.

Case No. 5727--Patricia McAvoy Sayre & James L. Sayre - North side
of Route 298A, on a private easement.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Patricia Sayre and Jacqueline Holladay were sworn in and testified. Steve Ellis, Attorney, represented the applicants and advised the Board that the applicants have proposed to divide their land into two (2) lots, that each lot has 150' frontage along the easement, that a variance is needed along the Hopkins prong since the site is located in a conservation zone.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the variance be granted, due to the odd size and shape of the lot.

Case No. 5728--James J. & Veronica T. Kiernan - East side of Route 273, $\frac{1}{2}$ mile south of Route One, Lot 3, Thompson Way, within Thompson's Place.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. James J. & Veronica Kiernan were sworn in and testified. Steve Ellis, Attorney, represented the applicants and advised the Board that the applicants purchased the property in 1988 with the dwelling, that the dwelling was built in 1982, that the property has been transferred several times and that the setback errors were not noted until the site survey was performed.

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, due to the odd shape of the lot.

Case No. 5729--Nancy G. Stewart - Southwest side of Route 565, one mile west of Route 579.

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. Nancy Stewart was sworn in and testified that she proposes to place a 28'x 60' double-wide manufactured home for her personal use as a permanent residence, that 5 or 6 manufactured homes exist within one mile of the site, that the lot being subdivided to separate the lot from the acreage, and that the mortgage company required the smaller lot.

James C. Welsh, Co-Owner of the land, was sworn in and testified that the owners support the subdivision and have no objection to the placement of the manufactured home.

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.

Case No. 5730--Mary W. Comegys - West side of Route 562, 600 feet north of Route 31, Lots 14 and 15, within Dublin Hill.

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. Mary Comegys and James H. Comegys were sworn in and testified that the 28'x 68' new double-

wide manufactured home is proposed and that other manufactured home sites exist in the area.

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. 5731--Walter Cranfield & Sherrie Blades - East side of Route 13A, 458 feet north of Route 454A, Lot 4.

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. Phyllis Parker, Realtor, was sworn in and testified, on behalf of the applicants, that a new 28'x 60' manufactured home on a permanent foundation is proposed that Lot 1 of the subdivision is improved with a dwelling, that Lot 2 and Lot 3 is improved with manufactured homes and that the applicants will live on the site.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted, finding that there should be no adverse affect on the neighborhood by placement of this manufactured home.

Case No. 5732--North Bay Marina - North side of Route 54, $\frac{1}{4}$ mile east of Route 381.

A variance from the front yard setback requirement and the height requirement for a sales display.

The case was presented by Mr. Betts. Melanie Buchanan, Attorney, was present on behalf of the applicants and requested a delay in the meeting until the applicants could appear.

Mr. Jones advised Ms. Buchanan that the public hearing was scheduled and must be heard since withdrawals require minimum of two working days notification prior to the scheduled meeting date.

Ms. Buchanan requested that the application be carried over to the end of the meeting so that she could attempt to locate the applicants.

Mr. Jones advised Ms. Buchanan that the Board will carry the public hearing over to the end of the meeting.

At the conclusion of all other public hearings the case was reopened.

Ms. Buchanan advised the Board that the parcel has two business uses, a furniture store and a boat sales and service center, that the site is enclosed by fencing for security purposes,

and that the applicants request that they be permitted boat displays not exceeding 10 feet in height within the front yard setback.

Mr. Jones suggested that the applicants submit a drawing of their proposed intent.

Ms. Buchanan stated that the applicant has prepared drawings and photographs of their intended request.

Mr. Betts read a letter of opposition from John J. Lorden on behalf of Keenwick Sound Property Owners Association.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled and to leave the record open for information from the applicant on his intent.

Case No. 5733--Sharon Wright & Glen Browning - Southwest side of Route 296, 3,219 feet north of Route 305.

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

Mr. Betts advised the Board that this application has been officially withdrawn.

Case No. 5734--Joseph & Shirley M. West - South side of Route 335, 1,433 feet east of Route 335-A.

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. Joseph & Shirley West were sworn in and testified that a 1986, 14'x 70' manufactured home is proposed for their permanent residence, that 4 to 5 manufactured homes exist within $\frac{1}{2}$ mile to 1 mile from the site and that the majority of the lots in the area have been sold.

Mr. Betts read letters of opposition from Ira R. Hickman and John B. Wharton, Sr.

There were no parties present in opposition.

Mr. Jones questioned if the subdivision lots were marketed for manufactured homes.

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

Case No. 5735--Dean & Kimberly Elliott - North side of Route 451,
723 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.

The case was presented by Mr. Betts. Dean & Kimberly Elliott were sworn in and testified that they propose to place a new 16'x 80' manufactured home on their lot for a permanent residence and that several manufactured homes exist in the area.

Edward Lee Niblett was sworn in and testified in support of the application and submitted photographs of manufactured homes in the area.

Wilbur Davis, an adjoining land owner, was sworn in and testified that he had wanted to purchase the lot for a manufactured home but was advised that the lots permitted only site built home or modular types of home, that manufactured homes were only permitted on five acre parcels, and the ten acre parcel should have been divided into two 5 acre lots, rather than five 2 acre lots.

Vivian Tyler Niblett stated that she purchased a 5 acre parcel to place a manufactured home, but has no objection to a manufactured home being placed on a lot for a permanent residence.

Mrs. Elliott added that her husband is a contractor and that either additions will be built to the manufactured home to create the appearance of a dwelling or that a dwelling will be built in the future to replace the manufactured home.

Mr. Betts read a letter of no objection signed by eleven land-owners stating no objection to a new home being placed on site.

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. Betts reported that four prior applications were denied by the Board for manufactured homes on lots created from the same parcel.

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

Case No. 5736--David D. Reed - Northwest corner of the intersection
of Route 404 and Route 580.

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. David Reed & Deborah Farrow were sworn in and testified that the manufactured home was

placed on site assuming that all permits were in order, that several manufactured homes exist in the area, and that the unit is a 1990, 14'x 70' manufactured home.

There were no parties present in opposition.

Mr. Betts stated that the front yard setback will need to be checked.

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

Case No. 5737--David F. Erb - South side of Route 31, at the intersection with Route 30.

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. David F. Erb was sworn in and testified that a 1994 Oakwood manufactured home existed on site as an on-farm unit for an employee, and that the lot will be deeded to the employee for a permanent residence.

There were no parties present in opposition.

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. Wheatley, seconded by Mr. Mills and carried unanimously that the special use exception be granted with the stipulation that the partially torn down manufactured home be completely removed from the site within six months.

Case No. 5738--John Ingram, Jr. - South side of Route 207, 1,150 feet southwest of Route 211.

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 Ingram, Jr. and Rosalyn Ingram were sworn in and testified that they propose to place a 1995 or 1996 double-wide manufactured home on the site for their permanent use, and that 2 or 3 manufactured homes exist in the area.

Leslie Warrington, landowner in the area, was sworn in and questioned where the unit was proposed to be placed on the site.

Mr. Ingram stated that he proposed to place the manufactured home near the rear of the site.

Robert Cropper, Joseph Cropper and Lina Waples were sworn in and questioned access to the site, encroachments of buildings, and the condition of the property.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted, since the manufactured home should have no adverse impact on adjoining properties.

Case No. 5739--William T. Grimes - West side of Route 592, 2 miles south of Road 565.

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

The case was presented by Mr. Betts. William Grimes was sworn in and testified that a 12'x 70' manufactured home exists on the site that he would like to use for storage of tools and furniture, that the unit will be setback approximately 450 feet from the road, that the other manufactured home on the site is a rental unit, that no electric or utilities will serve the storage unit, that the site is wooded and that several manufactured homes exist in the area.

Richard Austin and Arthur Downes were sworn in and testified that they have no objection to the manufactured home being used for storage, but would object to additional units being placed as rental units.

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

Case No. 5740--James B., III & Deborah A. West - East side of Route 257, 850 feet south of Route 88.

A variance from the minimum lot width requirement for two lots.

The applicants did not appear to represent their application.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously to deny the application due to the lack of a record in support.

OLD BUSINESS

Case No. 5672 (cont'd.)--Malone's Bayside Marina - North side of Route 22, one mile east of Route 22C, Lot 8 Oyster, within Malone's Bayside Marina.

A variance from the setback requirement between units in a park and a variance from the minimum square footage of a manufactured home in a park.

Mr. Betts stated that he and Mr. Lank met with the surveyor that has been hired to survey the site and that the survey should be available in the near future.

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

Case No. 5673 (cont'd.)--Malone's Bayside Marina - North side of Route 22, one mile east of Route 22C, Lot 10 Clam, within Malone's Bayside Marina.

A variance from the setback requirement between units in a park and a variance from the minimum square footage of a manufactured home in a park.

Mr. Betts stated that he and Mr. Lank met with the surveyor that has been hired to survey the site and that the survey should be available in the near future.

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

Case No. 5674 (cont'd.)--Malone's Bayside Marina - North side of Route 22, one mile east of Route 22C, Lot 10 Harbor, within Malone's Bayside Marina.

A variance from the minimum square footage of a manufactured home in a park.

Mr. Betts stated that he and Mr. Lank met with the surveyor that has been hired to survey the site and that the survey should be available in the near future.

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

Case No. 5714 (cont'd.)--Wanda Quackenbush - West side of Route 13A, $\frac{1}{4}$ mile north of Route 501, Lot 1.

A variance from the side yard setback requirement.

The Board discussed the variance request.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson that the a 6 foot variance be granted, with Mr. Wheatley abstaining. Motion carried with four voting in favor and one not voting.

OTHER BUSINESS

Case No. 5695--David L. & Margie L. Johnson

Request for rehearing.

Mr. Betts presented the applicants request for a rehearing.

Mr. Jones read the guidelines for rehearings based on the "Rules of the Board".

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously to deny the request for a rehearing, since there was no new evidence based on the guidelines for rehearings from the "Rules of the Board."

Meeting adjourned at 8:30 P. M.