

Minutes of August 3, 1992

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, August 3, 1992 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 7:00 P. M. with Vice Chairman Wheatley presiding. The Board members present were: Mr. Wheatley, Mrs. Hudson, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the minutes of July 27, 1992 be approved as circulated.

Case No. 4833--Jose & Imelda Borrero - North side of Route 74, one mile east of Route 447, Lot 7, within Pine Woods Subdivision.

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. Jose & Imelda Borrero were sworn in and testified, requesting to place a new 1991, 28'x 56' double-wide manufactured home on their property for their residence. Their property being Lot 7, Pine Woods Subdivision. They testified that there are vacant lots on either side of their property and manufactured homes across the street on five acre parcels.

Maurice Elmer Vogts, friend of the applicants, was sworn in and testified in behalf of the manufactured home. He lives in Georgetown, but testified that he is a friend. He testified to the three double-wides that 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 case be taken under advisement.

At the conclusion of the public hearings, the Vice Chairman referred back to this case. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be granted, with the stipulation that a double-wide manufactured home be placed on the property.

Case No. 4834--Kerry L. & Crystal King - West side of Route 535, $\frac{1}{2}$ mile south of Route 46, Lot 8, within Indian Village.

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 this application. The Vice Chairman tabled the case until the end of the meeting.

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

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be denied, due to no one appearing in behalf of the application and cannot be reapplied for, for one year.

Case No. 4835--William C. Taylor, Jr. - South side of Route 224,
910 feet west of Route 44.

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. William, Jr. & Marlene Claudia Taylor were sworn in and testified, requesting to place a 14'x 55' manufactured home on their property for their residence. The applicants testified that they plan to build a home on the property in 3 years, but will probably complete it in six years, since Mr. Taylor will build it. The area on the side of the road where their property is, is wooded. The manufactured homes in the area are on approximately one acre lots.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted for a period of six (6) years.

Case No. 4836--Wilbur Kernodle - On a private road on the west side of Route 422A, 550 feet north of Route 450, Lot 7, within Hudson Tract.

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. Wilbur & Conice Virginia Kernodle were sworn in and testified, requesting to place a 14'x 70' manufactured home on property they are purchasing for their permanent residence, being Lot 7, within Hudson Tract. They testified that there are two manufactured homes located on either side of their property, as well as others being in the area.

Robert Eric White was sworn in and testified that he lives in a house in the area adjacent to the applicant's property. He testified that he is concerned about what will happen to the property should the applicants move and it becomes a rental unit. Mr. White testified that this has happened to other units and they have become run down and unkept.

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

Case No. 4837--Betty L. Wilson - On a private road southwest of Route 498A, 3,000 feet southeast of Route 492.

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

The case was presented by Mr. Betts. Betty Wilson was sworn in and testified, requesting to place a 12'x 55' manufactured home on her property on basis of hardship for her daughter and baby to live in. Mrs. Wilson testified that she lives in a 12'x 60' manufactured home on the property, and needs her daughter nearby to help her, since she has no use in her left arm. The manufactured home has been placed on the property.

Mr. Betts read a letter into the record from a doctor referencing the applicants condition.

Helen C. Bennett, who owns adjacent property, was sworn in and testified, that she signed an easement for one manufactured home to go on the property, not two. Mrs. Bennett testified that although she does not understand the hardship, she does not object to a manufactured home going on the property for two years.

Mrs. Wilson testified that there is not enough room in her manufactured home for all of them.

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 Vice 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 on basis of hardship for a period of two (2) years.

Case No. 4838--Thomas & Joanne Taylor - West side of Route 296A, 964 feet south of Route 292.

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 & Joanne Taylor were sworn in and testified, requesting to place a 1986, 14'x 70' manufactured home on their property for their permanent residence until they can build a home. They testified that their property is heavily wooded and they propose to place the manufactured home where it won't be seen from the road. They will live in the manufactured home and it will not be used as a rental unit.

Janice & John Hudson were sworn in and testified in opposition, stating that they live four lots from the Taylor property and have

been there nine years. They live in a stick-built home. They testified that the two double-wide manufactured homes with foundations in the area are placed on $4\frac{1}{2}$ & 7 acre parcels. They do not object to a double-wide, but oppose a single-wide manufactured home going in the area. Mr. Hudson feels it will devalue their property. He also stated that the double-wide homes in the area could be modulars and not manufactured homes. He showed a plot of the properties in the area.

Vincent Robert Bianco was sworn in and testified in opposition, stating his property borders the applicants property and he has a home valued at \$100,000. He thought the area was restricted for homes. He feels a manufactured home will affect his property values.

Mr. Taylor stated that where he will put the manufactured home cannot be seen from the road. He feels that there are worse sites in the area and he proposes to build.

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 Vice Chairman referred back to this case. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be denied, finding that the manufactured home would have a negative impact on the surrounding properties.

Case No. 4839--Jeffrey & Donna Revell - East side of Route 82,
 $1\frac{1}{2}$ miles north of Route 411.

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

Mr. Bettes stated that a letter had been received the day before the meeting, August 2, 1992, from the applicants, requesting to withdraw their application, since their property now contains five acres and a public hearing is not needed for their manufactured home.

Due to an Ordinance passed by the County Council, the Board must consider the withdrawal request and act accordingly, since there was not a two day notice.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the request for withdrawal be accepted.

Case No. 4840--Donald E. Dunkle - North side of Route 381A, 3,000
feet east of Route 382.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Merrill Layton was sworn in and testified representing Mr. Dunkle, who requested a

15.7' variance from the front yard setback requirement to be 14.3', for a home that has been on the property since the early 1970's. The property being Lot 9, Beachwood. The property is on a cul-de-sac and the problem could have been caused due to paving that was done by the state. The encroachment was discovered when a recent survey was done for selling the home.

Mark Dunkle, son and adjacent property owner, was sworn in and testified in behalf of the variance request. He testified that the street was basically a dead-end when the home was built.

There were no parties present in opposition.

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

Case No. 4841--Robert McMahon - East side of Route 258, $\frac{1}{4}$ mile north of Route 264.

A special use exception to operate a Bed and Breakfast Facility.

The case was presented by Mr. Betts. Robert McMahon was sworn in and testified, requesting to operate a Bed and Breakfast Facility within a two-story house located on a aircraft hangar, located at Joe Hudson's Eagle Crest Airfield. The house is occupied three months out of a year by Mr. McMahon's parents. The remainder of the time he would like to use it as a Bed and Breakfast and advertise it as such. The house has two bedrooms and one kitchen.

There were no parties present in opposition.

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

Case No. 4842--James & Leta Y. Smith - West side of Route 68, 1,740 feet south of Route 454A.

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. James & Leta Smith were sworn in and testified, requesting to place a double-wide manufactured home on their property for a rental unit. They own property next to the area they want to place the manufactured home and there is vacant land also adjacent. The applicants want to rent the unit for extra income. They live in Portsville.

Mr. Jones, Attorney, explained to the applicants that the Board has never approved a special use exception to place a manufactured home to be used as a rental unit, only as a permanent residence for the person living in it and owning the land.

Rita J. Sargeant was sworn in and testified in opposition, stating she owns 68 acres, adjoining the applicants property and

has owned it over 20 years. She has a dwelling on the property and feels a manufactured home in the area would devalue her property.

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 Vice Chairman referred back to this case. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be denied, due to the manufactured home being proposed as a rental unit.

Case No. 4843--Stanley Carter - East side of Route One, $\frac{1}{2}$ mile north of Route 360, Lot 42, within Breakwater Beach.

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

The case was presented by Mr. Betts. Stanley Carter was sworn in and testified, requesting a 3' variance from the 30' front yard setback and a .4' variance from the 15' side yard setback for steps and platform that he has constructed. Mr. Carter had obtained a building permit, but changed the design of the construction afterwards. The steps are 4' wide.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the variances be granted as requested.

Case No. 4844--William D. Baker - Southwest side of South Street, 200 feet southeast of Route 274.

A special use exception to replace a non-conforming manufactured home in a C-1 General Commercial District.

The case was presented by Mr. Betts. William Baker was sworn in and testified, requesting to replace a non-conforming manufactured home located in a C-1, General Commercial District. Mr. Baker had a 8'x 28' manufactured home on the property, that has been there for 37 years. He replaced the manufactured home with a 1968, 12'x 60' manufactured home. It has been placed in the same location as the previous manufactured home. He owns two lots, 100'x 100', that have been joined together as one parcel. There is a mixture of homes and manufactured homes in the area. Board approval is needed to replace a manufactured home in a C-1 District.

Mr. Betts, Zoning Inspector, stated that he has concern about the applicant meeting the setbacks or whether a variance will be needed.

There were no parties present in opposition.

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

and Zoning Office check the setbacks.

Case No. 4845--Emory & Betty Culver - North side of Route 494,
4,000 feet east of Route 498.

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

The case was presented by Mr. Betts. Emory and Betty Culver were sworn in and testified, requesting to place a manufactured home on their neice's property, a farm, for their residence on hardship basis.

Mary R. Bryan, owner of the farm and neice of the applicants was sworn in and testified that her aunt and uncle have tended chickens on another property for 38 years and are now being evicted since her uncle had a stroke. Ms. Bryan lives on the farm in a house and her mother occupies the manufactured home on the property. She stated that there are other manufactured homes in the area.

Mr. Betts read a letter into the record from a doctor referencing Mr. Culver's condition.

Paul B. Chance was sworn in and testified, questioning the two year period for the manufactured home and stated that he fears the manufactured home will eventually be vacated and then rented out. He does not oppose the manufactured home if it is approved for two years.

Mr. Jones, Attorney, explained that the manufactured home would have to be reapplied for every two years and if the hardship ceases, the manufactured home would have to be removed.

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 on the basis of hardship for a period of two (2) years.

Case No. 4846--John Rowan - North side of Harbour Circle, 1,500
feet east of Route 22, ½ mile east of
Route 298, Lot 53, within Long Neck
Village.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway was present sworn in and testified representing the applicant and also Case No. 4847. Mr. Conaway stated that Mr. Rowan requested a 3'5" variance from the side yard setback requirement to build a deck on Lot 53, Long Neck Village. The lot is 75'x 100' in size. No work has been started. Mr. Conaway presented a plot plan of the subdivision and pictures. He also presented a copy of a letter from the Homeowners Association voicing no objections. He testified that the decks on both properties face open area.

In answer to questions from the Board, Mr. Betts stated that no other variances have been approved in the development.

There were no parties present in opposition.

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

Case No. 4847--George Dorber - West side of Flagship Drive, 1,000 feet east of Route 22, $\frac{1}{2}$ mile east of Route 298, Lot 45, within Long Neck Village.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Joe Conaway sworn in on the previous case also represented Mr. Dorber, who requested a 5' variance from the side property line on Lot 45, Long Neck Village. Testimony given on Case No. 4846 is incorporated in this case.

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.

OLD BUSINESS

Case No. 4825 (cont'd.)--Carol L. Spencer - South side of Route 565, 1,445 feet east of Route 113.

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

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

Case No. 4826 (cont'd.)--James Bailey - East side of Route 437, 2,500 feet north of Route 24.

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

Mr. Betts reviewed this case. He states that after re-searching the property he found that a permit for an on farm manufactured home was issued in 1984, then a replacement permit issued, for the existing manufactured home. The unit is now being occupied by a carpenter who is repairing it, and the unit is no longer used as on farm, which is in violation. This has to be resolved by Planning and Zoning.

After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be granted on basis of hardship for a period of two (2) years.

DISCUSSION

Jerry Edge

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

Meeting adjourned at 8:52 P. M.