

Minutes of August 17, 1992

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, August 17, 1992 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. Wheatley, Mrs. Hudson, Mr. Mills, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that the minutes of August 3, 1992 be approved as circulated.

Case No. 4848--Edward D. Carroll - Northwest side of Clover Road, 425 feet southwest of Oak Meadow Drive, Lot 97, within Oak Meadows.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Edward Carroll was sworn in and testified, requesting a 2'7" variance from the 10' side yard setback to construct a 10'x 24' enclosed porch on his property being Lot 97, in Oak Meadows. Mr. Carroll has started construction but stopped work in June. He testified that there is no other place on the property to put the porch to meet the setbacks. Mr. Carroll presented a petition with signatures of neighbors who have no objections. A map showing the location was also presented.

Mr. Betts read the petition into the record.

John G. Sweet, Jr. was sworn in and testified that he is the Treasurer of Oak Meadows Association and that they have no objections to the variance.

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. 4849--Joseph E. L. & Jacqueline Whalen - North side of Route 54, one mile east of Route 381, Lot 23, within Swann Keys.

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

The case was presented by Mr. Betts. Joseph Whalen was sworn in and testified, requesting an 18" variance and a 2' variance from the 20' setback requirement between units in a manufactured home park. He also requests a 4'9" variance from the 5' setback from the north property line for the replacement of a deck, which he made 2" larger. The variance between units is for an attached shed. The applicants property is Lot 23, Swann Keys. The shed has been on the property for approximately 9 years. The porch has

36" wide steps. There was no permit obtained.

Mr. Betts read a letter received in opposition from Edgar Gore, Chairman of the Swann Keys Civic Association.

There were no parties present who spoke 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. After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the case be tabled.

Case No. 4850--A. James & Lois J. O'Mara - East side of Route One,  
one mile north of Route 26, Lot 30,  
within Gull's Nest.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. A. James O'Mara was sworn in and testified requesting a 3' variance from the side yard setback requirement of 10' to construct an elevator to his home, located at Lot 30, Gull's Nest. Mr. O'Mara stated he has a two-story house and needs the elevator because his wife has trouble with steps due to a back problem. He presented letters from neighbors voicing no objection. Mr. O'Mara stated that the Association in Gull's Nest does not have the right to grant waivers. He has to obtain signatures from other property owners. He has started the list, but cannot complete it until some of the residents are at home, since they all do not live in Gull's Nest full time.

Mr. Betts read the letters presented from Ronald & Beverly Nardone and Herbert & Sonja Awe voicing no objection.

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.

Case No. 4851--Joyce Sutton - South side of Route One,  $\frac{1}{4}$  mile east  
of Route 270, Lots 16 and 17, within Tru  
Vale Acres.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Joyce Sutton was sworn in and testified, requesting a 12' variance from the front yard setback of 30' on Lots 16 and 17, Tru Vale Acres. Ms. Sutton stated that she had a porch constructed five years ago by R & K Builders, who also obtained the building permit. She was not aware of the violation until now. She stated that the porch does not affect her neighbors view.

Mr. Betts read letters voicing no objections from Warren & Bertha Miller, Janet Waples and Gerald & Kathleen Petrofes.

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. 4852--Paul R. Argo - North side of Route 215, 2,200 feet west of Route 221.

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. Paul Argo was sworn in and testified, requesting to place a 1978, 14'x 70' manufactured home on his property as a temporary use while he is renovating his dwelling. He feels he will have it completed within two years, but he requests a three year period to have ample time. The manufactured home will be removed when the dwelling is completed. He testified that there are other manufactured homes within  $\frac{1}{4}$  to  $\frac{1}{2}$  miles away.

Francis E. Drury was sworn in and testified confirming the use being temporary.

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 period of three (3) years.

Case No. 4853--John S. Denholm, Jr. - West side of Route 362, 600 feet north of Route 368, Lots 3 and 5, within Shady Dell Park.

A variance from the height requirements for a fence.

The case was presented by Mr. Betts. John Denholm, Jr. was sworn in and testified, requesting a  $2\frac{1}{2}$ ' variance from the height requirement of  $3\frac{1}{2}$ ' in the front yard to be 6'. The applicant contracted Shore Fence Company to install the fence, which has been put up, and without a permit. The applicant has two Lots 3 and 5 in Shady Dell Park. He has been in the development since 1981. He is having the lots combined as one parcel which is required, when using both lots. Mr. Denholm, Jr. needs the fence height to confine his doberman pincher dog and also for safety for his daughter. Pictures and a petition with signatures in favor of the request were presented.

Mr. Betts read the petition submitted into the record containing 13 signatures.

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.

Case No. 4854--Jesse Lee Bradham - West side of Route 226, at  
Route 231.

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. Jesse Lee Bradham and Paulette Lucinda Watson were sworn in and testified, requesting to place a new (1992) double-wide manufactured home on property Mr. Bradham is purchasing, for their permanent residence. They testified that there are other manufactured homes in the area, single-wides, on less than five acres and a manufactured home park less than  $\frac{1}{4}$  mile away.

Nola Wilkins was sworn in and testified referencing the home being placed on a foundation, being ok.

Bonnie Harris was sworn in and testified in opposition stating that other manufactured homes in the area are on five acres, none on one acre parcels.

Albert Short, II was sworn in and testified in opposition, stating he has five acres and plans to build a home. He was not aware anyone could have less than five acres at this location, for a manufactured home.

Diane Short was sworn in and testified in opposition stating they had to buy five acres to place a manufactured home.

Wayne Harris was sworn in and testified in opposition, owning  $13\frac{1}{2}$  acres, stating that he has attended meetings before in this area. He feels if the manufactured home is permitted, more could come and a park could develop. He feels it is unfair to others in the area.

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. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, finding that the manufactured home would not be appropriate for the area.

Case No. 4855--Brenda Rodgers - North side of Route One,  $\frac{1}{4}$  mile  
south of Route 272, Lot 4B, within Silver  
Lake Manor.

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

The case was presented by Mr. Betts. Brenda Rodgers was sworn in and testified, requesting a 3'6" variance from the side property line setback requirement of 10', and a 7'5" variance from the rear yard property line setback requirement of 25', for a deck that is completed and for an outside shower enclosure that is not constructed. The deck was built when the house was built, approximately 4 years ago. The deck violation was discovered when the builder tried to obtain a permit for the shower enclosure. The property being Lot

4B, Silver Lake Manor.

There were no parties present in opposition.

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

Case No. 4856--Norman & Teresa Wiley - East side of Route 514,  
130 feet north of Route 24.

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. Teresa Wiley was sworn in and testified, requesting to place a 1979, 14'x 70' manufactured home, with tip-out, on property they are purchasing from Trustees of Peninsula Conference United Methodist Church. The manufactured home will be their residence until they can build a home. She stated that there are other manufactured homes in the area, the nearest  $\frac{1}{4}$  mile away. Ms. Wiley stated that they have had their perk test done and everything meets approval of D.N.R.E.C. They do plan to have extra fill brought in on the property.

John Hastings a member of the Church who tills property adjacent, was sworn in and testified in opposition. He questioned the suitability of the property for any home with regards to septic.

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

Case No. 4857--Edward R. Schaeffer - North side of Route 258, at  
the corner of Route 88.

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.

There were no parties present in behalf of this application. Since, there were interested parties present, the Chairman opened the hearing.

Jerome Wicker was sworn in and testified in opposition, stating he has a stick-built home and fears the manufactured home will devalue his property. He stated that there are other manufactured homes in the area but they are approximately  $\frac{1}{2}$  mile away.

Sharon Slater was sworn in and testified in opposition stating she has a modular home and fears devaluation of her property.

Jack Moore who lives on Route 258, was sworn in and testified in opposition, fears devaluation of property and fears other manufactured homes will come and the door would be open to other things.

Bill Smith was sworn in and testified in opposition, stating he has a modular home and feels that the manufactured home will depreciate his property.

There were eight (8) people present in opposition.

Louise Hudson, owner of the property being sold to Mr. Schaeffer was sworn in and testified in opposition to the manufactured home going on the property. She feels a manufactured home will devalue other property in the area. Ms. Hudson stated that the applicant is purchasing the property pending this application.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exception be denied, finding the applicant failed to appear and he cannot reapply for one year, and because of the opposition presented.

Case No. 4858--Newell Gordy - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 34, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway was sworn in and testified, representing Newell Gordy who requested a 12' variance from the front yard setback requirement and a 3' variance from the side yard setback requirement for an existing manufactured home on Lot 34, within Driftwood Village.

There have been previous applications for variance's on other lots in Driftwood Village. Mr. Jones, Attorney, stated that all previous testimony of all other cases will be incorporated into this case.

Mr. Conaway stated that the first manufactured home placed in the development was placed wrong by the previous owner and each manufactured home placed thereafter was placed wrong. To move the manufactured home would cause problems with regard to the septic system.

There were no parties present in opposition.

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

Case No. 4859--Ursula Johnson - Northeast side of Route 5, (Route 297), 2,500 feet southwest of Route 24, Lot 36, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway sworn in on Case No. 4858, represented this application. The applicant requested 8' from the front yard setback requirement and a 2' side yard variance from the required setback for their existing manufactured

home, on Lot 36, within Driftwood Village. To move the manufactured home would cause problems with regard to the septic system.

All comments from previous cases are incorporated into this case.

There were no parties present in opposition.

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

Case No. 4860--John Tomczak - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 30, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway sworn in on Case No. 4858, represented this application. The applicant requested a variance of 15' from the front yard setback requirement and a 3' variance from the side yard setback requirement for an existing manufactured home on Lot 30, within Driftwood Village. To move the manufactured home would cause problems with regard to the septic system.

All comments from previous cases are incorporated into this case.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the variances be granted.

Case No. 4861--Sussex Trust - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 37, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway sworn in on Case No. 4858, represented this application. The applicant requested a variance of 8' from the front yard setback requirement and a 3' variance from the side yard setback requirement for an existing manufactured home on Lot 37, within Driftwood Village. To move the manufactured home would cause problems with regard to the septic system. The bank repossessed the manufactured home which has now been sold.

All comments from previous cases are incorporated into this case.

There were no parties present in opposition.

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

Case No. 4862--Barbara Ayres - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 38, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway sworn in on Case No. 4858 represented this application. The applicant requested a variance of 7' from the front yard setback requirement and a 3' variance from the side yard setback requirement for an existing manufactured home that has been on the property since 1986, on Lot 38, within Driftwood Village. To move the manufactured home would cause problems with regard to the septic system.

All comments from previous cases are incorporated into this case.

There were no parties present in opposition.

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

Case No. 4863--Terri Manley - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 39, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway sworn in on Case No. 4858 represented this application. The applicant requested a variance of 11' from the front yard setback requirement and a 3' variance from the side yard setback requirement for an existing manufactured home on Lot 39, within Driftwood Village. To move the manufactured home would cause problems with regard to the septic system. The lot is odd shaped.

All comments from previous cases are incorporated into this case.

There were no parties present in opposition.

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

Case No. 4864--Siretta Sheppard - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 40, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway sworn in on Case No. 4858 represented this application. The applicant requested a variance of 9' from the front yard setback requirement and a 3' variance from the side yard setback requirement for an existing manufactured home on Lot 40, within Driftwood Village.

The lot is odd shaped. To move the manufactured home would cause problems in regard to the septic system.

All comments from previous cases are incorporated into this case.

There were no parties present in opposition.

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

Case No. 4865--Monika E. Scarborough - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 42, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway sworn in on Case No. 4858 represented this application. The applicant requested a variance of 12' from the front yard setback requirement and a 1.5' variance from the side yard setback requirement for an existing manufactured home on Lot 42, within Driftwood Village. To move the manufactured home would cause problems with regard to the septic system.

All comments from previous cases are incorporated into this case.

There were no parties present in opposition.

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

Case No. 4866--William Rossell - Northeast of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 43, within Driftwood Village.

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

The case was presented by Mr. Betts. Joe Conaway sworn in on Case No. 4858 represented this application. The applicant requested a variance of 13' from the front yard setback requirement and a 3' variance from the side yard setback requirement for an existing manufactured home on Lot 43, within Driftwood Village. To move the manufactured home would cause problems with regard to the septic system.

All comments from previous cases are incorporated into this case.

There were no parties present in opposition.

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

Case No. 4867--Levin Holland - Northeast side of Route 5, (Route 297), 2,500 feet southeast of Route 24, Lot 35, within Driftwood Village.

Mr. Conaway requested that this application be withdrawn, since the variances are no longer needed.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously to permit the withdrawal of Case No. 4867.

#### OLD BUSINESS

Case No. 4825 (cont'd.)-- Carol L. Spencer - South side of Route 565, 2,455 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.

After some discussion, motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the special use exception be denied, finding the manufactured home would be out of character with the area, would be on less than five acres, the existing manufactured homes have been in the area a long time, and the opposition presented.

Case No. 4844 (cont'd.)--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.

Mr. Betts reviewed the case. He reported to the Board as requested that upon inspecting the property he found that there is an established building line with other structures that are 26' from the front property line, therefore, the applicant can replace a manufactured home and meet the setbacks.

Motion was made by Mrs. Hudson, and seconded by Mr. Wheatley that the special use exception be granted, with Mr. McCabe and Mr. Mills not voting. Motion carried with three voting in favor and two not voting.

#### OTHER BUSINESS

Mr. Betts stated that he had received a letter from an Attorney, Richard Stokes, representing Case No. 4834, Kerry & Crystal King, that was denied due to no one being present. He requests, on their behalf, that the case be re-heard due to circumstances that was not their fault and their representative failing to appear in their behalf.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously to re-hear Case No. 4834, with the applicant

re-applying and paying the fee.

DISCUSSION

Lynn Lee Village

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

Meeting adjourned at 8:39 P. M.