

Minutes of September 9, 1996

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, September 9, 1996 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. Callaway, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Jones-Attorney, Mr. Betts-Zoning Inspector III and Mrs. Talley-Planning & Zoning Secretary.

Mr. McCabe read a statement explaining how Board of Adjustment meetings are conducted.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of August 19, 1996 be approved as circulated.

Case No. 6052--J.E.B. Enterprises, Inc. - Northeast side of Route One, at the intersection with Route 271.
A special use exception to place an off-premise sign.

The case was presented by Mr. Betts. J. Edward Banning was sworn in and testified representing J.E.B. Enterprises, Inc., who requested to place an off-permise sign on property to advertise a business. Mr. Banning stated that he has three places of business. One side of the sign will advertise his business and one side will be rented out. He testified that there are no other signs on the side of the road where his sign will go. He testified that the closest sign is approximately 3000 to 4000 feet away.

There were no parties present in opposition.

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 Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that the case be tabled until the next meeting.

Case No. 6069--Anne J. Kaylor - West side of Route 267, 1/2 mile south of Gills Neck Road (Route 408).
A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Anne J. Kaylor was sworn in and testified and was represented by H. Edward Maull, Attorney. Ms. Kaylor requested a variance of 31.76' from the 150' lot width frontage to subdivide a parcel into two parcels, Parcel A & B.

Parcel A has an existing house on it. Mr. Maull presented plot plans (surveys) and explained the properties weird shape. The applicant has owned the property since 1981 and she will give the new parcel, approximately 1/2 acre, to her daughter. One parcel will have 150' of road frontage and one will have 118.24' of frontage. It was stated that other properties in the area have less than 150' of road frontage. Mr. Maull stated that he feels the variance will not adversely affect neighboring properties, will have no economic impact or social impact. He stated that 1/2 acre is adequate for building on, and sewer and water from the Town of Lewes may be available in the future.

Kathy Pergola, the applicants daughter, was sworn in and testified that she will build a single family dwelling on the property.

Ms. Kaylor stated that she will retire here in a few years and will live here permanently.

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. 6092--Jack J. & Ruth S. Gum - North side of Route 472,
350 feet east of Route 434A, Lot 180,
within Trinity Meadows.

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. Jack J. Gum was sworn in and testified, requesting to place a 1996, 28'x 40' double-wide manufactured home on property he is purchasing, being Lot 180, within Trinity Meadows for his own use. He testified that he will eventually sell the property to his daughter. He stated that there is a double-wide manufactured home next to his property and other double-wide and single-wide manufactured homes in the area. He stated that a permanent foundation will be installed and the manufactured home will have an A-Roof. Mr. Gum stated that when the property is sold to his daughter, her name will be on the deed to the property and on the title to the manufactured home.

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 for a new double-wide manufactured home on a permanent foundation.

Case No. 6093--Brian L. & Terry Komlo - South side of Route 472,
600 feet east of Route 434A, Lot 185,
within Trinity Meadows.

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. Brian L. Komlo was sworn in and testified, requesting to place a 28'x 48' double-wide manufactured home, with a permanent foundation on property he is purchasing, being Lot 185, within Trinity Meadows, for his own use. He testified that there are other manufactured homes in the area and he will be a neighbor to the previous applicant.

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, for a new double-wide manufactured home on a permanent foundation.

Case No. 6094--Bernard Bowerman - South side of Route 54, on
Cleveland Avenue, 1,000 feet south of
Lincoln Drive, Lot 27, within Cape Windsor.

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

The case was presented by Mr. Betts. Bernard Bowerman was sworn in and testified. Mr. Bowerman stated that he would like to delete the 12' variance request from the rear property line. He stated he no longer needs the rear yard variance. He is only requesting a 10' variance from the 10' side yard setback, on Lot 27, Cape Windsor, for steps and heat pump. He stated that in January he was granted a 5' variance (Case No. 5566) and failed to add steps. He needed to reapply to request more variance.

Mr. Betts stated that no correspondence had been received pertaining to this case.

There were no parties present in opposition.

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

Case No. 6095--Donald West - North side of Route 472, on the east corner of Route 62.

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. Donald West was sworn in and testified, requesting to place a used 1996 or 70, 12'x 60' manufactured home with a 12'x 7' tip-out, on his property for his use. The manufactured home is currently setting on the property. He 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. Mills and carried unanimously that the special use exception be granted.

Case No. 6096--Robert & Lisa A. Hoban - North side of Route 52B, 300 feet southeast of Road 52.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Robert Hoban was sworn in and testified, requesting a 27' variance from the 40' front yard setback requirement to build a garage. Mr. Hoban stated that he already has black top where the garage is proposed to go. To move the garage further back would mean another drive-way and more black top.

There were no parties present in opposition.

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

Case No. 6097--RDM, Inc. - Off Route 348, on the southwest side of Woodlands Court, 900 feet south of Winward Way, Lot 11C, within the Greens Subdivision.

A variance from the rear yard setback requirement on a through lot.

The case was presented by Mr. Betts. Michael Lynn was sworn in and testified representing RDM, Inc. and was represented by James Fuqua, Attorney. Mr. Fuqua stated that the applicants request a 17.17' variance from the rear yard on a through lot, being Lot 11C, within The Greens. He stated that the property is unusual in shape. He showed and presented copies of a tax map. The lot is at the end of Woodland Court and fronts on a cul-de-sac,

and the rear of the lot fronts on a County road. The lot is for sale and having a through lot creates difficulty in the buildable area. The house will be compatable with the area. A letter from the Homeowners Association was presented voicing no objections. Copies of building envelope were showed and presented, plus a picture of the property along the County road. Mr. Fuqua stated that there is no access to the property from the County road and the house will front on the cul-de-sac. Mr. Fuqua stated that the variance will not adversely affect nor be detrimental to the adjacent property owners. Mr. Lynn agreed with the presentation given by Mr. Fuqua.

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. 6098--Arthur & Joyce Millhouse - South side of Route
277, 1/4 mile east of Route 24, Lot 39,
within Angola By The Bay.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Arthur Millhouse was sworn in and testified, requesting a 10' variance from the 20' rear yard setback requirement to construct a porch on Lot 39, within Angola By The Bay. He stated that there is common ground to the rear of his property. He stated that the variance will not obstruct any view. Mr. Millhouse stated that there is no problem with the Angola By The Bay Association if approved by the Board.

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. 6099--Norman & Elaine Carr - East side of Route 453, 386
feet south 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. Norman & Elaine Carr were sworn in and testified, requesting to keep a 14'x 66' manufactured home on property, less than five acres, to be deeded to their son for his residence. The manufactured home is on the property as an on-farm permit. They will deed 1.22 acres with the

manufactured home on it to their son. He plans to build a home on the property in the future. The applicants stated that there are three residences and a poultry farm on either side of the property.

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.

Case No. 6100--Donald C. Durost - South side of Route One, 170 feet northwest of Route 271, Lot E-70, within Sea Air Mobile City.

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

The case was presented by Mr. Betts. Donald Durost and Robert Littleton were sworn in and testified. Mr. Durost requested a 13' variance from the 20' setback requirement between units in a park, being Lot E-70, Sea Air Mobile City, for a carport that has been on the property for approximately six months. Mr. Durost stated that he will not enclose the carport. There are other properties in the park with the same situations. Mr. Littleton stated that he works for the park and the Association does not have any problems with the variance request.

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, finding that the use will not adversely affect the neighboring properties in any way.

Case No. 6101--Anthony & Angela Taylor - Northwest side of Route 285, 3,000 feet west of Route 275.

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. Anthony and Angela Taylor were sworn in and testified, requesting to place a new double-wide manufactured home on their property for their own use. It was stated that the manufactured home will be placed on a permanent block foundation. It was stated that there is an old house and a field on either side of the property, and that there are other manufactured homes in the area.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for a new double-wide manufactured home on a permanent foundation.

Case No. 6102--Franklin & Rose Stilling - East side of Route 350,
one mile northeast of Route 349,
Lot 4, within Denton Manor.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Franklin & Rose Stilling were sworn in and testified, requesting a 1.7' variance from the 10' side yard setback requirement on Lot 4, within Denton Manor. A house has been placed on the property and the measuring was done by their drawing. When a survey was done the encroachment was discovered. They testified that there is a wooded lot next to their property, and the Denton Manor Association has no objections.

Mr. Betts stated that no correspondence had been received pertaining to this case.

William O. Cole, Secretary of the Denton Manor Association and Richard Hutchison, Treasurer, were sworn in and testified in behalf of the application. They stated that the Association has no objections to the variance request.

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. 6103--Robert G. & Doris J. Davidson - South side of Route
22C, 3/4 mile southeast of Route 22, Lot
E-533, within Pot Nets.

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

The case was presented by Mr. Betts. Robert Davidson was sworn in and testified, requesting a 3'9" variance from the 20' setback requirement between units in a park, being Lot E-533, within Pot Nets, for a proposed screen porch that will back-up to a carport. Mr. Davidson stated that there is no problem with the Association to his knowledge.

Mr. Betts read a letter from Helen Miller, neighbor on Lot E-534, voicing no objections.

There were no parties present in opposition.

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 Mr. Callaway, seconded by Mr. Mills and carried unanimously that the variance be granted.

Case No. 6104--Timothy A. McMahon - South side of Route 22C, 3/4 mile southeast of Route 22, Lot 539, within Pot Nets.

A variance from the setback requirement from lot lines in a manufactured home park.

The case was presented by Mr. Betts. Timothy McMahon was sworn in and testified, requesting a 4' variance from the 5' setback requirement for a shed on Lot 539, within Pot Nets. Mr. McMahon is proposing to replace a 9'6"x 9'6" shed with a new 8'x 12' shed. The new shed will be further from the property line than the old shed. The existing shed was too close to the rear lot line. Mr. McMahon presented a letter from Mr. Frasier of Pot Nets.

Mr. Betts read the letter presented from R. G. Frasier voicing no objections to the shed being 4' from the property line.

Mr. McMahon presented a letter from himself to Mr. Frasier requesting to be 1' from the property line. He stated that he has had no reply to that letter.

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 Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the variance be granted.

OLD BUSINESS

Case No. 6089 (cont'd.)--Emory & Otisia Howell - West side of Route 636, 175 feet southwest of Route 627.

A variance from the side yard setback requirement.

Mr. Betts reviewed the case.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the variance be granted.

OTHER BUSINESS

Jim Griffin, Attorney asked to speak to the Board. He stated that he had the time for the meeting mixed up and appeared too late to represent the opposition to Case No. 6069. He asked what steps he could take to have the case reheard.

Mr. Jones explained to Mr. Griffin that he would have to check the Board of Adjustment rules to see if an appeal can be made for his request.

DISCUSSION

Mr. Jones told the Board about the outcome of the Courts decision on Melvin Joseph's Asphalt plant appeal to the conditions applied to his case.

Mr. Jones stated that on his original agenda an extension request had appeared, but when the agenda was revised, he questioned the request not being there.

Mr. Betts was not aware of the agenda being different. He stated that the revised agenda was the one posted.

Mr. Jones stated that since the agenda posted did not state the extension request, it would have to be put on the agenda for the next meeting.

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

Meeting adjourned at 8:30 P. M.