

Minutes of September 11, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, September 11, 1995, in the Sussex 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 Mrs. Watkinson, Clerk.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson, and carried unanimously that the minutes of August 28, 1995, be approved as circulated.

Case No. 5786---Elmer M. and Connie Mathis - southeast side of Route 527, on the northeast corner of Weigela Drive, southwest of Route 579, Lots D-1 to D-3 within Pine Bluff No. 2.

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

The case was presented by Mr. Betts. Elmer Mathis was sworn in. Jack Hendricksen of the law firm of Maull & Maull represented Mr. Mathis. Mr. Mathis testified his property is in Pine Bluff and fronts on Route 527; that he purchased his property over twenty years ago from O. A. Newton & Son Company which also placed his dwelling; that the setback error was located due to a recent survey; that the garage was built in 1989; that the garage is 2.6' from rear property line; that he is requesting a 2.5' variance from the required 40' front setback for his dwelling and a 7.4' variance from the required 10' rear setback; that the lot adjoining his is vacant; that across Route 527 is wooded land.

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. 5787---George E. and Sarah E. Snow - north side of Route 297, 1/2 mile west of Route 296, Lot A-3, within Cordrey Development.

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. Sarah Snow and George Snow were sworn in and testified that they propose to place a 24 X 48 doublewide manufactured home on a permanent foundation; that

there are three or four manufactured homes in the area; that there is a doublewide manufactured home on one side of the property and a dwelling on the other 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 with the stipulation the unit be a doublewide manufactured home on a permanent foundation.

Case No. 5788---Target Properties Associates, L.P., Frederick C. Fiechter - northeast side of Route 565, 2,178 feet west of Route 40, Lots 1 & 45, within Bridgeville Chase.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Harry Harper Murphy, representative of Charles Murphy Associates was sworn in and testified that the signs have been existing for three (3) years; that the signs are on lots 1 & 45 in Bridgeville Chase; that there have not been any objections from residents of the area; that the signs do not interfere with visibility; that the signs do meet the two (2) signs and square footage as required by code.

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 it does not adversely impact the area.

Case No. 5789---Deborah Walker - south side of Route 585, at the intersection of Route 587, Lot 7, within Heather Glen.

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. Deborah Rider Walker and Ted Liszewski were sworn in and testified that Mrs. Walker proposes to place a new 24 X 70 doublewide manufactured home on a permanent foundation; that there is a single manufactured home on lot 8; that there is a new single manufactured home on lot 3; that there is a manufactured home on lot 4.

Jack Payton was sworn in and testified that he is the owner of lot 6; that his lot is 10 acres; that when he purchased the lot he was told only the 10 acre lots would have manufactured

homes; that he proposes to build a dwelling; that there are two (2) dwellings in front of the property.

Craig and Linda Prettyman were sworn in and testified that they own property on the west side of the subdivision; that there are dwellings in the area; that lot 8 has a manufactured home being occupied without skirting; that they oppose any additional manufactured homes in the area; presented pictures of the area.

Wanda Wisseman was sworn in and testified that she lives on Route 587A; that she has two (2) children; that she believes an increase in traffic will result from the subdivision; that she has a dwelling; that she has poultry houses and plans to have additional poultry houses; presented pictures of signs on subdivision indicating ranchers would be built not manufactured homes.

Anna McDowell and Glen McDowell were sworn in and testified that the previous owner of the parcel assured them the property would be subdivided into 10 acre parcels and no manufactured homes would be placed; that the development has 10 acre lots through the middle with smaller lots on each side; that the property is a field of weeds; that the development has a run down appearance; that they believe manufactured homes will decrease property values.

Gary Walker was sworn in and testified that he proposes to place a new doublewide manufactured home from Beacon Homes; that the unit will be on a permanent foundation; that the lot will be well maintained.

Motion was made by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that this case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously that this case be tabled, finding that they needed to further review the area.

Case No. 5790---Ben Kellebrew and Michael J. Roussell - north side of Rehoboth Avenue, 122 feet west of Route 14A (Church St.).

A variance from the setback requirements for a swimming pool.

The case was presented by Mr. Betts. Ben Kellebrew was sworn in and testified there is a dwelling on the adjoining property; that he proposes to place a 7' fence around the swimming pool; that he proposes to close the pool at 7:00 P. M.

Sheila Malloy was sworn in and testified that she did not oppose the application.

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. 5791---Wilson B. Wright, Sr. - south side of Route 16,
400 feet west of Route 594.

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. Wilson Wright and Wilson B Wright, Sr. were sworn in and testified that they propose to subdivide the eight (8) acre parcel into two (2) parcels; that there is one manufactured home currently on the property; that they propose to place a new 28 X 56 doublewide manufactured home on a permanent foundation.

The Board advised the applicants to retain a five (5) acre parcel for the current manufactured home to meet code.

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. 5792---Pearl E. Carter - south side of Route 18, 1/4
mile west of Route 285.

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 side yard setback requirement.

The case was presented by Mr. Betts. Roland E. Simmons, representative for the applicant, was sworn in and testified that the dwelling on the property was damaged due to fire; that the dwelling will be removed; that the applicant proposes to place a 1976 14 X 70 manufactured home; that there are several manufactured homes in the area; that he owns property adjacent to

his lot.

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. 5793---James Dangler - west side of Route 240A, 900 feet
south of Route 238.

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 Lou Dangler was sworn in and testified that she proposes to place a new 24 X 48 doublewide manufactured home on a permanent foundation; that the adjoining lots are wooded land.

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. 5794---James and Patricia Bossert - south side of Route 263, 1/4 mile from Route 9, Lot D-3, within Donovan Smith MHP.

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

The case was presented by Mr. Betts. Ronald and Rita Baker Wetherstein, representatives for the applicants, were sworn in and testified that the owner of the manufactured home park did not object to the variance; that they were not aware of any objections by the neighbors.

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. 5795---Stephen E. Walsh - southwest side of Route 479A,
750 feet east of Route 479.

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. Stephen Earl Walsh was sworn in and testified that he proposes to place a 24 X 52 doublewide manufactured home on a permanent foundation; that the applicant and his mother will reside in the manufactured home; that there is a single manufactured home in which the applicant's father resides; that the applicant's brother has a manufactured home across from this property; that the parcel is a 1/2 acre lot.

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 with the stipulation the unit be a doublewide manufactured home on a permanent foundation.

Case No. 5796---Lorena J. Farrar, trustee - Woodland Court, Lots 69 and part of 68, within Angola By The Bay.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Lorena J. and Donald Farrar were sworn in and testified that the dwelling existed prior to 1970; that they propose to place a roof over the existing concrete slab; that the roof will provide protection from the elements and enhance the property; that there are no objections from the homeowners association.

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. 5797---Dana L. & Alexandra Clegg - north side of Route 22, 1/4 mile east of Route 298, within Long Neck Village.

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

The case was presented by Mr. Betts. Alexandra and Dana Clegg were sworn in and testified that they propose to build a deck on the right side of their manufactured home; that the lot on the right side is vacant; that the deck would encroach 8' into the 10' side setback requirement; that the deck would encroach 8' into the 20' setback requirement between units.

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. 5798---Arthur C. Blank, Jr. - south side of Route One,
at Route 271, Lot B-55, within Sea Air Village.
A variance from the setback requirement between units
in a park.

The case was presented by Mr. Betts. Arthur C. Blank, Jr. was sworn in and testified that they propose to build a screen porch and place a storage shed; that other similar situations exist in the manufactured home park; that there are no objections from the park management or neighbors; that they request a 10' variance from the 20' setback requirement between units.

George Robert Littleton was sworn in and testified that he is maintenance supervisor for the park; that he has no objections to the application.

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

Case No. 5799---William T. and Mary Grimes - west side of Route
42, 1,450 feet south of Route 565.
A variance from the setback requirements for a manure
shed.

The case was presented by Mr. Betts. Mary and William T. Grimes were sworn in and testified that they propose to construct a manure shed and compost shed; that there is a dwelling on the adjoining property; that they have a dwelling and three (3) poultry houses on the property.

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. 5800---Robert Hood - south side of Route One, 1/4 mile east of Route 24.

A variance from the requirements for signs.

The case was presented by Mr. Betts. The applicant did not appear to represent his application due to his representative not being notified of the hearing.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills, and carried unanimously that this case be placed on September 25, 1995, agenda.

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 advised the Board that the surveyors were working at the site and that a survey should be available in the near future.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway, and carried unanimously that this 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 advised the Board that the surveyors were working at the site and that a survey should be available in the near future.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway, and carried unanimously that this 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 advised the Board that the surveyors were working at the site and that a survey should be available in the near future.

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

Case No. 5780---Edward J. Kaye - west side of Route 525, 1,500 feet north of Route 526.

A special use exception to operate an asphalt batching recycling plant.

Mr. Jones, attorney, stated that the legal matter of the conditional use prohibiting fuel storage was researched. The asphalt batching plant could be serviced with self contained fuel storage on the machinery; that the applicants could apply to Sussex County Council to have the fuel storage stipulation stricken.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously that the special use exception be granted with the following nine (9) stipulations:

1. Approval is limited to a period of five (5) years commencing on commencement of operation.

2. All required Delaware Department of Natural Resources and Environmental Control (DNREC) permits will be obtained and all operations will be in compliance with said permits. In the event Applicant is cited with a permit violation by DNREC, operations shall cease until violation is corrected and approved by DNREC.

3. Operation will be located in existing pit as shown on site plan submitted by applicant and will be set back at least 900 feet from County Road 525 and at least 900 feet from the branch located at the rear of the property.

4. No wooded areas or wetlands shall be disturbed. Applicant shall maintain existing berm located along County Road 525.

5. Operation shall utilize existing access road and entrance on County Road 525.

6. A water truck shall be available at all times of use for dust control.

7. Hours of operation shall not exceed those authorized for Conditional Use #954, being 6:00 A.M. to 6:00 P.M. during the months March through October; 7:00 A.M. to 5:00 P.M. during the months November through February except Saturday operations shall be limited to 7:00 A.M. to noon there shall be no Sunday hours of operation.

8. That the driveway from scales to the highway be black topped to control the dust.

9. That they use the fuel tank on the equipment only, no fuel storage.

Mr. McCabe asked for a roll call:

Mr. Callaway, yea - for the reasons previously stated.

Mr. Mills, yea - for the reasons previously stated by Mr. Callaway.

Mrs. Hudson, yea - for the reasons previously stated by Mr. Callaway.

Mr. Wheatley, yea - for the reasons previously stated by Mr. Callaway.

Mr. McCabe, yea - for the reasons previously stated by Mr. Callaway.

It was the consensus of the Board the special use exception would not adversely impact the adjacent property; that it would not have a negative impact on the environment; that it would not create danger due to additional traffic; that the noise or odor would not adversely affect the area.

It was the consensus of the Board the special use exception will be an extension of and consistent with the use of the property; that the state regulatory officials and the design of the plant will protect neighboring properties; that the proposed conditions will reduce any adverse effect on adjacent properties.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously to include the stipulation that the asphalt batching plant be no lesser than presented by CMI Corporation.

OTHER BUSINESS:

Case No. 5181---Alexander & Rita Walters - south side of Route
363, one mile east of Route 362.

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 presented a letter from Mr. Walters requesting an
extension of time to connect two (2) manufactured homes as he has
not been able to complete the construction due to illness.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway,
and carried unanimously that an extension of one (1) year be
granted.

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.