

Minutes of September 23, 1996

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, September 23, 1996 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

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

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the minutes of September 9, 1996 be approved as circulated.

Mr. Callaway read a statement explaining how the Board of Adjustment Meetings are conducted.

Case No. 6105--Harry Robert Dutton - West side of Route 42, 850 feet north of Route 207.

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. Harry Robert Dutton was sworn in and testified requesting to place a 1990 or newer 14'x 70' manufactured home or double-wide manufactured home on a permanent foundation, on property he owns for his residence. He testified that there are other manufactured homes in the area.

Donald Dutton was sworn in and testified in behalf of the application, stating that the nearest manufactured home is approximately 70 feet from the applicant's property. He stated that the entrance to the applicants property will be from Route 207.

Harry Dutton stated that he has no plans to subdivide the parcel.

Audrey Louise Hammond was sworn in and testified that she lives next door and has no objections.

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. 6106--Ocean Outlets Seaside - Eagles Eye - North side of Route One, 1,050 feet west of Route 271,

A variance from the requirements for signs.

The case was presented by Mr. Betts. Joanne Bradley was sworn in and testified representing the applicants who requested to have two wall signs to advertise their business. Ms. Bradley stated that they have a corner store with one sign. They wish to have a second wall sign parallel to Route One for people to see. The sign will be flush against the building.

There were no parties present in opposition.

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

Case No. 6107--William H. & Lorraine L.Miles - West side of Route 472, 975 feet east of Route 434, Lot 12N, 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. William and Lorraine Miles were sworn in and testified, requesting to place a 1996, 28'x 56' double-wide manufactured home on property they are purchasing for thier use. The property being Lot 12N, within Trinity Meadows. They stated that the manufactured home will be put on a permanent foundation. It was stated that there are other manufactured homes in the area, single and double-wide units.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson that the special use exception be granted for a 1996 double-wide manufactured home on a permanent foundation.

Case No. 6108--Robert W. & Daisey L.Mapp - East side of Route 225, 1,500 feet north of Route 225D.

A special use exception to replace a non-conforming manufactured home in an MR District.

The case was presented by Mr. Betts. Robert Mapp was sworn in and testified requesting to replace a non-conforming manufactured home in an MR Medium Density Residential District. He wishes to replace the existing manufactured home with a 1993, 14'x 80' manufactured home.

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.

Case No. 6109--C. Bruce & Paula Penuel - Southwest side of Route 16A, 300 feet east of Route 16, Lot 6 and part of Lot 9, within Broadkill Beach.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. C. Bruce Penuel and Scott Hilligoss, contractor, were sworn in and testified, requesting a 1.2' variance from the 10' side yard setback on the north side of Lot 9, within Broadkill Beach for a house that was placed on piling. Mr. Hilligoss stated that when the house was squared-up on the piling it was to close to the property line.

Harry Blose, who lives next door, was sworn in and testified in opposition. He stated that the contractor filled in two wells, on his property, with cement without permission. He feels the stairs are too close to his property line. He testified that he brought survey equipment down and surveyed the property himself. He stated that there are original survey stakes on the property.

Mr. Jones, Attorney, questioned Mr. Blose if the variance is on the opposite side of his property than where the stairs are.

Mr. Blose stated that the variance is on the opposite side of his property.

Mr. Hilligoss stated that it is his understanding that open decks and stairways can encroach into the property setback.

Mr. Betts stated that second floor level decks if 4' above grade or 11' above mean sea level, must meet the required side yard setbacks.

Mr. Hilligoss questioned if there is a well on the property, that there is a pipe that has been there for years. If there is a well it would be a surface well. Mr. Hilligoss stated that the actual piling meets the correct setbacks, but when the floor was squared-up the house is off.

Motion was made by Mr. Mills, seconded by Mr. Wheatley 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. Mills and carried unanimously that the case be tabled until the next meeting.

Case No. 6110--James Streett - South side of Route 302A, 400 feet west of Route 296.

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 Streett was sworn in and testified, requesting to place a 1986, 14'x 52' manufactured home on property he is purchasing for his use. He explained what is in the area and that there are other manufactured homes on Route 296.

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. 6111--Christie Leigh Collins - East side of Route 30,
1/2 mile north of Road 297.

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

The case was presented by Mr. Betts. Christie Leigh Collins was sworn in and testified, requesting to place a manufactured home on her property for her 90 year old grandmother to live in. She testified that she has a house on the property where her parents reside and that is where her grandmothers manufactured home will go. She lives on a five acre parcel adjacent to the property. She stated that her grandmother needs to be near them for care, but to live independently.

Mr. Betts read a doctor's letter pertaining to the applicant's grandmother's health.

Mr. Mills explained that the application if approved must be reapplied for every two years for as long as the hardship exists and removed if the hardship ceases.

Donald T. Collins was sworn in and testified in favor of the application, stating the application is for his mother.

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

Case No. 6112--Linda K. Myers - West side of Route 290, 1/4 mile
south of Route 262, on the east side of

Meadow Drive, Lot 2, within Cool Springs Farms.

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. Linda K. Myers was sworn in and testified, requesting to place a 1995, 16'x 80' manufactured home on property she is purchasing for her residence. She stated that the manufactured home will be skirted. She stated that there are other manufactured homes in the area across the street.

Mr. Betts stated that there is a GR General Residential District across the street, which permits manufactured homes.

James Larsen, who lives next door, was sworn in and testified in opposition. He stated that he plans to build a home on his property and does not want a manufactured home next to his property. He stated that there are double-wide manufactured homes across the street. He stated that he would not oppose a double-wide manufactured home with a permanent foundation. He stated that on the south side of Meadow View there is homes and the north side is manufactured homes.

Ms. Myers stated that the property is under sales contract, but she has put a deposit down and she owns the manufactured home.

Sue Larsen, who lives across the street, was sworn in and testified in opposition. She stated that she wanted to purchase property in the area of Ms. Myers property, for her son and was told that the deed stated no manufactured homes were permitted. So she purchased property elsewhere. She stated that she lives in a double-wide.

Ms. Myers stated that she is not aware of any deed restrictions against manufactured homes on the property she is purchasing.

Betty Sneed was present and affirmed, representing her mother, who owns property in the area. She questioned where the property is located.

Margaret Larsen was sworn in and testified, questioning if other lots near her can have manufactured homes if this application is approved.

Mr. Betts stated that any person wanting to place a manufactured home in the same area would have to have a public

hearing.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley 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. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted, finding that the general character of the area is manufactured homes, will not have a negative impact on the area and the immediate area across the street is zoned GR which permits manufactured homes.

Case No. 6113--Deneen & Mark Rowe - South side of Route 471, 1,100 feet west of Route 432.

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. Deneen Rowe was sworn in and testified, requesting to place a 28'x 60' double-wide manufactured home on a permanent foundation, on her property for her use. She testified that there are other manufactured homes in the area and this is the last lot on her side of the road. Pictures were presented of double-wide and single-wide manufactured homes in the area.

Mr. Mills questioned if there had been other applications for manufactured homes in this area.

Mr. Betts stated that there had been approvals and denials by the Board for manufactured homes in the area, and this lot had previously been denied a manufactured home.

Diane Pawlowski, Kenneth Pawlowski and Wanda Layton were sworn in and testified in opposition. Diane & Kenneth Pawlowski stated that they were denied a double-wide manufactured home in the area. They now have a Shawnee Home. Ms. Layton stated that she was denied a manufactured home in the area and had to put a Shawnee Home on her property.

Donald Murray was sworn in and testified in opposition, stating that he owns property in the area and was denied a request for a manufactured home for his daughter to get her out of a manufactured home park. He feels the Board must be fair and consistent and not change the rules. He stated that the same manufactured homes are still in the area that were there when he

applied.

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

Case No. 6114--Judith E. Skinner - East side of Route 36, 1,100 feet north of Route 6.

A special use exception to operate a nursing home.

The case was presented by Mr. Betts. Judith Skinner and Robert Clendaniel were sworn in and testified. Ms. Skinner requested to operate a 18 bed, 10 room nursing home on the rear part of her property. She testified that parking will be provided. It was stated that there are other houses in the area and open land behind her. She stated that she has no plans in the future to expand on this property, that there is no room for expansion. She lives in the existing house on the property. She stated that to her benefit there is a hospital two miles from her property. She feels there will be no negative impact on surrounding properties.

Mr. Betts stated that the zoning of the property is GR General Residential that allows different types of housing.

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. 6115--Thomas A. & Claudia T. Scott - East side of Route 434, 3,850 feet south of Route 448.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Thomas & Claudia Scott were sworn in and testified, requesting a 40.43' variance from the 150' road frontage to create a new parcel. The parcels will contain 5 acres, one with an existing manufactured home on it. One parcel will have a road frontage of 109.57' and one will have 150' road frontage.

There were no parties present in opposition.

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

Case No. 6116--John Pittam - Northeast side of Route 270A, 1/4 mile east of Route 270, Lot 13, within Fieldwood.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. John Pittam and Freda Pittam were sworn in and testified, requesting a 2' variance from the 30' front yard setback requirement to be 28', on Lot 13, within Fieldwood for a porch he constructed. Mr. Pittam stated that he measured wrong not realizing he was 2' short. He stated that the Association has no objections. Pictures were shown.

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. 6117--Diane Marie Bugle - North side of Route 321, .2 mile west of Route 5.

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. Diane Marie Bugle was sworn in and testified, requesting to place a 1996, 24'x 50' or 60' double-wide manufactured home with a permanent foundation on her property for her use. She testified that there are other manufactured homes in the area. The nearest approximately 150' away.

Mr. Betts stated that there are other manufactured homes in the area that had Board approval.

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 double-wide manufactured home on a permanent foundation.

Case No. 6118--Deborah Toner - North side of Route One, at the intersection with Route 9, Lot 25, within Dutch Acres.

A special use exception to operate a Day Care Center.

The case was presented by Mr. Betts. Deborah Toner was sworn in and testified, requesting to operate a Day Care Center on Lot

25, within Dutch Acres. Ms. Toner stated that she is now operating a Day Care Center on another lot in Dutch Acres, but has to move. She proposes to purchase Lot 25 and continue to operate the Day Care Center there. It is three doors down from her present location. She stated that there is no Association in Dutch Acres. She presently has 15 children and may have more if the State approves them.

Mr. Betts read letters in favor of the application from Paul Kiscadden and Maria Suhushi. He also read letters of concern from James Hadfield and Willard R. Grace, that also offered conditions to be attached if approved.

Ms. Toner stated that she will not reside at the location and would abide by the conditions mentioned in the letter. She testified that she will own the property and will not expand, nor have a sign on the property. She testified that there will not be a lot of traffic that she now has a 3 car limit at one time to pick up or leave children. The other cars wait at the Church property until the three cars leave. She does not want a lot of cars at one time.

Kirsten Maack Sultan was sworn in and testified in opposition stating that she is concerned about the Day Care Center being close to her property because she has two dogs. She is concerned that children will run around. She also stated she feels the house is small for a Day Care Center. She does not feel the use belongs in a residential area. She is also concerned about fire.

Ms. Toner stated that her property is not right in front of Ms. Sultan. She stated that this house will be larger than what she has not.

Motion was made by Mrs. Hudson, seconded by Mr. Mills 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. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted, finding the use would not have a negative impact on the surrounding properties.

Case No. 6119--Alvin L. & Elizabeth A. Wallace - North side of Route 279A, 1/4 mile northeast of Route 5, Lot 55, within Oyster Farms, Oak Orchard.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Elizabeth A. Wallace and Patricia Moore were sworn in and testified. Mrs. Wallace requested a 10' variance from the 30' front yard setback requirement to place a single or double-wide manufactured home on her property, being Lot 55, Oyster Farms, Oak Orchard. She stated that her septic system prevents her from going further back on the property.

Mr. Betts stated that the development is a GR District which permits manufactured homes.

Ms. Wallace stated that there is a mixture of homes in the development.

Francis Kossick was sworn in and testified in opposition, stating that he has owned property in the development since 1967 and thought the applicants property is for stick-built homes only by deed. He stated that in 1977 the Palmateers, developers, went to the Zoning Board to change some of the lots to manufactured homes but the request was denied. He stated that there are homes in the area and he feels a manufactured home will depreciate his property. He questioned the applicant being able to get a septic system on the property. He opposes any manufactured home going on the property.

Mr. Jones, Attorney, stated that GR zoning allows manufactured homes, and if there are deed restrictions pertaining to manufactured homes, it is the developers responsibility. He also explained that the State regulates septic systems, that the only thing before the Board is a variance request to go closer to the front property line. He stated that the County does not enforce deed restrictions.

Mr. Kossick stated that he objects to any variance and the applicants should abide by the setbacks.

William C. Bauer was sworn in and testified in opposition. He wants the setback kept at 30'.

Richard Miller was sworn in and testified in opposition, stating that the street is narrow, and all other houses setback, and it will not look right for the applicant to go further out. He feels there should not be a variance for one person.

Marie J. Miller was sworn in and questioned the septic system to be put on the land. She stated that the property does not perc and is on wetlands. She feels the 30' setback requirement should be kept. She stated that the road, which is dirt, was supposed to be turned over the the Association by Mrs. Palmateer, but nothing has been done. Pictures were shown.

Mrs. Moore questioned if a variance had been granted on Lot 59.

Mr. Betts stated that a front yard variance had been granted on Lot 59.

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 Vice Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled until the next meeting.

Case No. 6120--Beth Custis - South side of Route 224, 600 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. Beth Custis was sworn in and testified, requesting to place a 1996, 28'x 72' or 76' manufactured home on property she is purchasing for her use. She has not purchased the unit yet. She stated 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 for a double-wide manufactured home on a permanent foundation.

OLD BUSINESS

Case No. 6052 (cont'd.)--J.E.B. Enterprises, Inc. - East side of Route 13, 1/2 mile south of Route 40.

A special use exception to place an off-permise sign.

The case was reviewed by Mr. Betts. It was discovered that the location on the agenda is incorrect.

Mr. Jones, Attorney, stated that since the public hearing had been held and the official advertising of the property was correct the Board could act on the application.

After some discussion, motion was made by Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted, finding the use will not adversely affect the neighborhood.

OTHER BUSINESS

Case No. 5181 - Alexander & Rita Walters - Time Extension.

Mr. Betts stated that he had received a letter from the applicants requesting a time extension on their application that was approved by the Board.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that a one (1) year extension be granted to Case No. 5181.

Case No. 6069 - Anne J. Kaylor - Request for a rehearing.

Mr. Betts stated that he had received a request for a rehearing from James Griffin, Attorney for the opposition to Case No. 6069. Mr. Griffin stated that he arrived late for the hearing thinking the time for Board of Adjustment meetings was 7:30 P.M. By the time he arrived, since the meeting started at 7:00 P.M., the hearing had been held and was approved. He would like a rehearing to represent his client who opposes the application.

Mr. Jones, Attorney, stated that Mr. Griffin made a mistake thinking the time of the meeting was 7:30 P.M. He stated that the Board could act on the request. A letter had also been received from Mr. Maull, Attorney for the applicant, questioning the request for a rehearing from the opposition. Mr. Jones stated that he would like to research the matter stated by Mr. Maull.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the request for a rehearing be tabled until the next meeting.

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

Meeting adjourned at 9:21 P. M.