

Minutes of September 25, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, September 25, 1995, in the Sussex County Council Chambers, Room 115, the 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 - Assistant County Attorney, Mr. Betts - Zoning Inspector III, and Mr. Abbott - Planner II.

Motion made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously that the minutes of September 11, 1995, be approved as circulated.

Case No. 5801--Serena and James Johnson - northeast side of Road 297, 1/2 mile west of Road 308.

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. Serena and James Johnson were sworn in and testified that they plan to place a 1982 14' x 70' manufactured home on their parcel for their own use, that there are other manufactured homes in the area, and that their entrance is located off of Road 297.

There were no parties present in opposition.

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

Case No. 5802--Shelley Rae and William A. Webb - west side of Road 585, 1,490 feet north of Road 32.

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. Shelley Rae and William A. Webb were sworn in and testified that they plan to place a 1996 16' x 80' manufactured home on their parcel for their own use, and that there are other manufactured homes in the area that have been approved by the Board.

Two parties were present in support.

There were no parties present in opposition.

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

Case No. 5803--Brandi Turner - south side of Road 80, 2,500 feet east of Road 550.

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. John Turner was sworn in and testified that the manufactured home would be a 1995, 14' x 70' home for his daughters use, that there are other manufactured homes in the area, and that his daughters name will be on the deed.

There were no parties present in opposition.

Motion made by Mr. Mills, seconded by Mrs. Hudson, and carried unanimously that the special use exception be granted since there would be no adverse impacts on the area, and with the stipulation that the daughters name be on the deed.

Case No. 5804--Nancy Ann Piluso - south side of Route 5, 3,300 feet northwest of Road 292.

A special use exception to place a manufactured home for security purposes.

The case was presented by Mr. Betts. The applicant did not appear. Laura A. Price was sworn in and testified in opposition to the placement of the manufactured home since the business no longer exist at the site, questioned who would reside in the manufactured home if approved, and stated that there is not enough room on the property for the manufactured home. Tina Thomas was sworn in and questioned that if the applicants do show, would the opposition still be able to testify, and stated that there is a school bus shelter across the street from the site.

Eight parties were present in opposition.

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

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

Motion made by Mr. Mills, seconded by Mrs. Hudson, and carried unanimously that this special use exception be denied based on a lack of record.

Case No. 5805--Carey Family Partnership - south side of
381A, 1,100 feet east of Road 382.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Asher B. Carey, Jr. was sworn in and testified that there are other smaller lots in the area, that the variance would improve the area, that the lots would not be for manufactured homes, and that there would not be any adverse impacts on the area.

Robert Wilgus was sworn in and testified in opposition stating that the tax ditches in the area are polluted with septic seepage, that the variance would not improve the area, that there is no central sewer system in the area, and that the police protection for the area is slow.

Leo McVicker was sworn in and testified in opposition stating the same reasons as Mr. Wilgus.

Mr. Carey responded that this would be the best possible use for the land, that the lots would be affordable lots, that two families would contribute to the fire company and churches in the area by making donations. that there is no other available land in the area, that the smaller lots would be easier to landscape than large lots, and that septic systems would be approved by DNREC.

Mr. Wilgus responded that if approved, the area would be over developed.

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

Case No. 5806--Mary Evelyn Jestice and Jason D. Jestice -
west side of Road 62, 1/4 mile north of Road
447.

A variance from the setback requirements for a
commercial poultry house.

The case was presented by Mr. Betts. Mary and Jason Jestice were sworn in and testified that the variance would be between the mother and sons property lines, that the mother has poultry

houses on the adjoining parcels, and that there are no other dwellings of other ownership within two hundred feet of this site.

Mary Brittingham was sworn in and testified in opposition due to the odors that poultry houses cause, that the proposed poultry houses would be directly across from her property, the hours that the poultry plants come to pick up the poultry are late at night and early morning, and that there are loud noises from the trucks and forklifts.

Motion 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 made by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be granted since there would be no adverse impacts on the properties in the area.

Case No. 5807--Thomas C. Goldhahn, II - west side of Road 240A, 530 feet south of Road 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. Thomas Goldhahn was sworn in and testified that he plans to place a 1984, 14' x 70' manufactured home for his own use on the property, that the home is presently located in Driftwood Village, that there is a manufactured home on the adjoining lot, that he has purchased the property, and that there are woods across the road.

There were no parties present in opposition.

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

Case No. 5808--Ronald J. Moore - northwest side of Road 74, one mile east of Road 447, Lot 5 within Pine Woods II.

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. Ronald Moore and Thomas Willey were sworn in and testified that Mr. Moore is purchasing

the property, that he plans to place a 1982, 14' x 80' manufactured home on the land for his own use, that the home would have vinyl siding, that all the other homes located in Pine Woods II are either manufactured homes or modular homes, and that they are a mix of single and double wide homes.

There were no parties present in opposition.

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

Case No. 5809--William P. Shockley - east side of Road 340,
1/4 mile northwest of Road 382.

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

The case was presented by Mr. Betts. William P. Shockley was sworn in and testified that he is seeking a variance of eight feet from the forty foot setback from Road 340 and a variance of fifteen feet from the thirty foot setback from a private road to build a two car garage, that the lot has a triangular shape and that there is no other place to build the garage with out a variance, and that he is unaware of any problems with any of his neighbors.

There were no parties present in opposition.

Motion 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. 5810--Levoun John Jamgochian - east side of Road
274, 150 feet east of Road 275A, Lot 65
Pine Valley MHP.

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

The case was presented by Mr. Betts. Levoun John Jamgochian was sworn in and testified that he is seeking a variance of four feet from the next unit on another lot so that he can build a deck and screen porch, that the new improvement would be sixteen feet from the next unit, that there are other additions closer than twenty feet in the park, and that he is not aware of any problems with the association of Pine Valley MHP.

There were no parties present in opposition.

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

Case No. 5811--Larry Morris - west side of Road 62, at the south side of Road 437.

A variance from the setback requirements for a swimming pool.

The case was presented by Mr. Betts. Larry and Louise Morris were sworn in and testified that the pool has been on the property for fourteen years, that a variance of 9' 6" is being sought, that the pool is presently 6" from the side property line, that farmland is to the rear of the property, that the adjoining property owner does not have any problems with the pool's present location, and submitted a letter from the adjoining neighbor.

Mr. Betts read a letter from Bartley Knox stating that he has no problems with the pool as long as a fence is erected for privacy and that the access to the pool is secured.

There were no parties present in opposition.

Motion made by Mr. Wheatley, seconded by Mr. Callaway, and carried unanimously to grant the variance with the stipulations that a five foot privacy fence be erected and that the access to the pool be secured.

Case No. 5812--Millsboro Auto Mart - west side of Route 113, 1/4 mile northwest of Road 82.

A special use exception to place a manufactured home for use as a sales office.

The case was presented by Mr. Betts. June Jones and Broderick Records were sworn in and testified that there is a need for more room for the business, that a 24' x 60' double wide will be attached to the existing building, that if approved, the two existing manufactured homes will be removed within thirty days, that the double wide will be used for salesmen and book keeping, and that if they need more room in the future, they would reapply or move to another location.

There were no parties present in opposition.

Motion made by Mrs. Hudson, seconded by Mr. Wheatley, and carried unanimously that the special use exception be granted for a period of five years.

Case No. 5813--Martha W. Banks - west side of Road 562,
2,500 feet south of Route 404.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Martha Banks and Inez Banks Wood were sworn in and testified that two variances of 45.20 feet and one variance of 45.11 feet is being sought so that Mrs. Banks can give a lot to each of her daughters and keep one lot for herself, that one daughter is ready to place a Nanticoke Home on a lot, that there is an existing dwelling on the lot that Mrs. Banks will retain, that there are no problems with the setback requirements and that the lots will not be for manufactured homes.

There were no parties present in opposition.

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

Case No. 5814--James M. Jackson - east side of Road 274, at
Road 275, Lot 1 within Breezewood
Development.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. James Jackson was sworn in and testified that he would like to add an addition that would be eight feet from side property line, that dwellings are on the adjoining lots, and that he is not aware of any problems with any of his neighbors.

There were no parties present in opposition.

Motion made by Mr. Mills, seconded by Mrs. Hudson, and carried unanimously to grant the variance.

Case No. 5815--Jeffery and Brenda Elliott - south side
of Road 472, 750 feet east of Road 434A,
Lot 195, 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. Jeffery and Brenda Elliott were sworn in and testified that they propose to place a 1988, 14' x 70' manufactured home on their lot, and that there are other manufactured homes in the area.

There were no parties present in opposition.

Motion made by Mr. Mills, seconded by Mrs. Hudson, and carried unanimously to grant the special use exception.

OLD BUSINESS

Case No. 5672 (cont'd)--Malone's Bayside Marina - north side
Road 22, one mile east of Road 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 a surveyor is working on a revised layout and has submitted a preliminary plan. When the survey is finalized all units that are replaced will conform to the requirements.

Motion made by Mr. Callaway, seconded by Mrs. Hudson, and carried unanimously that this case be tabled until the final survey is submitted.

Case No. 5673 (cont'd)--Malone's Bayside Marina - north side
Road 22, one mile east of Road 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 a surveyor is working on a revised layout and has submitted a preliminary plan. When the survey is finalized all units that are replaced will conform to the requirements.

Motion made by Mr. Callaway, seconded by Mrs. Hudson, and carried unanimously that this case be tabled until the final survey is submitted.

Case No. 5674 (cont'd)--Malone's Bayside Marina - north side
Road 22, one mile east of Road 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 a surveyor is working on a revised layout and has submitted a preliminary plan and that the unit on site will meet the setback requirements as shown and that the variance is for the required square footage for a home in a park.

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

Case No. 5789 (cont'd)--Deborah Walker - south side of Road
585, 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 reviewed by Mr. Betts.

After some discussion, Motion made by Mr. Callaway, seconded by Mr. Wheatley, and carried 3 to 2 with Mrs. Hudson and Mr. Mills voting against, that the special use exception be granted with the stipulations being that the manufactured home be a double wide, that a permanent foundation be built, and that the home has an A roof.

Case No. 5800--Robert Hood - south side of Route One, 1/4
mile east of Road 24.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Lynn Rogers of Rogers Sign Company, Inc. was sworn in and testified that he is representing Taco Bell Restaurant, that they have down sized the pylon ground sign to be under the allowable 150 square footage, and that they would like to put three wall signs on the building instead of the one which is permitted.

There were no parties present in opposition.

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

OTHER BUSINESS

Case No. 4852--Paul R. Argo - Time Extension

Mr. Betts advised the Board that a request for a three year time extension has been received.

Motion made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously to grant a three year time extension.

Case No. 5154--William Klingenberg

Mr. Betts advised the Board that a request for a one year time extension has been received. Mr. Betts advised the Board that this is the second request for a one year time extension.

Motion made by Mrs. Hudson, seconded by Mr. Mills, and carried unanimously to grant a one year time extension.

Case No. 5402--Dolores Fenix Sapienza

Mr. Betts advised the Board that a request for a one year time extension has been received.

Motion made by Mr. Mills, seconded by Mrs. Hudson, and carried unanimously to grant a one year time extension.

Case No. 5324--Wyoming Concrete Industries, Inc., William J. DiMondi

Mr. Betts advised the Board that a letter requesting a time extension has been received. The extension is requested until December 31, 1995.

Motion made by Mr. Mills, seconded by Mrs. Hudson, and carried unanimously to grant a time extension until December 31, 1995.

Meeting adjourned at 9:00 P.M.