

Minutes October 3, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, October 3, 1994, 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, Mrs. Hudson, Mr. Callaway, Mr. Wheatley, Mr. Jones - Attorney, Mr. Lank - Director, and Mr. Betts - Zoning Inspector III.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson, and carried unanimously that the minutes of September 19, 1994 be approved as circulated.

Case No. 5467--Robert C. Elliott - North side of Route 54, 2,050 feet west of Route 66.

A Variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Peggy Bowden and Mary Jane Haney were sworn in and testified. Ms. Bowden stated that the lot frontage of 60' is adequate to serve the 6.14 acres lot where she proposes to build a residence and that the easterly side of the parcel is a ditch.

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 due to the odd shape of the lot.

Case No. 5468--Douglas D. Breeding - North side of Route 224, 1,900 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.

The case was presented by Mr. Betts. Douglas D. Breeding was sworn in and testified, requesting to place a 1981 or 1982, 28'x 40' manufactured home on property he owns for a future home site, that he may rent the unit until he sells his dwelling, that the unit has an A-frame roof and is in good condition, and that the unit has been placed on the lot.

Sandra King and Rebecca Gamm were sworn in and testified in opposition, stating that the unit is intended to be rented, and that the unit will be to close to their homes and property lines.

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 Mrs. Hudson, and carried unanimously that the case be tabled.

Case No. 5469--Patricia Bunting - North side of Route 471, 1/2 mile 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.

This application was withdrawn by the applicant.

Case No. 5470--Wayne Baker and Allen Baker - North side of Route One, at the intersection on the southwest side of Route 12.

A Variance from the front yard setback requirement.

The case was presented by Mr. Betts. Mark Baker and Wayne Baker were sworn in and testified that they propose to remodel their filling station canopy over the gas pump island, that the gas tanks shall be required to be removed and replaced, that the canopy will be supported by the gas pump island, and that the canopy will be setback further from the right of way of Route One than the existing canopy.

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. 5471--Keith E. & Michele Webb - North side of Route 595A, 724 feet west of Route 43.

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. Keith E. and Michele Webb were sworn in and testified that their name will be on the deed to the property, that they propose to place a 12'x 65' manufactured home on the a lot measuring 150'x 250', and that other manufactured homes exist in the general area.

There were no parties present in opposition.

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

Case No. 5472--Joan P. Wallop - Northwest side of Route 525,  
2,483 feet north of Route 526A.

A Special Use Exception to place a manufactured home on a medical hardship basis.

The case was presented by Mr. Betts. Mr. Betts read a letter from a doctor supporting the need for the mother's care. Marie M. Wallop, mother of the applicant, was sworn in and testified that her daughter has a mental disorder, that the daughter is capable of caring for herself during short periods of time, that the manufactured home will provide independent living for her daughter and allow for the mother's care, that other manufactured homes exist in the general area, and that the manufactured home measures 12'x 60'.

There were no parties present in opposition.

Motion by Mrs. Hudson, seconded by Mr. Callaway, and carried unanimously that the Special Use Exception be granted for a period of two (2) years due to the medical hardship.

Case No. 5473--T. J. W. Enterprises, Inc. - East side of Route 113, at the intersection with Route 16.

A Variance from the front yard setback requirement.

The case was presented by Mr. Betts. Mr. Betts summarized the history of the site and previous owners. Thomas Welsh was sworn in and testified that the vestibule area was enlarged for wheel-chair access and that the front right corner of the restaurant was expanded by a previous owner. Mr. Betts stated that a previous application was denied for the same variance since the applicant was not present for the public hearing.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, 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. Wheatley, and carried unanimously that the Variance be granted.

Case No. 5474--Charlotte Swolensky - East side of Route 201,  
1,550 feet north of Route 36.

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

The case was presented by Mr. Betts. Charlotte Swolensky was sworn in and testified that the ice storm in February 1994 destroyed her manufactured home unit, that the unit was replaced but does not comply with appropriate setback requirements due to the irregular shape of the lot, and that other manufactured homes exist in the area.

Motion was made by Mr. Callaway, 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 case. After some discussion, motion was made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously that the Variance be granted due to the irregular shape of the lot.

Case No. 5475--Raymond Hitchens - North side of Route 20, 244  
feet west of Route 442.

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. Laurie and Raymond Hitchens were sworn in and testified that the manufactured home is for their personal use, that relatives live in the surrounding area, that a 1994 double wide manufactured home is proposed, and that the unit will not have a negative impact on the neighborhood which has a mixture of dwellings and manufactured homes.

Mary Bell Toomey, Laurie's mother, was sworn in and testified that she lives on the adjacent lot and that all the neighbors support the application.

There were no parties present in opposition.

Motion was made by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously that the Special Use Exception be granted.

Case No. 5476--Alfred L. Collins and Tamitha E. Fisher - West  
side of Route 594, 1,105 feet north of Route 545, Lot  
1, within Morningside Village.

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. Alfred L. Collins and Tamitha E. Fisher were sworn in and testified that their lot is 150'x 150', that they propose to place a new 28'x 66' manufactured home on their lot, and that other manufactured homes exist in the area along Route 594 across Route 545.

Leo Maxsymchock was sworn in and testified that he objected to the placement of the sign which blow down and was not visible, and that since the applicants stated the size of the unit proposed, he has no objection.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway, and carried unanimously that this Special Use Exception be granted.

Case No. 5477--Dr. James Beebe, Jr. - South side of Route One, 1,000 feet west of Route 271.

A Variance from the requirements for signs.

The case was presented by Mr. Betts. Lynn J. Rogers of Rogers Sign Company was sworn in and testified requesting a 20' variance from the side yard setback for a ground sign, that the sign will include a reader board, and that if he was required to erect the sign per regulations the sign would be in the middle of a proposed parking lot.

Mr. Rogers submitted photographs of the site.

There were no parties present in opposition.

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

Case No. 5478--William Conley - North side of Route 224, 1,450 feet southwest of Route 218.

A Special Use Exception to place a manufactured home on a medical hardship basis.

The case was presented by Mr. Betts. Barbara and William Conley were sworn in and testified requesting placement of a manufactured home for their son and family to live on the site to

help care for Mr. Conley, who has throat cancer, and to assist in the family business, a boat canvas shop, and that other manufactured homes exist in the area.

Mr. Betts read a letter from a doctor supporting the need for care, a letter of no objection from Thomas and Judith Shelar, and letters in opposition from Paul Bessert, and Joseph and Betty Schedivy.

Joseph and Betty Schedivy were sworn in and testified in opposition to the application and questioned if the unit was to be utilized by the son or relatives vacationing, that they purchased their land prior to construction of their home, that they have no problem with the existing unit or the applicants, that several manufactured homes have been placed in the area since they built their home, that the lot is undersized for two manufactured homes on septic, that the applicant has been cutting grass recently and questioning if the medical hardship is appropriate, and that the son has been living on the site in a pop-up type camper on weekends this summer.

Mrs. Conley stated that the business has been a family business since they moved to the lot, that she sews the canvas and that her husband or son installs the canvas on the boats.

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

Case No. 5479--Thomas Burns - Danny Drive, west of Nero Lane, Lot 2, within Nero Acres.

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. Antonio Nero, present on behalf of the applicant, was sworn in and testified requesting permission to place a 28'x 76' doublewide manufactured home on a 1.51 acre lot, that 11 manufactured homes exist within the subdivision, that the adjoining lots are improved by doublewide manufactured homes, and that the streets have tar and chip pavement.

There were no parties present in opposition.

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

Case No. 5480--Marvin F. Jones - West side of Route 20, 400 feet north of Oak Street.

A Variance from the side yard setback requirement.

The case was presented by Mr. Betts. Marvin F. Jones was sworn in and testified that his lot is narrow, that he proposes to add a porch addition onto the dwelling and needs a 7' variance from the required 10' setback to permit a reasonable sized addition, that he also proposes to locate a garage on the lot and needs a 7' variance from the required 10' setback to permit placement of the garage due to the location of a septic system on the site.

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. 5481--Eugene N. and Antonio Nero - North side of Route 64, 250 feet west of Route 454C.

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. Antonio Nero, previously sworn in for Case No. 5479, testified that a mistake was made and the applicants should have been noted as Virginia and Jerry Taylor. Virginia and Jerry Taylor were sworn in and testified that they plan to place a 1995 28'x 48' doublewide manufactured home on the lot, that other manufactured homes exist in the general area, and that they have spoken to the neighbors and have heard no objections to the intended use. Mr. Nero added that a manufactured home exist on an adjoining lot.

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.

OLD BUSINESS

Case No. 5446--Lido Realty Co.(cont'd) - South side of Route 22  
(Long Neck Road), 1,390 feet east of Route 298.

A Special Use Exception to place a tent for special purposes.

The case was reviewed by Mr. Betts. Mr. McCabe stated that the tent is proposed to be utilized from May 1 to November 1, that the maximum time that can be considered is 5 years, that complaints were received about noise from the music, and that approximately 7 people spoke in opposition. Mr. Jones added that some people did not object to the use of the tent, but did object to the noise. Mr. Callaway stated that he did not feel that an adverse impact was being created on the neighborhood, that he did not find trash littered as stated by the opposition, that the future expansion of the shopping center buildings will buffer the neighbors, that the adjoining restaurant provides outside entertainment and music, that, in general, the people support the use, and that the applicant could build an open deck and utilize it for entertainment.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously that the Special Use Exception be granted for a period of 5 years, and that the findings stated be made a part of the record.

Case No. 5459--Barbara Ridge - Route 39B, one mile north of Route 39, Lot 15, within Bayshore Estates.

A Special Use Exception to operate a Bed and Breakfast Inn.

Mr. Betts advised the Board that a note of appreciation has been received from residents of Primehook Beach thanking the Board for denying the referenced bed and breakfast inn proposal.

Meeting adjourned at 8:40 P.M.