

Minutes of October 16, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, October 16, 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 Vice Chairman Mr. Mills presiding. The Board members present were: Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Callaway, Mr. Jones - Assistant County Attorney, Mr. Betts - Zoning Inspector III, and Mrs. Watkinson - Clerk.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway, and carried unanimously that the minutes of October 2, 1995, be approved as circulated.

Case No. 5831 -- Albert and Carole Rommal - south side of Route 54, 1/2 mile west of Route 58B, Lot 3, within Cape Windsor.

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

The case was presented by Mr. Betts. Carole Rosalyn and Albert R. Rommal were sworn in and testified that they propose to enlarge and screen in an existing deck; that they propose to build a deck as the structure has a door but no walkway on the side.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway, and carried unanimously that the variance request of 6'5" from side setback requirement and 10' from rear setback requirement be granted, finding that several structures in the area have similar situations.

Case No. 5832 -- Edward F. Mayfield, Sr. - north side of Route 54, 1/4 mile west of Route 58B, Lot 82-G, within Swann Keys.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Edward Frederick Mayfield was sworn in and testified that he placed a doublewide manufactured home in the fall of 1987 when the setback requirement was 5'; that the concrete steps have cracked and need to be replaced; that he proposes a 4' X 22' walkway with steps ending toward the road instead of the neighbor's property.

Mr. Betts presented a letter from Swann Keys Mobile Home Park Association stating they do not oppose the application.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway, and carried unanimously that the variance request of 9' from the 10' setback requirement be granted.

Case No. 5833 -- James Garrity - west side of Route One, one mile south of Bethany Beach, Lot 25, within Bay View Park.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. John J. Tighe, representative for James Garrity, was sworn in and testified that the proposed project was approved in 1992 by the Board, case #4709, but could not be constructed due to financial difficulty; that the applicant proposes to screen in existing deck; that the deck will be 12 X 24; that the roof line will match existing roof line.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley, and carried unanimously that the variance of 6'5" from the 10' rear setback requirement be granted.

Case No. 5834 -- Eugene K. Byrd - east side of Route 62, 770 feet south of Route 421.

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. Juanita Joan and Eugene K. Byrd were sworn in and testified that they propose to place a 1996 28 X 66 doublewide manufactured home on a permanent foundation; that there is a manufactured home on each side of their lot; that there are other manufactured homes in the area.

Wayne Bradley was sworn in and testified that previous applications for manufactured home placements had been denied by the Board; that eight (8) new homes have been built within the past year in the area; that the State of Delaware has acquired property in the area for preservation as there are three (3) ponds in the area.

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

At the conclusion of the public hearing, the Vice 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 further evaluation of the area is needed.

Case No. 5835 -- David and Paula Lathbury - south side of Route 335, 983 feet east of Route 335A.

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. Paula A. Lathbury was sworn in and testified that she currently resides in a manufactured home park; that she proposes to move her manufactured home, a 1995 14 X 70, to this lot if approved; that the adjoining lots are vacant; that there are at least six (6) manufactured homes in the area.

There were no parties present in opposition.

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

Case No. 5836 -- Deborah Walker - east side of Route 497, 300 feet south of Route 495, Lot 6, within May's Delight Subdivision.

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 Ryder Walker was sworn in and testified that she proposes to place a new 28 X 68 doublewide manufactured home on a permanent foundation; that there are manufactured homes on lots 2 & 3; that there are other manufactured homes in the 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 with the stipulation that the unit be a doublewide manufactured home on a permanent foundation.

Case No. 5837 -- Peter and Valerie Hue - west side of Route 240,
1,500 feet south of Route 16.

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. Valerie Denise Hue was
sworn in and testified that she proposes to place a 1995 14 X 70
manufactured home; that there are two (2) manufactured homes across
the street from her lot; that the property adjoining her lot is
vacant.

There were no parties present in opposition.

Janet B. Coombes was sworn in and testified that she is the
seller of the lot; that her daughter lives in a manufactured home
across from the lot; that there are other manufactured homes in the
area.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley, and
carried unanimously that the special use exception be granted,
finding it would not adversely impact the area.

Case No. 5838 -- Donald and Holly Pfeifer - northeast side of Route
16A, 1.5 miles southeast of Route 16, Lots 47
and 48, within Old Inlet, Section 2.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Holly L. Pfeifer was
sworn in and testified that the dwelling was completed in May 1995;
that the dwelling was designed and built according to standards
used for construction of a dwelling previously built in the area
and then realized that a certificate of occupancy had never been
issued for the dwelling previously built; that the dwelling
encroaches the side setback requirement by .10'.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway, and
carried unanimously that the variance of .2' from the side setback
requirement be granted, finding it would not adversely impact the
area.

Case No. 5839 -- Ocean Outlets Bayside and Seaside - north side of
Route One, at Route 271.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Jeff L. Byrd and Joseph A. Kelder were sworn in and testified that they propose two wall signs for each of four (4) stores; they presented pictures of the signs for Levi's as an example of the proposed signs.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway, and carried unanimously that the variance for two (2) wall signs be granted.

Case No. 5840 -- Charles E. Wenk, Jr. - southwest side of Route 18,
313.2 feet southeast of Route 17.

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. Bessie H. and Charles E. Wenk were sworn in and testified that they propose to place a new 28 X 48 doublewide manufactured home on a permanent foundation; that they propose to place the unit where the existing house is located; that the house will be demolished by the end of the year; that there are six (6) manufactured homes in the area.

There were no parties present in opposition.

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

Case No. 5841 -- Stephen and Linda Jacobs - north side of Route 451, 190 feet west of Route 463, Lot 18,
within Norris Niblett Subdivision.

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. The applicant did not appear to represent his application.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley, and carried unanimously to deny the application due to the lack of a record in support.

Case No. 5842 -- Donald and Hester Downes - northwest side of Route 633, 800 feet north of Route 634.

A variance from the one acre lot requirement in a conservation zone.

The case was presented by Mr. Betts. Hester Sue and Donald George Downes were sworn in and testified that 1/2 acre of lot 1A is dead space behind the garage; that the lot would be 150' X 150'; that they would have to mow the grass and it would be inconvenient; that they would combine the 1/2 acre with lot 3; that there are 1/2 acre lots across the street.

There were no parties present in opposition.

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

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

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley, and carried unanimously that the variance request be denied, finding it did not meet the requirements for a variance in a conservation zone.

Case No. 5843 -- Ralph W., Jr. and Gladys R. Cashen - west side of Route 535, 1/4 mile northeast of Route 534, within Indian Village.

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

The case was presented by Mr. Betts. Gladys R. Cashen was sworn in and testified that her mother is 90 years old and the medical hardship still exists; that this is the third renewal for a medical hardship manufactured home placement.

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 for a medical hardship be granted for a period two (2) years.

Case No. 5844 -- Donald E. and Marilyn J. Dunkle - Route 360, at the intersection of Route 357, Lot 330, within The Salt Pond Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Mark F. Dunkle, representing his parents, was sworn in and testified that his parents plan to build their retirement home on a lot that was purchased in 1992; that this father will retire soon on disability; that his parents reviewed approximately eight (8) designs and this design was the most suitable.

Mr. Betts presented a letter from Salt Pond Associates in opposition to the variance request noting that there is nothing unique or unusual about the lot; that the variance would be out of character with the development; that the variance would undermine the restrictions of the development and set a precedent for other lots.

Mary B. and Joseph R. Harding were sworn in and testified that they are the owners of lot 329; that they agree with the Salt Pond Association; that there are several homes in the area that fit the lots; that the variance would adversely affect the appearance of the area.

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

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

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson, and carried unanimously that the request for a variance be denied, finding that it would adversely impact the area.

It was the consensus of the Board that no unique physical circumstance or condition, such as irregularity, narrowness or shallowness of lot size or shape, existed.

OLD BUSINESS:

Case No. 5672 -- 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.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson, and carried unanimously that the variance from the required minimum square footage of manufactured home in a park and the variance from the side setback requirement be granted.

Case No. 5673 -- 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 variance from the minimum
square footage of manufactured home in a park.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson, and
carried unanimously that the variance from the required minimum
square footage of manufactured home in a park and the variance from
the side setback requirement be granted.

Case No. 5816 -- Evelyn Widen - south side of Route 472, at Route
434A, Lot 14S, within Trinity Meadows
Subdivision.

A special use exception to place a manufactured home
in an AR-1 District on less than five acres for a
permanent residence.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway, and
carried unanimously that the special use exception be granted,
finding it would not adversely impact the area.

Case No. 5817 -- Kirkie Williams and Teresa Armstrong - north side
of Route 472, 1,159 feet east of Route 434,
Lot 12D, within Trinity Meadows Subdivision.

A special use exception to place a manufactured home
in an AR-1 District on less than five acres for a
permanent residence.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway, and
carried unanimously that the special use exception be granted,
finding it would not adversely impact the area.

Case No. 5822 -- Jesse and Lucy McInvale - north side of Route 451,
at the intersection of Route 463.

A special use exception to place a manufactured home
in an AR-1 District on less than five acres for a
permanent residence.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway, and
carried unanimously that this case be tabled, finding the need to
further evaluate the area.

Case No. 5827 -- Norval Johnson - south side of Route 9, 1,460 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.

Mr. Betts reported that Mr. Johnson has combined the two parcels and obtained a permit for the manufactured home.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson, and carried unanimously that this special use exception be denied, finding the need for a special use exception no longer exists.

Case No. 5828 -- Melvin Cannon, Sr. - east side of Route 533, 4,550 feet south of Route 18.

A special use exception to place a second manufactured home on farm.

Mr. Betts reported that the existing manufactured home on farm has a tenant instead of immediate family or on farm employee.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously that the special use exception be granted with the stipulation the existing manufactured home be occupied by an immediate family member or on farm employee, and submit the documentation deemed necessary by Mr. Lank.

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

Meeting adjourned 8:38 P.M.