

Minutes of October 17, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, October 17, 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, Mr. Mills, Mr. Wheatley, Mrs. Hudson, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway that the minutes of October 3, 1994 be approved as circulated, with Mr. Mills abstaining. Motion carried with four voting in favor and one not voting.

Case No. 5482--Darren M. Parsons - North side of Route 496, one mile west of Route 493A, Lot 4, within White River Estates.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Darren Parsons was sworn in and testified, requesting a 15' variance from the 20' rear yard setback requirement to be 5', to construct a garage on Lot 4 in White River Estates. The garage will be over 600 sq. ft. in size and therefore, cannot use the lesser setbacks. The rear of the property abuts up to a State Wildlife area. The two car garage will also be used for storage.

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, finding that the use will not adversely affect the surrounding properties.

Case No. 5483--Steve Willey - Northeast side of Intersection of Route 5 and Route 255.

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. Steve Willey was sworn in and testified, requesting to place a 1994, 27'x 66' double-wide manufactured home on his property for his residence. There is vacant property on either side of his property, but he stated 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, finding the use will not affect adversely the neighborhood and there are other manufactured homes in the area.

Case No. 5484--Sarah Hastings T/A Silk & Sands - South side of
Route 268, 315 feet southwest of the
Lewes City Limits.

A variance from the requirements for signs.

There were no parties present representing this case. The Chairman held the hearing open until the end of the public hearings. At the conclusion of the public hearings, the Chairman referred back to this case.

Lynn Rogers was sworn in and testified representing the applicant, who requested a 55' variance from the 100' setback requirement from another dwelling, and a 5' variance from the 20' side yard setback for signage to be 15'. Mr. Rogers presented pictures. He stated there will be one double faced illuminated sign on the property to advertise the applicants flower shop.

Mr. Betts stated that the sign will meet the size requirement.

Louder Mitchell was sworn in and questioned the size and location of the sign. He stated he had no objection.

There were no parties present in opposition.

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

Case No. 5485--J. Harvey & Phyllis V. Nichols - North side of Tyler
Ave., 500 feet south of Route 54, Lot 50,
Block 5, within Cape Windsor.

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

The case was presented by Mr. Betts. J. Harvey & Phyllis Nichols were sworn in and testified, requesting a 5' variance from the side yard setback and a 5' variance from the rear yard setback requirements, on Lot 50, Cape Windsor. The applicants plan to put a Nanticoke Home on their 50'x 90' lot. They testified that other homes are within the 5' setback in Cape Windsor and they would like theirs to be the same. They stated the Homeowners Association in Cape Windsor has no objection.

Mr. Betts read a letter from a neighbor, Gerard F. Petrik, voicing no objection.

Angeline Mack another neighbor was sworn in and testified in behalf of the application.

There were no parties present in opposition.

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

Case No. 5486--Wayne F. Milligan - East side of Route 30, 1,600 feet
south of Route 561.

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

The case was presented by Mr. Betts. Wayne Milligan was sworn in and testified, requesting a 3.05' variance from the 15' side yard setback and a 10' variance from the 20' rear yard setback requirements, for a shed, 42'x 60', that has been on the property since June. The shed was found to be in violation when a survey was done. The shed was built by Morton Builders. A permit was obtained.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be granted, finding the property is odd shaped and the use will not adversely affect the surrounding properties.

Case No. 5487--Elton R. & Alice J. Wood - East side of Route 619,
across from Route 634.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Alice J. Wood was sworn in and testified, requesting a 90' variance from the 150' lot width requirement and a 75' variance from the 150' lot width requirement to create two lots. The existing lot width is 135.72'. Mrs. Wood presented letters from her doctor and neighbors in behalf of the request. The applicants are currently living in a two story dwelling on the property and they want to construct a one story dwelling, that will make it easier to live in, without having stairs to go up and down. The one story dwelling will be on a smaller lot and they will sell the lot with the two story dwelling on it. In answer to the Board, they would have no problem with a shared driveway for the two parcels.

Mr. Betts read the letters presented from the doctor and neighbors, Robert & Lori Benton and Edna M. Short, in favor.

There were no parties present in opposition.

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 Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variance be granted, with the stipulation that both parcels share one driveway.

Case No. 5488--Gilbert & Hazel Mitchell - North side of Route 74,
3/4 mile east of Route 447, Lot 2, 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. Randy Ott was sworn in and testified, representing Gilbert & Hazel Mitchell, who requested

to place a 28'x 60' manufactured home on property they are purchasing from Mr. Ott. He testified 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, finding the use will not adversely affect the neighborhood.

Case No. 5489--Delores W. Williams - East side of Route 225, 600 feet north of Route 225D, within Lincoln Manor.

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. Delores Williams was sworn in and testified, requesting to place a 1994, double-wide manufactured home on her property for her residence. She testified that the existing dwelling, that is now occupied, will be used for storage. She stated that the occupants have been given notice to move. Ms. Williams stated the dwelling was previously owned by her aunt and she does not want to remove it, but will use it for storage, not to be lived in. She stated there are other manufactured homes in the area.

Henry Lee Dukes, who owns 8 acres adjacent, was sworn in and testified in opposition. He stated that the applicants existing house is located partially on his property and he would like it moved. He showed a survey. He does not oppose the manufactured home if it stays on her property.

Ms. Williams presented pictures and disputed the location of the dwelling.

Kevin Schroeder was sworn in and testified stating that a survey was ordered and the new manufactured home will conform to all setbacks.

Mr. Dukes stated he objects to the dwelling being left on the property for any use.

Motion was made by Mr. Callaway, seconded by Mr. Mills 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 Mrs. Hudson, seconded by Mr. Callaway and carried unnanimously that the special use exception be granted, with the stipulation that the existing dwelling on the property be removed and not be used for storage, only one dwelling is allowed.

Case No. 5490--Mary J. Kyttle - South side of Route 28, ½ mile north of Route 13.

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 Kyttle was sworn in and testified, requesting to place a new, 26' or 28' x 52' manufactured home on property for her grandson and his wife. She stated that the property will be deeded to her grandson. She stated there are other manufactured homes in the area and farmland.

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. 5491--Debra Floyd - West side of Route 226, 900 feet north of Route 231.

A special use exception to join two (2) manufactured homes to be used as one single family unit and to use a manufactured home as a storage shed.

The case was presented by Mr. Betts. Debra Floyd was sworn in and testified, requesting to connect two manufactured homes together to be used as one single family unit and to use a third manufactured home as a storage shed. She currently lives on the property.

Rev. Lawrence Spady was present and affirmed, stating he lives in the white manufactured home that is to be used for storage. He stated the manufactured home will be used to store audio equipment, furniture and Church equipment.

Mr. Betts stated that there were four units on the property, but one has been removed.

Ms. Floyd stated that she and her cousin will live in the units. They will be connected with a hallway between, two bathrooms and possibly two kitchens.

Ms. Floyd was told that if approved only one kitchen would be permitted.

Albert Short, II was sworn in and testified in opposition, stating that the existing manufactured homes are on five acre parcels. He is opposed to three manufactured homes being on a $\frac{1}{2}$ acre parcel. He feels there should be only one manufactured home on the lot with proper septic and well.

Yvonne Diane Short was sworn in and testified that she owns five acres. She stated she is not opposed to one manufactured home on the lot with proper septic and well, but is opposed to three units.

John Waples was sworn in and testified in opposition, stating the units are too close to the property lines. He questioned why there are three manufactured homes on the property and that he had to purchase five acres. He expects the applicant to abide by the rules as they do.

Mr. Betts stated that the manufactured homes would have to be moved to meet the setback if approved.

Rev. Spady stated they would need at least six months to do the work.

Ms. Floyd stated she is in the process of meeting the necessary septic requirements. She stated she will join the units together with a roof over all and enclose the units.

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 Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the special use exception to connect two manufactured homes together be granted, with the stipulation that there be only one kitchen, enclose the units with skirting, paint both units one color, add a A-Roof over all, only (1) living unit and to be completed within one (1) year. Also all other manufactured homes be removed within 30 days.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the request to use a third manufactured home for storage be denied, finding to keep the white unit for storage will adversely affect surrounding properties.

Case No. 5492--David C. Todd - West side of Route 561, 1,408 feet south of Route 18.

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

The case was presented by Mr. Betts. David Todd was sworn in and testified, requesting a 3.7' variance from the 15' side yard setback requirement and a 15' variance from the 20' rear yard setback requirements for a shed that has been on the property since 1983. Mr. Todd added a lean-to, to the shed which brought the size over 600 sq. ft. and therefore, created an encroachment into the setback, since a greater setback is needed for a structure over 600 sq. ft. The encroachment was discovered when a survey was done.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variances be granted, finding it is an odd shaped lot, there will be no adverse affect on neighboring properties and there was no opposition.

Case No. 5493--Charles L. & Sandra L. Barton - South side of Route 54, at Route 381, Blue Water Run, Lot 120, within Keenwick Sound.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Roy J. Evans, builder, was sworn in and testified, representing the applicants, who requested a 3' variance from the 10' rear yard setback to add a screen porch with concrete pad, on Lot 120, Keenwick Sound. He stated there are wetlands to the rear of the property.

Mr. Betts read a letter from the Keenwick Sound Homeowners Association, Bernard Green, President, stating they are in opposition to the requested variance. He made reference to the covenants in Keenwick Sound.

Mr. Jones, Attorney, explained to the applicants that both County and Keenwick Sound requirements have to be met.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the variance be denied, finding the applicants had not met the requirements for the granting of a variance.

Case No. 5494--Helen E. Cameron, Trustee - East side of Route 594,
1,300 feet north of Route 18.

A variance from the setback requirements for a poultry house.

The case was presented by Mr. Betts. Helen Cameron was sworn in and testified, requesting a 10.5' variance from the 50' setback requirement for a poultry house. She stated she wants to replace a poultry house in the same location as the old one. The old poultry house was 39' wide and the new one will be 42' wide.

Harry Robert James, Jr., Housing Coordinator, for Allens Hatchery, and Gerald A. White, Jr. were sworn in and testified in behalf of the applicant. Mr. James explained the distance between poultry houses for truck traffic.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the variance be granted, finding the poultry house is going back in the same location as the previous one.

Case No. 5495--I. Russell Hickman - North side of Route 335, 200 feet
east of Road 335A.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. I. Russell Hickman and Connie were sworn in and testified, requesting a 21.78' variance from the 150' lot width requirement to create a parcel of land to give to their daughter. Their daughter plans to eventually put a stick built home on the property.

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. 5496--Michael Dumal - Southeast side of Route 277, $\frac{1}{2}$ mile
south of Route 275, Lot 11, within Morning
View.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. James J. Reardon, President of Fine Home Builders, was sworn in and testified, representing the applicant. Mr. Reardon stated the applicant requests a 1.6' variance from the 30' front yard setback requirement, for a house. He stated that a mistake was made when the applicant's property was staked out and the house was placed, plus a 2' addition was added. The property being Lot 11, in Morning View. Mr. Reardon stated that to correct the encroachment would mean moving the entire house. He stated that he is the Association in the development.

Michael Dumal was sworn in and testified in his behalf stating he does not want to cut-off the addition, because it would take away from the house.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be granted, finding the lot is odd shaped, the encroachment was not created by the applicant, the minimum variance is requested and will not adversely affect adjoining properties.

OLD BUSINESS

Case No. 5468 (cont'd.)--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 reviewed by Mr. Betts.

Mr. Mills did not participate in the discussion or voting on this hearing due to his absence at the public hearing.

After some discussion, motion was made by Mr. Callaway, seconded by Mrs. Hudson, that the special use exception be granted, with the stipulation that the manufactured home be for the personal use of the applicant only and cannot be rented, with Mr. Mills abstaining. Motion carried with four voting in favor and one not voting.

Case No. 5478 (cont'd.)--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 reviewed by Mr. Betts.

Mr. Mills did not participate in the discussion or voting on this hearing due to his absence at the public hearing.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Wheatley, that the special use exception be granted on the basis of medical hardship for a period of two (2) years, with Mr. Mills abstaining. Motion carried with four voting in favor and one not voting.

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

Meeting adjourned at 8:47 P. M.