

Minutes of October 18, 1993

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, October 18, 1993 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. Wheatley, Mrs. Hudson, Mr. Mills, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the minutes of October 4, 1993 be approved as circulated.

Case No. 5197--Edward J. Hartman - South side of Route 54, on the east side of Grant Avenue, 1,450 feet south of Lincoln Drive, Lot 29, within Cape Windsor.

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

The case was presented by Mr. Betts. Edward Hartman was sworn in and testified, requesting a 5' variance from the 15' corner side and a 2.6' variance from the 5' average on the front property line. The property is located on Lot 29, in Cape Windsor. The applicant moved his manufactured home back on the property and built an addition. Mr. Hartman also wants to put a storage shed on the property and attach it to his unit. Pictures were shown.

Mr. Betts stated that the established building line on Mr. Hartman's street is 5' and a corner lot requires a 15' setback. Mr. Betts read correspondence from the Board of Directors of Cape Windsor, Mr. Donald Muckle, referencing their covenants and stating the plans need to be modified. Also, a letter from George Miles questioning the variances requested.

Harold Hartman who lives in the area, was sworn in and testified in behalf of the variance requests.

Donald Muckle was sworn in and testified in behalf of the application, stating that the Association does not have any objections.

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 Mrs. Hudson and carried unanimously that the variances be granted.

Case No. 5198--Clyde & Dorothy Tuggle - East side of Route 212,
147 feet north of Route 212B.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Clyde Tuggle was sworn in and testified, requesting a 2' variance from the 10' side yard setback. Mr. Tuggle stated that he is restoring an old house and wants to square it off. A variance is needed.

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. 5199--Earle Richard Todd, Jr. - West side of Route 594,
500 feet south of Route 224.

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

The case was presented by Mr. Betts. Earle Richard Todd, Jr. was sworn in and testified, requesting an 8' variance from the 15' side yard setback requirement and a 6' variance from the 20' rear yard setback requirement for a shed (workshop) that is over 600 square feet in size. Mr. Todd testified that he proposes to build a garage/workshop for his personal use, to park a truck in and to use for storage.

There were no parties present in opposition.

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. Mills, seconded by Mr. Wheatley and carried unanimously that the case be tabled.

Case No. 5200--Steam Kat Haz Mat/All Waste - South side of Route
502, 209 feet west of Penn Central Railroad.

A special use exception to place a manufactured home to be used as an office.

The case was presented by Mr. Betts. Thomas E. Rapp was sworn in and testified, representing the application. The applicants requested to use a manufactured home type structure as an office in an HI-1 District. Mr. Rapp stated that the 20'x 40' unit will be used temporarily until a structure is built. They hope to build the structure within three years depending on the economy. Mr. Rapp stated that the unit will have no living quarters or kitchen. He feels the manufactured home type office will have no negative impact on the area.

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 period of three (3) years with the stipulation that the unit be an office type structure with no living quarters.

Case No. 5201--David E. McNatt, Jr. - West side of Route 42, 2 miles north of Route 18.

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. David McNatt, Jr. & Gregg Sizemore were sworn in and testified. Mr. McNatt, Jr. requested to place a manufactured home on property he is purchasing for his residence. Mr. Sizemore stated that this same property had previously been approved for a manufactured home for another party, but time expired and the unit was never placed. He stated there is a restriction on the size unit to be put on the property. It was stated that there are other manufactured homes in the area approved by the Board of Adjustment.

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. 5202--Sussex Printing Corp. - West side of Route 13, ¼ mile south of Route 481.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Timothy Ayers was sworn in and testified, requesting a variance of 200 sq. ft. from the 100 sq. ft. requirement for a wall sign to be 300 sq. ft. The sign will be an advertising sign for the Guide. It will be screwed flat on the roof of the building, not raised up in the air. The sign will not be near the highway.

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.

Case No. 5203--Donna Floyd - South side of Route One, ¼ mile north of Route 9.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Donna Floyd and Lynn Rogers were sworn in and testified. Ms. Floyd requested a 45' variance from the 100' setback requirement from a dwelling and a 100' variance from the side yard of 15' for an on premise sign. Mr. Rogers stated that the present sign is grandfathered in and sets in the right-of-way. The new sign will be 8' further into the lot. It was stated that the sign cannot be placed on the property and meet the setbacks. A drawing showing the sign was shown.

There were no parties present in opposition.

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

Case No. 5204--Lorraine H. Boffa - South side of private road,
1,350 feet west of Route 357, Lot 27, within
Martin E. Cox Subdivision.

Variances from the side yard setback requirement.

The case was presented by Mr. Betts. Lorraine Boffa Gualtieri and Joe Gualtieri were sworn in and testified, requesting a 6' variance from the 10' side yard setback and a 5' variance from the 10' side yard setback, on Lot 27, Martin Cox Subdivision. Mr. Gualtieri stated that the builder is not responsible, that he is responsible for the encroachments of the gazebo and deck. He stated there was a misunderstanding on the deck setback with Mr. Richard, Zoning Inspector. Petitions in favor were presented.

Mr. Betts explained that an open unenclosed deck can extend into the front yard setback 5' as long as it is not greater than 4' above grade. Mr. Betts read a letter of opposition from E. Wayne Collins. He stated that there were 27 signatures in favor on the petitions presented.

In answer to questions Mr. Gualtieri stated that he has an efficiency in the lower level of his home that will have kitchen facilities. The efficiency will someday be used by his wife. Others will use it now.

Mr. Betts explained to Mr. Gualtieri that the kitchen facilities would have to be removed, since only one kitchen is permitted in a dwelling.

John F. Henry was sworn in and testified in opposition, stating he is an adjacent property owner and concerned about the affect the variance will have on his property when he gets ready to build. He stated everyone else has to be 10' and he is not aware of other variances in the subdivision.

Mr. Betts stated that other variances have been granted in the subdivision.

Jeanette Henry was sworn in and testified questioning whether they could build their deck, if they decide to have one, closer to their property line or have a variance.

In response Mrs. Henry was told they could apply for a variance, but there is no guarantee they will get approved.

Thomas Brault, builder, was sworn in and testified that he thought all requirements had been met.

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. Callaway, seconded by Mrs. Hudson and carried unanimously that the variances be granted, with the stipulation that the kitchen facilities in the efficiency be removed.

Case No. 5205--Howard J. & Elaine D. O'Neal - Northwest side of Route 607, 3/4 mile southwest of Route 608.

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. Howard & Elaine O'Neal were sworn in and testified, requesting to place a 14'x 56' manufactured home on property they are purchasing for their residence until they can build a home, hopefully in 5 years. There is State forest and a home on adjacent property. They will put the unit to the rear of the property in one corner.

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 period of five (5) years.

Case No. 5206--Fred & Jean McElwee - South side of Dogwood Road, 180 feet southeast of Wood Duck Road in Pot Nets Mobile Home Park, which is at the end of Route 22C, 1/2 mile south of Route 22.

A variance from the setback requirements from lot lines within a non-conforming mobile home park.

The case was presented by Mr. Betts. Fred McElwee and Walter Niblett, a neighbor, were sworn in and testified requesting a 3' variance from the 5' side property line for a carport/shed on Mr. McElwee's lot, being Lot 560 in Pot Nets Mobile Home Park. It was stated that an existing shed is to be removed. It was also stated that the Association in Pot Nets has approved the use. They testified that there are other similar situations in the park.

There were no parties present in opposition.

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

OLD BUSINESS

Case No. 5173 (cont'd.)--Richard K. & Judith S. Johnson - South side of Route 54, one mile west of Route One, Lot 23, Blk. 5, within Cape Windsor.

A variance from the side yard setback requirement.

The case was reviewed by Mr. Betts.

After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the variance be granted, finding that the applicants could not fit the replacement manufactured home on the property without a variance. A hardship has been created due to the lot size.

OTHER BUSINESS

Case No. 5191 - Richard Sharp

Request for re-hearing.

Mr. Betts stated that a letter had been received (which he read into the record) from Land Tech, Jeff Clark, requesting a re-hearing for Case No. 5191 that was denied on October 4, 1993, because no one appeared to represent the case.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously to grant a re-hearing on Case No. 5191 and the fee be paid by the applicant.

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

Meeting adjourned at 8:15 P. M.