

Minutes of November 1, 1993

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, November 1, 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 18, 1993 be approved as circulated.

Case No. 5207--George V. Brown - South side of Route 54, 50 feet northeast of Route 381, Lot 286, within Keenwick Sound Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. George Brown was sworn in and testified, requesting a 10' variance from the front yard setback of 30' to build a garage. Mr. Brown stated that the garage has already been started. There was some confusion about the setback requirement due to the fact that Keenwick Sound has a setback of 30' from the roadway (street) and the County has a setback of 30' from the property line. The garage has been measured from the roadway, therefore, a variance is needed. Mr. Brown had a sketch approved by the Keenwick Association noting that the garage meets their requirements for the front yard setback.

Mr. Betts read correspondence from Larry E. Stewart, a property owner in the area, stating he is in favor of the variance requested. He also read correspondence from the Keenwick Sound Homeowners Association, Joseph H. Nichols, President, voicing their opposition to the variance.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the case be tabled until the next regularly scheduled meeting.

Case No. 5208--Brenna & Terry Pizzaia - East side of Route 497, 1,750 feet north of Route 24.

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. Brenna Pizzaia was sworn in and testified, requesting to keep a 1977, 14'x 70' manufactured home on property she is under sales contract to purchase for her residence. The manufactured home was placed on the property as an on farm unit. The property is being subdivided and sold with the

manufactured home on it. Ms. Pizzaia stated that there are other manufactured homes in the area, but the area consists of mostly farmland.

Phil Ellis was sworn in and testified that he is the owner of the property and is in favor of the manufactured home. He stated that the applicant is a family member and the property is being subdivided for her and there is no more land to be subdivided.

There were no parties present in opposition.

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. Wheatley and carried unanimously that the special use exception be granted, finding the use would have no adverse affect on the neighborhood.

Case No. 5209--Sarah Louise Evans - East side of Route 562,  $\frac{1}{4}$  mile south of Route 34.

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. Sarah Louise Evans was sworn in and testified, requesting to place a 1994, 14'x 70' manufactured home on her property for her residence. She stated that she had had a house on the property that was destroyed by fire and she would like to place the manufactured home to live in. She stated that the unit will not be rented out, she will live in it. The manufactured home has been placed on the property but is not occupied. She stated that there are two other manufactured homes in the area, one within 200' and the other within  $\frac{1}{2}$  mile.

Areatha Evans was sworn in and testified in behalf of the application. She stated that family members owned property in the area and they want the applicant to live near them.

There were no parties present in opposition.

Motion was made by Mr. Mills, 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. Wheatley, seconded by Mr. Mills and carried unanimously that the special use exception be granted, finding that the manufactured home will conform to the area, that there is a hardship situation since her home burned down and she needs the manufactured home economically.

Case No. 5210--Derrel A. & Jean R. Johnson - North side of Garden Lane, 725 feet west of Route 13A, Lots 16, 17 and 18, within Green Acres 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. Derrel Johnson was sworn in and testified, requesting to place a 1994, 28'x 58' manufactured home on property he under sales contract to purchase for his residence.

Robert F. Ryder, owner of the property (subdivision), was sworn in and testified stating that he purchased the subdivision in 1988 as it is currently zoned, with part of the subdivision being GR (which permits manufactured homes) and part zoned AR-1 (which does not permit manufactured homes on less than five acres). The property Mr. Johnson is purchasing is in the AR-1 zoning and needs approval from the Board to place the unit on it. There are double-wide units on the other lots. A plot was shown by Mr. Ryder and explained.

Mr. Betts stated that Green Acres is 75% GR and the remainder is AR-1.

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, finding the use will not adversely affect the neighborhood.

Case No. 5211--Catherine Harmon - South side of Route 88, 548 feet east of Route 261.

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. Catherine Harmon and Willey Davis, Jr. were sworn in and testified. Ms. Harmon requested to place a 1990-91, 14'x 70' manufactured home on her property for her residence. She testified that the property is family ground that has been subdivided. She stated that there is nothing on the remaining lots. It was stated 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. Callaway 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 special use exception be granted, finding that the surrounding area is family members and the manufactured home will not adversely affect those properties.

Case No. 5212--Robert F. Ryder, Jr. - North side of Route 567, on the east side of the intersection of Route 568.

A variance from the lot width requirement.

The case was presented by Mr. Betts. Robert Ryder, Jr. was sworn in and testified, requesting a 100' variance from the 150' lot width requirement to create a new parcel. Mr. Rider owns a large parcel of land and wants to create a smaller parcel to build a home on. He is having difficulty financing the larger amount of land to be able to build his home. A smaller parcel is needed to finance with the bank. The manufactured home that is presently on the acreage will be removed when his home is completed.

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.

Case No. 5213--Robert E. Ribinsky - On a private road, 1,200 feet south of Route 298A.

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. Robert Ribinsky and Joseph Ribinsky, father, were sworn in and testified. Robert Ribinsky is requesting to place a 1990, 14'x 70' manufactured home on property to be deeded to him by his father, for his residence. Robert Ribinsky testified that he has a brother next to the property. Joseph Ribinsky stated that he wants to be able to give his son 2½ acres if he can put the manufactured home on it. They testified that there are other manufactured homes in the area and that a 50' right-of-way has been provided for the new parcel of land.

Mr. Betts questioned Mr. Ribinsky about the 50' right-of-way since it was not showing on the tax map.

Jose Rieb, III was sworn in and testified in behalf of the application. Patty Rininsky was sworn in and testified in behalf of the application.

There were no parties present in opposition.

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 special use exception be granted, finding the use will have no affect on the surrounding area or neighbors.

Case No. 5214--William A. Wells & Leslie J. Cooper - Southwest side of Route 288A, ¼ mile west of Route 24, Lot 4, within Lochwood Subdivision.

A variance from the height requirements for a fence.

The case was presented by Mr. Betts. William A. Wells & Leslie Cooper were sworn in and testified, requesting a variance from the height requirement for a fence on Lot 4, Lochwood Subdivision. The applicants stated that they had erected a fence on their property seven foot high in the front yard. The Zoning Inspector informed them they were in violation since a fence can only be 3½' in height in the front yard. A permit had not been obtained, the applicants thinking they did not need one. The applicants proceeded to take down a portion of the fence and then decided to apply for a variance to be able to keep the fence at 6' in the front yard. They requested a 20'6" variance to be able to keep the fence 6' high in the front yard. There is still a portion of the fence higher than the 3½' required.

Mr. Betts explained that the first 30' back on the property a fence cannot exceed 3½' in height.

The applicants stated that the fence is only down one side of the yard. They stated that the stockade fence will not block view of the road or visibility of their neighbor since they have a circular driveway. The fence is needed for privacy and to keep their animals in the yard.

Arthur Ramono was sworn in and testified in opposition, stating that he is a neighbor. He feels the fence is in violation and that since the fence is down one side of the yard it will not keep the animals in. He also testified that in his deed there is a restriction of 5' for a fence. Mr. Romano who is the adjoining neighbor, stated that the fence is unsightly in appearance. He would like the applicants to abide by the County law.

Ethel O'Rourke, an area property owner, was sworn in and testified in opposition. She stated that other parties in the subdivision had to comply with the fence law by lowering their fence and she feels the applicants should do the same. She feels the laws should be the same for everyone.

Mr. Betts stated that when a permit was issued to the applicants for their fence, it was issued with the correct height requirements. He stated that the applicants had cut-off a portion of the fence but not enough.

Ms. Cooper stated that the fence was installed prior to a permit being obtained and they are not aware of any Association in the subdivision. She feels the fence does not detract from the neighborhood.

Motion was made by Mr. Wheatley, 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. Wheatley and carried unanimously that the variance be granted for the amount necessary to keep the fence as it is.

Case No. 5215--Earl Orth, III - South side of Route 238, 1,300 feet west 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 and a variance from the lot width requirements.

The case was presented by Mr. Betts. Earl Orth, III was sworn in and testified, requesting to place a manufactured home on his property for his son to live in and a variance from the lot width requirements to create a new lot for his son to place a manufactured home on. The applicant wants to create two lots, give his son one lot and keep the other for himself. He proposes to put a manufactured home on the one lot for his son. The lots will remain in Mr. Orth's name. Mr. Orth plans to build on the remaining lot.

Fred Gunn and Francis Prekup were sworn in and testified in favor of the application.

There were no parties present in opposition.

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. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception and variance be granted, finding the uses will not adversely affect the adjacent properties.

Case No. 5216--John P. Ferguson, Jr. - North side of Route 313, 700 feet east of Route 313A, Lot 55, Block A, within Warwick park Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. John Ferguson, Jr. was sworn in and testified, requesting a variance from the front yard setback requirement for a garage that has been constructed on the property. Mr. Ferguson requested a 2.06' variance from the 30' front yard setback, on Lot 55, within Warwick Park. He testified that the measurements were done from the stakes on the property and not realizing the circular area on the rear of the property. He showed pictures of the property. Mr. Ferguson has a through lot with two frontages. Mr. Ferguson stated that there is an Association in the development. The garage has been built since 1987 and the error was discovered when a survey was done for refinancing.

Mr. Betts stated that no correspondence from the Association had been received. Mr. Betts also referenced a variance is needed, for a second story deck, of 1½' from the side yard setback requirement.

There were no parties present in opposition.

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. Wheatley, seconded by Mr. Callaway and carried unanimously that the variance be granted, finding the structure has been built since 1987, would not have discovered it if the applicant had not refinanced and due to the odd shape of the lot.

Case No. 5217--George L., Jr. & Kathleen Kist - Southeast side of Route 448, 2,000 feet northeast of Route 62.

A special use exception to place a manufactured home in an AR-2 District on less than five acres for a permanent residence.

The case was presented by Mr. Betts. George, Jr. & Kathleen Kist were sworn in and testified, requesting to place a 1994, 28'x 52' double-wide manufactured home on their property for their residence. They testified that there are 3 stick-built homes and 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, finding the use will not adversely affect the area.

Case No. 5218--James E. & Juanita J. Willey - West side of Route 13A,  $\frac{1}{4}$  mile south of Route 470.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. James & Juanita Willey were sworn in and testified, requesting a 3'6" variance from the side yard setback requirement of 10' to have an addition conform to the present house. The applicants stated that they will tear off a portion of the house and build back in the same area, but will bring the addition up even with the house. It was stated that the house was built in 1947.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, 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 Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the variance be granted, finding the use will not adversely affect the area.

Case No. 5219--Mary Rash - Southwest side of Route One, 2,200 feet southwest of Route 283.

A special use exception to place a manufactured home to be used for security and business purposes and a variance from the minimum size for a manufactured home.

The case was presented by Mr. Betts. Mary Rash was sworn in and testified, requesting to place a manufactured home on property where she has a business, Farmer Girl Exotic Gardens, for security, and also requested a variance from the minimum size for the manufactured home. Ms. Rash wishes to use a 38' travel trailer on the property, where a 450 sq. ft. manufactured home requirement is needed according to the Zoning Code. Ms. Rash will reside in the travel trailer for six months each year, since her business is seasonal and open from May 1 to October 31. Ms. Rash has to feed the baby birds she raises throughout the night. Ms. Rash stated that the travel trailer has been on the site since 1986 and she would like to leave it on the property year round. The unit provides security for the business as well as temporary living quarters for the applicant. The utilities are hooked-up to the building (business) on the property.

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 and variance be granted for security purposes for a period of five (5) years, finding that the unit has been on the property for a number of years.

#### OLD BUSINESS

Case No. 5199 (cont'd.)--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 reviewed by Mr. Betts.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the variance be denied, finding the applicant could build in the rear of the property or move the building and could have built the original building to meet the setbacks.

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

Meeting adjourned at 8:48 P. M.