

Minutes of November 2, 1992

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, November 2, 1992, in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 6:55 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. Rickard-Zoning Inspector.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the minutes of October 19, 1992 be approved as circulated.

Case No. 4936--J. Neil Kasley - Northwest side of Route 68, across from Route 454B.

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. Rickard. J. Neil & Audrey Kasley were sworn in and testified, requesting to place a new 14'x 70' or 72' manufactured home on property they are purchasing for a permanent residence. They testified there are other manufactured homes in 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.

Case No. 4937--Mildred Hastings - West side of Route 510, 400 feet north of Route 515.

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

The case was presented by Mr. Rickard.

There were no parties present in behalf of this case. At the end of the public hearings the Chairman referred back to this case.

Mildred & John Hastings were sworn in and testified, requesting to place a second manufactured home on her property for her grandson, who will work on the farm. The existing manufactured home is occupied by another grandson who also works on the farm. Mrs. Hastings lives in a house on property across the road.

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. 4938--Robert W. Calloway - West side of Route One, $\frac{1}{4}$ mile northeast of Route 9, Lot A-30, within Nassau Park.

A variance from the setback requirement between units in a manufactured home park.

The case was presented by Mr. Rickard. Robert Calloway was sworn in and testified, and was represented by Jim Yori, Attorney. Mr. Calloway requested a 4' variance from the 20' setback requirement between units to be 16', on Lot A-30, Nassau Park. The applicant proposes to build a 76 sq. ft. handicap ramp on his manufactured home, due to medical problems. A handicap permit was presented. The handicap ramp is off-set from the manufactured home due to the location of an air condition unit on a concrete pad. Mr. Calloway has lived on the property for 15 years. He feels there are unique circumstances and the variance will not alter the essential character of the neighborhood.

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. 4939--Edward Carney - South side of Route 54, one mile east of Route 58C, Lot 8, Blk 6, within Cape Windsor.

A variance from the maximum lot coverage requirement in a manufactured home park.

The case was presented by Mr. Rickard. Edward & Joyce Carney were sworn in and testified, requesting a variance from the 35% lot coverage in a park, being Lot 8, Block 6, Cape Windsor. The applicants propose to place a hot tub on their property. They will cover 1703.3 sq.ft. of area, they are permitted 1575 sq. ft., therefore, they are requesting a variance of 128.3 sq. ft. The hot tub will be beneficial to the applicants since they suffer from arthritis.

Clarence Stonesifer, builder was sworn in and testified in behalf of the case, explaining that they will close in the off-set on the house and will meet all of the setbacks from the property lines.

A letter from a doctor was read into the record by Mr. Rickard, referencing Mr. & Mrs. Carney's arthritic condition.

Mr. Jones, Attorney, read a letter from the Cape Windsor Association stating no objections if the applicant's maintain a 15' setback from the lagoon. The County setback requirement is 10'.

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, subject to meeting all County property line setbacks.

Case No. 4940--Key Box 5 Operative, Inc. - West side of Route 357,
across from Route 360, within Lynn Lee
Village Mobile Home Park.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Kathleen McCormick and Candice Ann Casey were sworn in and testified, representing Key Box 5 Operative, Inc., who requested a 4' variance from the 5' side yard setback for manufactured homes on each lot in Lynn Lee Village Mobile Home Park.

Mr. Wheatley did not participate in this hearing, due to a possible conflict of interest.

The applicants testified that when they purchased the park there was a master plan done by Mrs. Steele (a previous owner), on September 30, 1988 and there was also a survey done by Mann Associates, and they do not match. There are no property markers on the lots to establish property lines. They also stated that they appeared in front of the County Council to request being grandfathered in. There however, is a utility box on the right property line that they would like to use to establish a property line. If the survey done by Mann Associates is used the manufactured homes would have to be moved and it would put them over the septic and electric systems. It will also be very costly to the tenants. According to the applicants the violations have existed for 25 to 30 years. A variance is needed so that when new units are brought in the setback can remain as they are now, and not have to comply with today's setbacks. They want the park to remain as it is today. There are 87 lots in the park with varying lot sizes. Six of the lots owned by Key Box 5 Operative, Inc. and 70 of the sites with 99 year leases that all expire the same day. All of the leases started the same day. When the lease hold is sold the tenant gets the profit and all leases are recorded, according to the applicants. They are requesting a 4' blanket variance for each lot in the park.

Mr. Jones, Attorney, read letters of opposition from Joe and Ginny Stafford and Michael & Gail Butcher.

William E. Cardash was sworn in and testified in opposition reading a letter with comments he had prepared. He is concerned about lot lines having not been resolved, the validity of the plot of the park. He feels it would be premature to issue a variance until the lot lines have been properly established. He is not opposed to the utilities being used as property markers if the leases are changed to reflect such and properly recorded. He stated that the lots have not been staked and he wants an official determination of property lines. He wants them resolved without moving units. The problem has caused legal problems across the park according to Mr. Cardash.

Salvatore Francis Mancari was sworn in and testified wanting the variance explained. He expressed concern about a blanket variance for the park.

Lois Dolby was sworn in and testified summarizing the parks beginning and present owners. She referenced a survey recorded and two different maps of the properties with different lot sizes. One map is used by DNREC. She questioned which map they are to use to

have something done on their property or for their bulkhead. She wants Key Box 5 to correct or have a proper survey done and recorded. She does not feel anything can be resolved until properly corrected. She referenced a list of things she felt should be done.

Mr. Mancari questioned how the Board can give a variance without the people with 99 year leases giving their approval.

Ruth Evelyn Stapleford was sworn in and testified that she purchased her lease before the present owners purchase the park.

There were 25+ people present in opposition.

Harold Barber was sworn in and testified and questioned if the variance asked for would cause moving the septic or manufactured home.

The applicants stated they want to keep the park as it is, as Mrs. Steele had it, with the 1' setback from the side property line.

Mr. Mancari stated he feels each person should be canvassed as to what they want.

Richard B. Jefferson was sworn in and testified that the Mann Associates Plan is wrong and that Mrs. Steele's original plan should be on record.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be taken under advisement, with Mr. Wheatley abstaining. Motion carried with four voting in favor and one not voting.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Callaway and seconded by Mrs. Hudson that the case be tabled to give Mr. Jones time to do research on the park, with Mr. Wheatley abstaining. Motion carried with four voting in favor and one not voting.

Case No. 4941--Marie Pierce - On a private road on the east side of Route 279, 800 feet north of Route 279A.

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

The case was presented by Mr. Rickard. Dennis Reardon, Attorney, was present representing Marie Pierce who requested to place a manufactured home on her property on basis of hardship for her grandson to live in to help care for her. A letter from a doctor was referenced pertaining to Mrs. Pierce's health. Mrs. Pierce resides in the existing manufactured home. Mr. Reardon stated that there are other manufactured homes in the area.

Mr. Jones read the letter into the record from the doctor.

It was explained that a hardship approval has to be renewed every two years and the manufactured home must be removed when the hardship ceases.

Walter G. Sinclair was sworn in and testified questioning where the manufactured home will be placed on the property. He explained that the grandson had lived there before. He has concerns about the property being properly maintained. He has no objection if the property is maintained.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the special use exception be granted on the basis of hardship for a period of two (2) years.

Case No. 4942--Jeffery M. & James Davenport - South side of Route 490, one mile northeast of Route 490A.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Jeffery & James Davenport were sworn in and testified, requesting a 6' variance from the 40' front yard setback to be 34' for an accessory building they built on their property. They testified they made an error in measuring.

Roland Downs was sworn in and testified in opposition. He presented pictures of the building and read a prepared statement. He stated that he lives adjacent to the applicants. He referenced a permit obtained by the applicants for a garage. He stated that the structure looks like a Cape Cod residence, and has no door to accommodate a car.

The applicants stated that there had been a mistake on the building permit and they had it corrected. They stated that there is no one living in the accessory structure and there is no kitchen or plumbing in it. They have a two car garage and small shed already on the property. They stated that they have no intention of making the accessory building into a dwelling. The applicants testified that they belong to a drag race club and they build and repair engines for themselves and others.

Mr. Downs questioned the legality of the engine work.

Eleanor Downs was sworn in and testified in opposition, stating she owns property across the road and the use on the applicant's property could hinder the sale of their property should they decide to sell. She also questioned the residential use.

The applicant stated that they do not rebuild the engines for money, they are only rebuilding engines for their drag club. They have no commercial business to make a profit.

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

Case No. 4943--Diane Lofland - East side of Route 525, 1½ miles south of Route 18.

A special use exception to operate a Day Care Facility.

The case was presented by Mr. Rickard. Diane Lofland was present and affirmed. She requested to operate a Day Care Facility for 7 to 11 children, all ages up to age 18. She will use an old family dwelling for the facility, but she does not live in the home. She stated she must have at least one (1) employee at all times. She will operate from 5:30 A.M. to 5:30 P.M. or start earlier if needed. She would consider later hours if needed. A petition and letters of support were presented. Mrs. Lofland stated she will operate a Christian Day Care Facility and feels there is a need in the area for the facility.

Mr. Jones, Attorney, explained to the applicant that she will be limited to a "Day" Care Facility only, according to the Zoning Code. She would not be able to operate at night.

Mr. McCabe stated that there were seven letters and a petition with eight signatures.

There were no parties present in opposition.

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

Case No. 4944--Gary L. & Norma J. Hickman - West side of Route 5, 50 feet north of Route 293.

A variance from the minimum lot width requirement.

The case was presented by Mr. Rickard. Gary & Norma Hickman were sworn in and testified, requesting a variance from the lot width and lot size requirements. The applicants testified they will purchase an extension of the rear of the property and will move a property line to alleviate a garage being on two separate parcels.

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.

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

Meeting adjourned at 9:21 P. M.