

Minutes of November 4, 1996

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, November 4, 1996 in the Court of Chancery, 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. Callaway, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Schrader-Attorney, Mr. Betts-Zoning Inspector III and Mrs. Talley-Planning & Zoning Secretary.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of October 28, 1996 be approved as circulated.

Mr. Schrader read a statement pertaining to how the Board of Adjustment meetings are conducted and the procedure for hearing the cases.

Case No. 6158--Marjorie Todd - West side of Route 309, 1/4 mile north of Route 308, Lot 2.

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. Marvin Morris, property owner, was sworn in and testified representing the applicant and was represented by David Rutt, Attorney, with Moore & Rutt. Mr. Rutt stated that the first four cases were all in the same area and the properties were owned by Mr. Morris. He requested that all four cases be consolidated.

Mr. McCabe asked if anyone present was opposed to the consolidation of Case No. 6158, 6159, 6160 and 6161, the first four cases.

There were no objections.

Mr. Schrader, Attorney, stated that since there were no parties opposed to the consolidation of the cases, it could be done.

Mr. Rutt referenced the Code pertaining to special use exceptions. He stated that all lots meet the size requirements according to the Zoning Code. In answer to questions asked by Mr. Rutt, Mr. Morris stated that he lives in Millsboro, Delaware and is owner of the lots where the applicants want to place manufactured homes. He stated that all of the lots are subject to sales agreements, and they are less than five acres in size. The lots are 3/4 acre to 1 acre in size. The manufactured homes have to be at least a 1989 or newer and 16'x 70' or 28'x 40' in size.. He

feels the uses will have no adverse affect on adjacent properties, since the area is primarily manufactured homes. Pictures were presented into the record showing properties in the area that have manufactured homes on them. Mr. Morris stated that three of the people are renters. He feels this will enable the applicants to become property owners. Mr. Morris lives in the area and owns other lots there also.

There were no parties present in opposition.

Mr. Mills asked if there were any stick-built homes in the area or is the majority manufactured homes.

Mr. Morris stated that his home is stick-built and there may be two others in the area.

Glendon Hall was sworn in and testified questioning the applicants statement about the renters.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for Case No. 6158, 6159, 6160 and 6161, finding that the uses will not adversely affect the area.

Case No. 6159--James Speight - West side of Route 309, 1/4 mile north of Route 308, Lot 3

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

This case was heard with the previous Case No. 6158. All testimony presented in Case No. 6158 was incorporated into this case.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exceptions be granted for Case No. 6158, 6159, 6160 and 6161, finding the uses will not adversely affect the area.

Case No. 6160--Marilyn G. Hall - West side of Route 309, 1/4 mile north of Route 308, Lot 1.

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

Minutes
11/4/96

The case was heard with the previous Case No. 6158. All testimony presented in Case No. 6158 was incorporated into this case.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exceptions be granted for Case No. 6158, 6159, 6160 and 6161, finding the uses will not adversely affect the area.

Case No. 6161--Tracey Turner - West side of Route 309, 1/4 mile north of Route 308, Lot 4.

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 heard with the previous Case no. 6158. All testimony presented in Case No. 6158 was incorporated into this case.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for Case No. 6158, 6159, 6160 and 6161, finding the uses will not adversely affect the area.

Case No. 6162--County Development Assoc. - Northeast side of Route One, 800 feet south of Route 275A.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Michael LaPenta and Dale McAllister were sworn in representing this application. Mr. McAllister stated that he is with Kent Signs and was representing County Development Assoc., who requested a variance from the requirements for signs, for one ground sign to advertise a business in a shopping complex. The tenant, Casapullas's South, wants to place his business to the rear of the complex. He feels the business in the back may not be seen from the highway. There are other businesses located in the front. Mr. McAllister stated that the sign will have a maximum height of 25'. He testified that the applicants had previously been before the Board for another sign. Drawings were shown on how the sign will look.

There were no parties present in opposition.

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

Case No. 6163--Hudson Homes of Rehoboth - East side of Route 274,
Lot 13114, within Rehoboth Bay MHP.

A variance from the setback requirements in a
mobile home park.

The case was presented by Mr. Betts. Roscoe T. Riffe, II was sworn in and testified representing this application. The applicants requested a 5' variance from the 20' setback requirement from an existing shed on an adjacent lot to be 15'. The applicant is putting a new double-wide manufactured home with a 10'x 21' addition on Lot 13114, within Rehoboth Bay MHP. The manufactured home has not been placed on the property yet.

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. 6164--Raymond Strachnick - South side of Route 17, 1,100
feet west of Route 561.

A variance from the front yard setback requirement.

This case has been rescheduled.

Case No. 6165--Gerald T. Elliott - North side of Route 499, 243.55
feet east of Route 13A, part of Lot 7.

A variance from the lot depth requirement.

The case was presented by Mr. Betts. Gerald T. Elliott was sworn in and testified, requesting a 30' variance from the 100' lot depth requirement for a new lot. Mr. Elliott stated that he wants to create a new lot to the rear of his mother's property to keep school buses on. His mother has become ill and they propose to sell the front portion to help fund his mother's care.

Mr. Betts stated that four letters of support had been received from: Virginia Hill, Arthur Dukes, Sr., Grace Collins and Jay A. Hill.

There were no parties present in opposition.

By a show of hands there were three (3) neighbors present in favor of the application.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the variance be granted, finding that the variance will not adversely affect the neighborhood.

Case No. 6166--Americ Inn Rehoboth Beach - South side of Route
275A, 250 feet southwest of Delaware
Route One.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Ted W. Watkins, owner of the motel, was sworn in and testified representing the application. Mr. Watkins requested a 25' variance from the maximum allowed height for a sign. The proposed sign will be 50' tall to the highest point and 96 sq. ft. in size. Mr. Watkins stated that he needs the sign to increase visibility and drive-by traffic. He has had complaints that his motel cannot be seen from highway due to other structures in front of it. Pictures were presented showing the property. The sign will be lighted.

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. 6167--Environmental Recyclers Association - North side of
Route 333, adjoining Penn Central tracks.

A special use exception to operate a temporary
portable crushing plant.

The case was presented by Mr. Betts. Glenn Thoroughgood and Richard Codrington were sworn in and testified representing the Environmental Recyclers Association, who requested to operate a temporary portable crushing plant, which will crush for resale hardened concrete. It was stated the plant takes away from land fills. Prepared material was presented to the Board. He stated that an air permit was applied for from the State, but Board approval is needed first. They have one rental home near the site. He testified that there will be little noise. He stated that the concrete is put in a hopper and drawn down to the crusher, and at the end of the cycle there is a small amount of noise. Dust suppression for the plant operation is by water spray at the crusher and on belt transfer points. As far as truck traffic the machine can put out 100 tons per hour, up to 800 ton per day everyday, but not eight hours per day everyday. There is a concrete mixing plant already on the site now.

Mr. Mills questioned the hours of operation.

It was stated that the plant will operate 5 1/2 days per week with hours from 7:00 A.M. to 4:00 P.M.

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. 6168--Percey J. Lake, Jr. - West side of Route 562,
1/2 mile south of Route 404, Lot 9,
within Wheatley Farms, Inc.

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. Dale Wheatley was sworn in and testified representing Percey J. Lake, Jr., who requested to place a 1996 or 97, 28'x 60' double-wide manufactured home on property he is purchasing for his use, being Lot 9, within Wheatley Farms, Inc. Mr. Wheatley stated that the manufactured home will be put on a concrete foundation. He stated that there are other manufactured homes in the area. There is farmland across the road and to the rear of the property.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for a new double-wide manufactured home on a permanent foundation.

Case No. 6169--John Scott Dennis - South side of Edgewood Avenue,
1/4 mile east of Route 468, Lot 5, within
Sussex Estates.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. John Scott Dennis was sworn in and testified, requesting a 5' variance from the 15' side yard setback requirement for an attached 24'x 32' garage. Mr. Dennis stated that there is no other place on his lot to place the garage, the lot being Lot 5, within Sussex Estates. Mr. Dennis stated that there is no Association in the development and there is no problem with his neighbors.

Mr. Betts stated that no correspondence had been received pertaining to this case.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that a 5' variance be granted.

Case No. 6170--Catherine Harmon - South side of Route 88, 200 feet east of the intersection with Route 261, Lot 3.

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 Willie Davis were sworn in and testified. Ms. Harmon requested to place a 1977, 12'x 65' manufacturd home on property for her use. She testified that a manufactured home was approved for her previously, but it turned out to be approved on the wrong lot. She is requesting approval for the correct lot now.

Mr. Betts stated that what the Board approved before was what was requested.

Cathy Kiernan was sworn in and testified in opposition. She stated that she purchased her home two years ago and felt the zoning would be upheld. She feels it will adversely affect and devalue her property. She stated that there are homes in the area.

Calvin Mitchell was sworn in and questioned the zoning of the property. He stated that everyone around the area has stick-built homes. He lives next door to the applicants property. He stated that there are two other manufactured homes in the area.

Theodore Sturgis was sworn in and testified in opposition, stating they do not need manufactured homes in the area, that there is all stick-built homes in the area. He does not want his property depreciated. He stated that the manufactured home put on the property is on hardship. Mr. Sturgis lives in the area.

Mr. Betts stated that the manufactured home applied for was not on hardship basis.

By a show of hands there were seven (7) people present in opposition.

Mr. Davis stated that when the application was previously applied for, there was no opposition, and now there is. He questioned why the people in opposition did not speak up the first time.

Mr. Betts stated that the previous application was applied for on one parcel that now has been subdivided. He explained the location of the previous manufactured homes applied for.

Elsie Young was sworn in and testified that the when the first

public hearing was held, she did not receive a letter. She stated that what Ms. Harmon has on the property now is not in good condition and she does not approve of it. She hopes that if she plans to put anymore on the property it will be better than what is there now.

Mr. Davis stated that the manufactured home will be remodeled.

Mr. Mills questioned the lots and the approvals given.

Mr. Betts stated that the property had two approvals and one was placed. The lot was approved for subdividing. One manufactured home can be placed on the property now.

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 Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting on November 18, 1996.

Case No. 6171--Jackie Steiner - East side of Route 319, 1,800 feet north of Route 18.

A special use exception to operate a Day Care Center.

The case was presented by Mr. Betts. Jackie Steiner was sworn in and testified, requesting to operate a Day Care Center for approximately 35 children. The Day Care Center will operate from Monday through Friday, from 6:30 A.M. to 5:30 P.M., for children ages 2 years to 5 years. She stated that she does not reside on the property and there is nothing on the adjacent property.

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.

Case No. 6172--Sarah D. Washington - East side of Route 113, 1,800 feet south of Route 625.

A special use exception to operate a Day Care Center.

The case was presented by Mr. Betts. Sarah D. Washington was sworn in and testified, requesting to operate a Day Care Center.

She stated that she presently has a Day Care Center in a building she is leasing and has to move. She will move to another building approximately 1500 feet south of where her present Day Care Center is now. She wants to accommodate 50 children. She now has 36 children, 28 full time and 8 after school. She operates from 6:00 A.M. to 6:00 P.M., sometimes later. She will have 3 full time employees and 2 parttime, herself and a cook.

Jenny Washington was sworn in and testified in behalf of the application. She stated that the Day Care Center is needed and she is already operating now and has to move.

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. Wheatley, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting on November 18, 1996.

OLD BUSINESS

Case No. 6132 (cont'd.)--Nanticoke Homes, Inc. - South side of Route 38, 165 feet east of Road 619A, formerly Windsor Crest.

A variance from the minimum lot width requirement.

The case was reviewed by Mr. Betts.

After some discussion, motion was made by Mr. Mills that the variance be granted, with a condition that there be no more than three (3) entrances.

The motion died due to lack of a second.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley that the variance be denied, finding the use will adversely affect the neighborhood, with Mr. Mills voting nay. Motion carried with four voting in favor of denial and one voting against denial. Vote 4-1.

Case No. 6153 (cont'd.)--Pica T. & Victor A. Buckley - East side of Route 364A, 1,950 feet southwest of Route 364B.

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 setback requirements for a poultry house from a dwelling not on the premises.

The case was reviewed by Mr. Betts.

Mr. McCabe stated that the Realtor had called and said that the property has not been placed on the market.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted to keep the manufactured home on the property, with Mr. McCabe voting nay. Motion carried with four in favor and one in opposition. Vote 4-1. The variance request was not needed.

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

Meeting adjourned at 8:20 P. M.