

MINUTES OF NOVEMBER 16, 1992

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening, November 16, 1992 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 Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of November 2, 1992 be approved as circulated.

Case No. 4945--Della M. Bramble - South side of Route 462, 3,200 feet east of Route 461.

A variance from the setback requirements for a private stable.

The case was presented by Mr. Betts. Della Bramble was sworn in and testified, requesting a 35' variance from the 50' side yard setback requirement for an existing horse barn. The applicant has a barn for one horse on their property. The barn was built without a building permit, because the applicant stated she did not know a permit was needed, having just moved here. The adjacent property is a field and Ms. Bramble stated she has had no complaints from the neighbors. She stated that if approved she will obtain a permit.

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.

Case No. 4946--Charles Hearn - South side of Route 78, 200 feet southeast of Route 487.

A special use exception to place 2 manufactured homes to be connected as one single family unit, and a special use exception to place a manufactured home on a hardship basis.

The case was presented by Mr. Betts. Charles Hearn was sworn in and testified, and was represented by Robert Wolhar, Attorney. Mr. Hearn requested to connect two manufactured homes together to become one unit and to place a manufactured home on his property on basis of hardship for James and Carolyn Turner to live in. The two manufactured homes have already been connected together. Pictures were presented. The manufactured home to be used for Mr. and Mrs. Turner has been placed on the property, but is not in use. It was stated that Mr. Turner is disabled, due to a back injury, and not able to work. He and Mrs. Turner presently live in a home across the road from the Hearn property, but feel the house needs repair. Mr. Hearn proposes to rent the manufactured home to Mr. & Mrs. Turner for \$100.00 a month. Mr. Hearn has a salvage business on the

property and stated that Mr. & Mrs. Turner have helped look after the business for him for a long time. Mr. Hearn lives on a separate 5 acre parcel that was created from his acreage. Mr. Hearn stated that he does not feel his request will adversely affect his neighbors. He testified that woodland and farmland primarily surround his property. He stated that the ages of the manufactured homes are 1975 and 1972. The one manufactured home has been on the property since 1983. The one moved on, to house the Turner's has been there a short time. The existing manufactured home that has been connected to another unit is occupied and rented to a Mr. Collins. Mr. Hearn testified that he had no permit to connect the units. He stated that he will remove the second manufactured home that has been connected. Mr. Collins does not work on the property. The salvage yard is non-conforming. Both units will be rented. The units are 12' wide.

Mr. Wolhar presented a copy of a survey and explained where the manufactured homes are located. He stated that they are not visible to most people.

Carolyn & James Turner were sworn in and testified in behalf of the application. Mr. Turner stated that he was injured in 1977 and is disabled. He testified that he has looked after Mr. Hearn's property for 16 to 17 years.

Everett Moore, Attorney, was present and represented Mr. & Mrs. Marine who have property adjacent to the applicant. They are opposed to the request.

Bruce Marine was sworn in and testified in opposition, stating he lives directly in front of the applicant. Mr. Marine stated that the manufactured home was put on Mr. Hearn's property without proper permits. He feels the use will devalue his property. He explained how Mr. Hearn's property is and he testified that he can see the manufactured homes from his property. He presented a petition with signatures of people opposed to the request. Mr. Marine testified that he had contacted Donald Smith an Appraiser and submitted a letter with Mr. Smith's findings. Mr. Smith in his letter feels the manufactured home will devalue Mr. Marine's property. Mr. Marine testified that the road Mr. Hearn has provided to the manufactured homes is not a 50' right-of-way.

Mr. Betts read the letter from Donald Smith into the record.

Mrs. Myrna L. Marine was sworn in and testified in opposition, stating she is Bruce Marine's wife. She testified that they have spent \$28,000.00 on their home for improvements and they can see the manufactured homes from their sunroom. She stated that they are not opposed to manufactured homes, but feel Mr. Hearn will not keep them up. She feels Mr. Hearn could place the Turner's in another location that he owns. She testified that Mr. Hearn has acted in a spiteful manor since inquiring as to his intent and has put a manufactured home up next to their property line. Pictures were presented.

Douglas K. Morgan was sworn in and testified in opposition, stating that Mr. Hearn's junk yard is an eyesore and he is concerned

about the property becoming a manufactured home park, and that the Hearn property is not fenced in where the junk yard is.

There were 30+ people present in opposition by a show of hands.

Mr. Betts read the petition with approximately 80 signatures into the record, that had been presented.

Gary Keith Marine was sworn in and testified in opposition. He stated he is one of the Trustees of the adjacent property. He feels there is not really a hardship with the Turner's. He also feels Mr. Hearn could assist the Turner's to live elsewhere on property nearby. He feels that more manufactured homes will have an impact on the neighbors. He stated that there is bad feelings between neighbors.

Shirley M. Webb was sworn in and testified questioning if the hardship has to be for a family member.

Nancy Wills was sworn in and testified in opposition, stating she has a poultry farm and had to have all permits.

John Murphy was sworn in and testified in opposition stating he lives in the area approximately  $\frac{1}{4}$  mile away, down the road and if concerned about what the area is becoming. He is not in favor of changing the neighborhood.

Millard Charles Johnson, III was sworn in and testified, referencing the Marine's property as a home. He feels Mr. Hearn's requested manufactured homes will devalue the area. He feels Mr. Hearn's property is becoming an eyesore.

Barry Brumbley was sworn in and testified that he is a member of the Bethel Town Council and the Town keeps manufactured homes out of the Town. He testified that he can see the area of Mr. Hearn's and feels it is an eyesore and will have an impact on the Town of Bethel in the future.

Pearl Austin was sworn in and testified that Mr. & Mrs. Turner are good people and she has let them live in her home over 17 years rent free. She questioned where the rent money for Mr. Hearn will come from. She stated they could continue to stay in the home if they helped to fix it up.

Ronald W. Conaway was sworn in and testified in opposition, stating that he has lived near Bethel for 20 to 25 years. He referenced the pigs behind the Marine's residence, and feels it was done out of spite.

Red Allen Dumont was sworn in and testified in opposition, stating that his grandmother owns a farm in the area and he plans to someday build on the property and does not want polluted water.

Frank Wills was sworn in and testified in opposition stating he has a poultry house across from the Hearn property. He referenced the Marine home and the screening of the property with pine trees.

He feels the neighbors have an obligation to keep up their property.

Mr. Wolhar in rebuttal stated that they were not before the Board about the salvage yard and that Mr. Hearn has agreed to remove the second manufactured home, attached to the one manufactured home that is legal with a 1983 permit. They want only the manufactured home for hardship considered. Mr. Wolhar stated that the medical hardship has not been disputed, and the manufactured home being placed far back on the property will not devalue properties in the area. He hopes the bad feelings will decline.

Mr. Moore stated that there is no problem with Mr. & Mrs. Turner. They question whether the use should be allowed. The burden of proof is with Mr. Hearn. He referenced the devaluation of property, small access to the property and that Mr. Hearn has not met the burden of proof.

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. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception to place a manufactured home on basis of hardship be denied, finding the applicant failed to meet a hardship or emergency situation, to allow two manufactured homes in this manner would cause a negative impact on surrounding property, and will devalue surrounding property.

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 denied, finding that the applicant no longer wished to connect two units together.

Case No. 4947--Carl W. Lewis - Northwest side of Route 382, 168 feet northwest of Route 17.

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

The case was presented by Mr. Betts. Leona Jean Lewis was sworn in and testified, requesting to continue the use of a manufactured home on basis of hardship for her parents. She testified that the hardship still exists.

Mr. Betts read two letters from doctors referencing Ms. Lewis parents medical conditions.

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 on basis of hardship for a period of two (2) years.

Case No. 4948--Sharon M. Wootten & Irene S. King - Northeast side of Route 467, 500 feet northwest of Route 466.

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. Sharon Wootten and Irene King were sworn in and testified, requesting to place a 1993, 28'x 60' manufactured home on their property for their permanent residence. They testified that there are 3 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. 4949--Nathaniel Justice - North side of Route 417, 700 feet east of Route 417A.

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

The case was presented by Mr. Betts. Nathaniel Justice was sworn in and testified, requesting to place a 12'x 60' manufactured home on his property on basis of hardship for his father who has emphysema and heart problems and needs care at all times. Mr. Justice testified that he has a poultry farm and is there all of the time to care for his father. Mr. Justice stated he lives across the road on a separate parcel and the house on the farm is rented.

Mr. Betts read a letter from a doctor referencing the health of Mr. Justice's father.

Sheila K. Warrington was sworn in and testified in favor of the application. She stated she lives 200' from the property and her grandfather is 70 years old.

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 on basis of hardship for a period of two (2) years.

Case No. 4950--Kerry B. Coldiron - South side of Route 54, 500 feet south across from Roxanna Fire Substation, Lot 5, within Teaberry Woods.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts.

There were no parties present in behalf of this application.

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

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the variance be denied and the applicant cannot reapply for one (1) year.

Case No. 4951--Gerald T. Elliott - Southeast side of Route 62,  
1,055 feet south of Route 24.

A variance from the setback requirements for a structure used for the commercial feeding and housing of livestock.

The case was presented by Mr. Betts. Gerald Elliott was sworn in and testified, requesting a 79' variance from the side property line setback of 100' for a structure used for commercial feeding and housing of livestock. The structure was built for storage and now used to house goats. Mr. Elliott stated he was not aware the setback would change when he changed the use.

Mr. Betts read letters from Tom & Joy Slavins, Donald & Joanne Mitchell, Bobby Ellis and Madelyn Mitchell in favor of the variance.

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. 4952--James H. Hayes - West side of Route One, at the  
intersection with Route 268.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. James H. Hayes was sworn in and testified, requesting a 15' variance from the 40' front yard setback to be 25' for the display of sheds, gazebos and cedar furniture that he sells. He testified that if he setbacks 40' the display will be next to the house and will interfere with his septic. He testified the display will not obstruct traffic view.

Mr. Betts stated that Mr. Hayes had previously been before the Board several years ago for a variance request and was denied. He now has reapplied. Mr. Betts also read a letter from Dominick J. Attonas voicing no objections.

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 Mr. Callaway, seconded by Mr. Mills and carried unanimously that the variance be granted for the sheds, cedar furniture and gazebos.

Case No. 4953--John Wesley M. E. Church - North side of Route 285  
800 feet southwest of Route 18.

A variance from the lot size requirement, the lot width requirement and the lot depth requirement.

The case was presented by Mr. Betts. Alfred L. Palmer was sworn in and testified, representing John Wesley M. E. Church who requested a variance from the lot size, the lot width and the lot depth requirements. The Church wishes to subdivide a parcel of land with a house on it where a lady resides. They propose to give the property to the person living there. A 65' variance from the 150' width of the lot is requested. The lot will contain 7,730 square feet and a  $\frac{1}{2}$  acre is required. A 10' variance is requested for the depth of the property where 100' is required.

George Bundick was sworn in and testified in behalf of the application. He would like to see the lady continue to live on the property.

There were no parties present in opposition.

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

Case No. 4954--John A., II & June B. McManus - North side of Route  
88, one mile west of Route One, Lot 57,  
Sec. 1, Overbrook Shores.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. John A. McManus, II was sworn in and testified, requesting a .3 foot variance from the 15' side yard setback and a .4 foot variance from the 15' side yard setback for a house that is already on the property and has been for approximately 13 years. A new placement survey done for re-financing showed the encroachments, located on Lot 57, within Overbrook Shores.

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, due to the odd shape of the lot.

Case No. 4955--Fred W. Neske - South side of Route 611, 300 feet  
east of Route 632, Lot 5, within Wil-Ack  
Acres.

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. Fred W. Neske was sworn in and testified, requesting to place a 1993, 24'x 48' manufactured home on property he is purchasing for his permanent residence, being Lot 5, Wil-Ack Acres. The manufactured home will be placed on a foundation. There are other manufactured homes in the area.

Mr. Betts read letters in favor of the application and presented by Mr. Neske, from William R. Wolter, William S. Farlow and William Farlow, President of O. A. Newton Co.

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 be granted.

Case No. 4956--Linda Dennis - South side of Route 16, 2,100 feet west of Route 581.

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

The case was presented by Mr. Betts. Linda Dennis was sworn in and testified, requesting to place a 1993, 14'x 70' manufactured home on a 6.43 acre farm for her uncle who is 71 years old. He will not work on the farm. She testified that there are other manufactured homes in the area.

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 be granted.

#### OLD BUSINESS

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

A variance from the front yard setback requirement.

After some discussion, motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the variance be granted, with the stipulation that the structure not be used as a dwelling.

#### OTHER BUSINESS

Case No. 4267--Gerald Sears

Request for a time extension.

Mr. Betts stated that a letter had been received requesting a time extension for their manufactured home. The applicant was given a two year period for their manufactured home while they

are building a home. They request more time.

Motion was made by Mr. Mills, seconded by Mrs Hudson and carried unanimously that the request for a extension for Case No. 4267 be granted for a period of two (2) years.

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

Meeting adjourned at 8:51 P. M.