

Minutes of November 21, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, November 21, 1994 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, Mrs. Hudson, Mr. Mills, Mr. Wheatley, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of November 7, 1994 be approved as circulated.

Case No. 5512--Dean Tingle - South side of Route 492, 1.4 miles east of Route 492A.

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. Dean Tingle was sworn in and testified, requesting to place a 1987-88, 14'x 70' manufactured home on his property for his residence. Mr. Tingle stated there is a foundation and septic on the property, but he no longer intends to build a home. He would like to put the manufactured home on a foundation and make improvements to it. Mr. Tingle had previously owned an adjacent lot and built a home on it, but has sold the property. Mr. Tingle stated he had spoken with the owner of that property Mr. Vogel and was told he did not object to the manufactured home.

Mr. Betts read a letter of opposition received from Karl Vogel, Jr. and Joseph A. Tarasavage, owners of the property Mr. Tingle sold.

Phyllis Parker, Realtor who represented the seller of the property and Joseph Tarasavage were sworn in and testified in opposition. Ms. Parker made reference to a contract of purchase and sale, signed by Mr. Tingle in regards to proposed changes in the area. She does not feel it is fair to put a manufactured home next to the property where the owners paid \$75,000.00. Mr. Tarasavage feels it is idiotic to put a manufactured home next to their home.

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 Chariman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled.

Case No. 5513--John T. Henry, III - West side of private road off of Route 357, Lot 25, within Cox's Development.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. John Henry, III was sworn in and testified, requesting a 4' variance from the 10' side yard setback requirement for an upper deck that has been built for 8 years. A stairway was built to provide access for the applicants mother and therefore, causes an encroachment.

There were no parties present in opposition.

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

Case No. 5514--Ernest G. Pitzer - West side of Route 285, 1,880 feet south of Route 287.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Ernest Pitzer was sworn in and testified, requesting a 19' variance from the 150' frontage for a new lot. Mr. Pitzer stated he is subdividing 4.3 acres into three parcels of land, two of which will have the required 150' frontage, but leaving the third parcel with 131' of frontage. The parcels are being created for an aunt, cousin, and children. The aunt and cousin will occupy the 2.2 acres which is the rear parcel. Mr. Pitzer stated he lives approximately 1½ miles from the site.

Frank J. Morris was sworn in and testified, questioning what access will be provided for the 2.2 acres. He referenced the rules for granting a variance. He testified he has no objection if the property is limited to three parcels.

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. Callaway, seconded by Mr. Wheatley and carried unanimously that the variance be granted, finding the use will not adversely affect the surrounding area.

Case No. 5515--Christopher Jella - Lots 9 and 15, Haven Lake Drive, within Lakewood Dev.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Christopher Jella was sworn in and testified, requesting a 4' variance from the 10' side yard setback for an existing garage, on Lot 9 and 15 in Lakewood Dev. Mr. Jella stated that the house on the property was built 40 to 50 years ago. The garage is not attached to the house, but Mr. Jella proposes to add an extension between the house and garage, which will then connect the two structures. Once the garage becomes attached to the house the side yard setback becomes 10' and at the present the garage maintains a 5' setback, which is permitted for an unattached garage.

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. 5516--Walter J. McGowan - South side of Route 363, at the intersection of Route 362, Lot 18, within George C. Moore Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Walter McGowan was sworn in and testified, requesting a 2' variance from the 30' front yard setback, on Lot 18, George C. Moore Subdivision. Mr. McGowan had an awning on his home that blew down. He wants a 9'x 27' enclosure to go in place of the awning.

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. 5517--Frank Jody & Vickie Denise Brown - South side of Route 567, 850 feet west of Route 567A.

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

The case was presented by Mr. Betts. Frank Jody and Vickie Denise Brown were sworn in and testified, requesting to place a second manufactured home on farm for the residence of Vickie Denise Brown. The farm is jointly owned by she, her brother (Frank Jody) and sister. Their sister presently lives in the existing manufactured home. Ms. Brown may help with the farm since her brother is building chicken houses.

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. 5518--Kenneth W. Sampson - West side of Route 213, one mile south 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.

The case was presented by Mr. Betts. Kenneth W. Sampson and Betty Sampson were sworn in and testified requesting to place a 1993, 14'x 70' manufactured home on their property for their use. The manufactured home has been placed on the property but not occupied. They will move in it if approved.

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.

Case No. 5519--Gordon T. & Patricia A. Rossiter - North side of Route 535, 1,000 feet southwest of Route 46, within Indian Village Subdivision.

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

The case was presented by Mr. Betts.

There were no parties present representing this case. The Chairman left the case open until the end of the meeting.

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

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exception be denied, with a condition that the applicants not be allowed to reapply for one (1) year, due to lack of representation.

Case No. 5520--Kim D. Curtis & Edward A. Curtis - South side of Route 502,  $\frac{1}{2}$  mile east of Route 501.

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

The case was presented by Mr. Betts. Kim D. Curtis and Edward Curtis were sworn in and testified, requesting to place a manufactured home on Mr. Curtis mother's property to be able to care for her. They currently live on the property with their mother in a double-wide manufactured home. The applicants feel it is best to have their own living quarters, but be close enough to look after their mother. They stated she has seizures and they feel she needs them near her.

Mr. Betts read a letter from a doctor referencing the applicants mother's health.

Mr. McCabe explained that if approved they would have to reapply every two years for as long as the hardship exists and if the hardship ceases to exist the manufactured home would have to be removed.

Robert Yate, Ronald Scott Dickerson, Phillip Baker and Wayne Forse were sworn in and testified in opposition. Mr. Baker voiced concern about the manufactured home staying permanently on the property and requested the doctor's letter be read again. Mr. Yate feels if one manufactured home comes others will follow and he fears a manufactured home park developing. Mr. Forse expressed concern about septic problems.

Beverly Dickerson was sworn in and testified in opposition stating she lives next door and does not feel there is a hardship, since the applicant's mother drives and goes to the store. She questioned why they need another manufactured home, when they currently live with their mother in a double-wide on the property. She feels it would be of more benefit to live together to care for her.

Anna Mae Yate was sworn in and testified in opposition questioning how they would be able to see their mother if she had a seizure if they

are living separately.

Ronald D. Dickerson stated he lives in a manufactured home on 10 acres and he believes the people basically fear more manufactured homes could come into the area.

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. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted for a period of one (1) year on the basis of hardship, finding that the use will not substantially affect adversely the adjacent properties, there was a showing of hardship, there is a manufactured home existing on the property, the manufactured home will not automatically cause more manufactured homes to come in the area and there is another manufactured home in the area.

Case No. 5521--Bruce E. Hill - North side of Texas Avenue, 500 feet east of Route 16A, Lots 6, 8 and part of 10, within Broadkill Beach.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Bruce Hill was sworn in and testified and was represented by Brian Shirey, Attorney. Mr. Hill requested a 6.2' variance from the 10' side yard setback requirement for a dwelling and a .4' variance for an accessory structure, on Lots 6, 8 and part of 10, within Broadkill Beach. Mr. Shirey referenced a survey. There is a deck 3.8' from the side property line for which a variance was granted to the previous owner. Mr. Hill wants to enclose the deck and tie in with a new roof. The garage is on a lot owned by Mr. Hill and currently meets the required setbacks, but Mr. Hill wants to add on to the garage bringing the size over 600 sq. ft. therefore, needing greater setbacks. It would be costly to remove the deck, he is therefore requesting a variance. Mr. Hill stated that the permit was issued by the Planning and Zoning Office to do as he planned and was not told he could not do it.

Mr. Betts stated that the previous owner was granted by the Board, a variance for the existing deck. But, Mr. Hill now wants to put a roof over the deck. The existing garage is currently meeting the setbacks, but when Mr. Hill puts an addition on it, it will be over 600 sq.ft. in size and greater setbacks are required. The building permit that was obtained was for the deck only.

Joan Jefferson and David L. Jefferson were sworn in and testified in opposition. They stated that the previous variance was approved for an open deck and now the applicant wants to put a roof over it. They stated the applicant started construction before the hearing. Mrs. Jefferson stated they are dealing with variances on both sides of the applicant's property. They are opposed to the applicant building too close to their property and too close to their septic system. Mr. Jefferson stated the new construction will not affect their view, but they are opposed.

Mr. Betts stated that a permit was issued with the correct setbacks.

Mr. Hill presented pictures. He stated that he has no intentions of enclosing the deck with anything other than screen. He is making the property more saleable.

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 Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variances be granted, finding the use will not affect adversely the adjacent and neighboring properties, the hardship had not been created by the applicant, the applicant had relied on representation of the Planning and Zoning Office and spent \$4,000.00 based on what he had been told.

Case No. 5522--Todd M. Smith - South side of Route 26, one mile east of Route 382.

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 front yard setback requirement.

The case was presented by Mr. Betts. Todd Smith was sworn in and testified, requesting to retain a manufactured home on his property and a 5.9' variance from the front property line setback requirement. The property is being subdivided from a large parcel. The 1968 manufactured home has been on the property for 4½ years. He testified there are other manufactured homes within 1/8 or 1/4 mile away.

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 and variance be granted.

Case No. 5523--William Blatt - North side of Route 331, 800 feet east of West Diamond Street.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. William Blatt was sworn in and testified, requesting a 4' variance from the 10' side yard setback for a 24'x 36' pole shed that was constructed in 1991.

Mr. Betts explained that a permit was issued to the previous owner for the pole shed and final inspection for the shed was never done until Mr. Blatt purchased the property. It was then the encroachment was found. The previous owner built the shed in violation and it now falls on Mr. Blatt the present owner.

Cleophas Chandler was sworn in and testified in opposition representing the Church adjacent to the applicants property. They oppose any building being too close to their property and he stated there is a lot of debris on the property.

Edward A. Cannon was sworn in and questioned the request, as an interested party.

Mr. Jones, Attorney explained that the variance is for the existing building, that the applicant is not building a new building.

Mr. Chandler and Mr. Cannon stated they were not opposed to what exists.

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

Case No. 5524--Michael Wallace - North side of Route 74, one mile east of Route 447.

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. Michael Wallace and Nancy Marie Wallace were sworn in and testified, requesting to place a 1994-95, double-wide manufactured home on property they are purchasing, being Lot 12, Pinewood II, for their use. The manufactured home has not been purchased.

Mr. Betts read a letter from Clarence and Eleanor Eaton in support of the application for a double-wide manufactured home, but opposed to a single-wide manufactured home.

Patricia Mandell was sworn in and testified that she is building an \$80,000.00 dwelling across the street and she is not opposed to a double-wide manufactured home going on the applicant's property.

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 for a double-wide manufactured home only.

Case No. 5525--Yvonne Sturgis - North side of Route 52, 142 feet north of Route 17.

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. Yvonne Sturgis and Anthony Miller Sturgis, Sr. were sworn in and testified, requesting to place a relatively new manufactured home (they have not purchased), on the property for their own use. They testified 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. Mills and carried unanimously that the special use exception be granted.

Case No. 5526--Tyler S. Davis - East side of Route 585, 1,000 feet south of Route 32.

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. Tyler Davis was sworn in and testified, requesting to place a new single-wide or double-wide manufactured home on property for his use. He has not purchased the manufactured home. He stated that there are two other manufactured homes within 1000' and two other manufactured homes within a ¼ mile from his 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 be granted.

#### OTHER BUSINESS

Case No. 5192--Dale Wheatley

Request for an extension.

Mr. Betts stated that a letter sent to Mr. Lank had been received from Dale Wheatley requesting an extension on his application approved in October, 1993, to place a manufactured home on property. The Board approval expired in October, 1994.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously to grant a one (1) year extension to Case No. 5192.

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

Meeting adjourned at 9:04 P. M.