

. Minutes of December 4, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, December 4, 1995 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. Mills, Mrs. Hudson, 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 20, 1995 be approved as corrected.

Case No. 5873--Sarah Jane Pitcher - East side of Route 497, 100 feet south of Route 495, Lots 4 and 5, within May's Delight.

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 Jane Pitcher and Ted Liszewski were sworn in and testified. Ms. Pitcher requested to place a new (3) bedroom double-wide manufactured home on property she is purchasing from Mr. Liszewski. Ms. Pitcher proposes to place the manufactured home on Lot 5, May's Delight for her residence. The manufactured home will be placed on a permanent foundation. Mr. Liszewski stated that there will be three other double-wide manufactured homes, that have been approved, placed in the development.

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. Mills and carried unanimously that the special use exception be granted for a new double-wide manufactured home on a permanent foundation.

Case No. 5874--Preston & Christine Grace - West side of Route 585, 800 feet south of Route 587A, Lot 25, within Deer Meadows.

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. Christine Grace was

was sworn in and testified, requesting to place a new 28'x 52' double-wide manufactured home on property she is purchasing being Lot 25, Deer Meadows, for her residence. She testified that there are three single-wide manufactured homes across the road.

There were no parties present in opposition.

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

Case No. 5875--Joaquim G. Palmeiro - East side of Lincoln Street,
325 feet south of Route One, Lot 5,
within Rehoboth Manor.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Mr. Palmeiro's son, Joaquim K. G. Palmeiro was sworn in and testified representing the application. The applicant requested a 9'4" variance from the 10' side yard setback on Lot 3, Rehoboth Manor, for a carport that exists on the property. Mr. Palmeiro stated that there is a vacant lot adjacent to the property. The carport is used to protect the applicant's boat. It is an open carport and there are no plans to enclose it. A plot was presented and explained.

Mr. Betts read letters in behalf of the application from Richard C. Mootz, Gilbert Bange and Richard C. Miller.

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. 5876--David & Carolyn Wilson - West side of Route 113,
2300 feet south of Route 625.

A variance from the setback requirements for temporary pens for livestock at a livestock auction market.

The case was presented by Mr. Betts. Carolyn Wilson was sworn in and testified and was represented by David Rutt, Attorney. Mr. Rutt presented a site plan. The applicants requested a variance from the setback requirements for temporary livestock pens at a livestock auction market. The applicants have an auction on the property and has approval from County Council for horses and other animals to be auctioned per request of their owners. The variance's requested are 300' from the side property lines and 500'

from the rear property line. The property is triangular in size. The pens will be temporary and up no more than three times per year for no more than four days at a time. Mr. Rutt stated that the auction for the animals will be held twice a year. The auction has been in operation since 1973. He stated that there is no other place in Kent and Sussex County where horses can be auctioned, except maybe at the fair. Mr. Rutt stated the owners will bring the horses to the area to be sold. They will never be untied or out of the hands of their owners. The horses cannot remain on the site during the night. This was a condition when County Council approved the use. Mr. Rutt feels the minimum amount of variance is requested. He feels the use will not be injurious to the neighborhood and will be in keeping with farmland in the rea.

Mrs. Wilson agreed with statements made by Mr. Rutt.

William D. Bell, Secretary of Hudson Pond Acres Preservation Society, was sworn in and testified in opposition. He presented a document to the Board members. Mr. Bell made reference to the Zoning Code pertaining to variances. He also made reference to conditinal uses and Planning and Zoning hearings held for Mr. Wilson. He also read from the document he presented. Mr. Bell requested that the variance be denied since the business is to make a profit and not used as farming and farm animals.

Mr. McCabe questioned how close the auction is to the Hudson Pond Acres entrance.

Mr. Bell was not sure of the distance.

Roxanne Proctor was sworn in and testified in opposition, stating she recently purchased property across the road from the auction and she can attest to trash, debri, noise and pollution from the auction. She is concerned that horses and pigs could get out on the road if they broke loose.

Robert Green, Hudson Pond Acres, was sworn in and testified in opposition to changing the setback for one person. He feels any livestock should have a 500' setback. He stated that the Planning and Zoning Commission would not hear the request.

Mr. Jones, Attorney, explained that the Planning and Zoning Commission cannot hear a variance request, that Board of Adjustment approval is needed.

Charles Thompson, from Hudson Mill Road, was sworn in and testified in opposition. He stated he is on the opposite side of the highway. He made reference to Mr. Wilson having a pot-belly pig left on the property. He fears horses could be neglected as

the pig was. He referenced Mr. Wilson's carriage rides on the new Route 113 highway, that is not open yet to traffic. He feels Mr. Wilson should buy a larger property for his business.

Mr. Rutt in rebuttal stated that sheep, calves, goats, pigs and fowl can be sold now, but no large animals until approved. He feels Ms. Proctor was aware of the auction being on the property when she purchased her property. He stated that the pig that was referenced was not Mr. Wilson's obligation. He stated carriage rides are permitted on Route 113 at limited times. He also stated Mr. Wilson does have a larger piece of land, but the same people present opposed it.

Mr. Thompson stated that the pig was owned by a person working for Mr. Wilson and it was left on the property when the person left.

Mr. Green stated the auction does not meet requirements for livestock.

Mr. Bell stated that the Ordinance states no large animals.

Mrs. Wilson stated that they sell chickens, rabbits, pot-belly pigs and sheep. The only larger livestock to be sold will be horses.

Mr. Rutt stated that a veterinarian will be on site when the horses are to be sold. A variance is needed for the pens.

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

Case No. 5877--Scott A. Hastings - North side of Route 451, 190 feet west of Route 463, Lot 18.

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. Irma Hastings was sworn in and testified representing the application. Mr. Hastings requested to place a new double-wide manufactured home on property he is purchasing for his residence. Ms. Hastings testified there are other manufactured homes in the area. She stated she was not

sure of the manufactured home size.

Mr. Betts stated that the size of the manufactured home on the application is a 28'x 60' Skyline.

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 be granted for a new double-wide manufactured home on a permanent foundation.

Case No. 5878--William F. Bradford - West side of Route 413, 150 feet north of Route 426.

A variance from the setback requirements for a poultry composter.

The case was presented by Mr. Betts. William Bradford and Marcel Bradford were sworn in and testified, requesting a 22' variance from the 50' setback requirement for a poultry composter. Mr. Bradford explained that a composter means to dispose of dead carcass's in a poultry house. The composter will be a 28'x 22' pre-formed unit. He showed a plan. He stated it will have a concrete pad and metal roof and open on all four sides. He stated the carcass's are added to litter, water and straw. He presently uses a mini composter in his poultry house. The composter will be used for his chickens only. In answer to placing it at another location, Mr. Bradford stated he would have problems with running the water.

Bertie Black, adjacent property owner, and Layton Johnson, Realtor with Indian River Land Co., were sworn in and testified in opposition to the composter going to close to Ms. Black's property. Mr. Johnson stated that Ms. Black plans to build a home on the property and she opposes the composter being closer to her because of odor.

Mr. Bradford stated he will be approximately 135' from Ms. Black's property. He stated there will be no odor from the type of composter he wants to build.

Mrs. Bradford stated that Ms. Black has owned the property for 23 years and she (Mrs. Bradford) has helped maintain the property.

She stated that Ms. Black has never put anything on the property. Mrs. Bradford stated that they have to drain the water pipes on the far end of the property to keep them from freezing.

Mr. Johnson stated he feels the composter could be moved down further on the property away from Ms. Black's property. He questioned how far down the water pipes go.

Mr. Bradford stated the pipes go about 1/3 down the building. They drain part of them in the winter to keep them from freezing.

Mr. Mills questioned if Ms. Black would oppose the request if Mr. Bradford moved the structure 40' to 45' further down towards the opposite end of the house.

Ms. Black said, she did not know. She opposes the composter being less than 200' from her dwelling.

Mr. Bradford stated he could make it 200' from Ms. Black's dwelling.

Motion was made by Mr. Mills to grant the 22' front yard setback variance for the composter facility and it be a minimum of 180' from Ms. Black's property line.

Mr. Mills withdrew his motion.

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

Case No. 5879--Delaware Electric Cooperative, Inc. - West side of
Route 13, on the north side of Route 583.
A special use exception to place 14 manufactured
homes to be connected into one large office complex

The case was presented by Mr. Betts. William W. Johnson and Stevie Maurice Perry were sworn in and testified in behalf of the application. The applicants requested to place 14 manufactured homes to be connected into one large office complex. Mr. Johnson stated they are in the process of expanding and relocating their people to another complex. They need the use for approximately 18 months. They have structures on the property. They propose to construct and redo the structures on the property. He stated that

the units are to be in place by February 1, 1996. The 168'x 60' office space should be completed by July 1, 1997. A plan of the manufactured home units connected was shown. There will be approximately 85 people working there.

Mark Prettyman was sworn in and questioned the units being moved out in two years. He was concerned that the units would be on the property permanently.

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 for a period of two (2) years.

Case No. 5880--Millard & Jennifer Bouchard - North side of Route 472, 210 feet east of Route 534, Lot 10N.
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. Millard & Jennifer Bouchard were sworn in and testified, requesting to place a 1996, 28'x 48' manufactured home on their property for their residence. They testified 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 special use exception be granted for a double-wide manufactured home.

Case No. 5881--Christine A. Serio - West side of Route 274, 3/4 mile south of Route 275, Lot 78, within Arnell Creek.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Christine and Frank Serio, Sr. were sworn in and testified requesting a 11.5' variance from the side property line of 15' to be 3.5', to construct a carport on Lot 70, within Arnell Creek. Mrs. Serio stated that the neighbors and Civic Association, approve the variance request. It will be an open carport and will not restrict anyones visability. There are no other similar carports in the area according to Mrs. Serio.

There were no parties present in opposition.

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

OLD BUSINESS

Case No. 5849 (cont'd.)--R.B.O. Associates, LP. - Southwest side of Route One, 1500 feet northwest of Route 270.

A variance from the rear yard setback requirement.

The case was reviewed by Mr. Betts. Mr. Betts stated that the applicants did not have a building permit for the loading dock. To make it legal they would have to remove the walls and the roof. Mr. Betts stated that an open unenclosed platform can project 5' into the setback, per Mr. Lank, Director of Planning & Zoning. The height limitation cannot be more than 4' above grade.

After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the variance be granted, finding they are allowed to build 5' into the setback uncovered, and covered will have very little additional affect.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously to amend the previous motion to add, that the applicants be required to get a permit and pay any additional fees the County cites for a late building permit.

Case no. 5858 (cont'd.)--John H. Hohman - South side of Monroe Avenue, 100 feet west of Bay Drive (Route 16A), Lot 9, within Old Broadkill Beach.

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

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

Meeting adjourned at 9:07 P. M.