

Minutes of December 7, 1992

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening, December 7, 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. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of November 16, 1992 be approved as circulated.

Case No. 4957--Rick A. Welty, Sr. - South side of Route 611, 600 feet east of Route 632.

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. Rick Welty, Sr. was sworn in and testified, requesting to place a new 28'x 56' manufactured home (double-wide) on his property for his permanent residence. There is on other manufactured home and two conventional homes in the area.

Mr. Rickard read three letters into the record in favor of the application from, William S. Farlow, William R. Wolter and O. A. Newton & Son Co., William Farlow, President.

Roy Judy, Jr. was present and affirmed, stating he owns land in the area. He testified that he is opposed to the manufactured home going on the property. He stated concern for the remainder of the lots being used for manufactured homes.

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. Wheatley, seconded by Mr. Callaway and carried unanimously that the special use exception be granted for a double-wide manufactured home.

Case No. 4958--Patricia Magee - Southwest side of Route 335, $\frac{1}{4}$ mile north of Route 336.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence, a variance from the minimum lot frontage requirement, and a variance from the minimum lot size requirement.

The case was presented by Mr. Rickard. Patricia Magee and John Henry Evans, her father, were sworn in and testified, requesting to place a manufactured home on property to be deeded to Ms. Magee from Mr. Evans. She also requested a 65' variance from the 150' road frontage for a lot and a variance from the minimum square footage of a lot to be 10,625 square feet. This will be Ms. Magee's permanent residence. Mr. Evans stated that the manufactured home is 12'x 60' in size. He stated that there are two manufactured homes on the property and if this request is approved he will remove the second manufactured home.

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 and variances be granted.

Case No. 4959--Bryce B., Jr. & Lee-Ellen Bryan - North side of Route 480, 900 feet east of Route 489.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Lee-Ellen Bryan was sworn in and testified, requesting a .6' variance from the side property line setback of 10' for a garage that has been on the property for over 10 years. The property was surveyed to be sold and the setback encroachment was discovered.

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. 5960--North Ocean City Limited Partnership - South side of Route 54, at Jefferson Avenue.

A special use exception to use a manufactured home as a temporary Real Estate Office.

The case was presented by Mr. Rickard. Franklin Thomas Serio was sworn in and testified, representing North Ocean City Limited Partnership and was also represented by Jim Yori, Attorney. The applicants requested to use a manufactured home as a temporary Real Estate Office, for sales in their development, to be located at the corner of Route 54, Madison Ave. and Jefferson Ave. Photographs and material was presented. The manufactured home office is now over the line in Maryland and to get to it people must travel through Edgewater Acres. It was stated that the property will be landscaped and adequate parking will be provided. There will be no water/sewer. A portable facility will be used. The applicants feel there will be no environmental impact on the area, and the unit will be used for the sole purpose of selling real estate. They feel there will be no impact on traffic, since there is already traffic on Route 54. It is the applicants feeling that moving the manufactured home office to the Delaware site will be more convenient. Mr. Serio stated that they would like to have

the use approved not exceed five years as allotted by the Zoning Code. He feels moving the manufactured home will increase safety, since customers would not have to travel through the development.

Charles Phillips, President of the Edgewater Acres Civic Association, was sworn in and testified in opposition. He stated concern about parking and traffic safety in regards to children in the area. He fears a commercial zone could be established. He also voiced concern about difficulty getting emergency vehicles down the road. He feels the use will benefit Maryland and not Delaware and is opposed to this request. Mr. Phillips presented a letter of opposition from Charles Meade and also submitted a list of names of people who are opposed, but could not attend the meeting.

Pat Ficken, Coalition of Coastal Communités, was sworn in and testified in opposition, citing traffic, accidents, especially with people not familiar with the traffic pattern and visibility. She is concerned about safety. She feels the applicants have a good office in Maryland. She wants the request denied for protection of their neighborhood.

Alma Demott who lives on Jefferson Ave., was sworn in and testified in opposition. She stated that there are at least ten children there in the summer. She is concerned about traffic safety and she feels it is not necessary to have the office so close.

Reese Hickman was sworn in and testified in opposition. He referenced the request for 5 years, since it is to be temporary. He stated that business properties in the area are less hazardous. He too is concerned about traffic.

Bill Brown was sworn in and testified in opposition, stating the applicants have not been very good neighbors. His concern is about property values and the tax basis for Sussex County.

By a show of hands there were 6 people present in opposition.

Mr Jones, Attorney, read letters of opposition into the record from Mrs. DeMott, Charles Meade and Susan & Michael McLaughlin.

Ralph Edward Jewell, Chairman of the Board of United Financial Banking Co. in Virginia, was sworn in and testified in behalf of the application. He stated his firm had acquired 100 units from foreclosure. He testified that they have spent a large amount on the property and they feel to move the office to the site requested would be an improvement, and also be safer. They have plans to also acquire the remainder of the property in the development. Mr. Jewell stated that approval for 2 or 3 years would also be sufficient. He explained the development and their plans.

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.

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

Case No. 4961--Peter A. Eckert - Northwest side of Route 594,
1,200 feet southwest of Route 591.

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

The case was presented by Mr. Rickard. Peter Eckert was sworn in and testified, requesting to place a second manufactured home on his property on hardship basis for his daughter to live in and care for his sister-in-law. The applicant's sister-in-law lives in a manufactured home on the 10 acre parcel and if this manufactured home is approved there will be two on one parcel. The applicant has a home on a separate parcel. Mr. Eckert has a business and he needs someone to care for his sister-in-law.

Mr. Rickard read a letter from a doctor pertaining to Mr. Eckert's sister-in-law's health. He also read a fax letter from Jacqueline Heyer pertaining to this case.

Bruce Hunsiker was sworn in and testified in opposition, stating there are four manufactured homes on 2½ acres and referenced a previous manufactured home application that was denied.

Victoria Hunsiker was sworn in and testified in opposition explaining the property as it exists and questioned the hardship.

Marla Kay Vickers, daughter of Mr. Eckert, was sworn in and testified in behalf of the application. She testified that her aunt is 73 years old and needs care. She testified that since her father has a business she is needed to care for her aunt. She stated that her father has 10 acres where the two manufactured homes will be and her father has a modular home on a separate parcel.

Mr. Eckert referenced a map of the property and explained where the manufactured homes and his house are located. He stated that with the business he has in Laurel, his wife cannot be there to care for his sister-in-law.

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 case be tabled.

Case No. 4962--Virginia L. Juraniec - Northeast side of Route 224,
1,370 feet southeast of Route 594.

A special use exception to place a manufactured
home on less than five acres for a permanent
residence.

The case was presented by Mr. Rickard. Virginia Juraniec and Kenneth Joseph Kosloski, her finance, were sworn in and testified, requesting to place a new 24'x 48' double-wide manufactured home on property Ms. Juraniec is purchasing for her permanent residence. The property being Lot 16, Willow Point. They testified that there are other manufactured homes in the area. Pictures were presented.

George Rose was sworn in and testified in opposition stating he has lived in the area for 15 years. He testified that the property is a strip development designed for manufactured homes. He stated that there is a beautiful home going up in the area. He presented a letter from Geneva W. Booth, property owner in opposition.

Mr. Rickard read a letter from Geneva Booth pertaining to this case.

Mr. Jones, Attorney, paraphrased letters of opposition from Norman F. Lord, Marie Smith, H. Grier Stayton, Irene Webb, Robert F. McCartney, Lilly McCartney and a letter from George Rose who previously testified.

Motion was made by Mr. Wheatley, 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. Callaway, seconded by Mr. Mills and carried unanimously that the special use exception be denied, finding the manufactured home would adversely affect the uses on adjacent and neighboring properties.

Case No. 4963--Emmalyne Boyle - North side of Route 54, one mile east of Route 381, Lot 43B, Swann Keys.

A variance from the maximum lot coverage requirement.

The case was presented by Mr. Rickard. Emmalyne Boyle was sworn in and testified, requesting a variance from the 35% lot coverage on Lot 43-B, Swann Keys. Ms. Boyle requested a 120 sq. ft. variance from the 1400 sq. ft. total coverage allowed to construct a 6'x 20' room addition on her manufactured home, which will make the coverage 1520 sq.ft.

Mr. Rickard read a letter from the Swann Keys Civic Association, Betty Bozzi, Park Manager, 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 variance be granted.

Case No. 4964--Brian K. Hudson - West side of Route 362, 295 feet north of Route 368, Lot 14, Sec. 4, Parcel B., Blk. K, within Shady Dell Park.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Brian Hudson was sworn in and testified, requesting a 12' variance from the 30' front yard setback to construct an addition to increase living space, located on Lot 14, Shady Dell Park. Mr. Hudson testified that there is no other feasible place to put the addition. He has to put a new mound septic system in his rear yard. He stated the addition will not affect traffic visability.

Emory Hudson was sworn in and testified in behalf of the application, stating the use will be a big improvement.

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. 4965--Margie Calloway Massey - Northeast side of Route 382, across from Route 355.

A special use exception to continue a manufactured home on a hardship basis in an MR Medium Density Residential District.

The case was presented by Mr. Rickard. Margie Calloway Massey was sworn in and testified, requesting to continue the use of a manufactured home on medical hardship. This is a renewal of Case No. 3588. Ms. Henry stated there is no change in the hardship situation.

Mr. Rickard read a letter from a doctor pertaining to Ms. Massey's father's health.

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 the basis of hardship for a period of two years.

Case No. 4966--Becky C. & Donald B. Brittingham, II - West side of Route 321, 1,250 feet south of Route 321A.

A special use exception to operate a Day Care Facility.

The case was presented by Mr. Rickard. Becky & Donald Brittingham, II were sworn in and testified, requesting to operate a Day Care Facility. They propose to convert a residence into the facility. Mrs. Brittingham now cares for five children and will increase it to six in December. She will operate from 6:00 A.M. to 6:00 P.M. and there will be adequate parking provided. She stated that there is a need for the facility in the area.

There were no parties present in opposition.

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

Case No. 4967--Saint Edmonds Church - North side of Route One,
500 feet west of Route 18.

A variance from the requirements for signs.

The case was presented by Mr. Rickard. Robert N. Clancy, Chairman of the Financing Council of Saint Edmonds Church, was present and affirmed. Saint Edmonds Church is requesting a variance of 18 sq. ft. from the 23 sq. ft. requirement from a sign to be 50 sq. ft. Pictures of the proposed sign were presented. From ground level to the top of the sign will be 9'. The old signs will be removed. He stated that there will be no hazardous visibility for traffic.

There were no parties present in opposition.

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

Case No. 4968--Patrick Kelley - East side of Route 246, 3,100 feet
south of Route 245.

A special use exception to place a manufactured home to be used as a farm shed.

The case was presented by Mr. Rickard. Patrick Kelley was sworn in and testified, requesting to use a manufactured home as a farm shed for storage. Mr. Kelley has two manufactured homes on his property, placed without permits and is using one for the residence of a family and the other for storage. Mr. Kelley has 10 acres and wants to keep the manufactured homes on the property. The unit for a shed will be used for farm storage and construction materials for a business. He testified that the bathroom and electric in the unit does not work. He does not live on the property.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, 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. Callaway, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted with the stipulation that the proper permits be obtained and the unit be used for storage of farm materials and equipment and construction materials and tools for the applicant only and for a period of two years.

After further discussion, it was pointed out that since the applicant does not live on the property and there is no approval for a construction business there, he cannot be approved for construction business storage.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the previous decision be amended to: the special use exception be granted with the stipulation that the manufactured home be used for farm materials for the applicant's farming operation only for a period of two years.

OTHER BUSINESS

Case No. 4950--Kerry Coldiron

Request to reapply.

Mr. Rickard read a letter from Steve Parsons, Attorney, requesting that the applicant be allowed to reapply for a variance that was denied, with condition not to apply for one year. Mr. Parsons stated in the letter that as Mr. Coldiron's Attorney, he and Mr. Coldiron forgot the meeting, and they were denied because there were no parties present. They request to be able to reapply.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that Mr. Coldiron be allowed to reapply and pay the fee for a new hearing.

Case No. 3969--Troop Associates

Request for a one year time extension.

Mr. Jim Fuqua, Attorney, was present in behalf of Troop Associates and requested a one year time extension on their variance granted in 1989. They have been unable to complete their use due to the economy.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the request for extension for Case No. 3969 be granted for a period of one (1) year.

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

Meeting adjourned at 9:44 P. M.