

Minutes of December 16, 1996

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, December 16, 1996 in the County Council Administration Office Building, 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. Jones-Attorney, Mr. Betts-Zoning Inspector III and Mrs. Talley-Planning and Zoning Secretary.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the minutes of December 2, 1996 be approved as circulated.

Mr. Jones read a statement explaining how the Board of Adjustment meetings are conducted and the procedure for hearing the cases.

Case No. 6164--Raymond Stachnick - South side of Route 17, 1,100 feet west of Route 561.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Raymond Stachnick was sworn in and testified, requesting a 5' variance from the 40' front yard setback requirement to be 35' for a pole barn. Mr. Stachnick stated that the builder set the poles and until the building was built he, Mr. Stachnick, was not aware of a problem. He stated that the pole barn is built further back than his house and his neighbors house. He feels the builder used the edge of the road and not the property line for the setbacks.

Mr. Wheatley asked the name of the builder.

Mr. Stachnick stated that the builder was L. T. Builders of Milford.

There were no parties present in opposition.

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

Case No. 6203--Dennis & Wendy Moore - East side of Route 113, 1.2 miles north of Route 207, part of Lots 35 and 36.

A variance from the side yard setback requirement and the setback requirements for a swimming pool.

The case was presented by Mr. Betts. Walter Feindt, Attorney, was present representing the applicants, who requested a 7.93'

variance from the west side yard setback requirement of 15' for an attached garage and a 3.17' variance from the east side yard setback requirement of 10' for a pool. Mr. Feindt stated that the uses have been on the property for several years and the encroachments were discovered when the applicants prepared to sell the property. Mr. Feindt represents the buyers also. Mr. Feindt stated that family members surround the property.

Mr. Betts stated that part of the property is in the town limits of Milford.

There were no parties present in opposition.

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

Case No. 6204--Lena M. (Scott) Paynter - West side of Route 216A,  
750 feet north of Route 224.

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

The case was presented by Mr. Betts. Lena Ms. Scott Paynter and Keith Jeffrey Paynter were sworn in and testified, requesting to place a 1995, 28'x 60' manufactured home on their property for their use. They testified that there are other manufactured homes in the area. They stated that the manufactured home will have a solid foundation and an A-Roof. Access to the property has been there for years.

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 for a double-wide manufactured home on a permanent foundation.

Case No. 6205--William & Margaret Martin - South side of Route One,  
1/4 mile south of Route 274, Old Landing  
Road, Lot 1, within Wm-Mar Associates, LLC  
Subdivision.

A variance from the height requirement for signs.

The case was presented by Mr. Betts. William & Margaret Martin were sworn in and testified, requesting a variance from the height requirement for signs. The applicants have a billboard on the property that was placed there several years ago. Now that businesses, such as Comfort Inn and Mulligan's Restaurant, have

been built with large signs, their billboard on one side cannot be seen. There is also a dip in the road that adds to the sign not being seen. They testified that they have lost the rental on the sign since it is blocked, and they have not been able to rent the sign. It needs to be raised to be seen. They propose to raise the sign 10' to be 35' to be seen. They were told by Andy Talley to move the Comfort Inn sign back due to sewer easement.

Mr. Wheatley questioned if they are permitted to raise their sign will it block someone else's.

The applicants stated that no one will be blocked.

Mr. Betts explained the required setbacks for signs.

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 case be tabled until the next meeting on January 13, 1997..

Case No. 6206--Ronald & Martha Delong - West side of Route One  
at the intersection with Route 273, Lot  
B75, within Sea Air Mobile City.

A variance from the setback requirement between  
units in a park.

The case was presented by Mr. Betts. Martha Delong was sworn in and testified, requesting an 8' variance from the 20' setback requirement between units in a park, being Lot B75, Sea Air Mobile City. The applicants propose to enlarge the size of their living area. The manufactured home on the property is 14'x 65' and they will add a 16' wide enclosed addition. Mrs. Delong stated that the addition will not interfere with the manufactured homes on either side of her property. She presented a letter from Sea Air Mobile City voicing no objections.

Mr. Betts read the letter presented from Sandra Stintsman stating that Sea Air Mobile City has no objections.

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. 6207--Vera Bundick - Northwest side of Route 285, 1/2  
mile southwest of Route 9.

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. Vera Bundick & Reginald Bundick were sworn in and testified requesting to place a 1976, 14'x 70' manufactured home on their property for their use. The unit is now located in Bell Town. They testified that there are other manufactured homes in the area.

Mr. Betts stated that there have been other manufactured home applications in the area. He stated that there has been no correspondence received pertaining to this case.

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. 6208--Anna J. Kaylor - West side of Route 267, 1/2 mile  
south of Lewes, Gills Neck Road.

A variance from the minimum lot width requirement.

This application has been readvertised.

Case No. 6209--Sireta Snead - North side of Route 70, 3,216 feet  
west of Route 462.

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. Sireta Snead was sworn in and testified, requesting to place a 1995, 14'x 70' manufactured home in an AR-1 District on property she is purchasing. It was stated that there are several 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. 6210--Phillip B. Gordy - East side of Route 13, 2,170  
feet south of Route 451.

A special use exception to place a third

manufactured home on farm.

The case was presented by Mr. Betts. Phillip Gordy was sworn in and testified requesting to place a third manufactured home on farm for his residence. He stated that the two existing manufactured homes are rentals and have been on the property for several years, one approximately 20 years and the other approximately 12 years. He stated that his manufactured home will be placed 1,000 feet off the road. He stated that the two existing manufactured homes were placed by his father.

Mr. Jones, Attorney, questioned the two rental units, since manufactured homes placed on farm, must be for family members or employees.

Mr. Betts stated that two manufactured homes are permitted on a farm of 50 acres or more, but not as rental units. They have to be for family members or employees.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled until the next meeting on January 13, 1997, to give time to check the legality of the two rental units.

Case No. 6211--Waterford Wedgewood USA, Inc. - Route One at the intersection with Route 271.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Connie Burrows was sworn in and testified representing the applicants Waterford Wedgewood USA, Inc., who requested a variance from the requirements for signs to add an additional wall sign on a store. Only one wall sign is permitted. She testified that the sign will be on the back of the building to give vision to people going north. The additional sign will give more visabiltiy.

Mr. Betts stated that the store backs up to Route 271. He stated that other applications have been approved for the same thing.

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. 6212--Sandra West - North side of Route 231, 1,700  
feet west of Route 5, Lot 8.

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. Sandra West and Denise Moore were sworn in and testified, requesting to place a 1996, 28'x 76' manufactured home on a permanent foundation with an A-Roof on property Ms. West is purchasing for her use. Ms. Moore is the Realtor. It was stated that there are other manufactured homes in the area plus a manufactured home development.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted for a 28'x 76' manufactured home on a permanent foundation.

Case No. 6213--Ocean Wines and Spirits, Ltd. - West side of Route One, 250 feet northwest of Route 271.

A variance from the twenty foot landscaped buffer within the highway corridor overlay zone.

The case was presented by Mr. Betts. T. Theodore Jones was sworn in and testified representing the application and was represented by Sam Burke, Attorney. The applicants requested a variance from the 20' landscaped buffer within the highway corridor overlay zone. Mr. Burke stated that the 20' is black topped, paved by the County, as a result of sewer lines. He stated that there is a billboard on the property within the 20' buffer that has been there for approximately ten years. He stated that adjacent properties do not have an overlay and he feels it would look odd for his the applicant to have one. There is also an ingress and egress easement across the land and if landscaped they would have to drive across dirt. Pictures were presented. He stated that other businesses on Route One do not have the overlay buffer. Mr. Burke stated that they have been in contact with the immediate owners to the south and the north and they have no objections. He explained where the easement is located on the site plan.

Don Ressler, Vice President, of the Citizens Coalition, was sworn in and testified in opposition to the variance from the overlay zone. He stated that the overlay buffer was put in affect for visual affect and he wants it maintained. He stated that it started in January and there has to be a line drawn and they should adhere to the overlay zone.

Theodore Jones in answer to Sam Burke's question, confirmed to Mr. Burke's representation. He again stated that the 20' was paved and black topped by the County and there is a billboard within the 20' buffer zone.

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. Mills, seconded by Mrs. Hudson and carried unanimously that the case be tabled until the next meeting on January 13, 1997.

Case No. 6214--Bruce & Deborah Chorman - South side of Route 264,  
2,500' southwest of Route One.

A special use exception to operate a Day Care Center.

The case was presented by Mr. Betts. Deborah Elaine Chorman was sworn in and testified, requesting to expand an existing Day Care Center. She has a small Day Care Center in her home now and wishes to expand to approximately 12 full time children and 2 after school children. She will operate five days per week from 7:00 A. M. to 5:30 P. M.

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. 6215--Tracy L. Selph - North side of Route 74, one mile east of Route 447, Lot 6, within Pine Woods II.

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. Tracy Selph was sworn in and testified and was represented by Everett Moore, Attorney with the law firm of Moore and Rutt. Mr. Moore stated that Ms Selph's manufactured home is already on the property, being Lot 6, within Pine Woods II. He stated that when she obtained the fact sheet from the Realtor before she purchased the property, it indicated that the property was zoned for a manufactured home, but when the transaction was completed she found that a manufactured home is not permitted without Board approval. She has a new 28'x 52' manufactured home that she will occupy with her sister. Mr. Moore

showed other manufactured homes in the area and their locations, he indicated that some of the homes may be modulars. He stated that the Realtor had contacted other residents in the area and he read and submitted a petition with 10 signatures of people who live in the immediate vicinity and are not opposed. Mr. Moore stated that the applicant's manufactured home will not adversely affect property values, since the area is predominantly manufactured homes.

Ms. Selph stated that the presentation done by Mr. Moore is true and correct.

Mr. Moore stated that the property was a resale and the seller had indicated that the property was zoned for manufactured homes.

Ms. Selph stated that the manufactured home is skirted and she later intends to put it on a permanent foundation, but does not know when.

Mr. Betts stated that other manufactured homes in the development have been approved by the Board.

Mr. Moore stated that some of the manufactured homes in the development have skirting and some have permanent foundations.

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.

#### OLD BUSINESS

Case No. 6188 (cont'd.--Mary Jane Emigh - Northeast side of Route 113, 1/4 mile northwest of Route 82, Lot 7, within Pine Lodge Addition.

A variance from the height requirement for a fence.

The case was reviewed by Mr. Betts.

Mr. Mills stated that he does not feel the fence obstructs any view.

Mr. McCabe questioned, if approved, would there be any liability to the County should an accident occur.

Mr. Jones, Attorney, stated that there would no liability to the County.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that a 24' variance be granted.

Case No. 6190 (cont'd.)--Harvey T. Smoot, Jr. - South side of Route 503, 425 feet east of Route 504, 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 reviewed by Mr. Betts.

It was the consensus of the Board that to approve this manufactured home would set a precedent in the area.

After some discussion, motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, finding that the character of the area is not single family manufactured homes and the use will substantially affect adversely neighboring properties.

#### OTHER BUSINESS

Case No. 6172 - Sara Washington

Request for a rehearing.

Mr. Betts read a letter from Mr. Fuqua, Attorney, from the law offices of Fuqua & Yori, P. A. who represent Sara Washington, requesting a rehearing for her Board of Adjustment Case. Ms. Washington was denied a special use exception to operate a Day Care Facility.

Mr. Callaway stated that he feels no new evidence has been presented and he is still concerned about the intersection where the facility will be.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the request for rehearing Case No. 6172 be tabled until the next meeting on January 13, 1997.

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

Meeting adjourned at 8:11 P. M.