

Minutes of December 18, 1995

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, December 18, 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. Wheatley, Mr. Callaway, Mr. Schrader-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of December 4, 1995 be approved as circulated, with Mr. Wheatley abstaining. Motion carried with four voting in favor and one not voting.

Case No. 5882--Conrad & Linda Carter - Northeast side of Route 492A, 154 feet north of Route 492.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts.

There were no parties present to represent this case. The Chairman held the hearing open until the end of the meeting to give the applicants time to appear.

At the conclusion of the public hearings the Chairman referred back to this case. There were no parties present to represent the case or no interested parties present.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the variance be denied, due to the applicants or a representative failing to appear to present the case and the applicants cannot reapply for a period of one (1) year.

Case No. 5883--Matthew & Martha Reese - East side of Route One, 1,000 feet north of Bethany Beach, Lot 16, within Seabreak.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Matthew Reese was sworn in and testified and was represented by Steve Parsons, Attorney. Mr. Reese requested a .5' variance from the side yard setback of 10' for an existing house. Mr. Parsons stated that the applicants bought property, being Lot 16, within Seabreak, and built a house in 1989. They occupied the house assuming the house was built correctly on the property. When the house was to be sold a survey was done and the encroachment was discovered. Mr. Reese stated that he believed the house to be in compliance until he had a buyer for the property and a survey was done. Mr. Parsons presented a

letter he wrote to the Board explaining the situation with the applicants property. He stated the sale of the house is pending on the variance approval. He feels the variance will not affect the area or property values in anyway. He stated that the cantilevered windows do not need a variance and he requested it be made a part of the record. The deck on the house is above the first floor.

Mr. Betts stated that bay windows not touching the ground can project 24" into the setback.

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, finding the use will not adversely affect the area and that the bay windows do not affect the variance.

Case No. 5884--C.Fred Mitchell - North side of Delaware Avenue,
500 feet east of Route One, Lot 11, Block
B, within L. P. Faucett, Inc. Subdivision.
A variance from the front yard and the side yard
setback requirements.

The case was presented by Mr. Betts. Charles Zonko, builder, was sworn in and testified, representing the applicant, who requested a 5' variance from the front yard setback and a 6' variance from the side yard setback, on Lot 11, within L. P. Faucett Subdivision, Inc. Mr. Zonko stated the applicant has owned a beach cottage on the property since 1958. He needs to expand the cottage for more room because of an increase in the size of his family. Plans of how the project will look were shown and explained. The applicant proposes to build a screen porch on the street side of the property and two bedrooms and a bath on the rear of the property. The existing house is only 4' from the side property line. The new addition will be 2' in further than the existing cottage. Mr. Zonko feels the variances will not affect the adjoining property owners. Letters from all property owners on the street were presented in favor of the application.

Mr. Betts read letters in favor from Harlon Talley, Peggy & Robert Rickards and William A. Hall, III & Martha.

There were no parties present in opposition.

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

Case No. 5885--Joan E. Quam - Route One, at Route 273, Lot K-76,
within Sea Air Village.

A variance from the setback requirement between unit in a park and from lot lines.

The case was presented by Mr. Betts. Joan E. Quam and Robert Littleton were sworn in and testified. Ms. Quam requested a 7' variance from the 20' setback requirement between units in a park and a 3'7" variance from the 5' setback to build an open deck on Lot K-76, Sea Air Village. Mr. Littleton stated there are other situations on the street like the one requested, plus a number of others in Sea Air. He feels the variance will have no affect on the neighbors and will improve the property. Mr. Littleton stated he is Maintenance Supervisor for Sea Air Village and the Association has no objection.

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. 5886--Myrtle A. Thomas - Southwest side of Route 310,
1,275 feet southeast of Route 24.

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. Myrtle Thomas was sworn in and testified, requesting to place a new 28'x 74' manufactured home on her property for her permanent residence. She testified there are other manufactured homes in the area, plus a manufactured home park.

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 new double-wide manufactured home on a permanent foundation.

Case No. 5887--Charles & Elizabeth Caldwell - South side of Route 54, one mile west of Route One, Lot 49, within Cape Windsor.

A variance from the side yard and the rear yard setback requirement.

The case was presented by Mr. Betts. Charles & Elizabeth Caldwell were sworn in and testified, requesting a 10' variance from the 20' rear yard setback and a 3.7' variance from the 10' side yard setback to build an enclosed porch, on Lot 49, Cape Windsor. They testified that the neighbors visibility on one side of the property will be affected. Mrs. Caldwell testified that the home has been on the property for approximately 13 years and the porch will be the same distance as the manufactured home from the property lines. Mrs. Caldwell stated that they decided to request the variance, because they have wanted a porch for a long time and a neighbor down the street has had approval for a screened porch.

Mr. Betts read letters of opposition from Helen Oliphant, Agnes Miller, Jewel Yates and William & Gladys Birmingham. He also read a petition in opposition with 30 signatures.

John Weston, Jr., President of the Board of Directors of the Community of Cape Windsor was sworn in and testified in opposition representing himself and the Board of Directors. They would like to see the setbacks maintained.

Martha Cobourn was sworn in and testified and read from a prepared statement in opposition to the variance request. She is opposed to the proposed porch blocking breezes, views of the bay and Ocean City as well as her neighbors views. She feels others will want to do the same and the use could also devalue her property. Pictures were presented showing the views she now has and how they could be affected.

Mr. Weston presented a copy of Cape Windsor covenants per the request of Board Member Mr. Mills.

David Yates was sworn in and testified in opposition stating the applicants house is 19' from the bulkhead and the variance will make it 9' from the bulkhead.

Mr. Mills explained to the applicants that the County requirements would not override the covenants of Cape Windsor.

Mrs. Caldwell stated she was surprised at the amount of opposition they had, since the people down the street said they had none at their hearing.

Ms. Cobourn referenced the people's property that was previously approved, stating their situation was different than the applicants and the view was different.

Mr. Weston said he was aware of a deck on the property of the people previously approved, but not a porch. He stated that some people have built without permits and in violation of community covenants. Mr. Weston in answer to Mr. Mills question, said he was not aware of the previous approval.

Mr. Betts stated that an open unenclosed deck can project into the setback 5', as long as the extension is not greater than 4 feet above grade.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously tht the case be taken under advisement.

At the conclusion of the public hearins, 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 variance be denied, finding the use will adversely affect surrounding properties.

Case No. 5888--Richard & Teresa Bradley - East side of Route 600,
1/2 mile south of Route 599, Lot 16,
within JB & AL, Ltd. Subdivision.

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

The case was presented by Mr. Betts. Richard Bradley, Jr. and Donald James Reed were sworn in and testified. Mr. Bradley requested to place a 1987, 28'x 48' double-wide manufactured home on a permanent foundation, on Lot 16, within JB & AL, Ltd. Subdivision. Mr. Bradley is under sales contract to purchase the property. Mr. Bradley stated there are other manufactured homes in the area. Mr. Reed stated there are (2) single-wide manufacturd homes on the five acre parcels. He testified that Mr. Bradley's father-in-law is an amputee and will live with them.

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 for a double-wide manufactured home no older than 1987 on a permanent foundation.

Case No. 5889--Rose Fisher - East side of Route 569, 1,900 feet
south of Route 404.

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

The case was presented by Mr. Betts. Rose Fisher was sworn in and testified, requesting to use a 8'x 28' or 30' manufactured home, that has been on the property approximately 28 years, for a storage shed. The applicant lives in an existing manufactured home, the second is used as storage. Ms. Fisher stated that no one has lived in the manufactured home for 14 years. The unit will be used for storage only. She testified there is a stick-built home and manufactured home on either side of her property.

Ray Fisher, husband of the applicant was sworn in and testified in behalf of the application. He stated they keep the manufactured home in good shape and there will be no sewer/water hooked up to it.

Mr. Betts stated the manufactured home if approved could be replaced for storage only.

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 for a manufactured home no larger than 250 square feet for storage.

Case No. 5890--Marvin Lee & Ruth Elaine Hill - South side of Route 20, 335 feet west of Route 552.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Tom E. Gay, Attorney, was present representing the applicants who were unable to attend. The applicants were requesting a 2' variance and a 7.2' variance from the side property lines of 15' for an existing house and utility building. The applicants purchased the property in 1978 and have now placed it for re-sale. They had no knowledge of any encroachment prior to putting the house up for sale.

Mary D. Cross listing agent was sworn in and testified in favor of the application.

Sherri Maher was sworn in and testified that she and her great uncle are the purchasers of the property and they are in favor of the variance request.

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. 5891--David & Roberta Robinson - West side of Route 267,
one mile east of Route 9, Lots 12 and 13,
within Wolfe Runne Subdivision.

A variance from the setback requirements for a
tennis court.

Mr. Betts stated that this case had been withdrawn.

OLD BUSINESS

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 Mr. Callaway,
seconded by Mr. Mills that the variance be granted, with Mr.
Wheatley abstaining due his absence at the public hearing. Motion
carried with four voting in favor and one not voting.

Case No 5876 (cont'd.)--David & Carolyn Wilson - West side of Route
113, 2,300 feet south of Route 625.

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

The case was reviewed by Mr. Betts.

After some discussion, motion was made by Mr. Callaway,
seconded by Mrs. Hudson, that the case be tabled until the next
meeting, with Mr. Wheatley abstaining due to his absence at the
public hearing. Motion carried with four voting in favor and one
not voting.

Case No. 5878 (cont'd.)--William F. Bradford - West side of Route
413, 150 feet north of Route 426.

A variance from the setback requirement for a
poultry composter.

The case was reviewed by Mr. Betts.

After some discussion, motion was made by Mrs. Hudson,
seconded by Mr. Callaway that the variance be granted, with the

stipulation the composter be moved down as far as possible to be a minimum of 180' from the side property line, with Mr. Wheatley abstaining due to his absence at the public hearing. Motion carried with four voting in favor and one not voting.

DISCUSSION

Mr. Wheatley requested that the meeting dates in April be changed to April 8, 1996 and April 22, 1996.

No action was taken to give the Attorney time to look into the Board of Adjustment rules.

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

Meeting adjourned at 8:20 P. M.