

Minutes of January 24, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening January 24, 2000, at 7:00 P.M., in the Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 P.M., with Chairman Callaway presiding. The Board members present were: Mr. Callaway, Mr. McCabe, Mr. Wheatley, Mr. Mills and Mr. Hudson, Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector and Ms. Jackson – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of January 3, 2000 as circulated.

Mr. Berl read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

Case No. 7057 – Joseph W. Deshaies – south of Route 54, east side of Wilson Avenue, Lot 7, within Cape Windsor Subdivision.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Joseph W. Deshaies was sworn in and testified requesting a 1 foot variance from the required 5 foot side yard setback for a shed; that last summer he was issued the permit for the shed; that he was told by Loretta Benson in the permit department that he could place the proposed shed in the same spot as the existing shed; that he tried to get in touch with the Homeowner's Association to consult them about the shed, but could not get in touch with them; that the existing shed was 3.2 feet from the neighbors property line and that he moved the new shed over 4.2 feet; that when the Planning and Zoning Inspector inspected the shed, he informed Mr. Deshaies that the shed does not meet the required 5 foot side yard setback requirement and that he will need to apply for a variance; that he wrote a letter to the Homeowner's Association about the variance, but they did not approve it because the shed did not meet the setback requirement; and that the Homeowner's Association considered the shed a garage because of the size.

Charles Lampe was sworn in on behalf of the Homeowner's Association and stated that they are in opposition to the application because they consider the proposed use a garage, not a shed.

Motion by Mr. McCabe, and seconded by Mr. Mills, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7058 – Robert G. Ritter, Sr. – north of Route 24, 1,600 feet east of Road 275, Lot 9, within Maplewood Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Robert G. Ritter, Sr. was sworn in and testified requesting a 2.2 foot variance from the required 30 foot front yard setback for a dwelling; that 9 years ago he bought the lot; that it was the first home in the development; that he was issued a permit for the relocation of the dwelling; that he was issued a certificate of compliance on July 1, 1991; and that he was not aware of the setback problem until he sold the home.

Mr. Rickard stated that the Planning and Zoning Inspector pulled the tape from the cul-de-sac and that is why the problem has occurred now.

The Board found that no parties appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7059 – Jill M. Jones – east of Road 385, Lot 7, within Indian River Acres Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Ronald Schoeci was sworn in on behalf of the applicant and testified requesting an 8.7 foot variance from the required 20 foot rear yard setback requirement for a deck; that the builder built the deck incorrectly; that the plans for the deck called for a 4 foot deck, but an 8 foot deck was built instead; and that the deck was built 4 to 6 months ago.

The Board found that no parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7060 – Nicholas R. and Barbara L. Metallo – south of Route 54, south side of Garfield Avenue, Lot 19, Block 2, within Edgewater Acres Subdivision.

A variance from the front yard and rear yard setback requirements.

Mr. Rickard presented the case. Nicholas and Barbara Metallo were both sworn in and testified requesting a 10 foot variance from the required 30 foot front yard setback requirement for a dwelling and a 10 foot variance from the required 15 foot rear yard setback requirement for an open deck; that the proposed dwelling is a 28x48; and that they would like to build a bigger home than the lot size permits so that they can have their parents move in with them.

The Board found that no parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be granted. Vote carried 5 – 0.

Case No. 7061 – Jane Errett Vincenti and Martin Kappel – northeast of Road 364-B, 405 feet southeast of Jan-Mar Lane in Pleasant Meadows.

A special use exception to operate a bed and breakfast.

Mr. Rickard presented the case. Martin Kappel was sworn in and testified requesting to operate a bed and breakfast; that he has been in the area for 20 years; that he has a 5 acre tract and would like to utilize an existing 5,000 square foot home on the lot; that he has a background of renting in the area; and that he would like to share and promote the Assawoman wildlife preserve as a theme of a bed and breakfast.

Mr. Rickard read a letter to the Board from Happy View Farm signed by Ann F. Hobbs and Terry Noon in favor of the application.

The Board found that no parties appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the special use exception be granted. Vote carried 5 – 0.

Case No. 7062 – David and Karen Ottinger – south of Route 54, east side of Tyler Avenue, Lot 1, within Cape Windsor Subdivision.

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

The application was withdrawn.

Case No. 7063 – Don and Diana Layfield – north of Road 297, 819 feet west of Route 30.

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

Mr. Rickard presented the case. Don Layfield was sworn in and testified requesting a 15 foot variance from the required 20 foot rear yard setback and a 10 foot variance from the required 15 foot side yard setback requirement for a 28x32 detached garage; that he applied for a permit 6 weeks ago; and that the property owners next to him are in favor of the variances.

The Board found that no parties appeared in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be granted. Vote carried 5 – 0.

Case No. 7064 – Marvin E. Long – south of Route 54, 1, 500 feet east of Road 381.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Marvin E. Long was sworn in and testified requesting a 16 foot variance from the required 40 foot front yard setback requirement for a canopy over the gas dispensers; that the existing building will remain there but will be another type of business; and that he is upgrading the gas pumps.

The Board found that no parties appeared in opposition to the application.

Mr. McCabe stated that he had gone to look at the site and is in favor of the application.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7065 – Lillian Brown and Vall Reese – east of Ok-Waw Avenue, 900 feet north of Riverdale Road (Road 312), Lot 54, Riverdale.

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

The application was withdrawn.

Case No. 7066 – Jetta Morris – northwest of Road 566, 1,550 feet west of Road 562.

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

Mr. Rickard presented the case and read a letter from Kenneth R. Smith, M.D. Jetta Morris and Bernice Parsons were both sworn in and testified requesting to place a manufactured home next to Bernice Parsons home; that she has been harassed by teenagers and that she has been robbed at the location she lives at now.

The Board found that no parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be granted for a period of two years. Vote carried 5 – 0.

Case No. 7067 – Florence I. Dukes – south of Road 481, 1, 000 feet north of Road 485.

A special use exception to connect two manufactured homes to make one unit.

Mr. Rickard presented the case. Florence I. Dukes was sworn in and testified requesting to connect two manufactured homes to make one unit so that her daughter and her two children can move in with her due to her daughter's bad health; that she would improve the units with an A-roof and matching siding; and that she would only have one (1) kitchen.

The Board found that no parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be granted with the following stipulations:

1. The manufactured home shall be enclosed with a block foundation.
2. The units shall be improved with matching siding.
3. An A-roof shall be installed.
4. There shall only be one (1) kitchen.
5. The improvements shall be completed within six (6) months.

Case No. 7068 – Theresa A. and Alfred A. Casapulla, Jr. – south of Deer Leap, Lot 332, within The Salt Pond Subdivision.

A variation in the yard requirements to be allowed to encroach into 404 wetlands.

Mr. Rickard presented the case. Theresa A. and Alfred A. Casapulla, Jr. both were sworn in and stated that they own lot 332 in The Salt Pond; that they are proposing to build a home with a deck that will encroach into the 404 wetlands; that they submitted plans to the Architectural Review Committee; that Mr. Lank, Director of Planning and Zoning, received a letter from Kenneth A. Simpler stating that The Salt Pond Associates approved the request to build over the 404 wetlands; that a dwelling three lots down from them already encroaches on the 404 wetlands; and that the property owner next to them are in favor of the application.

Mr. Rickard read a letter to the Board from Shane Abbott, Assistant Director of Planning and Zoning, to Kenneth A. Simpler, Salt Pond Associates, stating that the Sussex County Planning and Zoning Commission approved the request to waive the ten foot setback from the Federal 404 wetlands line for The Salt Pond Development.

Mr. Berl, Assistant County Attorney, stated that they have the ability to move the setback line if the variance is approved.

The Board found that no parties appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variation be granted. Vote carried 5 – 0.

OLD BUSINESS

Case No. 7041 – Carol A. Gillard – west of Road 270-A, 1,100 feet south of Road 270, Lot 100, Aspen Meadows Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

Mr. Rickard stated that they moved the shed by Lot 83 and that they are requesting a 3.4 foot variance for the shed.

Motion by Mr. Mill, seconded by Mr. Hudson, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7042 – Colonial Estates, Inc. – northeast of Road 331 and 250 feet southeast of Road 331-A.

A variance to permit continuation of previously existing encroachments into buffer zone on lots, 5, 10, 11, 25, 30, 33, 53, and 55, and a variance from the setback requirement on lots 1 and 26, Colonial Estates Mobile Home Park.

Mr. Berl, Assistant County Attorney, stated that there is no reason why the Board should not consider the variances, with respect to the homes in the buffer zones; and that Colonial Estates is a single parcel that has never been subdivided.

Mr. Mills stated that there are six sheds in the buffer zones that should be moved and also to move the manufactured homes from lots 53 & 55 from the buffer zones.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be granted with the stipulation that if anything is ever replaced it should conform to the setback requirements that are in effect at the time of construction. Vote carried 5 – 0.

Case No. 7043 – Michael J. Cohalan, R.A. – east of Route One, east side of Hall Avenue, Lot 14, within The Chancellery.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Michael J. Cohalan, R.A. was sworn in and stated that the case was tabled because the Homeowner's Association and the owner were in disagreement. Mr. Cohalan submitted a letter to the Board from Richard S. Cohen to Carl Benna, Chairman of the Architectural Review Committee, now in favor of the application.

The Board found that no parties were in opposition to the application at this point.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7044 – Robert and Naydean Miller – northwest of Road 227, 2, 200 feet northeast of Route 16 on a private street, Lot 8, George A. Metz Subdivision.

A special use exception to use a mobile home type structure for storage.

Mr. Rickard stated that he went to the site, and submitted pictures to the Board.

Motion by Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be denied because they did not want to establish a precedent for the use of manufactured home type structures for storage in that area. Vote carried 5 – 0.

Case No. 7046 – Mattie L. Waters – northwest of Road 227, 2,250 feet northeast of Route 16, George A. Metz Subdivision.

A special use exception to use a manufactured home for storage purposes.

Mr. Rickard stated that he went to the site, and submitted pictures to the Board.

Motion by Mill, seconded by Mr. McCabe, and carried unanimously that the special use exception be denied because they did not want to establish a precedent for the use of manufactured home type structures for storage in that area. Vote carried 5 – 0.

Meeting Adjourned 8:30 P.M.