

Minutes of January 25, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, January 25, 1999 in the County Council Chambers, County Administrative 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, Mr. Hudson, Mr. Wheatley, Mr. Berl-Esquire, Mr. Rickard-Chief Zoning Inspector and Mrs. Talley-Recording Secretary.

Mr. McCabe asked for any changes in the agenda. Hearing none, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the agenda for January 25, 1999 be adopted. Vote 5-0.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the minutes of January 4, 1999 be approved as circulated. Vote 5-0.

Case No. 6786--Ronald & Tina Cooper - North of Road 341, west of West Lagoon Road, Lots 98, 99, and 100, Dogwood Acres.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Ronald & Tina Cooper of Dagsboro, were sworn in and testified requesting a 4' variance from the 30' front yard setback requirement on Lots 98, 99 and 100, within Dogwood Acres. The applicants placed a shed on their property the same day as their permit was obtained. There is an existing shed on the property that is also too close to the property line, being 28' from the front property line. They requested the variance for the new shed and the old existing shed. It was stated that they have no opposition from the neighbors that they have talked to.

Mr. Rickard read a letter in support from adjacent property owner Bernard "Bake" Timmons, Jr.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6787--James M. Larrimore, Sr. - East of Road 228, 2,600 feet west of Route 30.

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

The case was presented by Mr. Rickard. James Larrimore, Jr. of Lincoln, was sworn in and testified representing the application. Mr. Larrimore stated that they had had a manufactured home previously on the property under hardship (Case No. 6470) approved November 11, 1997, for his wife's parents. That hardship no longer exists and the manufactured home has been removed. They now wish to place a used single-wide unit on the property for Mr. Larrimore's father to live in on hardship. He stated that he needs to have his father live on the property so he can see that he is taken care of, since he has medical problems.

Mr. Rickard read a letter into the record from Bay Health, Harvey J. Lee, M.D., referencing the health of the applicant.

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 on the basis of medical hardship for a period of two (2) years. Vote 5-0.

Case No. 6788--Darryl & Edith Lecates - South of Road 431, 475 feet west of U.S. Route 113.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Darryl Lecates of Georgetown was sworn in and testified requesting a 15' variance from the 15' side yard setback requirement to be 0'. Mr. Lecates testified that he wants to construct a machine shed on his property up to the line so he will not use up any more farmland than he has too. He stated that he has a house on the property and owns all of the property surrounding it.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6789--Valerie E. Taylor & Emma J. Kane - Southwest of Road 526A, 2,676 feet southeast of Road 46.

A special use exception to enlarge a family day care.

The case was presented by Mr. Rickard. Valerie Taylor of Seaford and Emma Kane of Seaford were sworn in and testified requesting to enlarge their day care from 6+3 to 12+2 children.

They are putting a new building on the property. They live in a double-wide manufactured home. They now have 9 children, and want 12 pre schoolers, 18 months to 4 or 5 years of age and 2 school age. They stated that the playground will stay the same. It was stated that there is a neighbor to the right of their property and vacant property to the left.

Mr. Rickard stated that no correspondence had been received pertaining to this case.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the special use exception be granted from 6+3 children to an increase of 12+2 children. Vote 5-0.

Case No. 6790--Jacquelyn E. Porter & Marilyn P. Woolfolk - South of Road 312, 2,124 feet east of Road 312A, Lot 11.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Donald Collins of Millsboro was sworn in representing the applicants, who requested a 3'1" variance from the 10' side yard setback requirement for a proposed addition to their dwelling. Mr. Collins stated that the existing house has been on the property since before zoning and is only 6'11" from the front property line.

Mr. Rickard stated that the existing house itself does not have to have a variance since it was on the property prior to zoning, but any new addition has to conform to the present setbacks or have a variance.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the variance be granted. Vote 5-0.

OLD BUSINESS

Case No. 6776 (cont'd.)--Roberta C. Brennan - West of Road 449, 2,642 feet north of Road 450.

A special use exception for a commercial dog kennel and a variance from the setback requirements.

Mr. McCabe reviewed the case.

Mr. Mills asked Mr. Berl to explain a letter he had written to the Board members pertaining to dog kennels on less than five acres.

Mr. Berl explained permitted uses set forth in the Zoning Code referencing five acre parcels needed for dog kennels and buffers. That buffers are not needed on less than five acres. He cautioned the Board in granting the special use exception, because of eliminating Code protections. If nothing is granted they can have no more than five dogs at one time.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Hudson and carried unanimously that the special use exception and variance be denied, finding that it does not meet the required County setbacks, the five acres and buffer requirements. Vote 5-0.

Case No. 6779 (cont'd.)--Sylvia V. Candelora - South of Route 54, west of Hidden Acre Drive, Lot 27, Hidden Acres Subdivision.

A variance from the side yard setback requirement.

The case was reviewed by Mr. McCabe.

Mr. Rickard stated that he had researched the garage and found the garage has been on the property for 11 years, according to a permit issued on November 29, 1988.

After some discussion, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be denied, finding the applicant is not going to live on the property, and had indicated that the garage could be moved. Vote 5-0.

Case No. 6784 (cont'd.)--Patricia M. Martin - West of U.S. Route 13-A, 2,271 feet south of Road 460, Lot 2.

A special use exception for a commercial dog kennel and a variance from the setback requirements.

The case was reviewed by Mr. McCabe.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the special use exception and variance be denied, finding the use fails to meet the county requirements for setbacks, the five acre and buffer requirement and would adversely affect surrounding properties. Vote 5-0.

OTHER BUSINESS

Case No. 6323--Michael L. Walker - North side of Terrace Road,
1/2 block west of Blackstone Road, Lot 14,
within Silver Lake Manor.

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

Request for a time extension.

Mr. Rickard read a letter requesting a time extension of at
least one year for the applicant's variance request that was
granted in 1997.

It was stated that the variance request expired last year, if
it was approved in 1997, therefore, the applicant will have to
reapply. No vote was needed.

Motion was made by Mr. Mills, seconded by Mr. Callaway and
carried unanimously that the meeting be adjourned. Vote 5-0.

Meeting adjourned at 7:40 P. M.