

Minutes of March 6, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening March 6, 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, Mr. Hudson, Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector, Mr. Oates – Planning and Zoning Inspector, and Ms. Jackson – Recording Secretary.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Minutes of February 28, 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. 7088 – Fred Mueller – southeast of Route 9, 1,400 feet northeast of Road 479.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Fred Mueller and John Breed were sworn in and testified requesting a 5 foot variance from the required 40 foot front yard setback requirement for a dwelling; that the existing manufactured home will be removed; that there is an existing shed on the property; and that the land to the rear of the lot is low and wet.

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

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

Case No. 7089 – Dean L. Gary and Judith Lagowski – north of Route 9, 2,400 feet north of Road 269-A, Lot 9, within Covey Creek Subdivision.

A variance from the side yard setback requirement and a variance from the lot size requirement.

Mr. Rickard presented the case and read a letter from Eric Howard, Attorney, requesting to withdraw cases 7089 and 7090 stating that they are not pursuing variance requests at this time.

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

Case No. 7090 – Stephen and Eleanor Allen – north of Route 9, 2,400 feet north of Road 269-A, Lot 10, within Covey Creek Subdivision.

A variance from the side yard setback requirement.

Mr. Rickard presented the case and read a letter from Eric Howard, Attorney, requesting to withdraw cases 7089 and 7090 stating that they are not pursuing variance requests at this time.

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

Case No. 7091 – B.B.C. Properties and Mike Zimmerman – east of Route One, 500 feet south of Road 361-A (Jefferson Bridge Road), Parcel B, Lands of Marie Knox.

A variance from the parking spaces requirement.

Mr. Rickard presented the case. Mike Zimmerman and Ken Christianberry were sworn in and testified requesting a variance of 16 parking spaces for a Happy Harry's; that 72 parking spaces are required, but only 56 parking spaces are provided; that Planning & Zoning Commission approved the site plan, but told them that they have to remove the residential area from the site plan; that a Domino's Pizza will be placed there instead of the townhouses; that all permits from the fire marshal, deldot, and stormwater management have been done; that Happy Harry's will have a drive-thru pharmacy; and that the sizes of the parking spaces are 10 x 20.

Diane Archut and Evelyn Hickman were sworn in opposition to the application stating that they have concerns with a 2252 square foot new building; that they own the adjoining property and leases their building; that they have a store that is 2000 square feet with 15 parking spaces; and that parking is at a minimum.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variance be tabled until March 20, 2000. Vote carried 5 – 0.

Case No. 7092 – Roger A. Gross, P.E. – west of Route One, 120 feet north of Best Lane.

A special use exception for a child-care center.

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Mr. Rickard presented the case. Preston Schell, Roger A. Gross, and Carol Bada were sworn in and testified requesting a special use exception for a child-care center; that Beach Babies would like to enlarge their business; that the access will be from Best Lane not from Route One; that there will be 29 parking spaces and that only 24 parking spaces are required; that there will be the maximum of 100 children; that the proposed building is 7683 square feet; that a 39 foot left turn lane is required and that 250 foot is already there; that the hours of the facility will be Monday thru Friday 7:00 A.M. until 5:30 P.M.; that the ages of the children will be 6 months to school age (5 years old); that there will be a fenced-in play area; that a traffic impact study was done because of the proposed Delaware Guidance Services facility, a pending conditional use application on the same parcel; and that the plans for the remainder of the parcel are to be a subdivision accessed from Best Lane.

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

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

Case No. 7093 – D & G Auto sale and Eugene Mullins, Jr. – west of Route 113, 700 feet south of Road 405.

A variance from the front yard setback requirement for automotive sales display.

Mr. Rickard presented the case. Eugene Mullins, Jr. was sworn in and testified requesting a 25 foot variance from the required 25 foot front yard setback requirement for the display of used vehicles; that the existing home blocks the view to the vehicles; that curbing is already present; that he has 20 cars on the property; that it is an 1 acre parcel; that the home serves as the sales office; and that the parcel is zoned C1 General Commercial.

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 tabled until March 20, 2000. Vote carried 5 – 0.

Case No. 7094 – Stephen T. and Louise J. Kotula – southwest of Route 54, south side of Garfield Avenue, Lot 14, Block 2, within Edgewater Acres Subdivision.

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

Mr. Rickard presented the case. Stephen T. and Louise J. Kotula were sworn in and testified requesting a 14 foot variance from the required 30 foot front yard setback requirement instead of a 10 foot variance from the front yard setback and an 8 foot variance from the required 20 foot rear yard setback requirement instead of a 12 foot variance from the rear yard setback for a 28 x 50 dwelling with a deck.

Bill Brown was sworn in favor of the application stating that the reasoning for the change in the setbacks is that the Homeowner's Association and the Community were concerned about the rear yard setback; that they would like the applicant to have a larger variance for the rear instead of what they are asking for so that they would not block the view of the bay.

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. 7095 – Paul J. Pasqualini – east of Route One, 560 feet north of Route 9 intersection.

A variance for a second on-premise sign.

Mr. Rickard presented the case. Paul J. Pasqualini, representing St. Jude RC Church, was sworn in and testified requesting a variance for a second on-premise sign; that the size of the sign is a 12 x 4; that the height is 4.5 foot; that it will be parallel to the existing sign; that the sign will advertise for the outreach of catholics with a phone number to call; that if the program works the sign will stay up for at least 2 to 3 years; and that if the program does not work it would only stay up for about 1 year.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be granted for a period of 3 years. Vote carried 5 – 0.

Case No. South Street Associates, L.L.C. – northeast of Road 274, north side of South Street, Lots 3 and 4, within Masten Heights.

A variance from the separation requirement between units.

Mr. Rickard presented the case. Mark Davidson and Cheryl Normandeau were sworn in and testified requesting a 12 foot variance from the required 40 foot separation requirement between units instead of the 10 foot variance between units they requested; that the original site plan showed that the units had front porches, but have rear decks with patios instead; that the fire marshal requires a 15 foot open space; that DelDot requires a 5 foot dedication for public use; and that there are 24 parking spaces for 8 homes.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be granted because of the 5 foot dedication for public use required from DelDot.

Case No. 7097 - Michelle Davis – east of U.S. Route 13, 2,000 feet south of Road 481, Lot 4, within Hastings Mobile Home Park.

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

Mr. Rickard presented the case. Michelle Davis and Gordy Davis were sworn in and testified requesting a 4 foot variance from the required 20 foot separation requirement between units; that they placed a new manufactured home in the same location as the existing manufactured home that was removed; that Bob Groten with Discount Homes purchased the placement permit for them which was part of the deal when they purchased the home; that the new home is 4 foot longer than the previous home was, but is the same width; and that there is an existing manufactured home with an addition next to them, which is the reason for the needed variance.

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. 7098 – Rehoboth Outlets – northeast of Route One, 1,050 feet northwest of Road 271.

A variance for an on-premise sign and a variance from the height requirement.

Mr. Rickard presented the case. Larry Holding with Rogers Sign Company was sworn in and testified requesting a variance for another on-premise sign and a variance of 4'6" to allow the sign to be 29'6" for Disney Company: that the size of the sign is a 9'4" x 16'; that it will be placed at the north end of Rehoboth Outlets next to K-Mart; that the sign will be placed 400 feet from Route One; that the pole structures are in an existing flower bed; and that the sign will be set perpendicular to Route One so that the sign will be able to be read over the existing buildings.

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 variances be granted. Vote carried 5 – 0.

Case No. 7099 – David S. Elechko – north of Route 26, 1, 060 feet southeast of Road 346, Lot A.

A variance from the lot width requirement.

Mr. Rickard presented the case. David Elechko was sworn in and testified requesting a 21.29 foot variance from the minimum lot width of 150 foot; that an existing parcel is being reduced and that the adjacent parcel is being enlarged; that the existing home was built in 1952; that he is the third owner of both lots; that he does not want one driveway to serve both parcels; that he is in the process of building a new home on Lot A and selling Lot B; that there is 153 foot road frontage for Lot A and 125 foot road frontage for Lot B; and that Lot B is non-conforming.

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.

Old Business

Case No. 7082 – Craig Mullins – north of Route 18, 1, 900 feet west of Road 561.

A special use exception for a private garage for more than four Automobiles and larger than 900 square feet.

Mr. Mills and Mr. Callaway stated that they revisited the area and found that the property to be neat with no evidence of any business activity going on.

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

Case No. 7085 – Carole A. Schermer – east of Route One, 100 feet north of Road 360, Lot T-4, Ocean Village.

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

Mr. Rickard read a letter from Carole Schermer stating that the correct setbacks are to be a 1.6 foot variance from the required 10 foot side yard setback requirement for a screen porch and a 2.4 foot variance from the required 10 foot rear yard setback requirement for a deck.

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

Meeting Adjourned 9:15 P.M.