

Minutes of April 5, 1993

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, April 5, 1993 in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 6:58 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Wheatley, Mrs. Hudson, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that the minutes of March 15, 1993 be approved as circulated.

Case No. 5033--Borden, Inc. - Private road on the north side of Route 18, 250 feet east of Route 546.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Roger Arnold was sworn in and testified representing Borden, Inc. who requested a 6' variance from the 20' side yard setback requirement in a LI-2 District. The applicants have a structure on the property that is presently too close to the side property line. They propose to demolish a portion of the structure and rebuild in the same location a 30,000 square foot structure. They propose to keep it in line with what exists.

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. 5034--Dorothy Vandegrift - South side of Route 54, 1,000 feet west of Route One, Lot 21, within Mason Dixon Trailer Park.

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

The case was presented by Mr. Betts. Dorothy and Frank Vandegrift, Sr. were sworn in and testified, requesting a 12' variance from the 20' setback requirement between units in a park on Lot 21, Mason Dixon Trailer Park. The applicant proposes to build a deck, replacing a patio. The deck will be an open deck and will be built level with the doorway. They testified that the park owner has no objection.

There were no parties present in opposition.

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

Case No. 5035--Randall Brammar - Southeast side of Route 24,  
3,300 feet northwest of Route 284.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Tom Stumpf, Attorney, was sworn in and testified representing Randall Brammar who requested a 1' variance from the 30' front yard setback requirement to be 29' for a porch. Mr. Stumpf stated that the previous owners had a porch constructed assuming the builder had built it correctly. When a placement survey was done on the property for Mr. Brammar who is purchasing the property, the encroachment was discovered. Mr. Stumpf stated that the porch does not affect neighboring properties.

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.

Case No. 5036--Joseph Baker & Janice Gohl - North side of Route  
54, 1,100 feet west of Route 389.

A special use exception to continue the operation  
of a commercial dog kennel.

The case was presented by Mr. Betts. Joseph Baker and Janice Gohl were sworn in and testified, requesting to continue the use of operating a dog kennel on a permanent basis. The applicants were given approval for the dog kennel five years ago by the Board. They testified that there has been no problems with the kennel.

Mr. Jones, Attorney, explained that the Board can only approve the kennel for 5 years since the Zoning Code has a 5 year limitation

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for a period of five (5) years.

Case No. 5037--Edward G. & Sandra L. Graham - West side of Keenwik  
Road,  $\frac{1}{4}$  mile south of Route 54, Lot 29,  
within Keen Wik.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Charles Adams was sworn in and testified representing Edward & Sandra Graham who requested a 2.5' variance from the 10' side yard setback requirement to be 7.5' on Lot 29, Keen Wik. The applicants propose to build a dwelling on the property which is 50'x 100' in size. Because of the design of the house and the size they want, a 2.5' variance is needed on each side. The floor plan of the house was shown.

Mr. Betts read two letters of opposition into the record from William E. Wolfe, Keen Wik Association and Ralph & Rose Russo.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, 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 Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the variance be denied, finding the applicants had not met the requirements for the granting of a variance and the property can be utilized and meet the setbacks.

Case No. 5038--David A. Bramble, Inc./Tilcon Joint Venture - East side of Route 113, 1,150 feet south of Route 565.

A special use exception to operate a concrete batching plant.

The case was presented by Mr. Betts. Edward M. Laverty, Thomas M. Madden, David C. Bramble and Louis Thibault were sworn in and testified representing the applicants who requested to operate a concrete plant for the widening of Route 113. They stated the use will be temporary until the project is complete which will take approximately three years. The Army Corp. of Engineers gave them four years. The plant will be for the road construction only. There will be collectors to minimize dust and the plant will be self contained. It will be a typical concrete plant with sand, stone and concrete mixes. There will be some noise, but the plant will be to the rear of the property and surrounded by trees. They will operate a 10 hour day from 7:00 A.M. to 5:00 P.M., 5 days a week. The project is to be completed in the fall of 1995.

Charles O'Day was sworn in and testified questioning the amount of dust and water contamination.

It was stated that there would be some dust and no water contamination.

Louis Thibault, owner of the property, was sworn in and testified in behalf of the application, stating they need to complete the work on the roads.

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 for a period of four (4) years.

Case No. 5039--Susan S. Spencer - West side of Loretta Street, one mile south of Route 50, Lot 38, within Bay View Park.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Susan Spencer and Richard Spencer were sworn in and testified, requesting a 3½' variance from the front property line setback requirement for a 8'x 20'4" addition on Lot 38, Bay View Park. The applicant proposes to make an addition to her home to extend the living room. The existing house is 25'

from the front property line. They stated the Association has no objections.

Mr. Betts read a letter from Kenneth & Janis Mack in favor of the requested variance.

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. 5040--Mark S. Ayers - South side of Route 277,  $\frac{1}{4}$  mile east of Route 24, Lot 22-Q-3, within Angola By The Bay.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Mark Ayers was sworn in and testified, requesting a 2' variance from the 20' rear yard setback requirement on Lot 22-Q-3 Angola By The Bay. The applicant proposes to enclose a deck. There is common area to the rear of the property and he stated the enclosure will not affect the visibility of neighbors.

There were no parties present in opposition.

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

Case No. 5041--Robert C. & Patricia A. Smith - A private road on the northeast side of Route 342, 1,800 feet north of Route 341A, Lot 23, within Indian River Acres.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Robert & Patricia Smith were sworn in and testified, requesting a 10' variance from the 20' rear yard setback requirement to construct an addition to their home on Lot 23, Indian River Acres. The applicants stated that they are permitted a 20'x 30' building and they want to add 10' more to it for more space. Septic installation prohibits adding on in front of the dwelling.

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. 5042--Kenneth M. & Alma E. Taylor - South side of Route 70,  $\frac{1}{2}$  mile southeast of Route 461.

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. William T. Marvel, Real Estate Agent, was sworn in and testified representing the applicant's who requested to place a 28'x 48' double-wide manufactured home with a permanent foundation, on Lot 2, on property recently subdivided. It will be their permanent residence. There is one other manufactured home in the area. Pictures of the property were shown.

There were no parties present in opposition.

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

Case No. 5043--Allen's Auto Sales - Southwest side of Route One,  
436 feet northwest of Route 276.

A variance from the exclusion of a roof sign.

The case was presented by Mr. Betts. Allen P. Haughey was sworn in and testified representing this case. The applicant's requested a variance from the exclusion of a roof sign. Mr. Haughey stated that he has a non-conforming roof sign on his building now, where he has car sales. He wants to replace the roof sign with a new roof sign that will be lighted. He has had problems with theft on his cars. He has an alarm system but that is not sufficient. He was advised that lighting would help provide security, so he has obtained a lighted sign from Advanced Sign Co. Pictures were shown.

Mr. Betts explained that lights can be put up without a variance or a sign.

Mr. Jones, Attorney, requested time to research the Sign Ordinance since the Board cannot act on a use variance. A roof sign is not permitted under the Zoning Code. The non-conforming sign can be used but not replaced.

Elwood Johnson, owner of the building, was sworn in and testified, explaining how the lights are on the building and how they can be improved.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the case be tabled to give Mr. Jones time to do research.

Case No. 5044--Carl Zander & Vernon Becker - North side of Route  
54,  $\frac{1}{2}$  mile east of Route 381, Lot 8B,  
within Swann Keys.

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

The case was presented by Mr. Betts. Carol Zander & Vernon Becker were sworn in and testified, requesting a 10' variance from the 20' setback requirements between units in a park, being

Lot 8B, Swann Keys. The applicants propose to construct a shed on their property. They will meet the Swann Keys setback requirements, but not the County requirements. They stated there is no other place on the lot to place the shed.

Mr. Betts read a letter from Bettie Bozzi, Swann Keys Association in favor of the variance.

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.

#### OTHER BUSINESS

##### Case No. 4615 - P & A Engineering Co.

Mr. Betts reviewed Case No. 4615 that was approved for a concrete/asphalt crushing machine. He was to report back to the Board with information about how the use is operating or if there are problems. Mr. Betts stated that there are no complaints about the crushing machine and it has developed as planned.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that Case No. 4615 be permitted approval to extend the full five years.

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

Meeting adjourned at 8:09 P. M.