

Minutes of May 3, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, May 3, 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 additions or changes to the agenda. Hearing none, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the agenda for May 3, 1999 be adopted. Vote 5-0.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the minutes of April 19, 1999 be approved as circulated. Vote 5-0.

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

Case No. 6841--Ronald Scrutchfield & Lighting Realty, Inc. - North of Route 1,
Intersection of Road 265-A.

A variance from the rear yard setback requirement.

The case was presented by Mr. Rickard. Ronald Scrutchfield of Lewes was sworn in and testified and was represented by Jim Fuqua, Esquire. Mr. Scrutchfield requested a 5' variance from the 30' rear yard setback for a commercial structure on a C-1, General Commercial Lot adjacent to a residential zone. Mr. Fuqua stated that the applicant has a Lighthouse and sells lights and fixtures where an existing rear portion of the building is to be removed and an addition constructed to provide space for inventory. Mr. Fuqua stated that a 5' variance is needed. Mr. Scrutchfield stated that everything Mr. Fuqua stated was true and correct.

There were no parties present in opposition.

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

Case No. 6842--Bessie M. Andrews - East of Road 213, Lot 14, Robert B. Fitzgerald
Subdivision.

A special use exception for a day care center.

The case was presented by Mr. Rickard. Bessie M. Andrews of Lincoln, was sworn in and testified, requesting to operate a day care center for 40 children. She testified that she will have school teachers to help with the teaching of the children. She stated that she will have disability and at risk children (children on the streets). Ms. Andrews stated that her operating hours will be 6:00 A. M. to 8:00 P. M., Monday through Saturday, if there is an emergency for Saturday. Ms. Andrews stated that she will provide proper loading and unloading areas for the children and will be in compliance with all State requirements.

Harold Truxon of Ellendale, was sworn in and testified in support of the application stating that he is President of the Ellendale Civic Association. He stated that the applicant has operated a day care over 11 or 12 years. He stated that there is a need for the day care center.

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. Vote 5-0.

Case No. 6843--Hair Cuttery – East of Route 1, 600 feet south of Road 270-A.
A variance for a second wall sign.

The case was presented by Mr. Rickard. Larry Holding of Milton, was sworn in and testified on behalf of Rogers Signs and the Hair Cuttery. The applicants requested a variance to have a second wall sign that will have 2'x 14' individual neon letters. The store is located in the back section of Lighthouse Plaza, which makes it hard to see. The sign will be located on the north side of the store. He stated that he does not know the size of the wall where the sign is going.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the case be taken under advisement. Vote 5-0.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6844--Edward & Phyllis Zitvogel – South of Road 594, 580 feet west of Road 596.

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

The case was presented by Mr. Rickard. Edward & Phyllis Zitvogel of Bridgeville, were sworn in and testified requesting to use a 12'x 60' manufactured home for storage. The unit is already on the property, but has no electric and water. It is used just for storage. The applicants stated that there is another small 8'x 55' unit close to a shed that is also being used for storage that has been on the property for approximately 15 to 18 years. The applicants stated that the small unit was not approved by the Board. They stated that when their barn is fixed up they plan to move the small unit and the shed. The applicants stated that they were told to apply for a public hearing for the proposed unit.

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. Vote 5-0.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the special use exception be granted and that the applicants check for the legality of the existing small manufactured home. Vote 5-0.

Case No. 6845--CMH Homes, Inc. – Northeast of Route 113, 1,320 feet northwest of Road 83.

A variance for a second ground sign and a special use exception to use a manufactured home for a sales office.

The case was presented by Mr. Rickard. Michael Beauchamp of Delmar, Maryland was sworn in and testified representing the applicants who requested a variance to have a second wall sign and to use a manufactured home for a sales office. It was stated that they trade/as Luv Homes and Clayton Homes, that currently Luv Homes operates in Millsboro, with 657' of Road frontage. They propose to open a sister sales center with their Clayton Homes. The sign will reflect the Clayton name. They propose to use a 28'x 40' double-wide unit for the sales office. Mr. Beauchamp stated that the use will not change, it will bring more homes in. In answer to Mr. Callaway's question, Mr. Beauchamp stated that the sign will be 22'3" from the ground in height.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Hudson and carried unanimously that the case be taken under advisement. Vote 5-0.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance and special use exception be granted. Vote 5-0.

Case No. 6846--Kent Sign Company – South of Route 1, 500 feet west of Lewes and Rehoboth Canal.

A special use exception for an off-premise billboard sign.

The case was presented by Mr. Rickard. Dale McCalister of Dover and Steven Collins of Lewes were sworn in and testified representing Kent Sign Company, who requested to have a 8'x 16' billboard (off-premise) sign on Route 1A, next to the Canal. It was stated that Rehoboth Beach Associates has permission to develop townhouses, Canal Landing, but have been stopped by Del, DOT. The owner of the property also owns Henlopen Hotel and wants to use the sign to advertise that Canal Landing is coming soon and at the same time advertise the Henlopen Hotel. Once Canal Landing can continue, he will change the sign and take the Henlopen Hotel advertisement off.

Mr. Mills questioned what would happen if they are not able to develop the land.

Mr. Callaway stated that a restriction on time can be put on it, that the applicant owns the land and can use it the way proposed if nothing else can be put there.

Mr. Collins stated that the site is on the ride into Rehoboth and Del, DOT is exploring another way into Rehoboth, which may cut through the property for the use, but the project would only be scaled back. He does not know the setback from a dwelling, he stated that it might be close.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting, so the applicant can let the Board know if they will meet all requirements for the off-premise sign. Vote 5-0.

Case No. 6847--Key West Investments - West of Route 1, south of Road 274.

A special use exception for an additional sign on existing billboard.

The case was presented by Mr. Rickard. Rick Phillips of Seaford and Phillips Signs, was sworn in and testified requesting a 300 sq. ft. sign on a non-conforming billboard. The sign presently advertises Atlantic Liquors and is double-faced. He wants to add a sign on the inside of the sign.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the special use exception be granted, finding that the other sign is double-faced and does exist. Vote 5-0.

Case No. 6848--Victoria E. Martina – East of Route 54, Grant Avenue, Lot 4, Cape Windsor.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Victoria E. Martina of Salisbury and Tim Danaker of Millsboro were sworn in and testified. The applicant requested a 8" variance from the 5' side yard setback on Lot 4, within Cape Windsor. It was stated that a side and rear yard variance was granted to the applicant on October 5, 1998, Case No. 6723, but the manufactured home was placed wrong on the property. The back end of the unit is 8" to close to the property line. The unit was placed by Hudson Homes. A letter from the Cape Windsor Association and a card from the neighbor were submitted voicing no objections.

Mr. Rickard read the letters submitted from the Cape Windsor Association and Timothy Danaker, President of the Board of Directors and neighbors Albert & Carol Rommel, in support of the application.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that an 8' variance be granted, and bring to the attention of Hudson Homes that this is not the first home this has happened to. Vote 5-0.

Case No. 6849--Kenneth L. & Elda S. Layton – Northwest of Road 36, 2,400 feet
Northeast of Road 613 at Staytonville.

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

The application was presented by Mr. Rickard. Kenneth Layton of Greenwood was sworn in and testified requesting to retain a manufactured home on their property for their mother, Beulah Layton, on medical hardship basis. Mr. Layton stated that everything is still the same and that his mother is now 92 years old.

Mr. Rickard read a letter from Frederick Samsel, M.D. referencing Mrs. Layton health.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Hudson and carried unanimously that the special use exception be granted on the basis of hardship for a period of two (2) years. Vote 5-0.

Case No. 6850--Leonard & Anna Dostillio – Route 1, 450 feet east of Benson Street,
Lot 10.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Leonard & Anna Dostillio were sworn in and testified requesting a 4' variance from the front yard setback of 30' on Lot 10, Benson St. The applicants propose to build a 5'x 26' covered front porch. They stated that there is no Homeowners Association. The applicants previously had a porch and changed it into a room addition. They would like to build a new porch. It was stated that they will not be out any further, but a 4' variance is needed.

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.

Case No. 6851--Tom Lazzaro – East of Road 554, 620 feet north of Road 557.

A variance from the front yard and side yard setback requirements for a commercial stable.

The case was presented by Mr. Rickard. John Kevin Lare was sworn in and testified in behalf of this case. The applicant requested a 150' variance from the 200' side yard setback and a 100' variance from the 200' front yard setback for a commercial stable. It was stated that the variances had been approved May 19, 1997, Case No. 6326, but time ran out before the use was completed. Mr. Lare stated that there have been no changes made since the last application, that everything is still the same. They were not able to go ahead with the work before, but they are ready now.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the variance be granted, since it was approved two years ago. Vote 5-0.

Case No. 6852--Melvin A. & Gloria A. Fox – East of Road 258, 900 feet north of Road 260.

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

The case was presented by Mr. Rickard. Melvin & Gloria Fox were sworn in and testified requesting to retain a manufactured home on their property on the basis of hardship. This hardship was approved May 24, 1993, Case No. 5084. The only change according to the applicants is that Mr. Zinsmeister is deceased and his widow still lives in the unit.

Mr. Rickard read a letter from Jonathan Q.C.Hall, M.D. referencing Mrs. Zinsmeister's health, plus a letter in support from Melvin & Gloria Fox.

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

OLD BUSINESS

Case No. 6819 (cont'd.)--Irma Ball - North side of Francis Street, 485.5 feet east of North Third Street.

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

Mr. McCabe reviewed the case.

After some discussion, motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the special use exception be granted on medical hardship basis for a period of two (2) years, and that it be suggested to Ms. Ball that in the future the property should be cleaned up and something be done with the existing house. Vote 5-0.

Case No. 6824 (cont'd.)--John S. Burton – East of Church Street, 510 feet north of Route 1-A (Rehoboth Avenue Extended), Edgewater Trailer Park.

A special use exception for an off-premise sign.

The case was reviewed by Mr. McCabe.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Hudson and carried unanimously that the case be tabled until the next meeting and have Mr. Rickard or a staff member find out how close Mr. Burton's sign would be to the nearest dwelling. Vote 5-0.

OTHER BUSINESS

Discussion - Wall signs

It was the consensus of the Board that at the next meeting they decide when to have a special meeting to discuss special issues, and what issues they want to discuss.

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

Meeting adjourned at 8:39 P. M.