Minutes of May 16, 1994

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, May 16, 1994 in the County Council Chambers, Room 115, Courthouse, 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. Wheatley, Mrs. Hudson, Mr. Mills, Mr. Callaway, Mr. Jones-Attorney and Mr. Betts-Zoning Inspector III.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the minutes of May 2, 1994 be approved as circulated.

Case No. 5344--Michael A. Thoroughgood - North side of Route 462, ½ mile west of Route 461.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Michael & Virginia Thoroughgood were sworn in and testified, requesting a 9' variance from the 15' side yard setback to construct a garage on their property. They testified that due to the angle of the lot, the septic and well, there is no other place to put the garage. Since the garage is over 600 sq. ft. in size a greater setback is required. There is farmland adjacent to the property.

There were no parties present in opposition.

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

Case No. 5345--Cynthia Brooks - West side of Route 326, ¼ mile southwest of Route 86.

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

The case was presented by Mr. Betts. Cynthia & Samuel Brooks were sworn in and testified, requesting to place a 1982, 12'x 60' manufactured home on their property on basis of hardship for Ms. Brooks brother who is mentally disabled. They currently live on the property in a manufactured home. It was stated that one of the applicant's will be at home all of the time for Ms. Brooks brother. Ms. Brooks stated that there is a home and vacant property adjacent to her property.

There were no parties present in opposition.

It was explained to the applicant that if approved, she would have to reapply every two years and if the hardship ceases to exist the manufactured home would have to be removed.

A letter from Lora Pritchett, Psyciatric Social Worker, referencing Ms. Brooks brother's health, was read by Mr. Betts.

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

Case No. 5346--Peter & Marie Jacobs - North side of Route 538, 450 feet east of Delaware/Maryland line.

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

The case was presented by Mr. Betts. Marie Jacobs and Desiree Black were sworn in and testified, requesting to place a manufactured home on Mrs. Jacobs property on basis of hardship for her husband who is a heart patient. She needs her daughter to stay near him when she is away and help care for him. Mrs. Jacobs stated that the manufactured home will be a 2 or 3 bedroom unit.

Mr. Betts read a letter from the Veterans of Foreign Affairs in Cambridge, Maryland, referencing Mr. Jacobs condition. Also a letter from the State of Delaware confirming Ms. Black being a nurses aide.

It was explained to Mrs. Jacobs and Ms. Black that if approved it would have to be reapplied for every two years and if the hardship ceases the manufactured home would have to be removed.

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 hardship for a period of two (2) years.

Case No. 5347--Mary A. Bunch - Southwest side of Route 5, 635 feet northwest of Route 255.

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

The case was presented by Mr. Betts. Mary A. Bunch and Mary Estella Bunch were sworn in and testified, requesting to place a 14'x 60'or 80' manufactured home on Mrs. Bunch property for her granddaughter, Mary A. Bunch to live in to be able to care for her grandfather, Mrs. Mary Estella Bunch's father. Mrs. Bunch's father lives on the property in a 10'x 50' or 60' manufactured home. Ms. Bunch does not have her unit yet. Mrs. Bunch's father is 73 years old and needs care. Mrs. Bunch stated that there is a house on the property to be torn down. The removal of the house could be done in six months.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that the special use exception be granted on the basis of hardship for a period of two (2) years, with the stipulation that the existing house be removed within six (6) months.

Case No. 5348--Paul Paulson - South side of Route 493, on the north side of the intersection with Route 492.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Paul & Pauline Paulson were sworn in and testified, requesting a 4' variance from the 15' side yard setback requirement to build a master bedroom and bath to their home. They stated this is the only location to put the addition. There is a new septic on the other side of the property.

There were no parties present in opposition.

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

Case No. 5349--Chris Spady - West side of Route 13A, two (2) miles north of Route 470.

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

The case was presented by Mr. Betts. Christopher Columbus Spady and Bennetta Spady were sworn in and testified, requesting to place a second manufactured home on their property on basis of hardship for their son to live in. Mr. Spady stated that his son is paralized and only has one eye. Mr. Spady stated that he does not live on the property, but his daughter does and she will look after her brother. His daughter's manufactured home has been on the property approximately 20 years. The manufactured home to be placed on the property will be a two bedroom unit.

Mr. Betts read a letter from a doctor referencing Mr. Spady's son's health.

There were no parties present in opposition.

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

Case No. 5350--William Timothy Kellam - South side of Route 465, one mile east of Route 13.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. William Timothy Kellam was sworn in and testified, requesting a 5' variance from the rear yard setback from the property line, to construct a garage over 600 sq. ft. in size. Mr. Kellam asked that the 5' variance requested be amended to 8'. After removing trees and shrubbery he realized an 8' variance is needed. Mr. Kellam stated that there is an existing garage on the property used by his wife. He proposes to use the new garage for himself and his son. He stated that he had spoken to his neighbors and found they have on objections.

There were no parties present in opposition.

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

Case No. 5351--Betty L. Sharp - South side of Route One, ¼ mile west of Route 271, Lot F-57, within Sea Air Village.

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

The case was presented by Mr. Betts. Betty Sharp and Marilyn Barnett were sworn in and testified, requesting a variance from the side yard setback and a variance from the setback requirement between units in a park, on Lot F-57, within Sea Air Village. A revised plot was presented requiring a 7' variance from the neighboring unit to add a porch.

Mr. Betts stated that the original application is to replace the manufactured home. A 7' variance is needed to add a porch. Mr. Betts also read a letter from Sandra Stintsman, Park Manager and Anthony Bryan, Superintendent, voicing no objection. Mr. Betts stated that a variance of 13' from the 20' to be 7' is requested.

Gary Wayne Mathina was sworn in and testified explaining the drawing showing the lot and proposed porch.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson 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 Mr. Wheatley, seconded by Mrs. Hudson and carried unanimously that the variance be granted for whatever amount of variance is needed from the side yard setback and not to exceed the 7' variance between units.

Case No. 5352--James M. Jarosik - Northeast side of Route One, 2,000 feet northwest of Route 271.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Joe Conaway, President of Consultants Unlimited and Realtor and Wayland Bryant, Consulting Engineer, were sworn in and testified representing James Jaroski who requested a variance from the requirements for signs. A 121 sq. ft. sign is proposed for K-Mart. A 25 foot height is required and they request a variance to be 45' in height. Mr. Conaway explained what is going to be on the property. He explained the sign will be lighted and at the entrance to the property.

Mr. Bryant showed and explained the property and the location of the store. He showed where the sign is to be located. He stated the sign will be 35' to the base and 45' to the top. The lighting will be interior with no exterior lighting and will be red and white in color. They feel it helps for the sign to be tall and elevated above the power

lines. There are no other signs at this height in the area. The area around the sign will be landscaped with trees and shrubbery.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson 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 Mr. Wheatley, seconded by Mrs. Hudson, and carried unanimously that the variance be denied, finding the applicant had not met the requirements for granting of a variance.

Case No. 5353--Wee Wisdom-Kinder Kapers - Kathy Jackson - South side of Route 22, ¼ mile east of Route 298.

A special use exception to operate a Day Care Center.

Mr. Callaway abstained from participating in this case due to a possible conflict of interest.

The case was presented by Mr. Betts. Kathy Jackson was sworn in and testified, requesting to operate a Day Care Center, that will provide pre-school and school age child care program, offer tutoring and parenting classes, and will offer summer camp program, in the Long Neck Area. Mr. Jackson stated that she has two other Cay Care Centers one on Route 24 and in the Town of Millsboro, with 23 to 39 children. The new center will have 20 to 40 children with 4 to 6 employees, one employee for each 10 children. She feels there is a need in the area. She had approval three years ago for one of her other centers. She will have school age children too and provide a computer program.

Mr. Betts read a letter sent to Mr. Stickels, from Charles Hudson, Superintendent of the Indian River School District, who owns property adjacent to the site for the Day Care Center. They have no objections.

John S. Burton was sworn in and testified in behalf of the application. He feels it will be a credit to the area.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Mills that the special use exception be granted, with Mr. Callaway abstaining. Motion was carried with four voting in favor and one not voting.

Case No. 5354--Sea Colony Development - North side of Route 361A, at the intersection with Route One, within Sea Colony West, Phase I.

A special use exception to place two (2) manufactured homes to be used as a sales office and a rental office.

The case was presented by Mr. Betts. Timothy Michael Nealy was sworn in and testified representing Sea Colony Development and was represented by Jim Fuqua, Attorney. The applicants requested to place two manufactured homes to be used as sales office and rental office

for Sea Colony West, Phase I. Mr. Fuqua asked that the request be amended to one manufactured home. The unit will be 24'x 44' with decking. He presented a plot and explained where the site is located. He stated parking will be provided. There are 700 to 750 units to be constructed. The unit will be more informational office. The main purpose is for rental. The rentals are now being done in a high rise building. It would be more practical to move to the manufactured home unit. They request a five year time period although a permanent structure is to be built before that time period is up. They need at least 2 years, but feel more comfortable with 5 years. They feel the use will not adversely impact the area. It is a temporary use.

There were no parties present in opposition.

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

Case No. 5355--Clara Lee Adams - Southwest side of Route 18, on the west side of the intersection of Route 484.

A variance from the front yard setback requirement.

The case was presented by Mr. Betts. Clara Lee Adams and Francis Lee Layton were sworn in and testified, requesting a 21' variance from the 40' front yard setback requirement for an addition to a home that has been on the property for several years. Ms. Adams proposes to add on to the front of the house. The house is only 20'6" from the front property line. She stated she owns property around it and that visibility will not be obstructed going in or out of the property.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the variance be granted, finding that the use will not adversely affect anyone.

OLD BUSINESS

Case No. 5333--K. C. 2, L. L. C. - South side of Route 243, 2,500 feet east of North Bedford Street Extended.

A special use exception to operate an asphalt mixing plant.

Mr. Betts stated that a letter from Joseph T. Conaway, Agent for K. C. 2, L. L. C., was received requesting to withdraw their application. The letter was read into the record.

Mrs. Hudson did not participate in the discussion or voting on this case, due to being absent from the public hearing.

Mr. Jones, Attorney, read from the Zoning Code about appeals and withdrawals in regard to the Board allowing a case to be withdrawn.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway to allow Case No. 5333 to be withdrawn, with Mr. Mills voting nay and

Mrs. Hudson not voting. Motion was carried with three voting in favor of withdrawal, one against and one not voting.

OTHER BUSINESS

Case No. 5047 - John Radick

Request for an extension.

Mr. Betts stated he had received a letter from John Radick, Case No. 5047, requesting an extension on their special use exception. The letter was read into the record.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that a one (1) year extension be granted for Case No. 5047.

DISCUSSION

Letter to Mr. Jones.

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

Meeting adjourned at 8:20 P. M.