

Minutes of June 2, 1997

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, June 2, 1997 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, Mrs. Hudson, Mr. Mills, Mr. Wheatley, Mr. Jones-Attorney, Mr. Betts-Zoning Inspector III, Mrs. Mowbray-Zoning Inspector and Mrs. Talley-Planning & Zoning Secretary.

Motion was made by Mrs. Hudson and seconded by Mr. Wheatley that the minutes of May 19, 1997 be approved as circulated, with Mr. Mills abstaining. Motion was carried with four voting in favor and one not voting.

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

Case No. 6328--Robert & Florence Kollet - South side of Route One, Lot 20, within Ann Acres.

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

The case was presented by Mr. Betts. Robert & Florence Kollet were sworn in and testified, requesting a 4' variance from the 10' rear yard setback requirement for a shed, and a 5' variance from the 10' side yard setback requirement for an addition to their dwelling, on Lot 20, within Ann Acres. The applicants had a shed that was destroyed by a tornado and they were told they could rebuild the shed on the same foundation. The variance is to bring the shed into compliance. The existing 24'x 24' garage is being made an addition to the dwelling and therefore, the setbacks must be greater to comply with the setback requirement for the dwelling. The applicants purchased the property in 1979.

Mr. Betts stated that when the garage is added to the dwelling the applicants must adhere to the greater setbacks.

There were no parties present in opposition.

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

Case No. 6329--Dagsboro Church of God - West side of Route 113, 500' north of Route 26.

A special use exception to place a manufactured home to be used as class rooms.

The case was presented by Mr. Betts. James Hazzard and Donald Lee Raper were sworn in and testified representing the Dagsboro Church of God, who requested to place a manufactured home on their property to use for class rooms. It was stated that the manufactured home will be used for Sunday School and on Wednesday nights. The use will accommodate the young people of the Church.

Mrs. Hudson questioned if the Church planned to build a building.

Mr. Hazzard stated that they plan to eventually build and remove the manufactured home. He stated that it would be approximately two years before they build.

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 ~~two~~ <sup>Five</sup> (5) years. Vote 5-0.

Case No. 6330--William & Bonnie Shockley - West side of Route  
375, 3/4 mile south of Route 382.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. William & Bonnie Shockley and Pete Loewenstein were sworn in and testified requesting a 100' variance from the 150' width requirement for a new lot. Mr. Loewenstein stated that the land is to be used for raising horses. He stated that the land is near other land owned by the applicants, but not near enough to combine it. He stated that relatives also own land in the area.

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. Mills and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6331--Elmer T. King - North side of Route 70, 1/2 mile  
west of Route 72.

A variance from the setback requirements for a commercial poultry house.

The case was presented by Mr. Betts. Elmer T. King was sworn in and testified, requesting a 35' variance from the 200' setback requirement from a dwelling of other ownership, for a poultry house. Mr. King presented copies of a plot showing the existing property. He stated that the dwelling will be occupied by family members. He stated that he presently lives in the dwelling.

Arthur King was sworn in and testified in behalf of the application. Mr. King stated that he is the purchaser of the property and would like the variance to be approved.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that a 35' variance be granted. Vote 5-0.

Case No. 6332--Sea Colony Development Corp. - West side of Route  
361, Sea Colony West, Phase XVII.

A variance from the setback requirement  
between multi-family units.

The case was presented by Mr. Betts. Phillip Anthony and Don Tracy, Architects and Engineers, were sworn in and testified in behalf of Sea Colony Dev. Corp. and were represented by Jim Fuqua, Attorney. The applicants requested a 3.3' variance and a 2.0' variance from the setback requirements between multi-family units, located in Sea Colony West, Phase XVII. Mr. Fuqua stated that this location is the 17th. phase of condos built in Sea Colony West. He showed and explained a plot plan and the buildings affected. He stated that the setback requirement between buildings is 40'. He stated that porches were added and when construction started minor adjustments were made. The corner of the buildings affected are 36.7' and 38'. Pictures were shown. The units are already built and some of the units are sold. He stated that the structures will not impair or impede the area and not affect adversely the adjacent property owners. He stated that there are 1600 or 1700 units in Sea Colony and this is the first appearance before the Board. He stated that they are usually very careful and that in the future the porches will be laid out with concrete foundations so it does not happen again. The pictures shown were presented as exhibits.

There were no parties present in opposition.

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

Case No. 6333--Norman Price - South side of Route 24, 1,000 feet  
south of Route 5 and Long Neck Road, Lots  
12 & 14, within Steeles Addition.

A special use exception to operate a Day Care  
Center.

The case was presented by Mr. Betts. Norman Price was sworn in and testified requesting to operate a Day Care Center and Pre-School on property he is selling, being Lots 12 & 14, within Steeles Addition on property 150'x 150' in size. He stated that he has a purchaser of the property contingent on the Board's approval for the Day Care Center. He stated that the existing 34'x 16' building will hold 16 children and they propose to enlarge it to hold 50 children. He stated that the Center will have a fenced in yard.

Mrs. Hudson questioned what the hours of operation will be, and mentioned the traffic on the road.

Mr. Price stated that the hours will be pre-school and after school hours, 7:00 A. M. to 5:00 or 6:00 P. M.

Mr. Mills questioned the parking for the Center.

Mr. Price stated that there will be plenty of room for parking. He stated that there is another Day Care Center on the same road.

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 Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the case be tabled. Vote 5-0.

Case No. 6334--Robert Fitzgerald - South side of Route 207, 350  
feet east of U. S. Route 113.

A special use exception to place a manufactured  
home for security purposes.

The case was presented by Mr. Betts. Robert Fitzgerald was sworn in and testified, requesting to place a manufactured home on his property for security purposes. Mr. Fitzgerald stated that he has owned a repair shop, Lincoln Garage, for several years. He stated that approximately two years ago he had windows broken out. He put rat wire over the windows and put a 6' chain link fence up

to keep people out. Pictures were presented. He stated that people are fearful of bringing something to him to be worked on. He stated that there was another manufactured home nearby, but it has been moved. He stated that his daughter will live in the manufactured home for security.

Ralph Purnell, William Frasier and David Frasier were sworn in and testified in opposition, and Nathan Powell affirmed. They questioned if the property is zoned for manufactured homes. They stated that there are 20 homes in the area. A petition of opposition was presented against manufactured homes. It was stated that the young people who were vandalizing the property, are no longer in the area. They stated that they have been watching Mr. Fitzgerald's property. It was their feeling that a manufactured home will depreciate their properties. They feel the fence will be enough. They also questioned where the applicant wants to put the manufactured home and stated that it will not be near the building.

Mr. Betts stated that the manufactured home will be located next to the property, but within the compound.

The persons present in opposition questioned if other manufactured homes will be permitted in the area. They feel a fence should be sufficient. It was stated that they have a neighborhood watch in the area.

Mr. Jones, Attorney, explained that if approved it will be for a period of five years and if the need ceases the manufactured home would have to be removed. The zoning does not change.

In answer to questions by the Board, Mr. Fitzgerald stated that the manufactured home will be 14'x 70' and his daughter and her child will live in it. He stated that his daughter is employed by Peebles Department Store in Milford.

Mr. Betts stated that the petition submitted had 14 signatures in opposition and that some of the signatures were people who live within 200' of the property.

Motion was made by Mr. Mills, seconded by Mr. Wheatley 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 case be tabled. Vote 5-0.

Case No. 6335--Patricia W. Harris - Southwest side of Route One,  
at Route 271, Lot E-78, within Sea Air  
Mobile City MHP.

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

The case was presented by Mr. Betts. Patricia Harris was sworn in and testified, requesting a 6' variance from the 20' setback requirement between units in a park, being Lot E-78, within Sea Air Mobile City MHP. The applicant stated that she has an existing porch that is in need of repair. She wants to replace the porch with an enclosed porch. She stated that the neighbors have no problem with the variance request. Ms. Harris stated that it will not affect anyone's visibility. Other variance's have been approved in Sea Air Mobile City MHP.

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

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. 6336--Robert Harris, Jr. & Joseph M. Zduriencik - West  
side of Route One, three miles south of  
The Town of South Bethany, Lot 2, within  
Maisons Sur-Mer.

A special use exception to operate a Bed and  
Breakfast Facility.

Mr. Betts stated that a letter had been received from Robert J. Harris, Jr. requesting to withdraw the case, due to the property being sold and will not be used as a Bed and Breakfast Facility. Also, a letter was received from Eric Ripkin, the purchaser. The letter was not received two working days prior to the meeting and could not be accepted as a withdrawal without Board approval.

Mr. Jones, Attorney, explained to the Board that they would have to decide whether to accept the withdrawal or open the hearing.

There were no interested parties present.

Motion was made by Mr. Wheatley and seconded by Mrs. Hudson to accept the withdrawal for Case No. 6336, with Mr. Mills voting nay. Motion carried with four voting in favor and one voting against. Vote 4-1.

Case No. 6337--Thomas & Ann Staples - South side of Route 485,  
1/4 mile southwest of Route 13.  
A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Thomas & Ann Staples were sworn in and testified, requesting a 20' variance from the 150' lot width requirement to create two lots, with a 130' width on each lot. They testified that their son would like to place a manufactured home on one lot.

Mr. Jones, Attorney, stated that the applicants would have to have another hearing for the manufactured home.

Roland J. Sammons was sworn in and testified, and questioned the manufactured homes foundation.

Mr. McCabe explained to Mr. Sammons that the hearing was for the variance and not the manufactured home.

There were no parties present in opposition.

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

#### OLD BUSINESS

Case No. 6306 (cont'd.)--Jean R. & George A. Picot - North side of  
Route 297A, at the corner of Mercer Avenue  
and Paul Street, Lot 6, within Delaware  
Oyster Farms.

A variance from the side yard setback requirement  
on a corner side.

Mr. Betts reviewed the case.

Mr. Mills stated that he would not take part in the discussion or the vote since he was absent from the public hearing.

Mr. Jones asked the Board to state the reasons for their decision into the record.

Mr. Callaway stated that the case was tabled to give the Board time to visit the site. He stated that he had visited the site and spent some time with it. Mr. Callaway stated that he cannot see where the variance will really be detrimental to the public welfare. The variance will not substantially or adversely affect the immediate are, where its at, nor will it bother nor have an affect on anybody building around it. Because of its uniqueness,

the way it is a corner, it's not going to be in the road. Mr. Callaway stated that it is not going to be any more narrow and if there is traffic already going down there, it is not going to affect traffic or new people going in or out. He stated that the applicant's are only talking about a 4.1' variance needed. He does not feel the hardship was created by the new applicnat's at this time. In addressing the immediate ownership of it, they went back to 1953-57 at the public hearing, but in addressing the immediate ownership of it, it was not created by them.

Mrs. Hudson stated that there have been other variances in that area.

Motion was made by Mr. Callaway that the variance be granted on the findings he stated and reasons he listed, seconded by Mr. Wheatley who stated that he does not feel the variance will adversely affect the adjacent properties, with Mr. McCabe voting nay and Mr. Mills abstaining. Motion carried with three voting in favor, one against and one not voting. Vote 3-1.

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 the side yard setback requirement.

The case was reviewed by Mr. Betts.

Mr. Mills stated that he would not take part in the discussion or vote since he was absent at the public hearing.

Mr. Jones, Attorney, summarized the testimony given at the public hearing.

After some discussion, motion was made by Mr. Callaway, and seconded by Mrs. Hudson that the side yard variance only be granted, with Mr. Mills abstaining. Motion carried with four voting in favor and one not voting. Vote 4-0. It was the Board's finding that the lot is a 50' wide lot and it becomes impractical to build on such a narrow lot, but no evidence that the lot is particularly short in size and no evidence the applicant could not move the house back closer to the rear of the lot.

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

Meeting adjourned at 8:20 P. M.