

## Minutes of June 5, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening June 5, 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, with Mr. Schrader – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector, and Mr. Lank – Director.

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

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of May 15, 2000 and May 22, 2000 as circulated.

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

Case No. 7157 – Richard M. Quill – southwest of Route One, southeast side of Pondview Drive, Lot 11, within Red Mill Manor Subdivision.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Richard M. Quill was sworn in and testified requesting a 10-foot variance from the required 15-foot west side yard setback requirement for a 2-story addition; and that he purchased the property and existing log cabin on April 12, 2000.

Mr. Mills stated to Mr. Quill, that the existing shed is in violation and that it would either have to be relocated, removed or a variance is needed.

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 4 – 0.

Case No. 7158 – Kevin and Teresa McDaniel – north and south of Route 18, 2,598 feet west of Road 321, Lot A.

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

Mr. Rickard presented the case and read a letter from Joseph F. Karnish, D.O.

Kevin McDaniel was sworn in and testified requesting to place a manufactured home on his property as a medical hardship for his father; that the size of the manufactured home is a 14' x 70'; that the unit is a 1993 model; that the manufactured home will not be visible from Route 9; and that he understands the use can only be approved for 2 years.

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

Motion by Mr. Wheatley, seconded by Mr. McCabe, and carried unanimously that the special use exception be granted for a period of 2 years. Vote carried 4 – 0.

Case No. 7159 – Gregory M. Mitchell – northeast of Road 410, 1,407 feet east of Road 433.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Gregory M. Mitchell was sworn in and testified requesting a 6-foot variance from the required 15-foot east side yard setback requirement for a 28' x 32' detached garage; and that the requested variance would reduce the number of trees to be cut, if approved.

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

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variance be granted. Vote carried 4 – 0.

Case No. 7160 – Nate Hedges, II and Denise C. Hedges – south of Road 46, 411 feet west of Road 535.

A variance from the lot width requirement.

Mr. Rickard presented the case. Nate Hedges, II was sworn in and testified requesting a 39.62-foot variance from the minimum lot width of 150-foot for Lot 1 and a 120-foot variance from the minimum lot width of 150-foot for Lot 2; that the driveway has existed for over 40 years; that the driveway will be share; and that the existing dwelling on Lot 1 is 15.50-feet from the proposed driveway.

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 4 – 0.

Case No. 7161 – Gordon Mariner – southwest of Road 326, 3,666 feet northwest of Road 432.

A special use exception for a farm pond on less than five (5) acres.

Mr. Rickard presented the case. Gordon Mariner was sworn in and testified requesting to have a 1/3 acre farm pond on less than five (5) acres; that he owns less than 3-acres of land; that he has combined the three parcels into one parcel; and that he will maintain a 3 to 10 foot depth of water.

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

Motion by Mr. Wheatley, seconded by Mr. McCabe, and carried unanimously that the special use exception be granted. Vote carried 4 – 0.

Case No. 7162 – Esther K. Chiappetta – south of Road 277, north of Boat Dock Court East, Lot 13, within Angola By The Bay Subdivision.

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

Mr. Rickard presented the case. Esther K. Chiappetta was sworn in and requested a 7-foot variance from the required 10-foot east side yard setback requirement for an enclosed deck instead of a 6-foot east side yard setback and a 14-foot variance from the required 20-foot rear yard setback requirement for an enclosed deck instead of a 13-foot and 6-foot rear yard setback; that the parcel is an irregular shaped lot; and that the Homeowner's Association requested that the applicant must receive approval from the County before they will approve the requested variances.

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 4 – 0.

Case No. 7163 – Rodney E. and Carol A. Wilson – west of Road 249, 900 feet north of Road 253, Lots 3 & 4.

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

Mr. Rickard presented the case. Rodney E. Wilson was sworn in and testified

requesting a special use exception to retain a manufactured home for storage purposes; that the size of the manufactured home is a 12' x 60'; that the 1972 manufactured home was the original home on the site; that he has purchased a new double wide; that he proposes to move the unit to the rear of the property; and that the unit has been gutted and will be used for storage purposes only.

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

Motion by Mr. Wheatley, seconded by Mr. McCabe, and carried unanimously that the special use exception be granted. Vote carried 4 – 0.

Case No. 7164 – Stephanie L. Schrock – 212 feet north of Road 241, 2,700 feet east of Road 240-A.

A special use exception to operate a commercial dog kennel on less than five (5) acres and a variance from the setback requirements.

Mr. Rickard presented the case. Stephanie L. Schrock was sworn in and testified requesting to operate a commercial dog kennel, an 89-foot variance from the required 200-foot north side yard setback and a 181-foot variance from the required 200-foot south side yard setback; that she is requesting to use an existing building; that she has showed dogs in the past; that she has had numerous requests for boarding dogs; that she proposes to use the existing kennel; that she has 9 dogs of her own; and that she will not board more than 12 dogs.

Ken Brittingham was sworn in and stated that he had concerns with how many dogs the applicant would be boarding.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception and variances be granted with the stipulation that a maximum of 12 dogs be boarded at any one time in the kennel area. Vote carried 4 – 0.

Case No. 7165 – John R. and Wanda P. Griffith – west of Road 463, 722 feet south of Route 24.

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

Mr. Rickard presented the case and read a letter from P. Vance Prewitt, III, M.D.

Mr. John R. Griffith was sworn in and testified requesting to place a manufactured home on a medical hardship basis; that the size of the manufactured home will be 14' x 60'; that he broke his back while working on the Woodland Ferry and is unable to work; that he proposes to live in the manufactured home until he sells his home; that the home will not be rented out; and that he is aware of the 2 years limitation.

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 special use exception be denied because it is more of a convenience than a hardship. Vote carried 4 – 0.

Case No. 7166 – Ellsworth O. and Joan M. Sletto – southeast of Road 350, 700 feet southwest of Road 349, Lot 55, Section E, within Banks Acres Subdivision.

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

Mr. Rickard presented the case. Ellsworth O. Sletto was sworn in and testified requesting a 2-foot variance from the required 5-foot side yard setback for a 12' x 24' garage and a 1-foot variance from the required 5-foot rear yard setback for an existing 12' x 12' shed; that an 8' x 12' addition and a 12' x 24' garage will be attached to the existing shed; that the garage and proposed addition to the existing shed are for personal use only; and that there are no known objections, by any neighbors, to the application.

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

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variances be granted. Vote carried 4 – 0.

Case No. 7167 - Barbara J. Loper – east of First Street, 302 feet south of Andrew Avenue and southwest of Bayard Avenue and Route One, Lot 11, within Ann Acres Subdivision.

Mr. Rickard presented the case. Barbara J. Loper was sworn in and testified requesting a 2.4-foot variance from the required 10-foot south side yard setback for a deck and a 3-foot variance from the required 5-foot rear yard setback for an existing shed; that the shed existed when she purchased the property; and that the home was built around 1963.

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 variances be granted. Vote carried 4 – 0.

Case No. 7168 – Sanford Hazzard – south of Road 275-A, south side of Breeze Drive, Lot 10, within Rehoboth Shores Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Sanford Hazzard was sworn in and testified requesting a 5-foot variance from the required 20-foot rear yard setback for an addition to his dwelling.

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 4 – 0.

### **Old Business**

Case No. 7133 – Vivian L. Sink – northeast of Route 20 (Concord Road), ¼ mile West of Road 484.

A variance from the lot width requirement.

The Board suggested to Mr. Rickard that he needed to contact the applicant for a survey of the property showing the correct road frontage.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be tabled until June 19, 2000. Vote carried 4 – 0.

Case No. 7144 – Edwin D. Broyles – west of Mallard Drive, 330 feet north of Swann Drive, Lot 74, Block H, within Swann Keys Subdivision.

A variance from the front yard setback requirement.

The Board discussed the case.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be tabled until June 19, 2000. Vote carried 4 – 0.

Case No. 7148 – Revere Media Services – west of U.S. Route 13, 244 feet north of Road 468.

A special use exception to place a billboard.

The Board discussed the case and stated that there is no need for any additional billboards in the area.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be denied. Vote carried 4 – 0.

Case No. 7156 – Wyoming Concrete Industry, Inc. – south of Road 380, 600 feet east of U.S. Route 113.

A special use exception for a concrete batch plant and concrete masonry supply yard.

The Board discussed the case and Mr. Mills read the following stipulations:

1. The Applicant shall comply with all applicable Federal, State, and local laws and regulations concerning the use of the site as a concrete batch plant and concrete masonry supply yard including laws and regulations concerning the use of the site as a concrete batch plant and concrete masonry supply yard including laws and regulations concerning dust, odor, noise and waste materials.
2. All required Delaware Department of Natural Resources and Environmental Control (DNREC) permits will be obtained and all operations will be in compliance with said permits. In the event the Applicant is cited with a permit violation by DNREC, operations shall cease until the violation is corrected and authority to operate is issued by DNREC.
3. The use shall be located on the 10.473 acre parcel of land in substantial conformity with the site plan which was submitted at the hearing, including location of improvements, paving and roadways on the site. The final site plan approval is to be made by the Planning and Zoning Commission.

4. The wooded area located on the Southern side of the site shall remain undisturbed except for necessary pruning in order to provide a natural buffer.
5. All site improvements and storm management improvements will comply with applicable laws and regulations of the Sussex Soil Conservation District.
6. Maximum hours of operation of the concrete batch plant and concrete masonry supply yard shall be limited to 6:00 A.M. to 7:00 P.M., Monday through Friday and 6:00 A.M. to 3:00 P.M. Saturday, and no Sunday hours.
7. Approval is limited to a period of five (5) years beginning on the date of filing of the decision with the Planning and Zoning Office.
8. The Applicant shall comply with all requirements of Del Dot regarding any portion of Route 380, its uses and also the entrance approval to its site.
9. If rail transportation becomes a possibility, delivery of materials by rail should be by way of rail siding and not from the main tracks.
10. Well on-site for restrooms for their own use.
11. The entrance to this facility from Route 380 will be built according to Del Dot regulations. Immediately behind the paved section, applicant will install large stone ballast for the purpose of cleaning the truck tires. The work area shall also be stoned.
12. No building permit to be issued until all agency approvals are obtained.
13. Applicant will create a tree buffer of white pine plantings along Route 380.
14. Applicant will fence his facility along Route 380 and the westerly side of his operation.
15. Applicant will water down all dry surfaces to control fugitive dust.
16. The special use exception shall be conducted at all times in such a manner so as not to adversely affect the public health, safety, morals, general welfare or create a public nuisance of safety hazard and with a view to protecting neighborhood property values.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be granted with the 16 stipulations. Vote carried 4 – 0.

Case No. 6826 – Charles M. and Joann G. Dunkes – west of Lake Drive, northeast of Cottage Lane, Lot 131, Silver Lake Heights.

A variance from the side yard setback requirement. Request for time extension.

The applicant requested that the Board give them 3 additional months.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the request for time extension be granted for an additional 3 months. Vote carried 4 – 0.

Meeting Adjourned 8:38 P.M.