

Minutes of June 16, 1997

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, June 16, 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, Mr. Mills, Mrs. Hudson, Mr. Wheatley, Mr. Schrader-Attorney, Mr. Betts-Zoning Inspector III and Mr. Rickard-Zoning Inspector.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of June 2, 1997 be approved as circulated.

Mr. Schrader read a statement explaining how the Board of Adjustment meetings are conducted and the procedure for hearing the cases.

Case No. 6338--Midway Realty Corp. - Northeast side of Route One, 1,750 feet south of Route 283.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Richard H. Derrickson was sworn in and testified representing Midway Realty Corp., who requested a variance from the requirements for signs to have a second on premise sign. Mr. Derrickson stated that he has changed the signage on his shopping center that has a strip of stores. Another strip of stores that he has in the same vicinity, such as Sears thru Midway Carpet want the same kind of sign. Their location is hard to see and they are blocked by other businesses in the area.

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. 6339--Robert T. Groton - Northwest side of Route 468, 450 feet southwest of Route 13.

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

The case was presented by Mr. Betts. Robert T. Groton was sworn in and testified, requesting to retain a manufactured home on his property for security for his business. This is a renewal of Case No. 4678. The unit has been on the property for 10 years and Mr. Groton has to renew his application every 5 years. He stated

that he has not been broken into since the manufactured home has been placed on the property. He stated that he still needs the manufactured home for security and that he lives in the unit. He questioned why he has to renew the application every five years.

Mr. Mills explained to Mr. Groton that the Board can only grant the special use exception for a manufactured home to be used for security for a period of five years.

Dennis Hitch was sworn in and testified in opposition, questioning the reasons for security. Mr. Hitch stated that there are two manufactured homes on Mr. Groton's property that are being lived in, and thirty one (31) other manufactured homes on the property. Pictures were presented and a letter with nine (9) signatures of people in opposition. Mr. Hitch stated that he feels there should not be two families and 31 manufactured homes on Mr. Groton's property.

Mr. Groton stated that he buys and sells manufactured homes, and that the two manufactured homes on his property are rented and are grandfathered in. He stated that they are legal. There will be a total of three manufactured homes for living purposes.

Mr. Betts stated that there were two manufactured homes on the property and manufactured home sales which is permitted in a C-1 General Commercial District.

Motion was made by Mr. Mills, 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. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled, and that Mr. Rickard locate the old records pertaining to this case for review. Vote 5-0.

Case No. 6340--Joseph & Rosalie Simone - South side of Route  
358, 1/4 mile west of Route 357, Lot 14,  
within Pine Crest Terrace.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Kathleen Racine was sworn in and testified, representing her parents, Joseph & Rosalie Simone, who requested a 4' variance from the 10' side yard setback requirement on Lot 14, Pine Crest Terrace on a 60'x 125' lot. The applicants wish to replace a single-wide manufactured home with a double-wide manufactured home and in order to do so they need a variance. It was stated that they own the property next door.

Mr. Betts read a letter in support of the application from adjacent property owners Adrien and Ruth Olivier.

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. Vote 5-0.

Case No. 6341--Maurice & Pamela Hayes - North side of Route 291,  
1 mile south of Route 262.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. Maurice Hayes was sworn in and testified, requesting a 18' variance from the 150' width requirement for a lot to create a new lot to be one acre, in an AR-1 Agricultural Residential District. The applicants propose to place a double-wide manufactured home on the lot for their mother. Mr. Hayes explained the plot plan in reference to where the lot will be located. He stated that there are other manufactured homes in the area and that the adjacent property is not vacant.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously that an 18' variance be granted. Vote 5-0.

Case No. 6342--William C. Wyatt - West side of Route 268, at the  
corner of Route 269.

A variance from the requirements for signs.

The case was presented by Mr. Betts. William C. Wyatt was sworn in and testified, requesting a variance from the 300 sq. ft. maximum size for an off-premise sign to be 600 sq. ft. Mr. Wyatt stated that he has a sign that is 15 years old on Kings Highway in Lewes and has only been able to use one side, because of a house and tree on the property. He stated that the house and tree have been removed and he can now use both sides of the sign.

Mr. Betts stated that Mr. Wyatt wants to use both sides of the sign now, because they are now visible.

Mr. Callaway questioned how far the sign is from the house that is being built.

Mr. Wyatt stated that approximately 15' to 20', but he is not sure.

Mr. Mills asked Mr. Wyatt if he had discussed his plans with the new owner of the adjacent property.

Mr. Wyatt replied that his wife had done so and he had not heard anything adverse.

Mr. Schrader questioned if Mr. Wyatt was changing anything.

Mr. Wyatt stated that he was not changing anything, just wants to use both sides of the sign.

Russell R. Palmer was sworn in and testified in opposition stating that he had recently purchased the property next to Mr. Wyatt's. He stated that the sign poles are off the property line 5' and leaning towards his property. He expressed concern that adding more weight to the sign could cause it to lean further towards his property. He also fears more weight could cause more structural problems, and is concerned about his view. He is putting up a 6' fence to try and hide as much as he can. He also stated that Mr. Wyatt does not have access to work on the sign since his fence was put up. He is concerned about how they will enter onto the property. He stated that trucks have been on his property before. Mr. Palmer is opposed to the sign.

Mr. Wyatt stated that he does not know about trucks being on Mr. Palmer's property and that he does have access to the sign.

Motion was made by Mr. Mills, 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. Callaway, seconded by Mrs. Hudson and carried unanimously that the case be tabled, to give the Board time to visit the site. Vote 5-0.

Case No. 6343--Amelia L. Leukhardt - South side of Route 54, 1 mile west of Route One, Lot 13, Blk. G, within Cape Windsor.

A variance from the rear yard setback requirement.

The case was presented by Mr. Betts. Amelia Leukhardt was sworn in and testified, requesting a 5' variance from the rear yard setback requirement of 20' to be 15', to construct a sunroom onto her dwelling, on a lot 50' x 90'. The property is located on Lot 13, within Cape Windsor. She stated that Cape Windsor has a rear yard setback of 15' and the County has a 20' rear yard setback. She would like to comply with the Cape Windsor setback of 15'. She submitted letters from her neighbors in favor of her application.

Mr. Betts read the letters submitted from John W. Weston, Jr., President of the Board of Directors of Cape Windsor and neighbors, Sally Teague and Gordon & Marilee Bowers voicing no objections. Mr. Betts also read a letter received from Martha & Jewel Yates voicing opposition.

Elizabeth Caldwell, neighbor, was sworn in and testified that she is in support of the variance and feels it will enhance the beauty of Cape Windsor.

Wayne Wilkins, Contractor, was sworn in and testified that he will do the construction work for the applicant. He stated that he has all of the permits, but she needs the variance suggested. He had told Ms. Leukhardt to apply for a variance.

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. Vote 5-0.

Case No. 6344--William V. & Mary Eberts - South side of Route 277,  
1/4 mile east of Route 24, Lot 43 and  
part of Lot 42, within Angola By The  
Bay.

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

The case was presented by Mr. Betts. Robert Thompson, Attorney, was present representing the applicants, who requested a 4.6' variance from the rear yard setback requirement and a .3' variance from the side yard setback requirement for a porch and deck. Mr. Thompson stated that the applicants bought the property and need a variance to have it comply. He asked that the amount of variance be amended thinking the rear yard setback requirement is 10'.

Mr. Betts stated that the rear yard setback requirement is 20' and the proper amount of variance is 4.6' from the rear yard property line.

Mr. Thompson stated that he had understood there was a 10' rear yard setback, and requests that the variance not be amended. He stated that there is common area to the rear of the property.

Mr. Mills asked Mr. Betts how far a deck can extend into the setback.

Mr. Betts stated that a open unenclosed deck can extend into

the setback 5'.

There were no parties present in opposition.

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

Case No. 6345--Irvin C. & Edna E. King - East side of Route 315,  
319 feet south of Route 317.

A special use exception to place a second  
manufactured home on farm.

The case was presented by Mr. Betts. Irvin C. King was sworn in and testified requesting to place a second manufactured home on his property, being 13 acres, that is woods that he is clearing. He stated that he is not sure who will live in the manufactured home, that it could be for his daughter or part-time help. In answer to questions from the Board members, he stated that if it is part-time help, the help would pay some rent and the existing manufactured home is a rental, rented by Ronnie West.

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.

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. Mills and carried unanimously that the special use exception be denied, finding the applicants property does not qualify for a farm. Vote 5-0.

Case No. 6346--Helen June Harting -East side of Route One, Lot 34,  
within Pelican's Pouch.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Lois Dolby, Realtor with Hickman Real Estate, was sworn in and testified in behalf of the applicants, who were also represented by John Sergovic, Attorney. The applicants requested a 1.2' variance from the side yard setback requirement on Lot 34, within Pelican's Pouch for an existing house that was built in 1993. The encroachment was found when the property was surveyed for purpose of sale. The lot size being 50'x 139'. Copies of a Certificate of Compliance, survey and re-survey were submitted. The original survey showed the overhang was 8.2' from the side property line and the new survey shows the overhang to be 9.4' from the side property line. Ms. Dolby stated that she

sold the property and the encroachment existed when the property was sold. She does not feel the variance will have an adverse or economical affect to the property. She explained what existed.

Mr. Betts read a letter from Steven Lobo in reference to the application, voicing no support or objections. Mr. Betts also stated that when the Certificate of Compliance was issued it was done by the survey showing a 10' setback.

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 the use will not adversely affect any properties in anyway. Vote 5-0.

Case No. 6347--Mary Gaffney - South side of Route 54, Lot 166,  
within Keenwick Sound.

A variance from the side yard setback requirement.

The case was presented by Mr. Betts. Mary Gaffney was sworn in and testified, rquesting a 1'6" variance from the side yard setback requirement of 10', on Lot 166, within Keenwick Sound. Ms. Gaffney read a prepared statement, stating that she had hired a professional builder to build the house and deck. She had the deck enclosed into a screen room. The infringement is from the screen room. Ms. Gaffney stated that the house was built in 1991 and the enclosure was built last winter. Letters of support were presented.

Mr. Betts read a letter from Leonard Price, President of the Keenwick Homeowners Association in support of the variance, and a letter with eight (8) signatures from people in the neighborhood in support of the application.

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. Vote 5-0.

Case No. 6348--Ashby's Oyster House - West side of Route 24, 3.5  
miles west of Route One, within Peddlers  
Village.

A variance from the requirements for signs.

The case was presented by Mr. Betts. William I. Ashby was sworn in and testified, requesting a variance from the requirements of one ground sign, to have two (2). Mr. Ashby stated that he has

a business in Peddler's Village, and the location in on the east side which is shaped like a 'U', therefore, west bound traffic is the only view to traffic. He stated that a number of people are not aware they are there. He stated that the sign will be located on the southeast corner of Peddler's Village. The sign will be 20' tall, 10'x 8', with a 4'x 8' extension underneath. Mr. Ashby stated that the sign will be no less than 8' tall from the ground to the bottom of the sign. He stated that he has permission from the property owner to place the sign.

Mr. Mills voiced concern about locating at the traffic light.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variance be granted, with a minimum clearance of 8' from the bottom of the sign. Vote 5-0.

Case No. 6349--Edward Schlein - South side of Route 54, Lot 141,  
within Keenwick Sound.

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

The case was presented by Mr. Betts. Edward Schlein was sworn in and testified requesting a 10' variance from the rear yard setback requirement and a 3' variance from the side yard setback requirement to place a 10'x 16' shed in the rear yard. The property being Lot 141, within Keenwick Sound. Mr. Schlein has a lot with two road frontages, with the rear yard setback requirement being 40' and the front yard setback requirement being 30'. The rear yard abuts up to Route 54. He stated that the shed is 12' from his house and he proposes to go closer to the rear yard (Route 54). He stated that the shed will be on cinder block. Mr. Schlein stated that there is vacant property next to his. He stated that the shed is too close to the house.

Mr. Betts read a letter from the Keenwick Sound Homeowners Association, Leonard Price, President, voicing no objection to the variance request.

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. Vote 5-0.

Case No. 6350--Eddie Bauer - East side of Route One, 1,000 feet  
northwest of Route 271.

A variance from the requirements for signs.

The case was presented by Mr. Betts. Sandra Lee Monigle was sworn in and testified representing Eddie Bauer who requested a variance from one (1) wall to have two (2) wall signs in a C-1 General Commercial District. The Eddie Bauer store was remodeled and there is a tower blocking the signage on the front of the store. They want the sign to be seen.

There were no parties present in opposition.

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

Case No. 6351--Donna & Douglas Thomas - Southeast side of Route 571, 1.45 mile south of Route 577.

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

The case was presented by Mr. Betts. Donna Thomas was sworn in and testified, requesting to place a manufactured home on their property for their son and daughter-in-law to live in to care for them. She stated that her husband was injured in a bad motorcycle accident and her health is not good either.

Mr. McCabe explained that if approved she would have to reapply every two years for as long and the hardship exists.

Mr. Betts read letters from H. Paul Aguilon, M.D. in reference to the health of Donna Thomas and a letter from Mark J. Boytim, M.D., Nanticoke Orthopedics, P.A. in reference to the health of Douglas Thomas.

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 hardship for a period of two (2) years. Vote 5-0.

Case No. 6352--April Williams - Northeast side of Route 637, 300 feet west of Route 636.

A variance from the minimum lot width requirement.

The case was presented by Mr. Betts. April Williams was sworn in and testified requesting a 5' variance from the 150' width requirement to create two new parcels, with each parcel having 145' frontage. The applicant wants to place a manufactured home on one

lot and her mother has a house on one lot.

Phyllis Slayton, who lives two doors down from the applicant's property, was sworn in and testified in favor of the application. She stated that she has no objection to the variance request.

Kathleen Elizabeth Slayton was sworn in and testified in support of the application, stating that she lives three doors down from the applicant's property.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the special use exception be granted. Vote 5-0.

#### OLD BUSINESS

Case No. 6333 (cont'd.)--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 reviewed by Mr. Betts.

Mr. Callaway expressed concerns about the parking, busy area, small lot size and that the other Day Care Facility in the area has approximately 11 acres of land.

Mrs. Hudson expressed concern about the developments around the property, heavy traffic and she feels the location is not an appropriate place.

Mr. Mills stated that the State has requirements for the amount of children that can be in the Day Care. He stated that the traffic going in and out could be like a business.

After some discussion, motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously that the special use exception be denied, finding that the location is not an appropriate place for a Day Care/Pre-School Center, and concern about child safety with traffic going in and out. Vote 5-0.

Case No. 6334 (cont'd.)--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 reviewed by Mr. Betts.

After some discussion, motion was made by Mr. Mills, seconded  
by Mr. Callaway and carried unanimously that the special use  
exception be denied, finding that at the public hearing statements  
were made that the problem of breaking-in had been resolved. Vote  
5-0.

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

Meeting adjourned at 8:37 P. M.