

Minutes of June 21, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening June 21, 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. Callaway, seconded by Mr. Mills and carried unanimously that the agenda for June 21, 1999 be adopted. Vote 5-0.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the minutes of June 7, 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. 6883--Isaacs & Moore Farms, Inc. and Country Club Village – West of Road 324, 400 feet east of Road 321, Country Club Village.

A variance from the front yard setback requirement for subdivision signs.

The case was presented by Mr. Rickard. George Fred Rust of Georgetown was sworn in and testified in behalf of the application and was represented by John Cordrey, Esquire. The applicants requested a 25' variance for subdivision signs to have a "0" setback. Mr. Cordrey stated that Mr. Rust is a member of Isaac & Moore Farms, Inc. and Country Club Village and Architect member. They requested the sign variance to advertise the development and distinguish it from the other development next to the Sussex Pines County Club, being Golf Village. They propose to have a nicer looking sign and it will not obstruct any view going in or out of the development. They are creating a nicer looking entrance for the development. Mr. Rust concurred with the statements made by Mr. Cordrey. Mr. Cordrey also stated that the sign is larger in width, but not as tall as the existing sign. The new sign will comply with all other County requirements.

Francis and Elaine Fry of Georgetown were sworn in and testified in support of the application. Mrs. Fry stated that the new sign will be more attractive, will enhance the area and will be in keeping with the Country Club and Golf Village. Mr. Fry stated the new address system for 911 is confusing and the sign will designate the development.

There were no parties present in opposition.

Motion was made by Mr. Mills, 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 a 20' variance, with a 5' setback from the property line be granted. Vote 5-0.

Case No. 6884--Tom & Diane O'Hara – East of Road 274, 875 feet north of Road 275-A,
Lot 57, Pine Valley Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

The case was presented by Mr. Rickard. Thomas Kevin O'Hara was sworn in and testified requesting a 6.2' variance from the setback requirement between units in a park (side); a 7.2' variance and a 19.1' variance from the setback requirements from a shed (rear), on Lot 57, within Pine Valley Mobile Home Park. The applicants wish to replace a 1953, 10'x 40' manufactured home with a 14'x 70' unit. He proposes to put the new unit in the same place as the older unit was. He stated that he is President of the Homeowners Association and had presented his plans to the Association and they were approved. Mr. O'Hara presented a letter in support of his request.

Mr. Rickard read the letter submitted from Joanne & David Jamochian in support of the application.

John Seacort, Jr. of Pine Valley Mobile Home Park, was sworn in and testified in opposition. Mr. Seacort stated that he lives at 58 Pine Valley Mobile Home Park, next door to the applicant. He wants the setbacks between him and the applicant maintained. He stated that the manufactured homes in the park are very close and he does not want someone else's steps or air conditioner on his property. He referenced the rules and regulations in the park. He wants the applicant to be 5' from the property line.

Mr. Rickard explained the setbacks in Pine Valley Mobile Home Park, which is an old park and that the applicant must adhere to the five foot setback requirement.

Mr. O'Hara stated that he will place the new unit in the same footprint as the older unit was. He stated that there are no monuments on the lots and they have always

measured from the gas post. He stated that the old unit was 3' from the property line and is was inconformity with other units in the park. Pictures were presented and Mr. O'Hara stated that Mr. Seacort is also 3' from the property line.

Mr. Seacort stated that he is 11' from one property line and 36" from another. He has an addition that was built in 1990 and there was no variance requested. He stated that there was no variance required.

Mr. Rickard stated that in 1990 a variance would have been needed if he is less than 20' between units. He read the building setbacks from the permit issued in 1989, into the record, which state the 20' setback. He stated that Mr. Seacort's addition would be in violation.

Mr. O'Hara has not bought his new unit yet, and he stated that his steps will meet the setbacks.

Mr. Seacort stated that he would have no problem with the variance if Mr. O'Hara stays on his lot.

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. Hudson and carried unanimously that the variances be granted. Vote 5-0.

Case No. 6885--Millsboro Cut Rate and Nick Varrato – Southeast of Route 24, 300 feet
Southeast of Layton Avenue.

A variance from the lot width and square footage requirements and a variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Nick Varrato of Millsboro, was sworn in and testified in behalf of the application. Mr. Varrato requested a variance from the lot width and square footage requirement and a variance from the front yard setback requirement. Mr. Varrato requested the following: (A) 23,333 sq. ft. variance; 59.18 front yard variance; (A-1) 1 3.7' front yard variance; (B) 23,326 sq.ft. variance; 59.19' frontage; (B) 1 3.5' front yard variance; (C) 7,789 sq. ft. variance and (C-1) 10.1' front yard variance from the 30' requirement from Layton Ave. Mr. Varrato stated that he is subdividing Parcel C that has two homes and wants to sell them as individual parcels. He has a studio and

dwelling on one of the parcels that has been there since 1961. The existing houses have been on the property since 1955-56. All land adjacent on one side is owned by family and on the other parcel is his studio and a shed. He wants to straighten the lines on the property.

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

Case No. 6886--Sadie Jackson – South of Road 525, southeast intersection Nat Turner Road, Lot 2, Coverdale Acres.

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

The case was presented by Mr. Rickard. Sadie Jackson of Bridgeville was sworn in and testified, requesting to keep a manufactured home on her property on medical hardship basis. This is a renewal of a previous case. She stated that the unit is still for her daughter and there are no changes in the situation. She stated that her residence is 20' to 25' from her daughter.

Mr. Rickard read a letter from Allen Weiss, M.D., Psychiatrist, referencing the health of the daughter.

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

Case No. 6887--Douglas Thomas – 400 feet east of Road 571, 1.45 miles south of Road 577.

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

The case was presented by Mr. Rickard. Douglas Thomas of Greenwood, was sworn in and testified, requesting to maintain a manufactured home on medical hardship basis for himself. This is a renewal from a previous case. His son and daughter-in-law reside in the manufactured home.

Mr. Rickard read a letter from Mark J. Boytim, M.D. referencing Mr. Thomas's health.

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

Case No. 6888--Lew and Jan Miller – West of Road 350, 125 feet south of Park Circle,
Parcel B.

A variance from the lot width requirement.

The case was presented by Mr. Rickard. Lewis Miller of Georgetown and Maxwell J. Morris of Millville, were sworn in and testified. The applicants requested a 76.89' variance from the minimum lot width requirement of 150' for Parcel B. The applicants property is one parcel with two residences. He wishes to subdivide the parcel to give each residence its own lot. Neither lot will comply with the 150' width requirement. It was stated that they will need a front yard variance for the dwellings also. There will be individual driveways for each parcel.

It was explained to the applicant that the Board can only hear the variance for the lot width requirement, since it is the only variance advertised to hear. If a front yard variance is needed, the applicants will have to reapply.

Helen Bowen of Millville, was sworn in and testified that she has not seen the plot plan for what the applicants propose to do. She does not want 75' wide lots, since their property is directly behind the applicants. She wants only 100 foot lots. After viewing the plot plan, she stated that she is not opposed to where the location is.

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. It was recommended that the applicants reapply for the setback variance. Vote 5-0.

Case No. 6889--B & B Auto & Truck Repair, Inc. – West of Route 113, 400 feet north of Road 323.

A variance from the sign requirements for a second ground sign.

The case was presented by Mr. Rickard. Charles R. Sweetman of Georgetown and Nelson Alexander of Millsboro, were sworn in and testified representing the applicants who requested variance from the sign requirements for a second ground sign. It was stated that they have a sign draped over a boat on property owned by Gordon Mariner where their business is located, advertising their business. There is an existing ground sign owned by someone else and they want a second ground sign to advertise their business. The 150 sq. ft. requirement will be met and the boat sign will be removed.

Mr. Rickard stated that there is a ground sign out in front to advertise another business and the second ground sign will advertise the applicant's business.

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. 6890--Legendary Homes – East of Road 357, Lot 93, Quillens Point.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. John Voit of Ocean View and Richard Bernstein of Ocean City, MD, were sworn in and testified in behalf of the applicants who requested a 15' variance from the 30' front yard setback to be 15' for front steps. The steps will be higher than 4' above grade which eliminates the right to encroach into the setbacks, being on Lot 93, Quillens Point. It was stated that the septic was shown in the front yard and the house was pushed back, but later it was found that the septic is in the rear and they had to push the house forward, making the steps closer to the front property line. He stated in answer to a question from the Board that there are no other front yard variances in the development that he is aware of, but he knows of no one that is opposed. The house is on pilings.

Mr. Rickard stated that he had received 4 letters in support of the variance, stating that their view will not be obstructed. He stated that he also had received 3 letters of opposition, fearing it will set a precedent and that a permit was issued with the correct setbacks on it.

Mr. Berl asked Mr. Voit and Mr. Budstein to elaborate on the septic misunderstanding.

Mr. Budstein presented septic permits and material to that affect. He stated that the house is 32 ½ sq. ft. in size and they pushed it forward as far as they could. Mr. Voit stated that there is 10' open to the road that does not belong to them. He stated that the use does not block any view and will not interfere with views, parking or traffic.

Amos Hutchins of Quillens Point, Ocean View, was sworn in and testified in opposition, stating that the applicants stairs was put in before the variance request. He feels it is wrong. He feels it is to close to the road, that there are 60 other houses in the development that conform to the setbacks, that there is a very large area behind the house, he feels they could have gone back further and that the septic was shown on the drawing.

Mr. Budstein stated that the stairs was not violated and they put it up to be able to get things up and down, and that they did apply to the Board.

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

Case No. 6891--Cora Tennefoss – South of Road 628, 2,000 feet northwest of Route 36.
A special use exception to connect two manufactured homes
to make one unit.

The case was presented by Mr. Rickard. Cora Tennefoss of Harrington affirmed, Mark, son-in-law of the applicant, of Harrington was sworn in and testified. The applicant requested to connect two manufactured homes to make one unit. It was stated that there will be one kitchen, A-Roof, concrete block foundation, same siding and will be completed within three months.

There were no parties present in opposition.

Mr. Rickard stated that two letters of support were received from Truman Schrock and Charles and Christine Trivits, neighbors.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the special use exception be granted with the following stipulations:

1. The manufactured homes be enclosed with vinyl skirting.
2. Same siding around both units.
3. A-Roof.
4. Be completed within six (6) months.

Case No. 6892--Eller Media Company – East of Route One, 2,500 feet north of Road 234.

A special use exception for a billboard and a variance from sign height and square footage requirements.

The case was presented by Mr. Rickard. Alexis O'Leary of Salisbury, was sworn in and represented the application. The applicants requested to have a billboard; 7' height variance above the 25' required to be 32'; and a 78 sq.ft. variance on each side over 600 total sq. ft. requirement for a two faced sign. She stated that they are a billboard company always looking for new locations for business/advertisement. She presented a list of signs. She explained why they are always before the Board for requests and presented pictures. She stated that people are always looking for places to advertise their business and they want certain things. She stated that travelers rely on billboards for certain things when they travel. Ms. O'Leary stated that there is a building on the property where the billboard is going and they need more height so as to not block the view of the building. She showed a diagram of what is requested. She stated that they will adhere to all rules Federal, State and County.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills 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 denied, finding that there was no evidence to support the variance. Vote 5-0.

Case No. 6893--Kathryn L. Dukes Hoffman – South of Road 554, 1,000 feet east of Road 560.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Kathryn Dukes Hoffman of Seaford and Wayne Dukes of Seaford, were sworn in and testified. Ms. Hoffman requested a 15' variance from the 40' front yard setback requirement for a proposed carport. It was stated that there is an existing driveway on the property and that the carport will be open sided. It was stated that the carport will not obstruct visibility. She stated that there is a manufactured home on one side of the property and her daughter is on the other side, but neither is close.

There were no parties present in opposition.

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

Case No. 6894--Roger K. Furse, Jr. and Linda S. Furse – Northeast of Road 265-A, north side of Sandpiper Drive, Lot 22, Nassau Acres.

A variance from the rear yard setback requirement.

The case was presented by Mr. Rickard. Roger Furse, Jr. was sworn in and testified and was represented by Eric Howard, Esquire. Mr. Furse requested a 4.3' variance from 10' to be 5.7' on Lot 22, Nassau Park. It was stated that when the applicants went to sell the property an encroachment was found for a covered porch that was an open deck. If the deck stayed open it could encroach into the setback 5', but when it was enclosed for a porch the setback changed and became greater. The property is ¼ acre and is pie shaped. It was stated that the applicant did not create the error. Mr. Furse has 16 signatures out of 22 to meet the development setback. An amendment to the covenants was presented.

Mr. Furse stated that he purchased the property in 1993 and was not aware of the violation. He has a well and septic system in the front yard and when the septic was replaced it took up more space. He has discussed it with the neighbors and 16 out of 22 have no problems with it and the rest he is sure will not. The builder was Makowski. The house was built in 1993. He stated that the porch cannot be built within the setback.

Mr. Howard stated that the builder enclosed the deck without a permit.

Andrew K. Southmayd was sworn in and testified in support of the variance. He stated that he purchased the property two months ago and everybody was surprised about the violation.

There were no parties present in opposition.

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

Case No. 6895--Sharon Webb – Northeast of Route One, 782 feet southeast of Road 224.
A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Sharon Webb was sworn in and testified, requesting a 1.2' variance from the front yard setback of 40' to be 38.8' from the front property line for a new stick built dwelling, which has already been placed on the property. Ms. Webb stated that she is the builder and her company is Custom Builders. She stated that the house was already laid out and got inadvertently shifted over. Ms. Webb stated that she has built other homes before and there have been no problems.

There were no parties present in opposition.

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

Case No. 6896--John C. Baumgarten Trust – South of Road 487, 400 feet south of Road 490, Lot 3, Lands of John W. Evans.

A special use exception for a private garage for more than four automobiles and exceeds 900 square feet.

The case was presented by Mr. Rickard. Joan B. Baumgarten and John Baumgarten of Scholarie, NY and Greg Sizemore of Seaford, were sworn in and testified. The applicants requested a special use exception to place a 40'x 100' enclosed garage, with a 14' overhang on one end by 12' high that exceeds 900 square feet. The applicants want the garage to store antiques, tractor, vehicles, boat, camper, canoe, etc. Mr. Sizemore stated that he sold the applicants the property located at Lot 3, Lands of John W. Evans. Pictures were presented. Mr. Baumgarten requested that Joan B. Baumgarten, Trust, be added to the application along with his name. He also stated that they are under contract and will close by the end of July.

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

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. Vote 5-0.

Case No. 6897--Fenwick Island Properties LLC – West of Route One, 1.5 miles north of Fenwick Island Town Limits.

A special use exception to use a manufactured home-type structure for a sales office and use of a unit for a sales office.

The case was presented by Mr. Rickard. Joel Brodsky was sworn in and testified in behalf of the case and was represented by George B. Smith, Esquire. The applicants requested to use a manufactured home-type structure for a sales office for sale of a 17 unit multi-family project. Prepared material was submitted to the Board. The property is located between South Bethany and Fenwick Island. The use will be temporary for one year. It was stated that the entrance and site plan has been approved, is in the building permit phase and they will landscape the site. As soon as a condo unit is constructed, they will no longer need the manufactured home-type structure. They will use the unit. Mr. Smith stated that it will be a hardship to have the applicants wait until the units are done.

Mr. Brodsky stated that the construction will start in July and they will need one year for the use of the manufactured home-type structure.

Cynthia Mooney, Shore Management, of Ocean View, was sworn in and testified representing Kings Grant, adjacent property owners, who are opposed to the manufactured home going on the property. She questioned why the sales cannot be done out of the Bethany Office of Piper and Flynn the agent.

Mr. Rickard read a letter of opposition from Joseph R.Green, President of Kings Grant.

Ms. Mooney stated that the traffic is a concern to the 75 owners in Kings Grant.

Mr. Smith stated that they have to deal with the Transportation Department and he feels the sooner the units are up the sooner they are finished.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted for a period of one (1) year. Vote 5-0.

The Board took a short recess. The Chairman called the meeting back into session at 9:10 P.M.

OLD BUSINESS

Case No. 6871 (cont'd.)--Robert Bocek – North of Route 24, 291 feet west of Road 409,
Lot 1, Woodsboro.

A variance from the front yard setback requirement for a subdivision sign.

The case was reviewed by Mr. McCabe.

Mr. Rickard stated that he visited the site and coming out of the subdivision looking toward Route 24, he feels the sign will not block views.

After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that a 20' variance be granted. Vote 5-0.

Case No. 6875 (cont'd.)--Elaine Muncy – Southeast of Road 224, southwest of Road
14-E.

A variance from the lot depth and square footage requirements.

Mr. Rickard presented inserts of the tax maps showing the properties surrounding the applicants as requested.

After some discussion, motion was made by Mr. Callaway and seconded by Mr. Wheatley that the variance be denied, with Mr. Mills voting nay. Motion carried with four voting in favor of denial and one against denial. Vote 4-1.

Case No. 6877 (cont'd.)--Betty Foreman – South of Road 595-A, 270 feet east of Road
595.

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

Mr. McCabe reviewed the case.

Mr. Callaway explained where the unit is located on the property, in a wooded area.

After some discussion, motion was made by Mr. Callaway, 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. Vote 5-0.

DISCUSSION

A short discussion was held in reference to the new Ordinance pertaining to manufactured homes.

Inspectors, fines and violations.

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

Meeting adjourned at 9:49 P. M.