

Minutes of July 10, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening July 10, 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, Mr. Hudson, with Mr. Berl – Assistant County Attorney, Mr. Oates – Planning and Zoning Inspector, and Ms. Jackson – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda with the correction to have the Election of Officers at the end of the meeting.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of June 19, 2000 as circulated.

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

Case No. 7183 – Norvell Pausch - north of Road 341, west of East Lagoon Road, Lot 5, within Dogwood Acres Subdivision.

A variance from the front yard and west side yard setback requirements.

Mr. Oates presented the case. Norvell Pausch was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback for a carport instead of a 10-foot front yard variance and a 10-foot west side yard variance; that he submitted pictures to the Board of the carport; that Section One of Dogwood Acres has a grandfather clause; that in July 1974 the road was 17-foot wide; and that in August 1974 the roads became 40-foot wide.

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 5 – 0.

Case No. 7184 – Imogene M. and Phillip G. Thompson – north of Route 54, 635 feet west of Road 58B.

A special use exception to place a manufactured home as a temporary sales office.

Mr. Oates presented the case. Coleman Bunting was sworn in and testified requesting to place a temporary sales office; that a 330 unit Townhouse Subdivision

on Route 54 is proposed; that the parcel has a 5 year lease; that the temporary sales office will be placed at the entrance of the Subdivision; and that DelDot has approved the location of the entrance.

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 special use exception be granted for a period of 5 years. Vote carried 5 – 0.

Case No. 7185 – Craig Fay – northeast of Route One, southeast side of George Street, Lot 29, within Killen's Addition.

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

Mr. Oates presented the case. Craig Fay was sworn in and testified requesting a 1.6-foot variance from the required 5-foot west-side yard setback and a 2-foot variance from the required 5-foot rear yard setback for a shed; that the variance for the home was not needed; that the home has been there for 45 years; that the shed is 5 years old; and that it replaced a shed that had been there for 30 years.

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

Motion by Mr. Wheatley, seconded by Mr. Mills, and carried unanimously that the variances be granted. Vote carried 5 – 0.

Case No. 7186 – Ernest Graham – south of Road 434A, 850 feet west of Road 436.

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

Mr. Oates presented the case and read a letter from Guillermo M. Bernal, MD. Ernest Graham was sworn in and testified requesting to place a manufactured home on his property as a medical hardship basis; that he would like his nephew to take care of him and his wife; that the size of the manufactured home is a 12'x70', that the year is a 1972; and that it would be able to meet the setback requirements.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be granted for a period of 2 years. Vote carried 5 – 0.

Case No. 7187 - Nicholas and Barbara D'Amico – south of Road 363, south of Park Place, Lot 23, within Plantation Park Marina.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. Nicholas D'Amico was sworn in and testified requesting a 4-foot variance from the required 5-foot west side yard setback requirement; that he submitted pictures to the Board; that the shed is now on the south side of the property and wants to move the shed to the west side of the property; and that the size of the shed is 10'x12'.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7188 – William D. Bowers, Jr. – northeast of Road 455, 2,220 feet south of Road 64, Lot 9.

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

Mr. Oates presented the case. William and Tammy Bowers were sworn in and testified requesting to retain a manufactured home for storage purposes; that they are replacing the single wide with a double wide; that the parcel is 5 acres; and that they would be removing the interior of the manufactured home.

Mr. Oates read a letter in opposition to the Board from Jeanne Wood on behalf of herself and adjacent property owners.

Charles Honess, Sandy Honess, William P. Wood, and Kimberly Figgs were sworn in and stated that they are in opposition to the application; that pictures were submitted of the area; that it would effect property values; and that if the special use was granted it would set a precedent in the area.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion was made by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be denied. Vote carried 5 – 0.

Case No. 7189 – Andrew Bellamah – west of Route 14, north of Wilson Park, Lots 111, 112, and 113, within Bayview Park Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Andrew and Gladys Bellamah were sworn in and testified requesting a 20-foot variance from the required 30-foot front yard setback for an in-ground swimming pool; that they submitted a picture of the proposed pool and a letter from Donald and Jeanne O'Connor; that the pool area will be professionally landscaped; that they bought their home from O'Connor's; that the O'Connor's built a home next to them; that they plan to erect a wrought iron fence around the pool, if the Board approves the variance; that multiple variances have been granted in the area; and that there are no restrictions in the covenant concerning swimming pools.

Donald O'Connor was sworn in and stated that he is in favor of the application; that he sold a home to the Bellamah's; that he has lived in Bayview Park for 20 years; that he and his wife have served on the Homeowner's Association for Bayview Park; and that the Bellamah's live on the furthest street in the park and that the pool would not affect the community.

By a show of hands 20 parties were in opposition to the application.

Mr. Oates noted to the Board, that Planning and Zoning received 6 letters in opposition to the application.

Margaret Gassinger was sworn in and stated that she is in opposition to the application; that she submitted a petition with 78 signatures, 2 letters, pictures and a survey of the area to the Board; that the neighboring property owners would be affected the most by the swimming pool; and that it would set a precedent in the community if the variance is approved.

Benard Kelly was sworn in and stated that he is in opposition to the application; that he lives one block away from the Bellamah's; and that he has lived there since 1984.

John Hendrickson was sworn in and stated that he is opposition to the application; that he has been a member of the Homeowner's Association since 1988; that he is now the President of the Homeowner's Association; that the swimming pool should go on the rear of the property; and that Bayview Park has small lots and is approaching full capacity.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be granted because it is an irregular shaped lot and that it does not adversely affect the area due to the number of variances granted in the Subdivision. Vote carried 5 – 0.

Case No. 7190 – David Sully Accurate Sky Diving – intersection of Route 24 and Road 494.

A special use exception to place a manufactured home for a temporary sales office.

Mr. Oates presented the case. David Sully was sworn in and testified requesting to place a manufactured home for a temporary sales office; that he submitted a brochure containing a FAA Certificate, survey of the area, and a floor plan of the sale office; that Laurel Airport is in conjunction with Accurate Sky Diving; that every 120 days their parachutes must be inspected; that he needs a sales office to be able to comply with the FAA; that the sales office will not have water or sewer connections; and that the sales office will be anchored down.

By a show of hands 9 parties were in favor of the application.

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 special use exception be granted for a period of 5 years. Vote carried 5 – 0.

Case No. 7191 – Ed and June Gavenas – east of River Run, north of West Stoney Road, Lot 217, within Keenwick Sound Subdivision.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. Ed Gavenas was sworn in and testified requesting a 4-foot variance from the required 10-foot east side yard setback instead of the west side yard for an outside shower; that the Homeowner's Association approved the site plan, but noted to him that a variance was needed; and that his neighbors are in favor of the application.

Mr. Oates noted to the Board, that the Department has received 8 letters in favor of the application.

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 5 – 0.

Case No. 7192 – Darlene Crain – west of Road 293, 2,672 feet south of Road 295.

A variance from the lot width requirement and a special use exception from the provisions and requirements to retain a manufactured home on a parcel.

Mr. Oates presented the case. Bill Beall with Oakwood Homes, was sworn in on behalf of Darlene Crain and testified that Darlene would like to subdivide her property; that Robert, her brother, and his wife would like to move on the property; that she has a home on the front of the property and that they would like to place a home on the rear of the property; that the rear of the property is a 2 ½ acre parcel; and that they will share the existing driveway.

Robert Edelen was sworn in and stated that he is in opposition to the application; that he lives behind the property in question; that he bought the property 6 to 7 years ago; that he was told the property has a covenant stating that no subdividing and no manufactured homes were allowed; and that the manufacture home would affect the property values.

George Strunk was sworn in and stated that he is in opposition to the application; that his father lived next door to Darlene Crain and has concerns with the driveway; and that there is a covenant stating that no subdividing is allowed and that a manufactured home can only be placed on a 5 acre parcel.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance and special use exception be left open until July 17, 2000, so that the applicant can provide her deed showing any restrictions for the property. Vote carried 5 – 0.

Case No. 7193 – Charles and Sharon Quillen – south of Road 527, 4,650 feet northeast of Route 18.

A variance from the square area requirement for an accessory building.

Mr. Oates presented the case. Charles Quillen was sworn in and testified requesting to place an accessory building on less than 1 acres; that the parcel is 9/10 of an acre; that he lives on a 6.64 acre parcel; that he proposes to place a 24'x50' pole building for storage purposes; that he has only 3 neighbors surrounding the area; that he builds homes for a living; that there were buildings on the property when he purchased the property and plans to remove them; and that he uses an easement as an access to the property.

Steven Ditmer was sworn in and stated that he is in favor of the application; that he owned both parcels before selling them to Charles Quillen; that he has concerns with the easement that the applicant uses; that he still owns the easement; that the applicant has sheds sitting on the easement that are in violation; and that he discussed the matter with Mr. Quillen on April 19, 2000; and that the sheds still have not been removed.

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

Case No. 7194 – Andrew B. Spinks – east of Road 341-B, 922 feet north of Road 341, south side of West Lagoon Road, Lot 27, within Dogwood Acres Subdivision.

A variance from the front yard and north side yard setback requirements.

Mr. Oates presented the case. Marian Spinks was sworn in and testified requesting a 1.8-foot variance from the required 10-foot north side yard setback requirement and a 11-foot variance from the required 30-foot front yard setback for a manufactured home; that she bought a summer home last year; that the home needs to be torn down; that they would like to place the manufactured home in the same footprint as the existing home; that an existing shed on the property will also be removed and replaced with a new shed; that the lot next to them is vacant; and that neighbors are in favor of the application.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that he variances be granted. Vote carried 5 – 0.

Old Business

Case No. 7174 – Alden James, Nanette James, and David Horsey – south of Route 20, 0.3 miles southeast of Road 62.

A special use exception for a determination of existence of a non-conforming use for a borrow pit.

The case was reviewed by the Board.

After some discussion, motion was made by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the case be tabled until July 17, 2000 with Mr. McCabe abstaining. Vote carried 4 - 0 - 1.

Election of Officers

Mr. Rickard, Chief Zoning Inspector, came into the meeting to supervise the Election.

Mr. Rickard opened the nominations for Chairman.

Motion was made by Mr. Wheatley and seconded by Mr. Hudson to nominate Mr. Callaway as Chairman.

Motion was made to close the nominations for Chairman be closed.

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Callaway as Chairman; 5 yea

Vote by roll call:

Mr. Mills	-	yea
Mr. Hudson	-	yea
Mr. Wheatley	-	yea
Mr. McCabe	-	yea
Mr. Callaway	-	yea

Mr. Rickard opened nominations for Vice Chairman.

Motion was made by Mr. Wheatley and seconded by Mr. Hudson to nominate Mr. McCabe for Vice Chairman.

Motion was made to close the nominations for Vice Chairman.

Motion was adopted to nominate Mr. McCabe as Vice Chairman; 5 yea

Vote by roll call:

Mr. Mills	-	yea
Mr. Hudson	-	yea
Mr. Wheatley	-	yea
Mr. McCabe	-	yea
Mr. Callaway	-	yea

The meeting was turned over to Mr. Callaway, the new Chairman.

Motion was made by Mr. Mills and seconded by Mr. Wheatley to appoint Mr. Rickard as Secretary. Vote carried 5 – 0.

Additional Business

There was a consensus of the Board to reschedule the August 21, 2000 meeting to August 28, 2000.

Meeting Adjourned 9:50 P.M.