

MINUTES OF JULY 19, 1999

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening, July 19, 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 Callaway presiding. The Board members present were: Mr. Callaway, Mr. Hudson, Mr. Mills, Mr. McCabe, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Rickard - Chief Zoning Inspector, and Mr. Lank - Director.

Mr. Lank announced that no action could be taken on the minutes of July 12, 1999 since the minutes were not completed.

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

Case No. 6913 -- Sheila Tracy -- south of Road 417, 3,620 feet east of Road 417-A.

A variance from the required lot size and a variance from the side yard setback requirements.

Mr. Rickard presented the case. Sheila Tracy of Millsboro was sworn in and testified, requesting a variance of 0.11 acres from the required 0.75 acre lot size in an AR-1 Agricultural Residential District, and a variance of 8.9 feet from the required 15 foot sideyard setback for an accessory building. Ms. Tracy added that the grandmother's will references that certain parcels be created for certain family members and that her lot is affected due to the will; that the lot lines have been created between buildings; and that the barn is to be used for storage only, not animals.

The Board found that no parties appeared in support of or in opposition to this application.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to take this case under advisement. Vote 5 - 0.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variances be granted. Vote 5 - 0.

Case No. 6914 -- Mike Meoli and A & M Limited Partnership -- south of Route One, 300 feet northwest of Route 24.

A variance from the maximum height requirements.

Mr. Rickard presented the case. Mike Meoli of Rehoboth was sworn in and testified on behalf of this application and was represented by James Fuqua, Attorney.

The Board found, based on comments made by the representatives of the applicant that the applicant is requesting a variance of 5.83 feet from the required 42 foot maximum height on a structure within a C-1 General Commercial District; that the applicants has established that a certain number of rooms are needed to market a motel; that they propose to build a four story building with offices and related services on the first floor, and rooms on the second, third, and fourth floors; that the actual roof of the structure is flat and 38.1 feet above grade; that a small wall projection rises up to 40.27 feet above grade; that an architectural feature of Hampton Inn buildings requires a mansard looking roof appearance; that the architectural feature screens air conditioning units, etc... on the roof; that no additional rooms are created; that the roof could have remained flat with exposure of the air conditioning units, but not for Hampton Inn; that Hampton Inn was not receptive to a redesign of the structure without the architectural feature; that a lower roof would create lesser floors and would not be marketable; that the adjoining landowners, McDonalds restaurant, owned by Mr. Meoli, and Café Italiano, owned by Steve Taylor, have no objection to the application; that the maximum height requested is 47.83 feet, requiring a 5.83 foot variance; that a court case which references standards for the approval of a variance referenced that certain considerations need to be addressed which included the nature of the area, in this case - Commercial, the character of the immediate vicinity, in this case - commercial, the affect on adjoining properties, in this case - no objection, and the affect on the applicant, in this case - practical difficulties exists; that the need was not created by the applicant, but required by Hampton Inn; that the application does not alter substantially the character of the area; that the minimum variance is requested; that the Board should consider the variance and that the decision should be based on facts of the case; that the applicants were ready to proceed with construction when they found out about the height limitations; that the sign on the building will conform to the Code; and that the architectural design of the structure is based on standard designs of Hampton Inn.

The Board found that no parties appeared in support of the application.

Michael Tyler of Lewes was sworn in and testified that he is a member of the Citizens Coalition and is opposed to the application; that the building will be the tallest building on the Route One strip; that the building will be out of character with the area due to the height; and that the building will be out of character with the Comprehensive Plan. Mr. Tyler submitted written documents for the record.

Rick Anthony of Lewes was sworn in and testified that the applicant may deserve reasonable return on his investment, but no maximum use of the parcel; that there is no extreme practical difficulty, only monetary; and that the applicant has not submitted any evidence to justify the request. Mr. Anthony submitted written documents for the record.

Joan Deaver and Bill Deaver of Midway Acres were sworn in and testified that the fire department may not be able to handle the water pressure needed for fire protection; that there is no need for the variance; no need for more people in the area; no need for more traffic; that a hotel is being built near Postal Lane; and that safety should be a major concern.

Ron Roessler of Gosling Creek was sworn in and testified that the parking on the site for the new McDonalds is not adequate, and that since the hotel is being built on the same site, the application should be denied.

Mr. Rickard read a letter of support from Steve Taylor on behalf of Café Italiano.

Mr. Mills stated that the objections to traffic and parking do not relate to this application; that the application is for a parapet wall to screen air conditioning units; and that the application should have no impact on the surrounding property values.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that a variance of 5.83 feet from the maximum height of 42 feet be granted. Vote 5 - 0.

Case No. 6915 -- Bert and Sherry Collins -- west of Road 474, 2,050 feet southeast of Route 9.

A variance from the lot width requirement.

Mr. Rickard presented the case. Bert and Sherry Collins were sworn in and testified, requesting a variance of 100 feet from the minimum lot width requirement in an AR-1 Agricultural Residential District to allow for access to their home to the rear of their father's property; that their driveway exists within the proposed 50 foot section to be conveyed to them if the application is approved; and that more than 50 feet would encroach into their father's pool.

Arthur W. Collins was sworn in and testified that the driveway is stone and has existed for over 20 years; that he has agreed to convey 50 foot of frontage back to a depth of 400 feet to his son; and that their home sits in an area with 150 feet of width.

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

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

Case No. 6916 -- W. Ralph Brumbley -- northeast of Route One, intersection of Route One and Route 5.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Ben Logan, property manager for the applicant, was sworn in and testified that a 20.5 foot variance from the 40 foot front yard setback requirement is requested; that the existing building is non-conforming in setback from Route One; that they propose to build a 6.6 foot porch on the front of the structure; that the structure has been struck by vehicles on several occasions; and that the porch will be constructed with reinforced concrete block for safety of the tenants.

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

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

Case No. 6917 -- James Carey -- north of Route 54, north of Blue Teal Road, Lot 49, Swann Keys.

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

Mr. Rickard presented the case. Bill Beall, a representative of Oakwood Homes, was sworn in and testified on behalf of Marcia Harmon, a tenant and contract purchaser for the lot owned by Mr. Carey, and requesting a 7.72 foot variance from the average 11.78 foot front yard setback along Swann Drive. Mr. Beall stated that the home is proposed to be 4.16 feet from the right-of-way of the cul-de-sac; that the home will setback further than the units on the straight portion of the road; that the home measures 16' by 72'; and that the home will not create a visual obstruction for units on either side.

Mr. Rickard stated that the Swann Keys Association approved the request on June 11, 1999.

Mr. Beall submitted pictures of the site and neighboring units.

The Board found that no parties appeared in support of or in opposition to this application.

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

Case No. 6918 -- Ocean Atlantic Associates II, L.L.C. -- north of Phillips Street, 800 feet west of Route One.

A special use exception for a temporary building for use as a sales office or rental office.

Mr. Rickard presented the case. No parties appeared in support of or in opposition to the application.

There was a consensus of the Board that the case be carried over to the end of the meeting in case some unusual circumstance occurred that delayed the applicants.

At the conclusion of the public hearings, the Chairman referred back to this application. No parties appeared in support of or in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the application be denied since no one appeared on behalf of the application, therefore there could be no record of support for the application. Vote 5 - 0.

Case No. 6919 -- Kevin W. and Susan L. Cooper -- west of Road 446, 153 feet south of Road 476.

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

Mr. Rickard presented the case. Kevin Cooper was sworn in and testified on behalf of this application and was represented by Julie Bucklin, Attorney. The applicants were requesting a 0.2 foot variance from the required 15 foot side yard setback requirement and a 2.7 foot variance from the required 20 foot rear yard setback requirement. The Board found that the garage building was constructed by the nephew of the previous owner; that the previous owner was not aware of the setback encroachment; that a unique physical circumstance exists due to the condition of the structure; that \$1,000 was escrowed until a decision is made by the Board; that the \$1,000 will not cover the cost of relocation of the structure; that it would cost in excess of \$2,500 to replace the structure; that the applicant was not aware of the encroachment until the day of settlement; that the adjoining property owners have voiced no objections; and that the building may not be constructed well enough to move.

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

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

Case No. 6920 -- John and Barbara Cherry -- north of Road 302, 0.6 mile east of Route 48.

A variance from the lot width requirement.

Mr. Rickard presented the case. John Cherry was sworn in and testified that he is requesting a variance of 86.37 feet from the required 150 foot lot width requirement in an AR-1 Agricultural Residential District; that he proposes to sell 5.0 acres to a neighbor, James Jackson, with access from a 63.63 foot access way; that Mr. Jackson tills the property now and proposes to continue farming; and that he and his wife intend to retain one acre with 150 feet frontage.

The Board found that no parties appeared in support of or in opposition to this application.

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

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the meeting be adjourned.

Meeting adjourned at 8:20 P.M.