

Minutes of July 21, 1997

Prior to the regular meeting of the Sussex County Board of Adjustment, the Board reorganized at 7:00 P.M.

Mr. McCabe appointed Mr. Rickard as acting Chairman for the purpose of holding an election of officers.

Mr. Rickard opened the nominations for Chairman.

Motion was made by Mr. Wheatley, seconded by Mrs. Hudson to nominate Mr. Callaway.

Motion adopted; 5 yea

Vote by roll call:

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

Mr. Rickard opened the nominations for Vice Chairman.

Motion was made by Mr. Wheatley, seconded by Mr. Mills to nominate Mr. McCabe.

Motion adopted; 5 yea

Vote by roll call;

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

Motion was made by Mr. Wheatley, seconded by Mr. Mills to appoint Mr. Rickard as Secretary.

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, July 21, 1997, in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:10 P. M. with Chairman Callaway presiding. The Board members present were: Mr. Callaway, Mr. McCabe, Mrs. Hudson, Mr. Mills, Mr. Wheatley, Mr. Jones-Attorney, Mr. Rickard-Chief Zoning Inspector and Mrs. Talley-Recording Secretary.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the minutes of July 7, 1997 be approved as amended (1st. page).

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

Mr. Jones stated, for the benefit of any interested parties present, that Case No. 6371 on the agenda would not be heard due to an error in the advertisement, the case would have to be readvertised.

Motion was made by Mr. McCabe, seconded by Mr. Mills and carried unanimously that the case be tabled to be readvertised. Vote 5-0.

Case No. 6368--William M. & Marlene Howell - Southwest side of Route 54, Lot 28, Cleveland Avenue, within Cape Windsor.

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

The case was presented by Mr. Rickard. William and Marlene Howell and Bobby Harris were sworn in and testified. The applicants requested a 2' variance from the front yard setback, a 9.5' variance from the side yard setback and a 5' variance from the rear yard setback on Lot 28, within Cape Windsor. It was stated that the applicants are putting in a new double-wide manufactured home, replacing a single-wide unit and variances are needed. They stated that the Association in Cape Windsor is aware of the need for the variances and there is no problem.

Mrs. Hudson questioned if the existing shed could be moved to avoid some of the variances.

Mr. Howell stated that most all of the sheds on properties in Cape Windsor are on the rear of the property.

There were no parties present in opposition.

Betty Riggs was sworn in and testified in support of the application, stating she feels it will be a real improvement to the neighborhood. She stated that they are her brother-in-law and sister.

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

Case No. 6369--Theresa Donaldson - Northeast side of Route One, Lot 12, within Colonial East MHP.

A variance from the setback requirement between units in a park.

The case was presented by Mr. Rickard. Theresa Donaldson and Danny Donaldson were sworn in and testified, requesting a 5' variance from the 20' setback requirement between units in a park, being Lot 12, within Colonial East Manufactured Home Park. The applicants request a variance to be able to build a screen porch on an existing pad and add 2' to the pad. The construction has not been started. Mr. Donaldson submitted a letter from the park, Colonial East Limited, Mark Class, and pictures were presented.

Mr. Rickard stated that no correspondence had been received pertaining to this case. He read the letter presented from Mark Class stating they have no problems with the variance if the County approves it.

There were no parties present in opposition.

Steven Class, partner with Colonial East Limited, was sworn in and testified that they have no problem with the requested variance.

Mr. Rickard stated that six other variances have been granted by the Board within the park.

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

Case No. 6370--Martha Sutton - South side of Route 322, at the west corner of Route 432.

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

The case was presented by Mr. Rickard. Martha Sutton and Robin Parker were sworn in and testified. Mrs. Sutton requested to place a 14'x 70' manufactured home on her daughter's (Robin Parker), property due to medical hardship.

Mr. Rickard read a letter from F. T. Vilorio, M.D., P.A. pertaining to Mr. & Mrs. Sutton's health.

Robin Parker stated that she has a house on the parcel where the manufactured home will be placed.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Mills and carried unanimously that the special use exception be granted for a period of two (2) years on medical hardship basis.

Case No. 6371--Denis P. Lamartina - Southwest side of Route 270A,  
Lot 12, within Tru Vale Acres.

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

This case was tabled prior to the public hearings to be readvertised.

Case No. 6372--1st. State Storage - South side of Route 9,  
east of Route 321.

A variance from the requirements for signs.

The case was presented by Mr. Rickard. Elizabeth Cottingham, with Universal Outdoor, Inc., was sworn in and testified representing 1st. State Storage, who requested a variance from the requirements for signs to place five (5) 12'x 24' off premise signs and a height variance for each sign of 7'. The height of the signs will be 32'. She stated that the variances will not alter the essential character of the neighborhood, will not substantially or permanently impair the appropriate use or development of adjacent property and will not be detrimental to the public welfare. She stated that the use will not require water or sewer and there will be no toxic waste. The signs will be for businesses and all five billboards will be on one parcel. Photographs and blue prints were presented. She stated that there will be advertising on both sides of the signs. The signs will be built on a single pole. She stated that there is one other billboard in the area located across the road. The signs will be placed at the intersection of Route 9 and business Route 9 and Route 249.

Mr. Jones read a letter of opposition from Dorothy L. Bartlet stating that she lives directly across the road from where the signs will be placed and she is opposed to it. A petition with signatures of people in opposition was read into the record by Mr. Jones.

James Baxter, Jr. was sworn in and testified in opposition, stating that his wife inherited a home in front of the property where the signs are to be put. He stated that they did not know the property was commercial and would be going back to residential. He stated that they do not live in on the property, but they do rent it. He feels the signs will be detrimental and devalue his wife's property. He feels the signs are not feasible and should not be placed on the property.

Ernest McGee, Jr. was sworn in and testified in opposition, stating that he purchased land in the area and has a business there approximately 200' from the applicants property. He stated that there have been numerous accidents at the intersection and on that road. He feels people do not need to take their eyes off the road to read signs. He made reference to a news article showing this property.

Ms. Cottingham stated that it has been proven that billboards do not cause accidents, people slow down.

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 Mrs. Hudson and carried unanimously that the variance be denied, finding the use would affect adversely the uses of adjacent properties, that the area is primarily residential and with respect to the variance on the height the applicant failed to submit sufficient evidence to support the granting of a variance under the Sussex County Code. Vote 5-0.

Case no. 6373--Charles E. & Rose Mary Dean - West side of Route 549, 180 feet southeast of Route 549B.  
A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Charles & Rose Mary Dean were sworn in and testified, requesting a 3' variance from the front yard setback of 40' for an addition to an existing dwelling. The existing dwelling is 24'x 60' and the applicants want to build a 20'x 18' bedroom addition on the side of their dwelling for more space.

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. 6374--Robert W. Schnepfe - Northwest side of Route 16, Lot 7, Virginia Avenue, within Broadkill Beach.  
A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Robert W. Schnepfe, Jr. and Arlene Schnepfe were sworn in and testified, requesting a 2' variance from the side yard setback of 10', on Lot 7, Virginia Avenue, Broadkill Beach. The applicants stated that the house has

been on the property since 1989 and the applicants did not know of the encroachment until a site survey was done for a new addition.

There were no parties present in opposition.

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

Case No. 6375--Joseph & Rebecca Coates - East side of Route 387,  
0.3 mile south of Route 392.

A special use exception to operate a day care center.

The case was presented by Mr. Rickard. Rebecca Coates was sworn in and testified requesting to operate a day care center and pre-school. She stated that the adjacent property is farmland and homes. She stated that she had spoken to the adjacent property owners and they have no problems with the day care center. Ms. Coates stated that she will have a maximum of 12 children. The hours will be 6:30 A. M. to 6:00 P. M., five days a week.

There were no parties present in opposition.

Everett Dennis, neighbor, was sworn in and expressed concern about fencing with the age of the children and concern about the septic being large enough. He has no objections if they meet all requirements. He stated that he had previously owned the property before selling to Mr. Ward the present owner.

Ms. Coates stated that she will not be living in the house on the property. She is presently a school teacher, who wants to start a business before retiring. She stated where she presently lives she can walk to the location where the day care center will be. There is a four car garage on the property that she will use for the day care center. There is an upstairs in the garage and she may want to rent it out.

Mr. Jones informed Ms. Coates that she would have to contact the Planning and Zoning Office to see if she could use the upstairs of the garage as a rental.

Mr. Dennis stated that Mr. Lank of the Planning and Zoning Office had problems with Mr. Ward and he feels it should be investigated.

Ms. Coates stated that she will have to have other agency approvals.

Mr. Mills asked Ms. Coates if she had given concern about odors from all the farming and questioned the fence height. He questioned the parking also.

Ms. Coates responded that she is aware of the odors and the fence will be to enhance the property and protect the children. Ms. Coates stated that she has a circle driveway and will enlarge the parking area. She stated that she will have two employees and they will live in the existing house on the property and operate the day care center for her.

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

Case No. 6376--Darlene M. Webb - Southeast side of Route 206,  
.7 mile west of Route One.

A special use exception to enlarge a day care center.

The case was presented by Mr. Rickard.

There were no parties present representing this application.

The Chairman stated that the case would be held open until the end of the hearings to give the applicant time to appear.

At the end of the public hearings, the Chairman referred back to this case. The applicant was not present and there were no other parties present representing this case.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied due to lack of representation and the applicant cannot reapply for one (1) year. Vote 5-0.

Case No. 6377--Mark Wolfe - North side of Route 265A, 150 feet  
east of Route 14.

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

The case was presented by Mr. Rickard. Mark Wolfe was sworn in and testified requesting a 15 1/2' variance from the front yard setback of 40', a 4.7' variance from the side 10' side yard setback and a 5.1' variance from the 10' rear yard setback requirements, for a multi-family residential use. He will also convert the garage into another living unit. The property was previously used for commercial business.

There were no parties present in opposition.

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

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

Case No. 6378--R R Bayside, Inc. - Northwest side of Route One,  
at the intersection of Route 271.  
A variance from the requirements for signs.

The case was presented by Mr. Rickard. Nancy A. Peterson was sworn in and testified representing R R Bayside, Inc., who requested a variance from the requirements for signs to have a second sign, 10'x 6', on the east side of their outlet store known as Lucia. They are presently allowed one sign. Ms. Peterson stated that the outlets have been renovated and the store is on the corner, which previously had pressed on lettering. They now have nothing. They need to be seen and the sign will be similar to other stores.

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. 6379--Ernest & Susan Messick - North side of Route 544,  
1,900 feet west of Route 13-A.  
A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Ernest & Susan Messick were sworn in and testified requesting a 4.7' variance from the 15' side yard setback requirement to be 10.3'. The applicants propose to build an addition to their home so Mrs. Messick's mother can live with them.

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.

OLD BUSINESS

Case No. 6359 (cont'd.)--John Paluck - West side of Route One,  
Lot 9, within Bayview Park.

A variance from the front yard setback requirement and a variance from the flood zone requirements.

Mr. Callaway reviewed the case.

Mr. Rickard reported, as requested by Mr. Mills, that there have been nine (9) variances granted within Bayview Park and 56% have been front yard variances.

After some discussion, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variances be granted. Vote 5-0.

Case No. 6339 (cont'd.)--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 reviewed by Mr. Callaway.

Mr. Rickard reported, as requested by Mr. Mills, that he found nothing. That he researched into the Board of Adjustment, property cards and back in the books as far as could he could go. He stated that those manufactured homes have always been on the property. One for commercial and one for security purposes. The only thing segregated out being applicable to the applicant were the two for commercial and security. Mr. Rickard stated nothing could be found on the other two and that there are a lot of manufactured homes there. He stated that he had talked to the Inspector in the area and the manufactured homes have been there a long time.

Mr. Mills stated that they may be nonconforming.

Mr. Rickards stated yes.

Mr. Mills stated that it appears there are three being lived in and the other may be nonconforming.

Motion was made by Mr. Mills, that the special use exception be granted, provided there be no more than the three manufactured homes, (1) for commercial, (1) for security, and the the 3rd. nonconforming, but the 4th. and 5th. manufactured homes that are on foundations and have " for sale" signs be removed or put back with the other manufactured homes in the sale zone. Motion was seconded by Mrs. Hudson and carried unanimously that the special use exception be granted with the conditions as stated. Vote 5-0.

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

Meeting adjourned at 8:13 P. M.