

## Minutes of August 2, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening August 2, 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. McCabe, Mr. Mills, Mr. Hudson, Mr. Wheatley, Mr. Berl-Assistant County Attorney, Mr. Lank-Director of Planning & Zoning and Melissa Massey, Recording Secretary.

Mr. Callaway asked for any additions or changes to the agenda. Motion was made by Mr. Mills, seconded by Mr. McCabe and carried unanimously to move the approval of minutes to the end of the meeting, giving the Board more time to review them. 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. 6905 - Dennis W. Pierce - South of Road 353, 1040 feet east of Road 369, Lot 2.

A variance from the lot width requirement.

The case was presented by Mr. Lank. Dennis W. Pierce of Frankford was sworn in and testified requesting a variance from lot width. The applicant stated that when his property is subdivided into (2) two lots the maximum width that he can create is 141.30 feet for each parcel. Mr. Mills asked if separate driveways would be constructed. Mr. Pierce said that there would be (2) two individual driveways as represented on drawing. Mr. Lank stated that an entrance permit must be obtained from Del-Dot.

There were no parties in opposition.

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

Case No. 6921 - Fred and Mary Kaltreider - West of Route One, Unit 722, Section C, Spring Lake Condo, Phase VII.

A variance from setback requirements between units.

The case was presented by Mr. Lank. Fred and Mary Kaltreider of Dover was sworn in and testified requesting a 3.26 foot variance from 40 foot requirement between units. Mr. Kaltreider read the letter he wrote to his neighbors at Spring Lake. He also presented pictures of his unit verses a picture of another unit with the same specifications

as his. Mr. Hudson asked how this error was made. Applicant replied that it was a surveying mistake.

Mr. Bill Lingo, Realtor of Rehoboth was sworn in and testified that his company sold the unit to the Kaltreiders and that none of the surrounding neighbors had any objections to this request. Mr. Lingo also stated that Bunting Construction was paying for all expenses relating to this request.

Mr. Lank read correspondence from T.W. Lingo, M.L.B. on behalf of M.L.B., LLC, developers, in favor of this request.

There were no parties present in opposition.

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

Case No. 6922 - William G. and Geraldine D. Morris - North of South Shore Drive,  
103 feet east of Violet Drive,  
Lot 29, South Shores.

A variance from the side yard setback requirements.

The case was presented by Mr. Lank. Mr. Scott Bradley, Attorney, spoke in behalf of the applicants and requested a variance of 1.3' from the required 15' side yard setback. Mr. Bradley stated that this request was needed because the builder made a mistake by using the wrong property markers.

William G. Morris was sworn in and testified that the location survey showed an error and that is what VanVorst Construction used in placing the house. The applicant also said that as soon as this error was recognized they stopped construction until their case could be presented. Mr. Morris presented before the Board a petition with 39 signatures from other homeowners in favor of this request.

Correspondence was received from Randy E. Marvel, the President of the Marvel Agency, owners of 32 lots within the subdivision.

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. 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. Wheatley and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6923 - Teresa Lockerman and Noah's Ark - West of Route 24, 734.68  
feet north of Road 297.

A special use exception for a day care facility.

The case was presented by Mr. Lank. Teresa Lockerman of Millsboro was sworn in and testified requesting a special use exception to open a licensed, school aged, daycare in the end unit of retail suites. The applicant stated that it would be open to 20 to 22 children, 5 to 12 years of age, Monday through Friday 6:30 A.M. till 6:00 P.M. with two (2) to three (3) people in supervision at all times. Several questions were asked by the Board. Mrs. Lockerman replied that the playground would be fenced in, that parking was adequate, children would be dropped off at the front door, that in the rear of the building was a mini-storage complex to the left, a Catholic Church, and to the right, residential homes. She also said that her unit in the complex was the end unit next to the driveway.

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 approved. Vote 5-0.

Case No. 6924 - Paul Johnson - East of U.S. Route 13, corner of Road 535.

A variance from the rear yard setback requirement.

The case was presented by Mr. Lank. Mr. Paul Johnson of Seaford was sworn in and testified requesting a 10' rear yard variance from 20' requirement. The applicant changed his request to 3 1/2' after reviewing his request with the Board. The Board informed him that no variance was needed for what he was proposing. Mr. Johnson decided to request a 4' variance for future construction.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously to grant a 4' variance. Vote 5-0.

Case No. 6925 - David Bachman - East of U.S. Route 13, corner of Road 535.

A variance from sign requirements for a second wall sign.

The case was presented by Mr. Lank. Mr. David Bachman of Seaford was sworn in and testified requesting a second wall sign for front of Dairy Queen and second wall sign for front of Dunkin Donuts. Mr. Bachman stated that when traffic is coming from Seaford the present signs cannot be seen.

It was determined that the total signage was 52 sq. feet, covering 10% of the wall.

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. Mills, seconded by Mr. McCabe and carried unanimously to approve this request. Vote 5-0.

Case No. 6926 - Lois and Jacques Baillargeon - West of Linden Lane, 495 feet  
north of Woodland Circle, Lot 22,  
Block Q, Section 3, Angola by the Bay.

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.

The case was presented by Mr. Lank. Mr. Harry Wooding was sworn in and testified on behalf of the applicants. The applicants requested a 1.5' and a 0.2' variance from side yard setbacks to avoid problems with future transfer of property. Mr. Wooding stated that the house was built in 1987, that all encroachments existed from original construction date and that the Baillargeon's did not purchase the property until 1994. He also stated that the lot next to this property is also owned by the applicants.

There were no parties present in opposition.

Motion was made by Mr. McCabe, seconded by Mr. Hudson and carried unanimously to grant the variances. Vote 5-0.

Case No. 6927 - Michael White - West of Road 62, 2,220 feet west of Road 447.

A variance from the lot width requirement and  
special use exception from the provisions and

requirements to retain a manufactured home on a parcel.

The case was presented by Mr. Lank. Mr. Michael White was sworn in and testified requesting a variance of 89.01' from the required 150' road frontage for a newly subdivided parcel. He also requested a special use exception to keep a manufactured home on less than 5 acres. The applicant stated with the approval of these requests he can begin to make improvements for his family. He will eventually place a Nanticoke Home on this parcel.

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. 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 case be approved. Vote 5-0.

Case No. 6928 - Darlene Cropper - North of Road 566, 3,280 feet west of Road 562.  
A special use exception for a farm pond on less than 5 acres.

The case was presented by Mr. Lank. Ms. Darlene Cropper of Bridgeville was sworn in and testified requesting a special use exception to put a fish pond on her property. The applicant stated that the adjacent property owner was willing to sell 1.04 acres to her to add to the 1.59 acres she already owns. Ms. Cropper stated that her stepson would be digging the pond for her with his backhoe and that Tim Garrihan from Natural Resources did a boring test and suggested the pond be 8' to 10' in depth. The applicant said the size of the pond would be 40'x 60'. All spoil from the pond will be spread on the lot and not removed from the site.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Hudson and carried unanimously that the special exception be approved. Vote 5-0.

Case No. 6929 - Michael J. Evans - South of Route 24, north corner of Road 499, Lots 2 and 3.  
A variance from the front yard setback requirements for a through lot.

The case was presented by Mr. Lank. Mr. Michael Evans of Sharptown was sworn in and testified requesting a 40' variance from front yard setback to be 0' setback from Route 24 and a 30' front yard setback from Route 499. The applicant stated that with the irregularity of his property as shown on the plot plan and the fact that the State of Delaware has added another 10' to their right-of-way it causes these encroachments. Mr. Evans has already received an approval for a conditional use and was granted an entrance permit from Del-Dot.

There were no parties present in opposition.

Motion was made by Mr. Hudson, seconded by Mr. Mills and carried unanimously to grant the variance. Vote 5-0.

Case No. 6930 - Deborah & John Pulli, Sr. - WITHDRAWN

Case No. 6931 - David Schnell - South of Road 46, 300 feet east of Road 446.

A variance from the front yard setback requirements.

The case was presented by Mr. Lank. Mr. David Schnell of Georgetown was sworn in and testified requesting permission to build a detached garage 25 1/2' from the property line along Route 446 required 40' setback requirement. The applicant presented a colored sketch of what he was proposing. Due to the shape of his property and the fact that his lot could have been considered a corner lot this is the only place he has to put this building.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Hudson and carried unanimously to grant the variance. Vote 5-0.

Case No. 6932 - Kenneth A. Simpler - Southwest of Route One, west of Venetian Drive, Lot B-4, Seabreeze.

A variance from the front yard setback requirements.

The case was presented by Mr. Lank. Mr. Jim Fuqua, Attorney spoke on behalf of the applicant requesting a 4' front yard variance. Mr. Fuqua stated that the home was constructed in 1967. He also said that in 1958 the subdivision set a front yard setback of 20 feet and almost all homes in the development were placed according to this decision.

Mr. Kenneth Simpler of Rehoboth was sworn in and testified that the neighbors in

this development did not have any objections to this request. He also presented a letter from his neighbor across the road from him. Mr. James Pringer, a neighbor, was sworn in and testified that just as his letter stated he had no objection to this request even though his property did have the correct setbacks of 30'.

There were no parties present in opposition.

Motion was made by Mr. McCabe, seconded by Mr. Wheatley and carried unanimously to grant a 10' variance. Vote 5-0.

Case No. 6933 - Susan Horne - East of Route 16, west of Bay Shore Drive, Lot A-2,  
Broadkill Beach.

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

The applicant withdrew on 07/28/99.

Motion was made by Mr. McCabe, seconded by Mr. Mills and carried unanimously to accept the withdrawal.

Motion was made by Mr. Mills, seconded by Mr. Hudson and carried unanimously that the minutes for July 12, 1999 and July 19, 1999 be approved as circulated. Vote 5-0.

### **DISCUSSION**

A short discussion was held in reference to the upcoming Asphalt Plant meeting which is tentatively scheduled for October.

Mr. Lank stated that the County Council would like to have another workshop with the Board, the Commission, and the Council sometime in September. Mr. Mills suggested that the meal part of the workshop be closed to the public.

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

Meeting adjourned at 8:48 P.M.