

Minutes of August 3, 1998

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, August 3, 1998 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:03 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 if there were any additions to the agenda. Hearing none, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the agenda for August 3, 1998 be adopted.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the minutes of July 20, 1998 be approved as circulated.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

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

Case No. 6660--Mary L.Kyser - Northwest of Road 490A, Lot 1, Patrick's Court.

A variance from the side yard & front yard setback requirements.

The case was presented by Mr. Rickard. Mr. Rickard explained that in 1987 another Zoning Inspector, who is no longer with the County, issued the kennel/shed as a "0" setback, and he stated that the house needs a variance to comply. The applicant was requesting a 1.14' variance from the front and side yard on Lot 1, Patrick's Court.

There were no parties present representing this case. The Chairman held the hearing open until the end of the public hearings to give the applicant or a representative time to appear.

At the end of the public hearings, the Chairman referred back to this case. The applicant nor a representative were present and there were no interested parties present.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be denied, due to lack of representation and the applicant cannot reapply for a period of one (1) year.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6661--Kenneth & Joan Gillam - South of Route 54, Bayberry Road, Lot 24, Kenn-Wik.

A variance from the side yard setback requirements.

The case was presented by Mr. Rickard. Kenneth Gillam, Colonial, VA, and Steven Clay Doyle, builder, Ocean City, MD, were sworn in and testified. The applicants requested a 7' variance from the right side of the property and a 3' variance from the left side of the property for a remodeled house on Lot 24, within Keen Wik. Plans were submitted to the County and to Bill Wolfe, President of the Keen Wik Association and were approved. When the applicant went to get a mortgage a Certificate of Compliance was needed and the encroachment was found. Mr. Gillam had a pump house that had been on the property for a long time and when they built the addition they went straight back with the same building line, which is too close to the side property line. The builder, Mr. Doyle explained that the permit had the setbacks of 30' from the front, 10' from each side and 10' from the rear yard. The Homeowners Association, Mr. Wolfe approved the side yard setback for 5' from the side, which is Keen Wik's setback requirement. Pictures and a petition in favor was presented with five signatures.

Mr. Rickard explained that the applicant must adhere to the setback that is greater and in this case it is the County's. Mr. Rickard read the petition from neighbors on Lot 27, 25, 26, 23 and 51 in support of the application. Also a letter from the neighbor on Lot 24 in support.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the variances be granted for 3' on the left side and 7' on the right side of the property.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6662--Chester H., Jr. & Sharon Porches - East of U. S. Route 13-A, 1,016 feet north of Road 480, Lot 1 & 2, Johnson's Land.

A special use exception for commercial dog kennel; a variance from the setback requirements.

The case was presented by Mr. Rickard. The applicant had requested a special use exception to operate a commercial dog kennel; a 144' front yard variance; a 187' variance from the west side yard and a 116' variance from the east side of the property, on Lot 1 & 2, Johnson's Land.

There were no parties present representing this case. The Chairman held the hearing open until the end of the public hearings to give the applicant or a representative time to appear.

At the end of the public hearings, the Chairman referred back to this case. The applicant nor a representative were present and there were no interested parties present.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception and variance be denied, due to lack of representation and the applicants cannot reapply for one (1) year.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6663--Charlotte M. Young - South of Road 270-A, intersection of Midway Drive & Fourth Street, Lot 16 & 17, Tru Vale Acres.

A variance from the front yard & side yard setback requirements.

The case was presented by Mr. Rickard. Charlotte Young, Midway Park, Rehoboth, was sworn in and testified, requesting a 4' variance from the front yard setback requirement of 30' and a 1.5' variance from the side yard (corner) setback requirement of 15', on Lot 16 & 17, within Tru Vale Acres. The applicant wants to build an addition with a pantry for her mother to give her privacy. There will be no kitchen facilities added. Most of the properties in Tru Vale Acres has a front yard setback of 25'.

Mr. Rickard explained that the 25' front yard setback is trying to be corrected to be 30' in Tru Vale Acres.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that the two variances be granted.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6664--William David & Mary H. Atkins - North of Road 52C,
210 feet west of Route 17.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. William David & Mary H. Atkins, Selbyville, were sworn in and testified requesting a 12' variance from the 40' front yard setback to build a playroom/rec. room for their home day care. The applicants have a small day care and the children play in their living room, Mrs. Atkins wants to add a separate playroom for them. There are no more than six full time children in the day care.

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: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6665--Annabell Truitt - South of Route 18, 680 feet east
of Road 46, Lot 42, Clearbrooke Estates.
A variance from the rear setback requirement.

The case was presented by Mr. Rickard. Michael Kelly, Pine St., Georgetown, was sworn in and testified representing the applicant who requested a 11' variance from the rear yard setback of 40' on a through lot on Lot 42, within Clearbrooke Estates. The applicant has a through lot and wants to build a deck out from the sunroom on the rear of the property. The lot being a through lot has two frontages. No correspondence had been recieved pertaining to this case.

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.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6666--Lyle G. Andrews - West of Angola Road East, 417 feet
north of Woodland Circle, Lot 9 & 1/2 lot
10, Section E, Angola By The Bay.
A variance from the rear yard setback requirement.

The case was presented by Mr. Rickard. Lyle G. Andrews, North East, MD was sworn in and testified, requesting a 3'8" variance from the 20' rear yard setback requirement on Lot 9, 1/2 of Lot 10, within Angola By The Bay. The variance is requested for an open deck and steps that has already been completed. There is a new house on the property. It is a small lot and an error was made when the addition was built. Angola By The Bay is aware of the request according to the applicant.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously that a 3'8" variance be granted.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6667--Richard E. King, Jr. - North of Center Avenue, 1/8
mile west of Route One, Lot C84, Sea
Air Village.

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

The case was presented by Mr. Rickard. Sandra Stintsman,
Georgetown, Sandra Moore, neighbor, Sea Air and George Littleton,
Sea Air, were sworn in and testified in behalf of the application.
The applicant requested a 3' variance from the 20' setback
requirement between units in a park, to construct a screen
porch/deck. Ms. Stintsman stated that the manufactured home on Lot
C84, within Sea Air Village, is a seasonal home for Mr. King.
It was stated that Mr. King meets all setback requirements from the
property lines.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and
carried unanimously that a 3' variance be granted.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6668--David & Joanne Jamgochian - East of Road 274, 350
feet north of Road 275-A, Lot 61, 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. David Jamgochian, Pine
Valley, and Donald Seacord, Lot 58, Pine Valley, were sworn in and
testified. Mr. Jamgochian requested a 3' variance from the 20'
setback requirement between units in a park, being Lot 61, Pine
Valley Mobile Home Park. Mr. Jamgochian has a 12'x 56'
manufactured home, with an attached 9'x 40' screen porch. He
proposes to replace the unit with a 14'x 68' manufactured home and
have a 10'x 18' deck. He presented a letter from the Board of
Directors of Pine Valley voicing no objections.

Mr. Rickard read the letter presented from the Board of
Directors of Pine Valley Mobile Home Park.

Donald Seacord, President of the Pine Valley Corporation testified in favor of the requested variance. He feels it will be a real upgrade.

There were no parties present in opposition.

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

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6669--George Prentiss & Nancy Covahey - West of Grant Avenue, Lot 54, Cape Windsor.

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

The case was presented by Mr. Rickard. George Prentis & Nancy Covahey, Selbyville, were sworn in and testified, requesting a 4'4" variance from the 10' side yard setback requirement on the south side of the lot and a 5' variance from the 20' rear yard setback requirement, on Lot 54, within Cape Windsor. It was stated that the applicants purchased the property with an old manufactured home on it and they want to put a 58'x 27' Shawnee home on it. It was stated that the unit will not block the neighbors visibility. Pictures were presented showing other manufactured homes in the development with lesser setbacks. A copy of the covenants were submitted. It was stated that 90% of the people in the development have lesser setbacks.

Mr. Rickard explained that Cape Windsor was a manufactured home park at one time and they went to an AR-1 District. They are permitted 10' setbacks on the side yards and 20' rear yard setbacks. The road is the front of the property and the bulkhead is the rear. He stated that people are now putting larger manufactured home on the lots.

Mr. Prentis explained that the variance would also allow for better parking off the road. A future shed will meet the property line setbacks. A survey was done 1 1/2 months ago.

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.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6670--Charles W. & Diane T. Donohue - South of Route One,
176 feet northwest of Road 276.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Charles & Diane Donohue were sworn in and testified requesting a 30.14' variance from the front yard setback requirement of 60' located in a highway corridor overlay zone. The existing structure is 29.86' from the front property line. A statement was read into the record by Mr. Rickard from Shane Abbott, Assistant Director of Planning & Zoning, referencing the front yard setback. It was stated that the business has been on the property since 1991 and a new office is needed. It was stated that the problem is already there and it is an odd shaped lot.

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: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6671--Tammy L. & Randy Amos - North of River Road, west of
Pinebrine, Lot 171, Pot Nets Park
(Bayside).

A variance from the lot coverage in a mobile home park.

The case was presented by Mr. Rickard. Randy Amos, River Road, was sworn in and testified requesting a variance from the 35% lot coverage requirement in a mobile home park, being Lot 171, Pot Nets (Bayside). Mr. Amos explained that with all the structures on the property he will exceed the 35% lot coverage by 320 sq. ft.

The applicants are putting a double-wide manufactured home, with a porch and shed, on the property, which makes it over the 35% coverage. He had a single-wide unit with a deck on the lot previously.

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.

At the conclusion of the public hearing, the Chairman referred back to this case. After some discussion, motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that the variance be granted.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6672--Jonathan Kendall - East of Route 42, 200 feet south of Road 625.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Jonathan Kendall, Lincoln, was sworn in and testified, requesting a 10' variance from the 15' side yard setback to attach a 20'x 30' two car garage. He stated that there is an existing driveway already on the side of the property where the garage will go. He has a septic system on the other side of the property.

Mr. Rickard read correspondence from neighbor, Irvin Hall in support of the application.

Irvin J. Hall, Lincoln, was sworn in and testified that he is the neighbor that sent the letter and he is in favor of the requested variance.

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.

Vote: Mr. McCabe - aye
Mr. Callaway - aye

Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6673--Ruby E. Kelly - South of Road 358, Cedar Neck Road,
Lot 13, Pine Crest Terrace.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Ruby E. Kelly, New Castle, Quenton Kelly, Bear and Kevin Schroder, Newark, were sworn in and testified. The applicant requested a 4' variance from the 10' side yard setback requirement on both sides, on Lot 13, within Pine Crest Terrace. The applicant had a 12'x 60' single-wide unit on the lot and wants to put a double-wide manufactured home there. She wants to place the double-wide so that her living room faces the road. She stated that she has bulkhead that is in need of repair and she plans to move to the location permanently. She stated that there should be no problem with getting to the bulkhead since most of the work is done from the water.

Mr. Rickard read a letter into the record from Michael J. Wierman opposed to the variance voicing concern about the access to the lagoon and bulkhead.

Mr. Schroder explained that the septic is virtually in the middle of the lot and would have to be dug up. He stated that in the near future the County sewer is to be put in.

Joseph Lendzioszek, Ocean View, was sworn in and testified in opposition, stating that the lots were approved for manufactured homes and expressed concern about the bulkhead repairs that are needed.

Mr. Kelly explained that they want to upgrade the property.

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. Callaway and carried unanimously that the variance be denied, finding that there is a unit made that can meet the setbacks and to have the living room face the road was not reason to grant a variance.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Case No. 6674--Mary Monahan - West of Route One, Unit 52, Kings Grant.

A variance from separation requirement between buildings.

The case was presented by Mr. Rickard. Mary Monahan, Fenwick Island, Frank Mooney, Frankford and Robert Lawrence Stevens, Frankford were sworn in and testified. Ms. Monahan requested a 12' variance from the 40' setback requirement between buildings to have expansion of a rear deck on Unit 52, Kings Grant. She wishes to line up with the existing decks on the same building. It was stated that there 8 units in the building and all of the decks are the same size except Ms. Monahan's, which is smaller. The new deck is 12'x 22' in size. It was stated by Mr. Mooney that the work is already finished and in violation, there is no permit. It was stated that the Board of Directors of Kings Grant have approved the variance requested.

Mr. Rickard stated that the 40' setback requirement was established by the Commission. He read correspondence in support from unit owners 47, 46, 49 & 51. A letter from DNREC had been received. Correspondence was read from Kings Grant Condominium Association in support.

Myron Chaffey, Unit 66, Kings Grant, was sworn in and testified in opposition, expressing concern that if the application is approved his neighbor may want approval and will be pushed up against him, and concern that the structures are too close and become a fire hazard.

Mr. Stevens feels it does not set a precedent because it is not the first time it has happened and he does not feel it is a fire hazard.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting, so the Board members can look at the site again.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

OTHER BUSINESS

Case No. 6636 (cont'd.)--Sea Air Village - South of Route One,
Lot D-67, Sea Air Village.

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

Request for a rehearing.

Mr. McCabe reviewed the case.

Mr. Rickard read a letter from Sandra Stintsman, requesting a rehearing for this case. The person attending the hearing representing the applicant, went to the wrong building and was told there was no meeting. The application was denied due to lack of representation. They request to have a rehearing.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the request for a rehearing for Case No. 6636 be granted and a new fee be paid.

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

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

Vote: Mr. McCabe - aye
Mr. Callaway - aye
Mr. Mills - aye
Mr. Wheatley - aye
Mr. Hudson - aye

Meeting adjourned at 8:47 P. M.