

Minutes of August 16, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening August 16, 1999, at 7:00 P.M., in the County Council Chambers, County Administration 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-Esquire, Mr. Rickard-Chief Zoning Inspector and Melissa Massey-Recording Secretary.

Mr. Callaway asked for any additions or changes to the agenda. Hearing none, motion was made by Mr. McCabe, seconded by Mr. Wheatley and carried unanimously that the agenda for July 12, 1999 be adopted. Vote 5-0.

Motion was made by Mr. Hudson, seconded by Mr. Wheatley and carried unanimously that the minutes of August 2, 1999 be approved as circulated. 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. 6934 Vincent A. Finocchio - West of Route 13-A, north of Road 488, Lot 2, within Lloyd's Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Michael Kelley of Georgetown was sworn in and testified on behalf of applicant requesting a variance of 10.9 from required 40' front yard setback to be 29.1'. The owner was cited two (2) years ago by Sussex County for being in violation. Mr. Kelley stated that Mr. Finocchio was the builder of the home and that it has sat unfinished for the past year pending the applicant filing for this request.

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 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 tabled to next meeting. Vote 5-0.

Case No. 6935 Robert W. and Carol L. Nocella – South of Route 54, west of Tyler Drive, Lot 44, within Cape Windsor.
A variance from the side yard and rear yard setback requirements.

The case was presented by Mr. Rickard. Robert W. Nocella of Selbyville was sworn in and testified requesting a 4' variance from 10' required side setback and also a 5' variance from required 20' rear setback. The applicant stated that he wanted to construct a deck on the rear of his home and after meeting with the HomeOwners Association he is requesting the same setbacks as other homeowners in Cape Windsor. The deck that Mr. Nocella would like to construct was determined to be 1 foot in height and that he would need a larger rear variance than actually requested to accommodate his plans.

Mr. Rickard read correspondence in favor of this request from The Board of Directors President, Mr. Danaher.

Motion was made by Mr. Mills, seconded by Mr. McCabe and carried unanimously that the variance be approved with a 4 foot side yard variance, 20 foot rear yard variance, with the house being limited to a 5 foot variance. Vote 5-0

Case No. 6936 Holly Motors – East of Route 113, 850', north of Road 377.
A variance from sign requirements for wall signs and a second ground sign.

The case was presented by Mr. Rickard. Larry E. Holding of Milton was sworn in and testified on behalf of the Applicant and Roger Sign Company. He stated that they wanted to construct a second on premise pylon pole sign in the center of the property measuring 8'x 12' and two (2) wall mounted signs measuring 4'x 8' located on each end of the building. Mr. Holding also stated that the signs would be illuminated and that the wall signs would take up less than 5% of square footage on the north-south side of the building.

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

Case No. 6937 Westover Apartments, LLC – Northwest of Road 270-A, 100 feet north of Route One, within Seabright Village condominium.

A variance from the setback requirement between units.

The case was presented by Mr. Rickard. Jim Fuqua, Esquire, was present representing the applicant requesting a 2' variance to meet a 40' setback between units. Frank Rubino of Rehoboth was sworn in and testified as the applicant of this request. Mr. Rubino stated that his company was the builder of the condominium and that apparently when the site was staked out the markers were mislocated causing the problem. Mr. Fuqua said that fortunately there would be no negative impact on the community due to this mistake but would be very costly to correct.

A petition was submitted to the Board with signatures of all homeowners in Seabright Village in favor of this request.

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

Case No. 6938 Leonard and Lida Horne – North of Road 494, East of Road 497.

A special use exception to connect two manufactured homes to make one unit.

The case was presented by Mr. Rickard. Leonard Horne of Laurel was sworn in and testified requesting a special use exception to connect a second singlewide mobile home to an existing mobile home. Mr. Horne stated that he would be connecting a 12x60, 15-year-old mobile home to his present mobile home and it would have an A-frame roof, same siding, one (1) kitchen and a permanent foundation and will take one (1) year to complete.

There were no parties in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted with the following stipulations:

1. The manufactured homes be enclosed with a block foundation.
2. Same siding around both units.
3. A-Roof.
4. Be completed within one (1) year.

Case No. 6939 Dwayne D. Wiltbank – North of Road 302, 1,965 feet north of intersection with Road 301.

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

The case was presented by Mr. Rickard. Dwayne D. Wilbank of Millsboro, was sworn in and testified requesting a special use exception to keep a mobile home on a medical hardship basis for his brother-in-law, Wesley Dawson. Mr. Wilbank stated that their was previously one (1) house and three (3) mobile homes on his property but two (2) of the mobile homes had been destroyed.

Mr. Rickard read a letter from Dr. Ernesto Cuba, Psychiatrist, referencing Mr. Dawson's health.

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 granted on medical hardship basis for a period of two (2) years. Vote 5-0.

Case No. 6940 Michael Schuchman – North of Route 54, west side of Swann Drive, Lot 42, within Swann Keys Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. John Sorgovic, P.A., was present representing the applicant requesting a 2.5 foot variance from 10 foot side yard setback requirement. Mr. Sorgovic stated that there was a history behind the request of this variance and that the deck was constructed in May 1996, by Jack Thomlason. He said that the building permit obtained by the builder apparently was tampered with by the builder in order to show the setback regulations being 10 feet instead of the 7 ½ feet that he was told was within regulations without a obtaining a variance. Mr. Sorgovic also said that until Mike Milligan, Planning & Zoning Inspector appeared at the applicant's home to issue them a violation they had no idea that they were not in compliance.

Mr. & Mrs. Michael Schuchman of Selbyville were sworn in. Mrs. Schuchman testified that it was their opinion that the builder they hired was licensed and competent. She testified that they supplied the builder with the proper information and dimensions and that they felt they were in complete compliance with Sussex County and Swann Keys's regulations. Mr. Schuchman stated that he was given permission by the previous Swann Key Board members prior to having the deck built.

Edward L. Ellis was sworn in and testified on behalf of the Swann Keys Board members in opposition to this request. He stated that the present Board never gave permission to Mr. Schuchman and that the Board is firmly opposed to any variances requested in order to set precedence for their community.

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 end of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. McCabe, seconded by Mr. Hudson and carried unanimously that the case be tabled until the next meeting. Vote 5-0.

Case No. 6941 Bear Trap Dunes Golf Club – Southeast of Road 84, $\frac{3}{4}$ mile northeast of Road 368.

A special use exception to use tents for special purposes (outings and events).

The case was presented by Mr. Rickard. Thomas Tipton was sworn in and testified requesting a special use exception to uses tents for outing and events until the clubhouse is finished. Mr. Tipton stated that the tents would only be used when they were holding an event and would be taken down immediately following the event. The tents would be up for no more than three (3) days at a time.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously to grant the special use exception for a period of two (2) years. Vote 5-0.

Case No. 6942 William J. Boyle – Northeast of Route 26, northwest of Moccasin Way, Lot 1, within Blackwater Village Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Todd A. Timmons of Dagsboro was sworn in and testified on behalf of the applicant requesting a 2-foot front yard variance from the 30-foot front yard setback requirement. Mr. Timmons stated that he was the builder and was notified by the owners once they received the violation. He said that it was clearly a mistake on his part and not the owners.

There were no parties present in opposition.

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

OLD BUSINESS

Case No. 6663 (cont'd.) Charlotte M. Young – South of Road 270-A, intersection of Midway Drive and Fourth Street, Lot 16 & 17, Tru Vale Acres.

A variance from the front yard and side yard setback requirements. Request for time extension.

Mr. Rickard read correspondence received from the applicant requesting a time extension.

After some discussion, motion was made by Mr. Mills, seconded by Mr. McCabe that the request for time extension from the variance obtained on September 28, 1998 be extended for one (1) year. Vote 5-0.

DISCUSSION

A short discussion was held in reference to cutting down on the cost of paper and postage by sending out mailing in one envelope and setting up trays in the Planning & Zoning Office with Board members names for additional correspondence.

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

Meeting adjourned at 8:32 P.M.