

## Minutes of August 28, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening August 28, 2000, at 7:00 P.M., in the 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. Wheatley, Mr. Mills, Mr. Hudson, with Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector, and Ms. Jackson – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously to approve the Revised Agenda as circulated.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of August 7, 2000 as circulated.

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

Case No. 7215 – Jane Ridgeway – southwest of Route 20, 940 feet southeast of Route 9.

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

Mr. Rickard presented the case and read a letter from Marie C. Wolfgang, M.D. Jane Ridgeway and Angela Hill were sworn in and testified requesting to place a manufactured home as a medical hardship basis; that the manufactured home will have 2 or 3 bedrooms; and that she has not purchased a manufactured home yet because she was waiting for approval from the Board.

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

Motion by Mr. Wheatley, seconded by Mr. McCabe, and carried unanimously that the special use exception be granted for a period of 2 years. Vote carried 5 – 0.

Case No. 7216 – Sara Lukens – southwest of Road 284, 1,260 feet northwest of Route 24.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Sara Lukens and Dave Bower were sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement for an attached garage; that they had a new home built; that McDaniel Construction was the contractor; that McDaniel Construction obtained the permits; that they submitted the contract proposal to the Board; that they centered the home on the property to their existing neighbor; that the Contractor placed the home on the property

where they told him to; and that they were not aware of anyone being in opposition to the application.

Mr. Rickard stated to the Board that the reason for the variance is because they were violated by a Planning and Zoning Inspector.

By a show of hands, two parties were in favor to the application.

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

Motion by Mr. Wheatley, seconded by Mr. McCabe, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion was made by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7217 – Allegheny East Conference Association of Seventh Day Adventist - northwest of Road 485, 240 feet northeast of U.S. Route 13.

A special use exception to use a manufactured home as a church.

Mr. Rickard presented the case. Max Charles and Gene Ulysse were sworn in and testified requesting a special use exception to use a manufactured home as a church; that it would be a temporary use for 2 years at the most; that they plan on building a church; that the size of the manufactured home will be 14'x70'; that the unit is a 1986 model; that the church has 30 members; and that a dwelling and manufactured home exists on the property.

Mr. Mills stated to the applicants that they need to contact the Planning and Zoning Office before building the church.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be granted for a period of 2 years. Vote carried 5 – 0.

Case No. 7218 – Thomas C. Murphy – north of Road 279-B, north side of private road, Lot 42 and 48, within Joy Beach Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Thomas Murphy was sworn in and testified requesting a 10-foot variance from the required 20-foot rear yard setback requirement for a proposed addition; that he purchased the home in March; that he asked for the deed restrictions and was shown that a 10-foot rear yard setback is required; that he came to the County and was told that a 20-foot rear yard setback is required; that if he was to build the proposed addition somewhere else he would have no benefit of the lagoon; that he cannot build the addition anywhere else on the property; and that his septic system is located in the front yard.

By a show of hands, 2 parties were in favor of the application.

Gwen Foehner was sworn in and testified that she is in favor of the application; that she is also seeking a variance in Joy Beach; that there are a lot of violations in the Subdivision; and that she submitted pictures to the Board.

Mr. Rickard read a letter from the Joy Beach Property Owners Association, Inc. in opposition to the application.

Charles Janvier was sworn in and testified that he is in opposition to the application; that Joy Beach is a 35-40 years old Development; that the area has old violations; that he is the Chairman of the Architectural Committee; that he finds no basis of a hardship; and that Mr. Murphy has ample room without needing a variance to build the proposed addition.

By a show of hands, 4 parties appeared in opposition to the application.

Debra Murphy was sworn in and stated to the Board that she would like to submit a copy of the deed restrictions.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion was made by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be tabled until September 11, 2000. Vote carried 5 – 0.

Case No. 1<sup>st</sup> State Storage – east of Road 321, 1,200 feet south of Route 9, Lot 21 and 22, within Saulsbury Switch Subdivision.

A variance from the square footage requirement for a parcel.

Mr. Rickard presented the case. Mark Vugrinec was sworn in and testified requesting a 2,063-square foot variance from the 32,670-square footage requirement for Lot 22 and a 2,094-square foot variance from the 32,670-square footage requirement for Lot 21; that he has preliminary approval from the Planning and Zoning Commission; that DelDot is requiring a right of way dedication that will reduce lot sizes from 0.76 acre to 0.71 acre which was not addressed in the Tac Meeting on August 18, 1999; and that the entrance to the lots will be from Ann Lane, not from Route 9.

Mr. Rickard stated to the Board that he had spoken to Mr. Abbott, Planning and Zoning Assistant Director, about the application and that they had to apply for this variance because of DelDot.

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

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

Case No. 7220 – Egolf Forest Harvesting, Inc. – west of Road 510, 3,500 feet south of Road 503-A.

A variance from the lot width requirement.

Mr. Rickard presented the case. Arthur Egolf was sworn in and testified requesting a 95.61-foot variance from the required 150-foot minimum lot width requirement and a 98.96-foot variance from the required 150-foot minimum lot width requirement for a 50-foot right of way that is needed; that he has a logging company; that there is a equipment storage building on the property now; that he would like to build a new home; that he has an existing driveway and would like to use the same driveway to get back to the rear of the property; and that both parcels would share the same driveway.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be granted with the stipulation that both parcels must share a driveway. Vote carried 5 – 0.

Case No. 7221 – Jacqueline Riemenschneider – northwest of Road 283, north of Beech Drive, Lot 6, within Sandy Brae Development.

A variance from the southeast side yard setback requirement.

Mr. Rickard presented the case. Jacqueline Riemenschneider was sworn in and testified requesting a 1.5-foot variance from the required 10-foot side yard setback requirement for an existing attached garage; that the existing home belonged to her father; that he passed away last year; that she was not aware of any violations until a few days before settlement; that 20 years ago her father built the garage; and that the neighbors are in favor of the application.

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

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

Case No. 7222 – Davis, Bowen & Friedel, Inc. – west of Route One, 1,150 feet south of Route 24.

A variance from the square footage requirement for signs.

Mr. Rickard presented the case. Randy Duplechaim, representing WalMart, was sworn in and testified requesting an increase in square footage on signage from 100-square feet to 406-square feet to place 4 signs on the Rehoboth WalMart; that 4 signs will be placed on the building which will read WalMart, Pharmacy, We Sell For Less, and Satisfaction Guaranteed; and that a Tenant sign will be placed as a second wall sign.

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

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

Case No. 7223 – Gerald and Emily Hocker – east of Road 17, 609 feet south of Route 26.

A special use exception to replace two (2) billboards.

Motion was made by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to incorporate Case #7223 and Case #7225. Vote carried 5 – 0.

Mr. Rickard presented the case. Gerald Hocker was sworn in and testified requesting a special use exception to replace 2 - 10'x30' billboards that were temporarily taken down due to road construction and a special use exception to place a second ground sign, and an 84-foot variance from the required 150-foot requirement for a ground sign;

that they started the project in October 1998; that the Super Market had 2 billboards which had to be taken down because of the sewer being installed; that he called Planning and Zoning and Rogers Sign Company about removing the billboards and was told that there would be no problems; that they will be replacing the 2 billboards in the same footprint; that they are putting in a new entrance where the old Super Market existed; that the parcel used to be 3 parcels; that the pumps will be located on the west side of the property and the entrance will be located on the east side; that DelDot had told him that a sign had to be put by the entrance; that the variance is for the sign that will be for the gas pumps; that they will be increasing the sign to 84-square feet; and that Rogers Sign Company took down the 2 billboards and will be putting them back up.

Mr. Rickard stated to the Board that Gerald Hocker did notify Planning and Zoning about having to take down the 2 billboards because of the sewer being installed.

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

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the special use exceptions and the variance be granted. Vote carried 5 – 0.

Case No. 7224 – William S. Cropper – south of Route 54, 505 feet west of Road 396.

A variance from the southeast side yard and northwest side yard setback requirements.

Mr. Rickard presented the case. William and Yvonne Cropper were sworn in and testified requesting a 9.8-foot variance from the required 15-foot side yard setback requirement for a metal garage and a 4.9-foot variance from the required 15-foot side yard setback requirement for a shed; and that the structures have been there for 20 years or longer.

By a show of hands, 2 parties were in favor of the application.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that he variances be granted. Vote carried 5 – 0.

Case No. 7225 – Gerald and Emily Hocker – east of Road 17, 609 feet south of Road 26.

A special use exception to place a second ground sign and a variance from the square footage requirement for a ground sign.

There was a consensus of the Board that the record of this Case was the same as Case No. 7223.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exceptions and variance be granted. Vote carried 5 – 0.

Case No. Denis LaMartina – west of Road 270-A, east side of North Drive, Lot 12, within Tru-Vale Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Denis LaMartina and Michael Kyriacos were sworn in and testified requesting a 3.4-foot variance from the required 30-foot front yard setback requirement for a 12'x25' addition; that they have an existing singlewide manufactured home; and that in 1997 the Board approved a variance for the manufactured home.

By a show of hands, 1 party was in favor of the application.

Mr. Rickard stated to the Board that he had a petition with 7 signatures in favor of the application.

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

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

Case No. 7227 – James and Gwen Foehner – north of Road 279-B (now a private road), 520 feet northeast of Mallard Drive, Lot 19 and 20, within Joy Beach Subdivision.

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

Mr. Rickard presented the case. James and Gwen Foehner were sworn in and testified requesting a 6.7-foot variance from the rear yard, an 8.8-foot variance from the side yard, and a 6.3-foot variance from the front yard setback requirements; that they have a 40'x50' dwelling; that the Board needed to refer back to the pictures she had submitted for Case #7218; that they have a second story addition and that they are building a deck; that they pointed out structures that are in violation in the subdivision; that they submitted a petition to the Board; that they contacted over 30 owners in the subdivision and that 28-29 owners supported the request;

that they have quit building the deck until the Board makes a decision; that the home sits on an angle; that the home is 30 years old; that the deck does not obstruct anyone's view to the bay; that other variances in the area have been granted; that Gary Lofland built the deck for them; that their septic is on the canal side of their property; that they do not intend to enclose the deck in the future; that they have sliding glass doors on the second floor addition for access to a deck; and that they had a survey done because a complaint was made from the community about a bulkhead problem.

The Board stated to the applicants that the survey they submitted is out of date because it does not show the deck, therefore, the requested variances are incorrect.

By a show of hands, 8 parties appeared in opposition to the application.

Mr. Rickard read a letter to the Board in opposition to the application from the Joy Beach Property Owners Association, Inc.

Howard and Edna Truax were sworn in and stated that they are in opposition to the application; that they submitted pictures to the Board; that they called the Planning and Zoning Office after Memorial Day to have someone go to the area and check the deck; and that they have a problem with how close the deck is to their property line.

John Valentino was sworn in and stated that he is in opposition to the application; that he requested to look at the pictures that were submitted and stated that most of the pictures that were submitted are not in violation; that he did give them approval for building a deck but not for what has been built; that they have been notified of the violation; that they have the biggest lot in the community; that there was ample room on the property to build the deck; that there was no hardship; and that it sets a precedent to the community.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to leave open the case until September 11, 2000 so that the applicant's can provide a current survey. Vote carried 5 – 0.

Case No. 7228 – Mountaire Farms of Delaware, Inc. – south of Route 24, 2,406 feet east of Road 305.

A variance from the square footage requirement for signs.

Mr. Rickard presented the case. Bruce Stephens was sworn in and testified requesting a 30-square foot variance for 8 directional signs, a 150-square foot variance

for a wall sign for the Hatchery Building, and a 112.5-square foot variance for a wall sign for the Poultry Plant Building; that they are replacing the existing signs which will be made of aluminum and then painted; that the directional sign will be in the same locations; that there will be 1,200 employees; and that the reason for the signs are because of the change over of ownership.

By a show of hands, 2 parties were in favor of the application.

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

Case No. 7229 – Donald Corkran and June Brittingham – southwest of Road 331, 1,083 feet northwest of Road 334-A.

A special use exception to place a third on-farm manufactured home.

Mr. Rickard presented the case. Donald Corkran and June Brittingham were sworn in and testified requesting a special use exception to place a third on farm manufactured home; that his disabled brother-in-law lives in the first manufactured home; that his daughter lives in the second manufactured home; that his granddaughter will live in the third manufactured home; that he has lived in his home for 44 years; that he owns 15 acres of land; and that the third manufactured home will go behind the first manufactured home where his brother-in-law lives.

By a show of hands, 2 parties were in favor of the application.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the special use exception be granted. Vote carried 5 – 0.

### **Old Business**

Case No. 7200 – Joseph Martellini – south of Road 382, east side of Wanmar Court, Lot 3A, within Wanmar Lake Subdivision.

A variance from the west side yard setback requirement.

The Board discussed the case. Mr. Rickard explained to the Board about deck requirements; that Mr. Martellini's deck is only 38 inches in height; that the 4-foot only pertains when the deck is not in a flood zone; and that a variance is not needed for the deck, only for the home.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that a 1-foot variance be granted for the home only. Vote carried 5 – 0.

Case No. 7204 – Roberta C. Brennan – west of Road 449, 2,642 feet north of Road 450.

A special use exception for a commercial kennel and a variance from the setback requirement for a commercial kennel.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception and variance be granted for a period of 5 years with the following stipulations:

1. That no additional dogs are to be brought in.
2. That Ms. Brennan needs to provide dog license's to be able to identify the 9 existing dogs, which are to go in the Planning and Zoning file.
3. That once she is down to 4 dogs or less, or no longer resides there the special use exception and variance becomes voided.

Vote carried 5 – 0.

Case No. 7214 – Vaughn and Cindy Esham – west of Road 561, 2,650 feet south of Road 554.

A variance from the southeast side yard setback requirement.

The Board discussed the case.

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

Meeting Adjourned 9:45 P.M.