Minutes of October 7, 1996

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, October 7, 1996, in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware.

The meeting was called to order at 7:00 P.M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mrs. Hudson, Mr. Callaway, Mr. Wheatley, Mr. Jones-Attorney, Mr. Betts-Zoning Inspector III and Mrs. Watkinson-Planning & Zoning Clerk.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously that the minutes of September 23, 1996, be approved as circulated.

Mr. Jones, Assistant County Attorney, explained the procedure for Board of Adjustment proceedings.

Case No. 6121--G. M. G., Inc.--south side of Route 18, 700 feet northeast of Route One.
A variance from the side yard setback requirement.

Francis Thomas Savage, contractor for applicant, was sworn in and testified that there are only businesses in the immediate area; that the construction will be on the side of the building for an emergency exit; that the exit does not have to be used daily but may be used for other than an emergency; that there is no structure within 25' of building.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously, that the variance be approved, finding it would not adversely impact the area.

Case No. 6122--Joseph Kramer and Mark Brown--west side of Lake Drive, 1/4 mile west of Route 50, Lots 9 and 10, within Silver Lake Shores.
A special use exception to expand a non-conforming use.

Joseph H. Kramer was sworn in. James Fuqua, attorney representing applicant, stated that a small portion of the property fronts the lake; that the adjacent properties have townhouses, etc.; that the construction would be an improvement to the first floor; that the second floor would be enclosed and used for office, laundry, etc.; that floor area would be added to the third floor; that six (6) new guest rooms would be added; presented photographs and blueprints.

Mr. Betts presented four (4) letters in support of the application.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously, that the special use to expand a non-conforming use be approved.

Case No. 6123--Mary Jane Boyce--north side of Route 451, .3 mile west of Road 70.
A variance from the front yard setback requirement.

Janet B. Hastings and Mary Ellen Jones, daughters of the applicant, were sworn in and testified that their mother wishes to place a carport and build a deck within the required setback as she is elderly and it would be convenient for her in relation to the entrance of her residence; that the carport has been purchased; that there will be an awning over the door portion of the deck.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously, that the variance be approved.

Case No. 6124--Yvonne Lallier--north side of Route 241, 2,600 feet west of Route 30.
A special use exception to place a second manufactured home to be attached to the existing manufactured home to be used as one single family residence.

Yvonne Lallier and James A. Betts were sworn in and testified that they propose to place another manufactured home to be attached to the existing manufactured home; that both manufactured homes are made by the same manufacturer; that they will be skirted, be the same color, and will have an a-frame roof; that there will be only one kitchen; that they hope to be finished by next summer but can be finished within two (2) years.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously, that the special use exception be approved with the stipulation the project be finished within two (2) years.

Case No. 6125--Wheatley Farms, Inc.--west side of Route 585, 1,000 feet southwest of Road 587A.

A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

Jeffrey Trent Wheatley was sworn in and testified that an employee will purchase the lot; that a house was on the property but burned approximately fifteen (15) years ago; that there are other manufactured homes in the area; that the parcel contains 1.58 acres; that woods, vacant lot and poultry houses are in the area; that the manufactured home will be a 12 X 70 with additions.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried unanimously, that the special use exception be approved.

Case No. 6126--John F., Jr. and Gisela E. Vavala--north side of Route 517, 450 feet west of Route 520.
A special use exception to place a third manufactured home on farm.

Gisela and John Vavala were sworn in and testified that their son and daughter live in the two (2) manufactured homes currently on the property; that their granddaughter would live in the third manufactured home; that there are other manufactured homes in the area; that they propose to place a 12 X 60 1979 or 1980 manufactured home.

There were no parties present in opposition.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried unanimously, that the special use exception to place a third manufactured home be approved.

Case No. 6127--Concerned Citizens for Community Preservation--west side of Route 525, 1,500 feet north of Route 526.
A special use exception to appeal the director's decision in reference to Board of Adjustment Case No. 5780, C/U No. 874, C/U No. 954, and C/U No. 1079 Edward J. Kaye and relating to fuel storage.

Mattie Burton, appearing for herself and as a representative for concerned citizens, was sworn in and testified that she still

opposes the application that was approved by the Board of Adjustment in 1995; that on March 20, 1996, she sent a letter to Planning and Zoning to insure future office record in regards to several issues of concern, such as Edward Kaye's business would require fuel storage but this would be against the stipulation for the conditional use approval, if this was not a violation to please notify.

Mattie Burton also testified that she received a letter from Mr. Lank, Director of Planning and Zoning, in response to her concerns stating that no fuel was stored on the site and that the fuel tank serves the equipment only; she also questioned that authority Mr. Lank has to make such a decision.

Lawrence B. Lank, Director of Planning and Zoning, was sworn in. Dennis Schrader, County Attorney representing Mr. Lank, questioned Mr. Lank as to the concerns expressed by Mattie Burton and other concerned citizens. Mr. Lank replied that he has been Director of Planning and Zoning for eleven (11) years; that he did receive three (3) letters from Ms. Burton; that he felt he had addressed all issues that were questioned; that he had reviewed the proceedings; that he did an on-site inspection; that he determined the fuel was for equipment only not fuel storage.

William D. Bell was sworn in and testified that he is in opposition to the batching plant; that the stipulation of no fuel storage must be practiced.

David Fees was sworn in and testified that he agrees with Mr. Bell; questioned the authority of Mr. Lank to make the decision regarding fuel storage; reminded the Board Members of the stipulation they placed when approving the batching plant.

James Fuqua, representing Mr. Kaye, stated Mr. Kaye did not interpret the stipulation the same as the concerned citizens; that the process consisted of several pieces of equipment not just one machine; that 10,000 gallons of fuel was the approximate amount of fuel needed for one day of operation; presented photographs of the fuel tank in question.

Edward J. Kaye stated he owns a fuel storage system but not on the property involved; that the fuel tank and equipment are tied by pipes to fuel the equipment.

Timothy W. Duker was sworn in and testified that he was concerned that the Board members were no longer environmentally concerned about fuel storage; questioned what criteria Mr. Lank used for his decision.

Marlene Mervine was sworn in and testified that wetlands are vital; that there is a canoe trail by the property involved; that more than ten (10) large trucks per hour travel to and from the plant.

Dennis Schrader stated Mr. Lank was involved because Ms. Burton requested he interpret the stipulation.

There were ten (10) parties present in opposition with three (3) of the opponents living outside a one (1) mile radius of the plant.

Motion was made by Mrs. Hudson, seconded by Mr. Wheatley and carried unanimously, that this case be tabled pending further review.

Old Business

Case No. 6109--C. Bruce and Paula Penuel--southwest side of Route 16A, 300 feet east of Route 16, Lot 6 and part of Lot 9, within Broadkill Beach.
A variance from the side yard setback requirement.

Motion was made by Mr. Callaway, seconded by Mr. Wheatley and carried, that the variance be approved. Chairman McCabe abstained as he was not present at the previous meeting.

Case No. 6113--Deneen and Mark Rowe--south side of Route 471, 1,100 feet west of Route 432.
A special use exception to place a manufactured home in an AR-1 District on less than five acres for a permanent residence.

Motion was made by Mrs. Hudson, seconded by Mr. Callaway and carried, that the special use exception be approved with the stipulation the unit be a doublewide on a permanent foundation, finding the lot a irregular lot and it would not adversely impact the area. Chairman McCabe abstained as he was not present at the previous meeting.

Case No. 6119--Alvin L. and Elizabeth A. Wallace--north side of Route 297A, 1/4 mile northeast of Route 5, Lot 55, within Oyster Farms, Oak Orchard.
A variance from the front yard setback requirement.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried, that the variance be approved, finding it would not adversely impact the area. Chairman McCabe abstained as he was not present at the previous meeting.

Other Business

Case No. 6069--Anne J. Kaylor--west side of Route 267, 1/2 mile south of Gills Neck Road (Route 408).
A variance from the minimum lot width requirement.

Mr. Betts presented a request for a re-hearing.

Motion was made by Mr. Callaway, seconded by Mrs. Hudson and carried unanimously, to table this case pending further review.

Discussion

The possibility of having a Board photograph taken was discussed.

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

Meeting adjourned 9:00 P.M.