

Minutes of October 16, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening October 16, 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 Wheatley, and carried unanimously to approve the Revised Agenda with the corrections that Case #7271 was withdrawn, and to discuss a request to re-hear Case #7130 and the Board of Adjustment Meeting schedule for 2001.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of October 2, 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. 7261 – Mark Hudson – north of Route 18, 250 feet east of Road 281.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Mark Hudson was sworn in and testified requesting a 0.8-foot variance from the required 20-foot east side yard setback requirement for an existing structure; that the property is zoned C-1 General Commercial; and that the violation was found when the property survey was submitted prior to settlement.

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 variance be granted. Vote carried 5 – 0.

Case No. 7262 – Thomas E. and Sandra A. Kopystecki – southwest of Road 299, northwest of Camille Lane, Lot 14, within Orchard Manor Subdivision.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Thomas and Sandra Kopystecki were sworn in with Norman Barnett, Attorney, present on behalf of the applicants, requesting a 0.4-foot variance from the required 10-foot east side yard setback requirement for a dwelling, a 0.3-foot variance from the required 5-foot west side yard setback requirement for a shed,

and a 0.7-foot variance from the required 5-foot west side yard setback requirement for a carport; that they purchased the property in July 2000; and that the structures already existed on the property.

Mr. Rickard read 4 letters in favor of the application.

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. Vote carried 5 – 0.

Case No. 7263 – Wilmington Trust – west of U.S. Route 113, 50 feet north of Road 402.

A special use exception for a second wall sign.

Mr. Rickard presented the case. Edward Huppi was sworn in and testified requesting a special use exception for a second wall sign for an ATM machine; that Wilmington Trust has a 24 hour facility; that the total square footage of the sign will be 28-square feet; that signs need to be on both sides of the building; that he submitted pictures to the Board; and that Wilmington Trust will be upgrading all of their signs.

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

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

Case No. 7264 – Layne Owens – northeast of Route One, 300 feet east of Robinson Drive, Lot B, Dodds Addition Subdivision.

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

Mr. Rickard presented the case. Layne Owens was sworn in and testified requesting a 29-foot variance from the required 30-foot front yard setback requirement for a trash can corral, a 4-foot variance from the required 5-foot northwest side yard setback requirement for a shed, a 4-foot variance from the required 5-foot rear yard setback requirement for a shed, a 4-foot variance from the required 10-foot southwest side yard setback requirement for an outside shower, and a 6 inch variance from the required 42 inch height requirement for a fence on the front of the property; that the dwelling was built in 1965 to 1967; that the fence will be 48 inches in height; 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. Mills, seconded by Mr. Wheatley, and carried unanimously that the variances be granted. Vote carried 5 – 0.

Case No. 7265 – Linda I. Stewart – south of Road 434A, 580 feet east of Road 472, Lot 11, within Trinity Meadows Subdivision.

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

Mr. Rickard presented the case and read a letter from Mid-Sussex Medical Center, Inc. Linda Stewart, Jeffrey Stewart and John Beattie were sworn in and testified requesting to retain a manufactured home on a medical hardship basis; that they were approved 2 years ago for the medical hardship; that the land is a 5 acre parcel; that they have gone through the correct procedures for placing the manufactured home; and that their immediate neighbors are in favor of the application.

Motion by McCabe, seconded by Mr. Mills, and carried unanimously that the application should not have been taken since it has already been approved 2 years ago and that the filing fee is to be returned to the applicant. Vote carried 5 – 0.

Theresa Eisenhour, Evelyn Wyatt and Chandra Snead were sworn in and testified that they are in opposition to the case; and that they have concerns with the sharing of the septic system and the decrease in the property values.

Motion by Mr. Mills, 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. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be dismissed and that the applicants are to notify Lawrence Lank, Director of Planning and Zoning, for approval. Vote carried 5 – 0.

Case No. 7266 – Kent Sign Company – south of Route One, 30 feet southeast of Road 271.

A special use exception for multiple signs.

Mr. Rickard presented the case. Scott Saunders and Dale McCallister were sworn in and testified requesting a special use exception for multiple signs; that they are

requesting 2 additional signs; that the signs are for the Christmas Goose Ltd. in the Rehoboth Outlets; and that they submitted pictures to the Board.

Bonnie McDaniel, Manager, was sworn in and testified that she is in favor of the application; and that the signs would benefit them because it is a very challenging space.

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 special use exception be granted. Vote carried 5 – 0.

Case No. 7267 – Tingle Family Partnership, L.P. – east of Bunting Avenue, 50 feet north of Maryland Avenue, Lot 2, Section C, within L.P. Faucett, Inc. Subdivision.

A variance from the square footage requirement for multi-family dwellings.

Mr. Rickard presented the case. Richard Tingle was sworn in with Jim Fuqua, Jr., Attorney, present on behalf of the applicant, requesting a variance of 1,130-square feet per unit from the required 3,360-square feet for a duplex; that 2 units are proposed; that they submitted a plot plan; that an existing structure will be removed from the property; that the size of the lot is 5,000-square feet; that the property is zoned C-1 General Commercial District; that the proposed duplex will be similar to the existing duplex's in the area; that it would not alter essential culture or nature in the area; that other variances have been granted in the area; that they will meet the setback and parking requirements; and that they submitted 2 letters in favor of the application.

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

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

Case No. 7268 – Leticia Santiago and Carol Justice – west of Road 42, 1,000 feet north of Road 595.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Leticia Santiago and Carol Justice were sworn in and testified requesting a 11.9-foot variance from the required 40-foot front yard setback requirement for a manufactured home; that they purchased the property with an existing 12'x60' manufactured home with an addition; that they replaced the existing home with a 28'x66' manufactured home in the same footprint; that they obtained the permit; that

Capitol Homes placed the home for them; that their septic system is located behind the home; and that they were issued a certificate of compliance and then received a violation.

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 hearing, the Chairman referred back to this case. Motion was made by Mr. Wheatley, seconded by Mr. McCabe, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7269 – Big Oak Trailer Park, Inc. – west of Road 270, 875 feet north of Road 270-A, Lot A-1, within Big Oaks Mobile Home Park.

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

Mr. Rickard presented the case. Barbara Plummer was sworn in and testified requesting a 10-foot variance from the required 20-foot between units in a mobile home park for a sun porch; that she lined up the sun porch with the existing manufactured home; that the manufactured home was placed in the park after the park was founded in 1968; that she obtained the permit; and that she received a violation from Franklin Bunting, Planning and Zoning Inspector.

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

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

Case No. 7270 – Kevin Fluharty – east of Route 22, east of Burwood Cove Drive, Lot 16, within Highview Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Kevin Fluharty was sworn in and testified requesting a 2-foot variance from the required 10-foot east side yard setback requirement for a 2nd floor deck and a porch, not from the rear yard; that he has stopped construction until after the meeting; that the home is designed for the deck and porch; that his surveyor made him aware of the violation; that he obtained the permit; and that the common area is for access to the dock.

Jane Ellen Golde was sworn in and testified that she has concerns; that she owns Lot 15; and that she wants to see the plans of Mr. Fluharty's home.

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

Case No. 7271 – Bunting Construction Corporation – northeast of Route 54, 634 feet east of Route 58-B.

A special use exception for a second wall sign.

This case was withdrawn.

Case No. 7272 – Michael E. and Heather A. Kirby – east of Road 546, 3,200 feet south of Road 544.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Michael Kirby was sworn in with Julie Bucklin, Attorney, requesting a 20-foot variance from the required 20-foot rear yard setback requirement for an existing garage; that he is a first time home buyer; that he purchased the home 2 months ago; that the garage was built in 1977; that the neighbors are in favor of the variance; that the property is surrounded by farm land; that 2 surveys have been done for the property and that the violation was found when the second survey was done; and that Beverly Blades, Realtor, sold the home to Mr. Kirby and told him that the violation would not be problem.

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

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be granted and that a letter be sent to Beverly Blades referencing the violation error. Vote carried 5 – 0.

Old Business

Case No. 7255 – Douglas Rhodes - southeast of Route 14, northeast side of North Brandywine Road, Lot 6, within Shawnee Acres Subdivison.

A variance from the rear yard setback requirement.

The Board discussed the case. Mr. Rickard stated that he has concerns with the

sheds located in the common area and that he would like to be able to research them.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be tabled until Mr. Rickard finishes researching the sheds. Vote carried 5 – 0.

Case No. 7256 – Trudy W. Schuyler and Jane A. Greenwell – 200 feet south of Road 283, 525 feet west of Road 283-A.

A special use exception to operate a bed and breakfast inn.

The Board discussed the case.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the special use exception be tabled until November 6, 2000. Vote carried 5 – 0.

Other Business

1. Discussion – Mr. Berl to address the Board regarding case decisions.

It was brought to the attention of the Board members that Judges need more information to work with from the Findings of Facts when cases are appealed, and that the Board needs to give reasons why they approved an application.

2. The Board and Mr. Berl discussed the Board of Adjustment schedule for 2001 and that they will vote on the schedule at the November 6, 2000 meeting.

3. Mr. Rickard stated to the Board that he received a letter dated, October 10, 2000, requesting to reschedule Case #7130.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the applicant can re-apply, but they will have to re-pay the filing fee. Vote carried 5 – 0.

Meeting Adjourned 8:55 P.M.