

## Minutes of October 18, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening October 18, 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. Wheatley, Mr. Mills, Mr. Hudson, Mr. Berl – Assistant County Attorney, Mr. Rickard - Chief Zoning Inspector and Ms. Jackson - Recording Secretary.

Motion by Mr. Mills, 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 September 13, 1999 and October 6, 1999 as circulated.

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

Case No. 6981 – Gary P. and Norman Richard Anderson – northeast of Road 315.

A special use exception from the provisions and requirements to retain a manufactured home on a parcel.

Mr. Rickard presented the case. Paul I. Anderson was sworn in and testified that he has lived on the property for nineteen (19) years; that it is his grandfather's land; that he would like to have a one (1) acre parcel for his own; and that the manufactured home has been located on the property for twenty (20) years.

Gary P. Anderson, father of Paul Anderson, was sworn in and testified that he is in favor of the application.

The Board found that no parties were in opposition to this application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be granted. Vote carried 4 – 0.

Case No. 6892 – Robert K. Krout – north of Bayview Avenue, 131 feet west of Dodd Avenue off Route One, Lot D-10, within Seabreeze Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Robert K. Krout was sworn in and testified that he is requesting a variance of 7.1 feet from the front yard setback requirement. Susan Wiedman, Attorney, was present on behalf of the applicant. Susan Wiedman stated that the property was purchased on July 30, 1999 from Mr. Krout; that the open porch was built in 1982 with the home; that the porch is built of brick and concrete, the same as the home; and that the president of the home owners association is not in opposition of the application.

Mr. Rickard stated that the open porch may encroach 5 feet into the front yard setback and that the applicant will then only need a 2.1 feet variance. Mr. Rickard reminded the applicant that if he encloses the porch then he will have to apply for another variance.

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

Motion made by Mr. Wheatley, seconded by Mr. Mills, and carried unanimously that the variance be granted. Vote carried 4 – 0.

Case No. 6983 – Darryl and Rosemarie Fletcher – west of Route One, corner of Assawoman Street and Hassell Street, Lot 5, within Bay View Park Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Elbridge Wright, the builder, was sworn in and testified on behalf of the applicant and stated that they need a 2 foot variance from the rear yard setback requirement.

Mr. Rickard read a letter from Mr. Fletcher on behalf of the 2 feet variance needed.

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

Motion made by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be granted. Vote carried 4 – 0.

Case No. 6984 – Joseph C. and Devereaux B. Raskauskas – east of Route One, east side of Pelican's Way North, Lot 25, within Pelican's Pouch Subdivision.

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

Mr. Rickard presented the case. Devereaux B. Raskauskas and Kevin Brosnahan, were sworn in and testified requesting a 5 foot variance from the side yard setback and a 4.08 foot variance from the front yard setback. Joseph Raskauskas, Attorney, presented exhibits to the Board and stated that the neighbors are not in opposition. The exhibits included a survey of the lot with the improvements, a letter from Pelican's Pouch Home Owners Association voicing no objection, a copy of the survey plot of the subdivision, four photographs of the site, and a letter from Robert Pasquale, voicing no objection. Mr. Raskauskas added that the house sits on the cul-de-sac and does not block anyone's view, and that the house is 31.8 feet from the neighboring house on the left.

Mr. Brosnahan admitted that he took the measurement from the cul-de-sac, that he did not have a surveyor locate the structure, and that the decks are cantilevered.

The Board found no parties were present in opposition.

Motion by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variances be granted. Vote carried 4 – 0.

Case No. 6985 – Dyer McCrea Ventures L.L.C. – northeast of Road 299, 800 feet southeast of Road 298.

A special use exception for an assisted living facility, convalescent home, and adult day care center.

Mr. Rickard presented the case. Preston Dyer was sworn in and testified that he is applying for an adult daycare center and an assisted living facility; that he hopes that the provisions of the residential planned community district permits the adult daycare and assisted living facility as a similar use to rooming and/or boarding houses; that the community senior citizen center is an amenity to the total project; that the application should not effect adjacent or neighboring and adjacent properties; that large buffers and landscaping areas will be provided; that he hopes that section 115-210A subsection 3(i) will provide for approval of the assisted living and adult daycare facility; that central sewer will be provided; and that the assisted living facility will contain 100 beds.

The Board found that section 115-210A subsection 3(i) references: "A determination, in cases of uncertainty, of the district classification of any use not specifically named in these regulations; provided, however, that such use shall be in keeping with uses specifically permitted in the districts in which such use is to be classified".

Marion Davis was sworn in and testified in favor of the application and stated that the use would be a great benefit for the seniors in the area; and that the use should be beneficial to the neighbors.

The Board found no parties in opposition.

Motion made by Mr. Mills, seconded by Mr. Hudson and carried unanimously that the special use exception be tabled until the next meeting. Vote carried 4 – 0.

Case No. 6986 – Sheena and Grace Floyd – west of Road 226, 1,010 feet north of Road 231.

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

Mr. Rickard presented the case. Sheena and Grace Floyd were sworn in and testified requesting that they would like to connect two manufactured homes to make one unit. Sheena stated that the existing manufactured home is a 1977; that the proposed manufactured home is a 1965; that she would improve the units with an A-roof, matching siding and that she would only have one (1) kitchen.

There were no parties in opposition.

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

1. The manufactured home shall be enclosed with a block foundation.
2. The units shall be improved with matching siding.
3. An A-Roof shall be installed.
4. There shall only be one (1) kitchen.
5. The improvements shall be completed within one (1) year.

Vote carried 4 – 0.

Case No. 6987 – David Shotwell and Walter Walker – southwest of Route One, corner of Draper Drive and Venetian Drive, Lot B-10, within Seabreeze Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Patrick Watts, representing the applicant and the builder, was sworn in and testified that the applicant is requesting a 2.6 foot variance from the required 30 foot front yard setback for an open porch; that Franklin Bunting, Zoning Inspector, had sent a violation to the applicant stating that the porch was in violation because the porch was covered with a roof. Mr. Watts stated that the rafters were strictly for decoration not realizing that the rafters were considered a roof.

The Board found that there were no parties in opposition.

Motion made by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be granted. Vote carried 4 – 0.

Case No. 6988 – Catherine Graden – east of Road 274, north of Loganberry Lane, Lot 3, within Breezewood Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Catherine Graden was sworn in and testified requesting a 3.03 foot variance for the required 30 foot front yard setback for an 8 x 8 covered porch.

The Board found that there were no parties in opposition.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be granted. Vote carried 4 – 0.

Case No. 6989 – Steve and Holly Adkins – east of Road 474, 1,500 feet south of Route 9.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Steve Adkins was sworn in and testified requesting a 10 foot variance from the required 15 foot side yard setback; that the parcel is  $\frac{3}{4}$  of an acre on Road 474 improved by a one story frame house with an unfinished upstairs; that he is proposing to build a detached garage with the same vinyl siding and brick foundation as the home; and that his neighbors are not in opposition.

The Board found that no parties were in opposition.

Motion made by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the application be granted. Vote carried 4 – 0.

Case No. 6990 – Steve Oteri – north of Route 22, east of East Pintail Road, Lot E-59, within Pot Nets Dockside Mobile Home Park.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Steve Oteri was sworn in and testified requesting a 1 foot variance on the west side of the manufactured home for an addition and a 4 foot variance on the east side of the manufactured home for an addition. Mr. Oteri stated that he would like the addition to be lined up with the existing manufactured home; that the manufactured home is grandfathered in; that with the addition the lot coverage would be more than 50 percent of the lot; that he would have to raise the manufactured home and addition to meet the flood requirements; and stated that it may be better to buy a new manufactured home instead of dealing with the problems with the existing manufactured home.

Mr. Mills suggested that the record remain open for the applicant what to decide variances would be needed.

Mr. Rickard read a letter from Tunnell Companies dated October 14, 1999 not supporting the variance at this time.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the variance be left open until December 6, 1999. Vote carried 4 – 0.

OLD BUSINESS

Case No. 6944 – Jeffrey and Robin Parker – south of Road 432, intersection of Road 322.

A special use exception to retain a manufactured home on a medical hardship basis. Request for re-hearing and waiver of re-hearing filing fee.

Mr. Rickard read a written letter of appeal from Martha Sutton, dated July 12, 1999 stating that she had paid the Board of Adjustment fee of \$150.00; that the original hearing date was August 16, 1999; and that she never received a letter from Planning and Zoning reminding her of the Board of Adjustment hearing.

Mr. Berl read Rule #18 stating that it allows a re-hearing only if it fits the category.

Motion made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the request be denied. Vote carried 4 – 0.

Meeting adjourned at 8:35 P.M.