

## MINUTES OF OCTOBER 19, 1998

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, October 19, 1998 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:05 P.M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Callaway, Mr. Mills, Mr. Hudson, Mr. Wheatley, Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector, and Mr. Lank – Director.

Motion made by Mr. Wheatley, seconded by Mr. Callaway, and carried unanimously to adopt the agenda as circulated.

Motion made by Mr. Callaway, seconded by Mr. Mills, and carried unanimously to approve the minutes of October 5, 1998 as circulated.

Mr. McCabe announced that the Old Business would be discussed prior to the public hearings.

### OLD BUSINESS

Case No. 6719—EDWARD & MARILYN BERLIN – east of Route One, Camelback Drive, Lot 20, The Retreat Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard read a letter from Norman C. Barnett, Attorney for the applicants, requesting permission to withdraw the application. The applicants are trying to resolve concerns stated by The Retreat Homeowner's Association.

Motion made by Mr. Hudson, seconded by Mr. Callaway, and carried unanimously to accept the request to withdraw the application. Vote 5-0.

Case No. 6722—DALE, JR. & LORA COLLINS – north of Road 368, 850 feet east of Road 365.

A special use exception to operate a day care facility.

The Board discussed the need for more time to review the application.

Motion made by Mr. Callaway, seconded by Mr. Wheatley, and carried 4-1, with Mr. Mills opposed to the motion, to table this application until the regular meeting of November 16, 1998. Vote 4-1.

PUBLIC HEARINGS

Case No. 6725—J.W. SCOTT QUALITY USED CARS – south of Route 9, intersection  
East of Road 321.

A variance from sign requirements and a variance from the setback  
requirements for car sales display.

The case was presented by Mr. Rickard. Mr. Rickard submitted pictures of the site for review by the Board. John W. Scott was sworn in and testified that the auto display is difficult to see when crops are planted on the adjoining site; that presently there is corn planted; that the signs requested represent the type of work taking place on the site; and that permanent signs are proposed to be placed over each bay of the repair shop.

The Board found that no parties appeared in support of this application.

James Baxter, Jr. was sworn in and testified that he owns a dwelling diagonal across from the site; that Route 9 and Road 320 are heavily traveled; that the applicant has already done what he is applying for; that vehicles displayed should be setback 25 feet; that there have been several accidents at the intersection; that it appears that there may be a junk vehicle storage issue; that the lot should be kept orderly; and that the lot should be required to conform to the Zoning Ordinance.

Carol Hanson, representing the Sussex County Association of Realtors, was sworn in and testified that she is present on behalf of the Association with concerns about the proposed variance on parking of vehicles displayed for sale; that visibility should be a concern; and that the site should conform to the Zoning Ordinance.

Mr. Scott responded that the buildings on the site are all new construction; that fencing is proposed; and that the reason for the variance request is visibility for customers to see the business.

Motion made by Mr. Callaway, seconded by Mr. Mills, 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 made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously to table this case until the regular meeting of November 16, 1998.

Case No. 6726—ELLER MEDIA COMPANY—east of U.S. Route 13 North,  
intersection of Route 24.

A variance from sign requirements.

The case was presently by Mr. Rickard. Ms. Alexis O'Leary, present on behalf of Eller Media Company, was sworn in and testified that the height variance is requested to allow a standard industry height sign that will allow maneuverability of tractor trailers under the sign and to eliminate visual obstruction of other signs on the site and in the area; and that the square footage variance is requested to allow a standard industry billboard sign.

Ms. O'Leary submitted sketches of the proposed sign and a sign comparison, and a photograph of an existing sign erected along U.S. Route 13 that is 45 feet high.

Doug Riniker was sworn in and testified that he is the owner of the site and the business across Route 24; and that he asked the applicant to raise the sign high enough to not block signage on the building or the signs on the business across Route 24.

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

Motion made by Mr. Callaway, 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 made by Mr. Mills, seconded by Mr. Callaway, and carried unanimously that the case be denied since it could adversely effect properties in the area and since the application does not meet the requirements for the granting of a variance.  
Vote 5-0.

Case No. 6727—BRANDYWINE SENIOR CARE—east of Road 270A, 580 feet north of Route One.

A special use exception to use a manufactured home type structure for a temporary sales office.

The case was presented by Mr. Rickard. Mark Beeson and David Bolton, present on behalf of Brandywine Senior Care, a proposed assisted living facility, were sworn in and testified that they propose to install a manufactured office unit to meet with clients to show the proposed project and interior designs and furnishings; that they prefer to locate the unit approximately 7 months prior to moving into the facility; that they propose to install a separate electrical connection from the one installed for the contractors construction trailer; that the unit and the contractors trailer will be removed upon completion of the project; and that the facility should open in mid June or July 1999.

Mr. Beeson submitted a brochure on the proposed manufactured unit.

The Board found that no parties appeared in support of the application.

Raymond Burns and Lynn Burns, owners of lot 13 Beachfield, were sworn in and testified that they have granted a temporary easement to the contractor for electrical service; questioned the use of a manufactured office unit in a residential area; and questioned why the sales office could not be placed in a real estate office off-site.

Mr. Bolton stated that they plan to install the unit in mid November and to remove the unit at completion of the project.

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

1. The temporary easement to the contractor for electrical service shall not be utilized for the manufactured office unit.
2. The manufactured office unit shall be removed by July 31, 1999.

Vote 5-0.

Case No. 6728—KATE BARBA & KATHY RULON – east of Bay View Road, corner intersection of Eleventh Street.

A variance from the rear yard setback requirement.

The case was presented by Mr. Rickard. Kate Barba was sworn in and testified that they have requested a 5 foot variance since the buildable area of the lot is very restrictive; that a deck is the only encroachment into the setback; that the deck faces the wetlands and does not affect the adjoining lots; that the majority of the lot is wetlands; that the dwelling will be built on pilings; that the neighbors are aware of the application; and that they would like to build the deck at the first floor level.

Timothy J. Smith, a neighbor, was sworn in and testified that he has reviewed the plans and the application and supports the request and the house plan as designed.

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

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

Case No. 6729 –DAVID & JOANNE JAMGOCHIAN – east of Road 274, 350 feet north of Road 275A, Lot 61, Pine Valley Mobile Home Park.

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

The case was presented by Mr. Rickard. David and Joanne Jamgochian were sworn in and testified that the lots in the park are all small and all occupied; and that making improvements to their lot cannot be accomplished without variances.

Mr. McCabe stated that variances have been granted in the park.

Mrs. Jamgochian stated that the park has a Board of Directors.

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

Motion made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously that the variances be granted. Vote 5-0.

Case No. 6730—BAY COLONY, L.P. – west of Road 348, two miles north of Route 26, Lot 35, Bay Colony Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Jack Hickman, present on behalf of Bay Colony, L.P., was sworn in and testified that the State DNREC required the installation of rip-rap along the shoreline of Indian River; that the placement of the rip-rap reduced the buildable area of lot 35; that 46 feet was lost due to the rip-rap; that the lot is irregular shaped; that he is the President of the Homeowners Association and there is no objection to the variance; and that he owns the lots to the south of the site.

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

Motion made by Mr. Callaway, seconded by Mr. Wheatley, and carried unanimously that the variance be granted. Vote 5-0.

Case No. 6731—KENNETH L. & DAWN HADDER – north of Road 451, west of Road 62.

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

The case was presented by Mr. Rickard. Kenneth Hadder was sworn in and testified that he proposes to connect two manufactured homes together; that one kitchen will be removed; that the combined unit will become one living unit; that the existing 1971 manufactured home measures 14 feet by 70 feet; that the proposed unit will be newer with the same dimensions; that he proposes to add new siding, new windows, and an A-frame roof; and that he should be able to complete the improvements within one-year.

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

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

1. The same color siding shall be installed on both units.

2. The units shall be installed on a permanent foundation.
3. An A-frame roof shall in installed.
4. All improvements shall be completed within one-year.  
Vote 5-0.

Case No. 6732 – OAK CREEK FURNITURE & DESIGN, INC. – southeast of Route 9,  
2,130 feet west of Road 290.

A variance for a second ground sign.

The case was presented by Mr. Rickard. Delores Maccari, present on behalf of Oak Creek Furniture and Design, Inc., was sworn in and testified that they propose to install another ground sign west of the existing business on the wooded lot; that the existing sign is located near the entrance to the site which is east of the business; that the sign measures approximately 4 feet by 8 feet; and that customers have advised them that they had passed the business before realizing where it was located.

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

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

Meeting adjourned at 8:25 P.M.