

Minutes of November 1, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening November 1, 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. McCabe, 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 October 18, 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. 6991 – C. Bruce and Linda Harrington - south of Route 24, 650 feet west of Road 449A.

A variance from the side yard setback requirement for livestock.

Mr. Rickard presented the case and stated to the Board that Donna Mowbray, Planning and Zoning Inspector, said that the hog sheds have not been moved as of October 20, 1999 and that a certificate of occupancy has not been issued. C. Bruce Harrington was sworn in and testified requesting a 74 foot side yard setback from the required 100 foot side yard setback for a stable shed; that the 30 x 30 shed houses goats and hogs; that the portable A-Frame hog houses will be moved to comply with the setbacks; that the permit for the shed was issued on April 23, 1992; that Carlton Whaley was the contractor that built the shed; that there are 25 dogs on the property that have been there since 1968; that the shed was on the property before his neighbor James S. Justice placed his manufactured home; that he does not want any problems with his neighbors; and that he is willing to get rid of the livestock and use the shed as storage.

James F. Justice was sworn in testifying against the application stating that there has been a problem with noises and odors from the hogs.

James S. Justice was sworn in testifying against the application stating that he has had problems with pedestrians driving up in his yard to look at the animals.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the hearing be left open until December 6, 1999. Vote carried 5 – 0.

Case No. 6993 – Bethany Beach Golf Driving Range – east of Road 361, 400 feet north of Road 362.

A special use exception for mini-golf, concession stand, batting cage, and continuation of golf driving range.

Mr. Rickard represented the case and stated to the Board that he has received phone calls stating concerns with the lighting. Robert Reeping was sworn in and testified that the existing use has been there for 5 years; that there will be no changes to the existing use; that he wants to add a batting cage and concession stand to the side of the building; that the hours of the operation will remain the same; and that his neighbors are not in opposition.

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

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

Case No. 6994 – Sandra J. Jones – east of Road 216, 350 feet north of Road 637.

A special use exception to place a manufactured home.

Mr. Rickard presented the case and stated that the inspector's observation was that it would be a definite improvement because of the living conditions. Sandra Jones was sworn in and testified that the living conditions are bad because she has 6 children living in the small home; that she is a certified school teacher; that she teaches her children at home; and that she would like to place a second manufactured home behind the existing home for more living space.

Timothy O'Hara, son of Sandra Jones, was sworn in testifying in favor of the application.

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

Case No. 6995 – Henry J. and Bernice L. Kerston – south of Kings Creek Road, 210 feet east of Corn Tassel Court, Lot 38, within The Landing Subdivision.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Bernice Kerston was sworn in and testified requesting a 1 foot variance for the required 15 foot side yard setback. Dan Myers, Attorney, was present on behalf of the applicant. Mr. Myers stated that Mrs. Kerston bought the home 10 years ago; and that when Mrs. Kerston sold the home and the new owners had a survey done and found that a variance was needed.

Camelia Collins was sworn in and testified that she is a realtor and the first person to reside in The Landing; and that the home being too close to the property line does not effect the property value.

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 variance be granted. Vote carried 5 – 0.

Case No. 6996 – Chris Esdale – south of Route 54, west side of Grant Ave, Lot 51, Block 6, within Cape Windsor Subdivision.

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

Mr. Rickard presented the case. Chris Esdale was sworn in and testified requesting a 5 foot side yard setback requirement and a 15 foot rear yard setback requirement; that he has just recently purchased the lot; and that he would like to put a modular type home on the property.

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 variances be granted. Vote carried 5 – 0.

Case No. 6997 – David L. Thomas – south of Road 46, 2,150 feet west of Road 446.

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

Mr. Rickard presented the case and read a letter from Millsboro Elder Care recommending the hardship. David and Cecilia Thomas were both sworn. Cecilia stated that her husband David is ill and cannot help around the home; and that she also needs the help.

Patricia Smith was sworn in and testified in opposition to the application.

John Wright was sworn in and testified in opposition to the application stating that he lives next door to the applicants; that the manufactured home is an eye sore; and that it decreases his property value.

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

Case No. 6998 – Moore-Layton Investments Co. – east of Road 279, 1, 400 feet south of Road 279B, Bay Oaks Subdivision.

A variance from the minimum lot width requirement.

Mr. Rickard presented the case. Scott Bradley, Attorney, was present on behalf of the applicant requesting to subdivide 44 lots in a conservation zone requiring a minimum lot width of 150 feet; that 22 lots would be less than 150 feet in lot width; and that 9 lots would be facing cul-de-sacs.

Donald Miller was sworn in and testified that it would be difficult for all lots to have 150 feet lot width; that the average width of the lots would be 167 feet; and that there would be no impacts on any water body.

Sandra Wright, an adjacent property owner, was sworn in and stated that the subdivision would increase the value of her property.

The Board found that no parties were 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. 6999 – Linda J. Dunbar – southeast of Route 1-A, 155 feet southwest of Route 1, southwest side of Washington Street, Lot 15, within Washington Heights Subdivision.

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

Mr. Rickard presented the case. Linda J. Dunbar was sworn in and testified requesting a 8.67 foot variance from the required 10 foot side yard setback for a screen porch, a 5 foot variance on the side yard for an overhang, a 2 foot variance from the required 5 foot side yard setback and a 1.9 foot variance from the required 5 foot rear yard setback for a shed, and a 5.2 foot variance from the required 30 foot front yard setback.

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

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

Case No. 7000 – Raymond and Maureen Manza – southwest of Route One, south of Elizabeth Avenue, Lot 25, within Ann Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Freddie Batta was sworn in and testified on behalf of the applicant. Mr. Batta stated that the applicant would like to expand the porch out 4 foot and that the porch would not block the views of the adjacent properties.

The Board found that no parties were 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. 7001 – Thomas E. and Carolyn Ream – south of Route 9, 1,750 feet west of Road 290, Lot 4, within Richard L. Bryan Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Thomas E. Ream was sworn in and testified requesting a 25 foot variance from the required 30 foot rear yard setback requirement; that the existing building is used for T & R Roofing; and that the proposed building will be placed behind the existing building and used for storage.

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

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

Case No. 7002 – Atlantic Management and Richard Derrickson – south of Road 361-A, east of Pennsylvania Avenue.

A special use exception for off-premise signs.

Mr. Rickard presented the case and submitted drawings showing where the signs will be placed. Richard Derrickson was sworn in and testified that the signs will be used only to advertise the businesses; that one sign will be placed on Road 361-A for Happy Harry's and the other sign will be placed on Route One for the Holiday Inn; and that the signs will meet the 25 foot setback requirement.

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 only for advertisement. Vote carried 5 – 0.

Case No. 7003 – Robert E. Short – 1,000 feet south of Road 544, 1,150 feet east of Road 546.

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

Mr. Rickard presented the case. Norma Boyer and William Boyer were sworn in and testified that Norma's daughter would like to place a second on-farm manufactured home on her property; that the manufactured home is a 1996; that the land is tilled; and that her oldest child, Percy Frank Kelly lives in the existing manufactured home on the property.

Edgar Snyder was sworn in and testified in opposition if the application.

Susan Bramble was sworn in and testified with concerns that a mobile home park may be established.

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

Case No. 7004 – Keith and Dawn Lankford – northwest of Road 527, west side of Collins Pond Road, Lot 15, within Collins Pond Acres.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Keith Lankford was sworn in and testified requesting an 8 foot variance from the required 15 foot side yard setback requirement for an attached garage.

James Shawn Hatfield, adjoining landowner, was sworn in and testified in favor of the application stating that the attached garage will increase the value of his land.

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

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

OLD BUSINESS

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.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be tabled until the next scheduled Board of Adjustment meeting. Vote carried 5 – 0.

Meeting adjourned 9:45 P.M.