

MINUTES OF NOVEMBER 6, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening November 6, 2000, at 7:00 P.M., in the County 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, and Mr. Hudson, with Mr. Schrader - Assistant County Attorney, Mr. Oates - Zoning Inspector, and Mr. Lank - Director acting as Recording Secretary.

Motion by Mr. Wheatley, seconded by Mr. McCabe, 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 16, 2000 as circulated.

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

Case No. 7273 -- Dean and Mary Leppo -- southwest of Route One, east side of Princess Street, Lot 100, within Camelot Mobile Home Park.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Dean and Mary Leppo were sworn in and testified that they are requesting a 3-foot variance from the 5-foot required rear yard setback; that they did not know what setback is required; that a building permit was obtained; that they were advised of the violation in setback when the zoning inspector inspected the setbacks; and that the Park management has voiced no objection.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that this 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 case be tabled until a survey of the mobile home park is submitted for review. Vote carried 5 - 0.

Case No. 7274 -- James J. Ross, Jr. -- southwest of Route One, northwest of Essex Road, Lot H-15, within Mill Pond Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Daniel Myers, Attorney, was present with James J. Ross, Jr., who was sworn in and testified requesting a 1-foot variance from the required 30-foot front yard setback requirement; that his home was recently completed and a Certificate of Occupancy was issued; that he measured 15-feet from the edge of the roadway and then 30-feet into the yard for the setback and staked the home location out; that the home is in line with the neighboring lot; that he has received no complaints from neighbors; that the home was site constructed; and that the error was found when the buyers, Frank and Margaret Winstead, had a survey performed and it was found that the home was located 29-feet from the front property line.

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

The Board found that a letter in support of the application was received and is on file with this application.

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

Case No. 7275 -- Sanderling LLC and Vincent Lobo -- 220 feet east of Route One, north side of South Carolina Avenue and south side of Atlantic Street, Lot 6.

A variance from the front yard setback requirement for a through lot.

Mr. Oates presented the case. Jack Cordrey, Attorney, was present with Steven Lobo. Mr. Cordrey suggested that Case No. 7275 and Case No. 7276 could be heard together since they are adjoining parcels with similar applications by the same applicants.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to hear both applications as one. Vote carried 5 - 0.

Mr. Lobo was sworn in and testified that the lot owners of lots 3, 8, 9, and 18 had no objections and submitted letters in support; Mr. Cordrey stated that he has reviewed the three letters of opposition on file and noted that they are asking to build another dwelling; that they are asking for additions to existing dwellings; that there is no change in the density of the lots; and that no additional dwelling are proposed to be built.

Mr. Lobo submitted pictures of the lots and improvements and added that there are no driveways or parking on the lot along Atlantic Street on either lot.

Mr. Cordrey stated that a setback of 21-feet is proposed for lot 7 requiring a 9.0-foot variance; that a setback of 25.2 feet is proposed for lot 6 requiring a 4.8-foot variance; that the average setback along Atlantic Street is 18.2-feet; that the homes exist and actually face South Carolina Avenue; and that the frontage along Atlantic Street is the rear of the homes.

George Hudson and Barbara Hudson, adjoining landowners, were sworn in and testified that they have no objection after seeing the site plans.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance of 4.8 feet be granted. Vote carried 5 - 0.

Case No. 7276 -- Sanderling LLC and Vincent Lobo -- 198 feet east of Route One, north side of South Carolina Avenue and south side of Atlantic Street, Lot 7.

A variance from the front yard setback requirement for a through lot.

It is noted that the record of Case No. 7275 and Case No. 7276 were incorporated into one hearing and that the decision on Case No. 7276 shall be a separate decision.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance of 9.0-feet be granted. Vote carried 5 - 0.

Case No. 7277 -- Anthony J. Monti and Arlene A. Harris -- east of Route 9, corner of Woodland Avenue and Fourth Street.

A variance from the rear yard setback requirement.

Arlene A. Harris and Anthony J. Monti were sworn in and testified that they are requesting a 10-foot variance from the rear yard setback requirement.

It was noted that the proposed 1-story garage contains 576 square feet and that since the garage is less than 600 square feet a variance request is not required.

Mr. Lank advised the applicants that a refund would be processed immediately and that the County apologizes for any inconvenience.

Case No. 7278 -- Niles Breland -- northwest corner of the intersection of Road 62 and Road 456.

A variance from the front yard and northeast side yard setback requirement.

Mr. Oates presented the case. Niles Breland was sworn in and testified that he has four (4) poultry houses; that he wants to replace two (2) of the poultry houses with a newer and wider poultry house; that he needs a 24.5-foot variance from the 50-foot setback requirement for a poultry house on the northeast side; that he needs a 25.5-foot variance from the 50-foot setback for a poultry house on the front; that he is at least 200-feet from any dwelling of other ownership; and that he spoke to his neighbors and heard no objections.

The Board found that no parties were present in support of or 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. 7279 -- Stephen Seipp and S C S HW LLC -- east of U.S. Route 13, 200 feet west of Road 482.

A variance for ten (10) additional wall signs.

Mr. Oates presented the case. Stephen Seipp was sworn in and testified that he has a permit for the business sign on the front of the building for Homeworld, Inc. and that he placed ten (10) small signs on the front of the building to show the type of products for sale; that each metal sign is 10 square feet and that the total square footage of the ten (10) signs equals 100 square feet.

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

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

Case No. 7280 -- Jules Pagano and Kathleen Stevenson Pagano -- northwest of Route One, west side of Venetian Drive, Lot B-1, within Seabreeze Development.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Kathleen and Jules Pagano were sworn in and testified that they propose to rebuild their home; that the existing home is 22.1-feet from the right-of-way of an unimproved cul-de-sac; that the proposed home is proposed to be located 19.0-feet from the unimproved cul-de-sac; and that a variance of 11.0-feet from the 30-foot front yard setback is requested.

David E. Dougherty was sworn in and testified that he lives across the street from the site and that, after reviewing the site plan, he has no objection to the variance as requested.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the 11-foot variance from the cul-de-sac be granted. Vote carried 5 - 0.

Case No. 7281 -- Ronald T. Brady -- south of Route One, southwest side of Princess Street, Lot 101, within Camelot Mobile Home Park.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Ronald and Joan Brady were sworn in and testified that the shed has been located on the lot for 20-years and was placed by a previous owner; and that they have requested the variance so that they do not have to remove or move the shed.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to take this case 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 case be tabled until a survey of the mobile home park is submitted for review. Vote carried 5 - 0.

Case No. 7282 -- Jacalyn M. Wright -- west of Route 54, northwest side of Van Buren Avenue, Lot 17, within Edgewater Acres Subdivision.

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

Melvin Wright and Jacalyn Wright were sworn in and testified that they are proposing to add a deck on the rear of the lot; that when a survey of the lot and improvements was performed it was found that the front of the home was 0.4-foot from the front property line; and that the homeowners association has no objection to the requested variance.

The Wright's submitted pictures of the lot and improvements.

The Board questioned if a variance is needed from the southwest side lot line for the deck and stairs. Mr. Lank advised the Board that he would research the improvements and that a variance may have been previously been granted for the existing improvements.

The Board found that three (3) parties were present in support of the application.

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

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variance of 7.0-feet be granted. Vote carried 5 - 0.

Mr. Lank advised the Wright's that if he could not find a previous variance that they may have to apply for a variance for the deck and stairs.

Case No. 7283 -- Robert M. Bocek -- north of Route 24, 400 feet west of Road 409.

A variance from the square footage requirement for a parcel, a variance from the lot width requirement for a parcel, a variance from the side yard and front yard setback requirements.

Mr. Oates presented the case. Charles Coffman, Surveyor, and Robert M. Bocek were sworn in and testified that the parcel contains three (3) existing homes; that some interest has been received to purchase the homes individually; that they propose to divide the parcel into three (3) lots, one for each home; that the homes are approximately 40-years old; that lot "A" will contain 0.458 acre, lot "B" will contain 0.474 acre, and lot "C" will contain 0.506 acre; that they have averaged the frontage on each lot to 96.53-feet requiring a variance of 53.47-feet per lot; and that they are requesting a 4.5-foot variance from the southwesterly side line for lots "B" and "C".

The Board found that three (3) parties were present in support of the application.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variances be granted since the improvements already exists. Vote carried 5 - 0.

Case No. 7284 -- Joseph and Catherine Jadczyk -- north of Road 264, 1,200 feet east of Road 258.

A variance from the east side yard setback requirement.

Mr. Oates presented the case. Joseph and Catherine Jadczyk were sworn in and testified that they recently built a new home and hangar; that they placed a shed between the hangar and the property line; that the homeowners association is opposed to the variance; that the neighbors septic field adjoins the property line; that if the shed is relocated to the rear, it may affect taxiing of his aircraft at night; and that they did not get a permit for the shed.

Mr. Schrader advised the applicants that the County does not enforce private restrictions or covenants.

Mr. Lank advised the applicants that a building permit is required for the shed and that the setback requirements would be noted on the permit.

Richard Marchetti, an adjoining property owner, was sworn in and testified that he is opposed to the application; that the landscapers had to trespass onto his property to get around the shed to do their landscaping; and that a drainage easement exists on both sides of the property line.

Joseph Karman, President of the Eagle's Crest Homeowners Association, was sworn in and testified that he was not notified of the variance request; that private deed restrictions have existed for the Eagle's Crest Subdivision since 1982; that an Architectural Review Committee has to approve all building plans; that a drainage easement does exist along the property line; that the restrictions do exist and need to be enforced; that the Architectural Review Committee was not aware that a shed was proposed; that the Architectural Review Committee could have advised the owners of the setbacks if they had known that a shed was proposed; that that he is willing to help the applicants relocate the shed.

Mr. Jadczyk stated that he preferred to apply for the variance rather than relocate the shed.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be denied since there have been no other variances granted in the area, and since the use could adversely affect other properties in the subdivision. Vote carried 5 - 0.

Case No. 7285 -- Anthony and Karen Milan -- southwest of Route 54, south side of Garfield Avenue, Lot 20, within Edgewater Acres Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Anthony Milan was sworn in and testified that he is requesting a variance of 10-feet from the 20-foot rear yard setback requirement for an elevated deck and porch; that he proposes to raise the existing dwelling; that the average setback along the front of the lots is less than 30-feet; and that the home was moved onto the lot in 1984.

The Board found that there were 5 parties present in support of this application.

Nick and Barbara Metallo were sworn in and testified that they are not opposed, but concerned that the deck may block their view; that they received a variance last year for a deck and advised everyone that they would not enclose the deck so as not to block anyone's view; and that they are opposed to the porch enclosure, not the deck.

Mr. Milan, in rebuttal, testified that the existing shed on the property will be removed when the improvements are completed; and added that the Metallo lot is still vacant.

Motion by Mr. McCabe, seconded by Mr. Mills, 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 by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance for a rear setback of 10-feet be granted. Vote carried 5 - 0.

Case No. 7286 -- G. Bernadette Kollock-Bailey -- northeast of Road 334, 856 feet southeast of Road 333, on a private road.

A special use exception for a day care facility.

Mr. Oates presented the case. G. Bernadette Kollock-Bailey and Donald Bailey were sworn in and testified that they propose to relocate their day care facility; that the current location is not adequate since it is her personal home; that she proposes two shifts; that business hours will be from 6:00 A.M. to 11:00 P.M.; that no more than 12 children will be present at any one time; that adequate space exists on the site for parking; that she is currently licensed by the State; that they will reside in their residence; and that the proposed location is immediately adjacent to their home.

The Board found that there were no parties present in support of or in opposition to this application.

Motion by Mr. Wheatley, seconded by Mr. McCabe, and carried unanimously that the special use exception be granted with the stipulation that there shall be no more than 12 children, being cared for, per shift. Vote carried 5 - 0.

OLD BUSINESS

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. It was noted that nine (9) persons were opposed and six (6) were in support at the public hearing.

Mr. Mills stated that the applicants should have applied for the use prior to starting the business.

Mr. Hudson and Mr. Mills expressed some concern about easements crossing two other properties.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried with 3 votes, with Mr. Hudson and Mr. Mills opposed to the motion, that the special use exception be granted. Vote carried 3 - 2.

OTHER BUSINESS

Public Hearing Dates for 2001.

The Board discussed the scheduling of public hearings for the year 2001.

Mr. Mills suggested that the meetings in July be scheduled for July 9 and July 23.

Mr. Callaway suggested that the meetings in March be scheduled for March 12 and March 19.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the public hearing schedule for 2001 as revised.

Meeting adjourned at 9:25 P.M.