

Minutes of November 17, 1997

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, November 17, 1997 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, Mrs. Hudson, Mr. Mills, Mr. Wheatley, Mr. Jones-Attorney, Mr. Rickard-Chief Zoning Inspector and Mrs. Talley-Recording Secretary.

Motion was made by Mr. McCabe, seconded by Mr. Wheatley that the minutes of November 3, 1997 be approved as circulated, with Mrs. Hudson abstaining. Motion carried with four voting in favor and one not voting. Vote 4-0.

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

Case No. 6464--Selby Sign Co. - East side of Route One, Rehoboth Avenue Extended, Route One-A.

A variance from the requirements for signs.

The case was presented by Mr. Rickard. John T. Selby was sworn in and represented Selby Sign Co., who requested a variance from the requirements for signs. Mr. Selby stated that there are two sign variance requests and asked the Board to consider them separately when voting. The first request is for a 18' variance from the side yard setback of 20' for a ground sign. Mr. Selby stated that the entrance on the south end of the property needs a sign before the entrance, so the entrance can be seen. If the sign is placed after the entrance people will miss it. It will be a convenience to direct traffic into the entrance to the property. The pylon sign will be on Route 1.

There were no parties present in opposition.

Motion was made by Mr. McCabe, seconded by Mr. Wheatley and carried unanimously that the 18' variance be granted for the pylon sign. Vote 5-0.

The second request is for a variance from the required number of wall signs permitted per shop, to have a total of six (6) signs and a variance from the 100 sq. ft. requirement of 40 sq. ft. The six signs will total 140 sq. ft. The multi-signage is for Long and Foster building. They will rent 30% of the building. There will be multi-units. The awnings on the buildings will be utilized for phone numbers. They would like to place a lighted sign on the tower. Due to the design of the awnings it creates a need for

a separate sign. It will have 11" high white letters.

Mr. Mills questioned how many entrances there will be for the building.

Mr. Selby stated that there are six doors to the building and he feels there will be at least two entrances.

There were no parties present in opposition.

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

Case No. 6465--William L. & Donna D. Adams - East side of Keen Wik Road, 370 feet north of Cedar Road, Lot 5, within Keen Wik Subdivision.

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

The case was presented by Mr. Rickard. Willliam L. Adams was sworn in and testified, requesting a 12' variance from the 30' front yard setback and a 2' variance from the 10' side yard setback to erect an attached garage and future bedroom. Mr. Adams stated that he lives in Seaford and purchased property within Keen Wik Subdivision and wants to move there full time. He stated that he needs more living space to accommodate his children and grandchildren when they visit. He stated that he had present his request to the Keen Wik Association and had spoken to Mr. Wolfe. He was told that if the County approved the request they would have no problem.

Mr. McCabe cautioned Mr. Adams that he could be in a flood zone and not be able to build as he wants.

Mr. Mills explained that Keen Wik restrictions have precedent over the Board's decision if approved.

Mr. Rickard stated that there have been other variances approved within the Subdivision, but not Mr. Adams road.

Gail Davidson who lives on Lot 6, next door to Mr. Adams, was sworn in and questioned what the Board will allow and if it would restrict her from building on her lot. She stated that she had not seen the plans.

Mr. Adams explained and showed her the plans.

Mr. Davidson stated that she has no objections.

There were no parties present in opposition.

Mr. Rickard read a letter from the Keen Wik Association, Inc., Bill Wolfe, stating their setback restrictions as being 25' from the front, 5' from the sides and 20' from the rear property lines. Mr. Wolfe wrote that he did not remember approving any variance from the Keen Wik restrictions and that they cannot grant variances from the setbacks as set forth in their restrictions. He stated that if there had been a misunderstanding he apologized.

Mr. Adams stated that Keen Wik has no restriction enforcement, and that he feels he and the Keen Wik Association can work out something to satisfy everyone.

Mr. Jones explained that to Mr. Adams that the Association could take him to court and he will have to abide with the Keen Wik restrictions, and if the County approves his requested variances it will be the County variances only.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the 12' front yard variance and the 2' side yard variance be granted. Vote 5-0.

Case No. 6466--Joseph Corden - East side of Hiawatha Blvd., 400 feet south of Chippawa Drive within Blackwater Village, north of Road 26.

A variance from the front yard setback requirement.

The case was presented by Mr. Rickard. Lynn Hickman, Broker with Sea Coast Realty, was sworn in and testified representing the application. The applicant requested a 9' variance from the 30' front yard setback requirement on Lot 10, within Blackwater Village for a new dwelling. Ms. Hickman stated that when a survey was done the error in the setback was discovered. She stated that the dwelling is new and she has buyer for it if the variance is approved. She stated that she had spoken to the Homeowners Association and was sent to the County for a variance. The owner, Mr. Corden, is the builder. The front yard setback was misjudged, because the measurement was done from the road and not the property line. When the property was originally purchased a perimeter survey was done, but the lender required a site and placement survey done on September 25, 1997 and the error was found. The dwelling was built on speculation.

Joseph Corden and Joseph Ricky Mittinger were sworn in and testified in behalf of the application. Mr. Corden stated that it is a nice dwelling and a nice location. He stated that he feels the Blackwater Community and neighbors have no problem with the

house. Mr. Corden stated that they built the house themselves and went from the road for the 30' front yard setback.

By a show of hands there were 10 people present in opposition.

Gary L. Hornbacker was sworn in and testified in opposition. He presented a prepared letter to the Board. Mr. Hornbacker stated that he is Chairman of the Architectural Committee of the development and that the covenants stipulate the setbacks very much like the County's requirements. Mr. Hornbacker stated that in March, 1997 he had received a packet showing the location of the dwelling to be 50' back from the front. There was a permit, No. 162557, and other documents. He approved the building of the house per what was presented to him. He stated that the permit clearly marked the 30' setback requirement. He stated that the Committee would not have approved the plan with the current setback. He stated that there is nothing unique about the property or no physical circumstances or conditions of lot size that would warrant consideration of a variance. He stated that the neighbors feel the dwelling detracts from their values and will set a precedent. Mr. Hornbacker stated that the covenants do not give authority to waive front yard setbacks. Mr. Hornbacker stated that it would be a hardship to move the dwelling, but it is a hardship to the neighbors to leave it. He stated that Hiawatha is the boulevard in Blackwater Village.

Aileen R. Martinez was sworn in stating that she is a resident of Blackwater Village and Vice President. She read a prepared statement and resolution prepared by the Board of Directors requesting that the variance be denied.

Emma McCue and John McCue were sworn in, in opposition. Mr. McCue stated that the problem with the location of the property is that it sets on a curve and could almost be run into. He stated that it is also an eyesore. He feels the applicant has broken the rules and rules are rules.

Mr. Mills asked the applicant if he had ever built homes in Sussex County before and if so questioned how this could have happened and how could he make the mistake of measuring from the road and not the property line..

Mr. Corden stated that he is a licensed contractor, that he went 50' from the road for the setback. He stated that it was not intentional, that when the house was squared up it was moved on one corner.

Mr. Mittinger stated that the error was not intentional, that there was plenty of room to move the house back. They did not know

about the error until they went for the final inspection.

Mr. Mills stated that he thought the inspections were done in phases.

Mr. Rickard stated that phases are done by First State and that the County Inspections are done when the project is completed.

Motion was made by Mr. McCabe, seconded by Mrs. Hudson and carried unanimously that the case be tabled until the next meeting. Vote 5-0.

Case No. 6467--Vincent & Anna Marie Donadonna - North side of West Stoney Run, Lot 281, within Keenwick Sound, Phase II.

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

The case was presented by Mr. Rickard. Vincent Bonadonna was sworn in and testified, requesting a 4.15' variance from the 5' rear and side yard setbacks for a 8'x 8' shed, on Lot 281, within Keenwick Sound. The shed will be .5' (6") from the side and rear yard property lines. Mr. Bonadonna stated that the shed is presently located under the bedroom window. He would like to move it out to the back corner of the lot. He stated that the neighbors all have similar sheds.

Mr. Rickard read a letter from the Keenwick Sound Homeowners Association, President Leonard Price, voicing no opposition, and letters received from Leslie & Hun Chu Leonard, David Pinder and Martin Cocci, all in favor.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the variances be granted. Vote 5-0.

Case No. 6468--Tunnell Co. L. P. - South side of Route 22, Lot 11, within Pot Nets MHP (Original Section).

A variance from the setback requirement between units in a park.

The case was presented by Mr. Rickard. Richard Frazier, Manager of Tunnell Companies, was sworn in and testified representing the application. Tunnell Co. L.P. requested a 5' variance from the 20' setback requirement between units in a park, being Lot 11, within Pot Nets MHP (Original Section). Mr. Frazier

stated that they propose to place a manufactured home on Lot 11, within Pot Nets MHP (Original Section), on an angle. He stated that the manufactured home next to the property and the units down the road are on a slight angle. In order to meet the 20' setback they would have to set the unit where it is parallel with the bulkhead and that only allows 7' from the edge of the bulkhead. They would like to turn it slightly and get 10' from the property line which would make 15' from the carport on the next lot. They need a 5' variance.

There were no parties present in opposition.

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

Case No. 6469--Ursula Conte - East side of Bay Shore Drive and East Love Drive (unimproved), Lot 6, within Bay Shore Hills (Mulberry Knoll).  
A variance from the side yard setback requirement.

The case was presented by Mr. Rickard. Ursula Conte and Karl Thomas, builder, were sworn in and testified. Ms. Conte requested a 6' variance from the 15' side yard setback requirement to construct an attached garage, on Lot 6, within Bay Shore Hills. Mr. Thomas stated that he had not yet submitted plans to the developer, but plans to do so pending the outcome of this hearing. He stated however, that when the plans for the dwelling were submitted they included the garage. He stated that they are not aware of any opposition.

There were no parties present in opposition.

Motion was made by Mr. McCabe, seconded by Mr. Mills and carried unanimously that the 6' variance be granted. Vote 5-0.

Case No. 6470--James M. Larrimore, Jr. - East side of Route 228, 1,500 feet north of Route 38.  
A special use exception to place a manufactured home on a medical hardship basis.

The case was presented by Mr. Rickard. James Larrimore, Jr. was sworn in and testified, requesting to place a 14'x 70' manufactured home, approximately 4 years old, on his property on the basis of hardship for his wife's sister and 4 year old son.

Mr. Larrimore stated that his wife's sister has severe asthma and they want her to be near them in the event of an emergency. Mr. Larrimore stated that they do not live on the property where the manufactured home will go, they live approximately 3/4 mile away on another property. Mr. Larrimore stated that there is a double-wide unit on the property where the proposed manufactured home will go that is rented to Rusty Griffin and family. The Griffin family will have no contact with Mrs. Larrimore's sister.

Mr. Rickard read a letter from Dr. Jose Austria, M.D. referencing Melanie Tucker (Mrs. Larrimore's sister), who suffers from severe asthma.

Mr. Jones, Attorney, explained to Mr. Larrimore that the purpose of putting a manufactured home on hardship basis is for the people living on the property to be able to provide care for the person with medical problems.

Richard Smith was sworn in and testified in opposition, representing Bill Stowe. He stated that the property is in disarray and the properties where the applicant lives already has utilities set up on it.

Mr. Rickard read a letter of opposition from William & Irene Stowe.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the special use exception be denied, because of the intent of this type of special use exception they cannot grant it, and due to the fact the manufactured home is not being placed on the parcel where the applicant lives to care for the person with the medical hardship. Vote 5-0.

Case No. 6471--Applebees Restaurant - Southeast side of Route One,  
1,035 feet northwest of Route 271.

A special use exception to place a second ground sign.

The case was presented by Mr. Rickard. Larry Holding, with Rogers Sign Co., was sworn in and testified, requesting a second ground sign to be 6'1"x 11'0", 66.913 sq. ft. The restaurant is located on Route 1 and since the outlets already have a sign, they need one for the restaurant. They want to place one pylon sign electrical type neon.

Mr. Jones, Attorney, questioned the advertisement of the application as a special use exception instead of a variance.

Mr. Rickard stated that the application was advertised as a special use exception which is not correct, since it is a variance request.

Mr. Jones stated that the hearing could not be held and the case would have to be readvertised.

No action was taken, since the case has to be readvertised, and the Board determined that no additional fee would be paid.

OTHER BUSINESS

Discussion of proposed meeting dates for 1998.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously to accept the 1998 public hearing dates as presented.

Motion was made by Mr. Mills, seconded by Mrs. Hudson and carried unanimously that the meeting be adjourned.

Meeting adjourned at 8:35 P. M.