

## MINUTES OF NOVEMBER 20, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening November 20, 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, Mr. Hudson, with Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector, and Ms. Jackson – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda as circulated with the correction to hear three additional cases at the end of the public hearings.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of November 6, 2000 as circulated.

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

Case No. 7287 – Lewis S. and Bonnie K. Lowe – north of Road 70, 2,613 feet west of Road 462.

A variance from the square footage requirement for a multisectional manufactured home.

Mr. Rickard presented the case. Lewis S. Lowe was sworn in and testified requesting a 1,995 square foot variance from the required 32,760 square foot requirement to place a multisectional manufactured home; that he cannot create another parcel from his existing property; that there is someone interested in buying the property; that he has owned the property for 25 years; that he has subdivided 5 lots and sold four of them; that in 1995 he sold the remaining farm land; that he subdivided the land before the land use plan came in affect; and that a variance was approved on one of the lots for not having the required 150-foot road frontage.

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 variance be granted. Vote carried 5 – 0.

Case No. 7288 – Darlene Steele – northeast of Ritter Road, 400 feet northwest of Conrail Railroad.

A variance from the north and south side yard setback requirements for a stable and arena.

Mr. Rickard presented the case and submitted a site plan to the Board. Darlene Steele was sworn in and testified requesting a 140-foot variance from the required 200-foot north and south side yard setback requirement for a stable and arena; that the stable will have 14 stalls; that the arena will be for training purposes only; that the size of the stable will be 40'x144' with an attached 36'x60' tack room; and that her two uncles own the land on both sides of her property.

Mr. Rickard noted that there were 6 letters in favor of the application.

By a show of hands, 1 party was present in favor of the application.

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 variance be granted with the stipulation that the arena be used only for training purposes and not for spectators. Vote carried 5 – 0.

Case No. 7289 – Bargain Bills – southeast corner of Route 9 and U.S. Route 13 North.

A variance from the setback requirement for outdoor sales display and a special use exception for tents.

Mr. Rickard presented the case. William Brown was sworn in and testified requesting a 0 setback for outside displays and a special use exception for tents to be used from the months of June through November; that the location of the tents are on the northside corner of Route 9 and 13; that non-profitable organizations use the tents; that the tents are used as relief for his regular customers; that the size of the tents are 40'x40' and 40'x60'; that the tents are a commercial grade; that the tents would meet the 25-foot maximum height requirement; and that there will be no advertising on the tents.

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 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 variance and special use exception be granted with the following stipulations:

1. That the tents can be used from the months of June through August, October and any other holiday weekends.
2. There shall be no advertising placed on the tents.
3. A list of every event needs to be submitted to the Planning and Zoning Office.
4. A 6" setback was approved for a period of 3 years for outdoor displays.

Vote carried 5 – 0.

Case No. 7290 – Kevin M. Rogers - north of Holly Drive, 400 feet north of Shady Drive, Lot 4, within Shady Grove Subdivision.

A variance from the southeast side yard setback requirement.

Mr. Rickard presented the case. Kevin Rogers was sworn in and testified requesting a 3.7-foot variance from the required 10-foot southeast side yard setback requirement for an attached garage; that he submitted pictures to the Board; that the garage was originally detached and that he did not realize that once the structure is attached that the setbacks changed; that he obtained the permits; and that he stopped construction until after a decision could be made by the Board.

By a show of hands, 1 party was in favor of the application.

Carol Ann Rudolph was sworn in and stated that she is purchasing the property next to Mr. Rogers and that she supports the application, but needed to clarify what the setback requirements were.

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 variance be granted. Vote carried 5 – 0.

Case No. 7291 – John Guinto – southwest of Route One, southeast side of Center Avenue, Lot D-65, within Sea Air Village Mobile Home Park.

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

Mr. Rickard presented the case. George Littleton, Manager, was sworn in and testified requesting a 9-foot variance from the required 20-foot separation requirement between units in a mobile home park; that a new shed was set on the lot and is too close to the manufactured home on the southeast side; that the manufactured home was set in the original footprint; that Franklin Bunting, Planning and Zoning Inspector, made him

aware of the setback violation; and that permits were obtained.

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

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

Case No. 7292 – Margaret Schneider – southwest of Route One, north side of Atlantic Avenue, Lot E-8, within Sea Air Village Mobile Home Park.

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

Mr. Rickard presented the case. Margaret Schneider and George Littleton, Manager, were sworn in and testified requesting a 9-foot variance from the required 20-foot separation requirement between units in a mobile home park; that a new unit was set on the lot and is too close to the shed on the north side; and that Larry's Homes set the unit on the property.

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

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

Case No. 7293 – William David Hodges, Jr. – north of Route 26, 900 feet east of Road 349-A, Lots 37 and 38, within Murray's Haven Addition and Harmon Lots.

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

Mr. Rickard presented the case. William David Hodges, Jr. was sworn in and testified requesting a 9-foot variance from the required 10-foot rear yard setback instead of a 1-foot variance, and a 9-foot variance from the required 10-foot northwest side yard setback instead of a 1-foot variance for a detached garage; that he has a very narrow lot; and that he would be using the garage for storage.

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. 7294 – Michael and Alice Solloa – southwest of Route 54, north of Cleveland Avenue, Lot 10, within Cape Windsor Subdivision.

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

Mr. Rickard presented the case. Michael Solloa was sworn in and testified requesting a 4.2-foot variance from the required 10-foot north side yard setback for a manufactured home, a 5-foot variance from the required 20-foot rear yard setback for a porch, and a 3.8-foot variance from the required 5-foot north side yard setback for a shed; that they have approval from the Home Owner's Association; that the home was placed in 1993; that the porch was built this year; and that the permit was issued in August 2000, indicating the correct setbacks.

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

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

Case No. 7295 – Geraldine Fetzko – southwest of Route One, northeast side of Prince Street, Lot 83, within Camelot Mobile Home Park.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Geraldine Fetzko was sworn in and testified requesting a 3-foot variance from the required 5-foot rear yard setback for an accessory building; that she purchased the home 6 years ago; and that Franklin Bunting, Planning and Zoning Inspector issued the violation.

By a show of hands, 1 party was in favor of the application.

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 variance be tabled until Planning and Zoning receives a survey. Vote carried 5 – 0.

Case No. 7296 – Realty Systems, Inc. – west of Route One, south of Penn Central Railroad, south side of Dogwood Court, Lot H-124, within Whispering Pines Mobile Home Park.

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

Mr. Rickard presented the case. Kelly West, Manager, was sworn in and testified requesting an 11-foot variance from the required 20-foot between units in a mobile home park; that a new unit was set and it is too close to a deck on the adjoining property; and

that there is no survey for Whispering Pines.

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 variance be granted. Vote carried 5 – 0.

Case No. 7297 – G. Robert Bossert – southeast intersection of North Carolina Street and Bay Shore Drive, Lot 12, within Broadkill Beach.

A variance from the side yard setback for a corner lot and a variance from the front yard setback requirement.

Mr. Rickard presented the case. G. Robert Bossert was sworn in and testified requesting a 23-foot variance from the required 30-foot front yard setback for an existing structure, a 4-foot variance from the required 15-foot corner side yard setback for an existing structure, a 6-foot variance from the required 30-foot front yard setback for a shed, and a 4-foot variance from the required 15-foot corner side yard setback for a dwelling; and that the home has been there since the 1950's.

By a show of hands, 3 parties were in favor of the application.

Ann Porter and Joseph Sokso were sworn in and testified that they were in favor of the application because it would be an improvement to the property.

Motion by Mr. Mills, seconded by Mr. McCabe, 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 was made by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be granted with the stipulation that if the structures are non-conforming the variances will not be necessary. Vote carried 5 – 0.

Case No. 7298 – Nancy C. Monaghan - northeast of Bay Shore Drive, 1 ½ miles southeast of Route 16, Lot 1, within Old Inlet Beach.

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

Mr. Rickard presented the case. Nancy Monaghan was sworn in and testified requesting a 7.5-foot variance from the required 30-foot front yard setback for an enclosed staircase and a 6 inch variance from the required 10-foot southeast side yard

setback for a dwelling; that the home was built in 1982; that she bought the home in 1996; that the septic system has been their since the home was built; that she enters the home from the side; and that the home is on pilings.

Mr. Rickard read a letter in opposition to the application from Pamela and Daniel Stone with concerns of the septic system.

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

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

Case No. 7299 – Cape Henlopen School District – north of Road 268, west of Road 267.

A special use exception to place a manufactured home as a temporary classroom.

Mr. Rickard presented the case. Tyrone Woodyard was sworn in and testified requesting a special use exception to place a manufactured home as a temporary classroom; that an Ag Program is being started and is being funded through the State of Delaware; that the size of the classroom is 24'x36'; that the classroom is already there, but it is not in use; and that they meet the Fire Marshal's requirements.

Mr. Rickard read a letter from Bryce Lingo in favor of the application.

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

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

Case No. 7300 – Kent Sign Company – northeast of Road 269-A, 140.06 feet northwest of Route 9.

An appeal of the decision of the director and/or staff.

Mr. Rickard presented the case. Kevin Rockhill and Dale McCallister were sworn in and stated that Allied Mortgage hired Kent Sign to place a sign; that they applied for a permit for a wall sign; that they were told by Mr. Rickard that the sign could not be placed as a wall sign and that it was considered a roof sign; that Kent Signs has been in business for 25 years; and that they submitted pictures to the Board of the same style signs in the area in a 5 mile radius.

Mr. Rickard read ordinance (115-150-J) referencing signs to the Board.

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

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

Case No. 7301 – Donna L. Rollo – north of Route 18, 2,698 feet west of Road 528.

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

Mr. Rickard presented the case. Donna Rollo was sworn in with Dean Campbell, Attorney, on her behalf requesting a 52-foot variance from the required 200-foot front yard setback, a 153-foot variance from the required 200-foot northwest side yard setback, and a 134-foot variance from the required 200-foot northeast side yard setback for a kennel; that she is located between 40 acres of land; that she owns 5 acres; that she submitted a copy of the deed to the Board; that in 1995 she was approved by the Board to build a dog kennel to house her own dogs and that nothing has changed since; that she has 9 dogs in her home; that she breeds and keeps her own retired dogs; that she does not board anyone else's dogs; that she avoids kennel or K-9 services; that she trains dogs for pets; that she never intends to be a commercial kennel; that the building that is in violation is built, but the finished work was ceased when she received the violation; that she has invested \$30,000.00 in the building; that the kennel would not adversely affect neighboring property owners; that she spent 6 months looking for this property; that if the Board grants the variances she is asking for 2 years to complete the building; and that the kennel sets 148-foot from Route 18.

By a show of hands, 1 party was in favor of the application.

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 variances be granted as applied. Vote carried 5 – 0.

#### **OLD BUSINESS**

Case No. 7255 – Dougla Rhodes – southeast of Route 14, northeast side of North Bradywine Road, Lot 6, within Shawnee Acres Subdivision.

A variance from the rear yard setback requirement.

The Board discussed the case. Mr. Rickard stated to the Board that they are to make a ruling on the swimming pool only; and that Mr. Lank, Director of Planning and Zoning, will have the Planning and Zoning Commission make a ruling on the sheds that are in question.

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

### **ADDITIONAL BUSINESS**

Mr. Berl discussed with the Board, Case No. 6722 – Lora and Dale Collins, that the State of Delaware Day Care Agency will no except the Findings of Fact because of the notation at the bottom stating that the application becomes void if the use is not established within one (1) year; and that a letter was sent to him from David Weidman, Attorney, requesting an extension until January 20, 2001.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the requested extension be granted through January 20, 2001. Vote carried 5 – 0.

The Board and Mr. Rickard discussed the survey issue for Camelot .  
Mr. Rickard stated that Planning and Zoning has not received a survey yet and that Mr. Lank, Director of Planning and Zoning, was going to check with the Engineering Department to see if they could give him any information about the park; that Planning and Zoning have aerial photographs of the park that shows that there are problems in the buffer zones; and that Planning and Zoning should have results about Camelot at the next scheduled Board of Adjustment Meeting.

There was a consensus of the Board to schedule a meeting on January 29, 2001 for a 5-year renewal on Case No. 5663 - Melvin Joseph – Asphalt Plant.

Meeting Adjourned 9:30 P.M.