

MINUTES OF DECEMBER 11, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening December 11, 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. Berl – Assistant County Attorney, Mr. Oates – Planning and 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 with the correction to move the discussion of Camelot to the beginning of the public hearings.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of November 20, 2000 as circulated.

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

Discussion – Camelot Mobile Home Park

Mr. Lank, Director of Planning and Zoning, stated to the Board that the park owner's were requested to supply a survey of the lots with corners marked; that the Office took it upon itself to get information from a surveyor; that the survey shows encroachments into the buffer zones (perimeter) only; that he also received aerials; that he went to County Engineering for as-built drawings of all improvements; that several of the 100 parks in the County were created prior to zoning; that the parks in the 1960's were not monumented; that a survey needs to be done; that the violations will be investigated; and that 28 structures encroach the buffer in Camelot Mobile Home Park.

Case No. 7302 – Larry Mathis and Lou Jean Mathis – north of Road 544, 1,300 feet west of U.S. Route 13-A.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. Greg Sizemore, Realtor, was sworn in and testified requesting a 1-foot variance from the required 5-foot west side yard setback requirement for an existing garage; that he has been a realtor for 25 years; that he submitted pictures to the Board; that he sold the property, had a survey done and then realized the garage was in violation; and that the garage on the opposite side of the property is non-conforming.

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. 7303 – Kevin B. DeLeon and Melissa A. DeLeon – south of Black Duck Reach, 383 feet east of Glade Farm Drive, Lot 5, within Holland Glade Subdivision.

A variance from the northeast side yard setback requirement.

Mr. Oates presented the case. Carol Fruchtman and Camela Conlan were sworn in with Doug Marshall, Attorney, present on behalf of the current owners requesting a .07-foot variance from the required 15-foot northeast side yard setback requirement for a bay window; that he submitted a letter from a neighbor and the Home Owner's Association in favor of the application; that it would be costly to remove the bay window; that the home was built in 1994; that a permit was obtained; that a Certificate of Compliance was issued; that Carol Fruchtman purchased the home with the bay window; that Camela Conlan, Realtor, sold the home; and that it would not adversely affect neighboring property owners.

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 variance be granted. Vote carried 5 – 0.

Case No. 7304 – William J. and Harriet Smith – east of Road 391, north side of Fenwick Circle, Lot 121, within Fenwick West Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. William Smith was sworn in and testified requesting an 8-foot variance from the required 40-foot rear yard setback requirement for a carport; that the permit stated a 30-foot setback; that he was speaking with a Planning and Zoning Inspector about another matter and the Inspector informed him that the setback should be 40-foot and not 30-foot; and that the carport is completed, except for the roof.

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.

Mr. Berl stated that he is going to do a follow-up letter noting the incorrect setbacks on permits because the maps are not being looked at.

Case No. 7305 – Charles and Patricia Murray – north of Road 363, ¼ mile southwest of Road 361, and being west of Monterray Avenue, Unit 182, Half Moon Bay, within Clearwater Residential Planned Community.

A variance from the rear yard separation requirement between units in a residential planned community.

Mr. Oates presented the case. Charles Murray was sworn in and testified requesting an 8-foot variance from the required 40-foot rear yard separation requirement; that the home was built in 1998; that he is retiring; that the neighbors and the Home Owner's Association are in favor of the application; and that Bob Harris, Builder, obtained the permit.

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. 7306 – Thomas F. Martone – south of Route 54, southeast side of Maple Lane, Lot 17, within Keen Wik Subdivision.

A variance from the north side yard setback requirement.

Mr. Oates presented the case. Thomas Martone was sworn in and testified requesting a 4-foot variance from the required 5-foot north side yard setback requirement for a shed; that he has lived there since 1970; that he replaced the original shed with a new shed in the same footprint; that the size of the old shed was an 8'x10'; that the new shed is an 8'x12'; that he submitted pictures to the Board; and that he was the first home in the subdivision.

The Board found that no parties appeared 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. 7307 – Christine Lacy and Patricia Scerati – southwest of Route One, southwest side of Golden Avenue, Lot 49, within Sea Air Village Mobile Home Park.

Mr. Oates presented the case. George Littleton, Manager, was sworn in and testified requesting a 6-foot variance from the required 20-foot separation requirement between units in a mobile home park for an addition; and that the applicants bought the home in November 1999.

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

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

Case No. 7308 – Richard Steele – south of Route 88, southwest of Lilly Pad Drive, Lot 33, within Overbrook Shores.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Richard Steele was sworn in and testified requesting a 6-foot variance from the required 40-foot front yard setback for a proposed addition; that he is waiting for the decision from the Board before starting construction; that he and his father-in-law will be building the two (2) bedroom addition; and that it is an odd shaped lot.

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. 7309 – Nelia Dolan – southwest of Route One, southwest side of Guthrie Road, Lot 24, within Truitts Suburban Development.

A variance from the north side yard setback requirement.

Mr. Oates presented the case. Nelia and Neil Dolan were sworn in and testified requesting a 4.5-foot variance from the required 10-foot north side yard setback for enclosing an existing deck for a family room, instead of a 5-foot variance; and that her father lives next door to her.

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. Hudson, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7310 – John Davidson and Cheryl Protack – north of Route 22, south side of Bayside Road, Lot 59, within Pot Nets Coveside Mobile Home Park.

Appeal the decision of the director and/or staff.

Mr. Oates presented the case. John Davidson and Cheryl Protack were sworn in with John Sergovic, Attorney, on their behalf, requesting to appeal the decision of the Director for denial of a certification of compliance for conversion of a manufactured home into a dwelling within a mobile home park; that a letter was sent to John Davidson from Mr. Lank, dated September 25, 2000, stating that issuance of a certification of compliance for improvements on Lot #59 of Pot-Nets Coveside Mobile Home Park cannot be granted since the manufactured home has been removed from the premises; that they purchased the improvements; that they tried to save the home from flood damage; that they submitted 10 pictures of the home and other manufactured homes in the area; and that 27 letters were submitted to the Board in favor of the application.

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 appeal be granted. Vote carried 5 – 0.

Case No. 7311 – Jeffrey and Christine McCarty – west of Route One, south side of Siham Road, Lot E-20, within Whispering Pines Mobile Home Park.

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

Mr. Oates presented the case. Kelly West, Manager, was sworn in and testified requesting a 2.1-foot variance from the required 20-foot separation requirement between units in a mobile home park; that she staked the property where the manufactured home was to be placed; that Red's Mobile Homes placed the unit and incorrectly placed it; and that the neighbor is in favor of the application.

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 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. Wheatley, seconded by Mr. Mills, and carried unanimously that the variance be granted with the request that a letter be sent to the dealer.
Vote carried 5 – 0.

Case No. 7312 – Ruby and Donald Brooks - southwest of Route 404, west of Road 32.

A variance from the lot width requirement for a parcel.

Mr. Oates presented the case. Ruby and Donald Brooks were sworn in and testified requesting a 100-foot variance from the required 150-foot lot width requirement; that her mother is conveying land to them; that the property is land locked; that they were told a 50-foot right of way was required; and that there is only 1 home on the property now.

Mr. Mills stated to the applicant's that even though this variance may be granted, other requests of subdividing in the future may be denied.

By a show of hands, 2 parties were in favor of the application.

Motion by Mr. Mills, seconded by Mr. Wheatley, 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 variance be granted with the stipulation that a driveway be shared. Vote carried 5 – 0.

Case No. 7313 – William D. and Carol M. Emmert – south of Draper Drive, 653.5 feet south of Venetian Drive, Lot 17A, Section B, within Seabreeze Subdivision.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. William Emmert, Robert Nash and Mr. Jackson were sworn in and testified requesting a 1-foot variance from the required 10-foot west side yard setback; that he hired a land planner and an architect to build the home; that when he tried to obtain a certificate of compliance he was told his home was in violation; and that his neighbor is in favor of the application.

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. 7314 – Sussex Technical School District – north of Route 9, 3,400 feet east of Road 446B.

A variance for multiple signs, variance from the square footage requirement for signs, and a variance from the height requirement for signs.

Mr. Oates presented the case. David Halloway was sworn in and testified requesting a variance for multiple signs, a 28-square foot variance for both directional sign; and a 1-foot height variance from the required 15-foot requirement; and that they built a \$10 million addition.

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

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

Case No. 7315 – Paul and Brenda DePersico – southwest of Road 284, west side of West Lane, Lot 20, within Bayshore Hills Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Paul DePersico was sworn in and testified requesting a 12-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling; that he presented exhibits to the Board; that he bought the property 10 years ago; that a 1962 home exists on the property; that the septic has been approved by DNREC; that the reason for the needed variance is because of the location of the septic; that the proposed home will be on pilings; that Mr. DePersico stated reasons for granting the variance which are: the lot is irregular, narrow, a corner, and others; that he would like to maintain a view; and that the home would not block any views.

Patrick Scanlon, Attorney, representing Maynard and Enda Ritter stating that they are in opposition to the application; that they own 3 lots around the applicant; that their view will be blocked; that the applicant has 2,557-feet of buildable area; that they will be adversely affected by the variance if granted; that a hardship does not exist; that the variance is not necessary; and that the deed restrictions prohibits the variance.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variance be tabled until December 18, 2000. Vote carried 5 – 0.

OLD BUSINESS

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

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

The Board discussed the case.

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

OTHER BUSINESS

Case No. 7023 – CSC Real Estate Services – north of Route 26, intersection Route 17, part of Lot 5, within Holts Acres.

A special use exception from sign requirements for billboards.

Mr. Oates stated to the Board that a letter was received on December 1, 2000 requesting a 1-year time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a 1-year time extension be granted. Vote carried 5 – 0.

Case No. 7024 – CSC Real Estate Services – north of Route 26, intersection Route 17, part of Lot 5, within Holts Acres.

A special use exception from sign requirements for billboards.

Mr. Oates stated to the Board that a letter was received on December 1, 2000 requesting a 1-year time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a 1-year time extension be granted. Vote carried 5 – 0.

Meeting Adjourned 9:15 A.M.