

MINUTES OF DECEMBER 18, 2000

The regular meeting of the Sussex County Board of Adjustment was held Monday evening December 18, 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. McCabe, 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 December 11, 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. 7316 – Helen Engel – east of Route One, south of Sea Del Drive, Lot 10, within Sea Del Estates Subdivision.

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

Mr. Oates presented the case. Dr. Jeffrey Emmi was sworn in with Susan Wiedmann, Attorney, present on his behalf, requesting a 0.6-foot variance from the required 10-foot southwest side yard setback and a 3.2-foot variance from the required 10-foot rear yard setback for a deck; that a survey showed the violations; that Dr. Emmi has owned the home for 1 month; that they submitted a letter from the Homeowner's Association in favor of the application; that the home has been there since 1979; that it would be a hardship if the deck would have to be moved; that the home is on top of the garage; and that it does not alter the character of the neighborhood.

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. Vote carried 5 – 0.

Case No. 7317 – David Clogg – north of Route 54, east of Wilson Avenue, Lot 4, within Cape Windsor Subdivision.

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

Mr. Oates presented the case. David Clogg was sworn in and testified requesting a 5-foot variance from the required 20-foot rear yard setback for a deck and a 6.5-foot

variance from the required 10-foot northwest side yard setback; that he is proposing to build a new home; that the existing home will be torn down; and that the Homeowner's Association 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. Wheatley, and carried unanimously that the variance be granted. Vote carried 5 – 0.

Case No. 7318 – Janet L. and J. Melvin Ware, Jr. – southwest of Road 527, 1,200 feet west of U.S. Route 113.

A variance from the east side yard setback requirement.

Mr. Oates presented the case. Melvin Ware, Jr. was sworn in and testified requesting a 4-foot variance from the required 10-foot east side yard setback for a pole shed; that he called the Planning and Zoning Office and was told the setback was 5-foot from the side yard; that when he obtained the permit he was told the setback was 10-foot from the side yard; that a maple tree is keeping him from placing the shed where he wants it to be; that an open field adjoins the property; and that he wants the shed as close as possible to his home.

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. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be tabled until January 8, 2001. Vote carried 5 – 0.

Case No. 7319 – Dyer-McCrea Ventures, LLC – northeast of Route One, within Savannah East.

A variance from the outside wall dimension of a building for a multifamily dwelling.

Mr. Oates presented the case. Preston Dyer and Gary McCrea were sworn in and testified requesting a 98-foot variance from the required 165-foot outside wall dimension requirement for parcels B-1 and B-2; that the project is deed restricted to residents 62

years of age or older; that the project is similar to the Cheer Building in Georgetown, Delaware; that the senior apartments will have 80 units; that they presented a site plan of the project to the Board; and that the variance would benefit the users of the project.

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. 7320 – Timothy and Kara Short – west of Road 462, 292 feet south of U.S. Route 13.

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

Mr. Oates presented the case. Timothy and Kara Short were sworn in and testified requesting an 8.5-foot variance from the required 10-foot west side yard setback for a carport and a 17.6-foot variance from the required 20-foot rear yard setback for a shed; that the garage has been there since 1985; that his daughter is buying the property; that the neighbors are in favor of the application; that he obtained permits for all the structures; and that the shed has a lean to.

Mr. Oates advised the Board that there were 3 letters in favor of the application.

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 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 tabled until January 8, 2001 requesting that a new survey be done of the property. Vote carried 5 – 0.

Case No. 7321 – John Covelli – north of Road 341, west of East Lagoon Road, Lots 118 and 119, within Dogwood Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. John Covelli was sworn in and testified requesting an 11.5-foot variance from the required 30-foot front yard setback, instead of a 23-foot variance, for a proposed 28'x52' new home; that he is replacing an existing home that has

been there for over 30 years; that he wants to put the new home in the same foot print as the existing home; that there is a 1 story block building on the land that protrudes over the property line; that the block building has been there since 1968 and is non-conforming; that he has an average setback of 18.5-feet; and that his neighbors are in favor of the application.

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. 7322 – State of Delaware – east of Road 318, within Stockley Center Complex.

A special use exception to operate a day care facility.

Mr. Oates presented the case. John Fox and Jim Lesco were sworn in and testified requesting a special use exception to operate a day care facility; that the purpose of the day care is to help non English speaking children to enter into schools systems that speak English; that they will be utilizing an existing building on the property; that they will be renovating the building; that they will have adequate parking; that they will have a fenced play area; that they will have a maximum of 35 children; that their ages will range from 3 to 5 years old; and that the hours of operation will be from 7:00 A.M. to 5:00P.M.

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. Vote carried 5 – 0.

Case No. 7323 – Joseph Hudson and Stanley Thompson – west of Route 18, west of Pheasant Drive, Lot 9, within Covey Creek Subdivision.

A variance from the minimum square footage requirement for a parcel.

Mr. Oates presented the case. Stephen and Eleanor Allan were sworn in with Jim Fuqua, Attorney, present on behalf of Mr. Hudson and Mr. Thompson, requesting a 2,000-square foot variance from the required 10,000-minium square footage requirement for a parcel; that Mr. Hudson and Mr. Thompson were the original developers of Covey Creek; that the subdivision has been there since 1975; that they submitted a plot plan to

the Board; that the owner of Lot 9 states that he has 20-foot less that he is suppose to have; that Lot 14 is 82-foot wide, but when the home was built the lot was 20-foot more; that when Lots 11, 12 and 13 were developed problems occurred because of errors made by the surveyor and the problems were carried down the street; that Stephen and Eleanor Allan own Lot 10; that the Developers purchased Lot 9 and gave the square footage back to the Allan's; that a survey has been done; that Mr. Fuqua wrote a letter to the Homeowner's Association advising them of the problem; that they submitted a letter from the Homeowner's Association with no objections to the application; that 20-foot is missing somewhere on the street; that Lot 9 is undersized; and that Lot 14 is oversized.

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

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 case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, that 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 request that other lots in the subdivision be checked for other possible problems by a Planning and Zoning Inspector. Vote carried 5 – 0.

Case No. 7324 – John Wright - west of Route 5, south of Greenwing Drive, Lot 25, within Teal Point Subdivision.

A variance from the south side yard setback requirements.

Mr. Oates presented the case. John Wright was sworn in with Jim Fuqua, Attorney, present on his behalf, requesting an 8.6-foot variance from the required 15-foot south side yard setback requirement for an existing carport; that Mr. Wright purchased the property in October 2000; that the previous owners bought the property in 1992 or 1993; that the carport will be used to store a car; and that the neighbors are in favor of the application.

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

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

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

Case No. 7325 – Norvell Pausch – north of Road 341, west of East Lagoon Road, Lot 5, within Dogwood Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Norvell Pausch was sworn in and testified requesting a 29-foot variance from the required 30-foot front yard setback for a detached carport; that on July 10, 2000 he had a Board of Adjustment Hearing for a variance for the same carport and it was approved; that he explained to the Board what exactly he wanted then to do; and that he received a violation about the carport from Mike Milligan, Planning and Zoning Inspector.

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 January 8, 2001 so that a Planning and Zoning Inspector can go to the property to make sure what exact variance is needed. Vote carried 5 – 0.

Case No. 7326 – Creekwood Project, LLC – northeast of Route One, 787 feet north of Road 270-A.

A special use exception to place a manufactured home to be used as a sales office.

Mr. Oates presented the case. Heather Gray was sworn in and testified requesting a special use exception to place a manufactured home as a sales office; that the unit will be placed by January or February 2001; that the front of the property is zoned C-1 General Commercial District and that the rear of the property is zoned AR-1 Agricultural Residential District; that construction is to start in the Spring of 2001; that the final construction should be completed by 2003; and that they will meet the setback requirements.

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 special use exception be granted for a period of 3 years. Vote carried 5 – 0.

Case No. 7327 – George Coverdale – northeast of Route One, 637 feet north of Road 270-A.

A variance from the rear yard setback requirement.

The application was denied because there was no representation.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be denied for lack of a record of support. Vote carried 5 – 0.

OLD BUSINESS

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.

The Board discussed the case. There was a consensus of the Board that the proposed home could be placed on the property without needing a variance; that the home, as proposed, could obstruct the neighbor's views; and that it would adversely affect the character of the neighborhood.

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

Meeting Adjourned 8:35 P.M.