

Minutes of December 20, 1999

The regular meeting of the Sussex County Board of Adjustment was held Monday evening December 20, 1999, at 7:00 P.M., in the Council Chambers, County Administration 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, Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector and Ms. Jackson – Recording Secretary.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda as circulated.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously to approve the Minutes of December 6, 1999 with a correction to Case #7021, noting that the Vote carried 4 – 1, not 5 – 0.

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

Case No. 7031 – Michael C. and Carole L. Nichols – east of Road 255, northwest side of Hammond Drive, Lot 47, Block D, within Eastman Heights.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Michael and Carole Nichols were sworn in and testified requesting a 10 foot variance from the required 20 foot rear yard setback requirement and an 8 foot variance from the required 10 foot side yard setback requirement for a detached garage; that in 1990 Carole's Uncle was the contractor who laid out the garage for them; that in 1993 they re-mortgaged the home and found out that the setbacks were incorrect; and that they would like to straighten out the problem with the setbacks before they sell their home.

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

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

Case No. 7032 – Sycamore Farm Dairy, Inc. – north of Route 16, intersection of Road 22-A.

A special use exception to place a second on farm manufactured home.

Mr. Rickard presented the case. Jeff Wells was sworn in and testified requesting to place a second on farm manufactured home for farm help. Mr. Wells stated that the year of the manufactured home will be a 2000; that the existing manufactured home is either a 1991 or 1992 for farm help; that there is a total of 275 acres; and that the manufactured home will be placed on the 34 acre parcel.

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

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

Case No. 7033 – Steven Ganski – north of Route 16, 1, 200 feet west of Road 212, Lots 4,5, and 6, Section 2, within Collins and Russell Development.

A special use exception to place a second manufactured home on a medical hardship basis.

Mr. Rickard presented the case and read a letter from Mark D. Lisberger, M.D. Steven Ganski was sworn in and testified requesting to place a second manufacture home on a medical hardship basis for his parents who both have significant medical problems; that the year of the manufactured home is a 1992 and that it would be skirted; that he owns 2 parcels of land; that he would like to place the manufactured home for his parents on the same land that he sold a manufactured home to his friends; and that the parcel he lives on does not have enough room for another manufactured home.

Kenneth Hughes was sworn in and stated that he is in opposition to the application; that he owns the property next to the applicant; that the applicant does not have a drain field septic, but an old cesspool; that the cesspool could not handle a second home on the property; that in 1989 Mr. Ganski was issued a permit for a porch, but it appears to be a bedroom of some sort instead; and that the applicant probably would have problems with meeting the setback requirements.

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

Case No. 7034 – Victoria Bryant – northwest of Road 305, 735 feet southwest of Road 296 intersection.

A variance from the lot width requirement.

Mr. Rickard presented the case. Kevin Bryant was sworn in and testified requesting to divide the land into two parcels for him and his brother; that his parents passed away 2 years ago; that there are no improvements on the property; that he and his brother plan to build their homes on the property; and that they will not have any problems meeting the setback requirements.

Mr. Rickard read a letter from the adjoining property owner in favor of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be granted with a stipulation that they would have to share the same driveway. Vote carried 5 – 0.

Case No. 7035 – Kelvin Nichols – west of Road 632, ½ mile north of Road 611.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Kelvin Nichols was sworn in and testified requesting a 2 foot variance from the required 5 foot side yard setback for a 16x30 detached garage; that it is an existing structure; that he bought the land in 1979; that he obtained a placement permit for his manufactured home and that the existing manufactured home will be moved the first of the year.

Mr. Rickard read a letter from John Clark 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 variance be granted. Vote carried 5 – 0.

Case No. 7036 – Barbara Gilligan – east of Road 274, Whisperwood Lane, Lot 1, within Breezewood Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Barbara Gilligan was sworn in and testified requesting a 4.2 foot variance from the required 30 foot front yard setback requirement for a porch with a trellis type roof.

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

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

Case No. 7037 – Richard I. Rice – east of Road 530, 1,100 feet south of Route 46.

A variance from the lot width requirement.

Mr. Rickard presented the case. Richard Rice was sworn in and testified requesting a 91.36 foot variance from the required 150 foot front yard lot width requirement; that in April he placed a home on the property and that it was finished in August; that he has 38 acres; and that he wants to separate a lot from the other acreage with the home on it and donate the other acreage to the state or other organization to be kept undeveloped.

John Hannenfeld, adjacent landowner, was sworn and questioned where the access will be if the land is donated and who will get the property.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously that the variance be granted to fulfill the wishes of the owner. Vote carried 5 – 0.

Case No. 7038 – William R. and Judith A. Keefer – northeast of Road 349, south side of Naomi Drive, Lot 49, Section A, within Whites Creek Manor Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. William and Judith Keefer were sworn in and testified requesting a 2 foot variance from the required 30 foot front yard setback for a 12x15 dining room; that they bought the land in 1989; and that they could not build the dining room in the rear of the home because of the septic system.

John and Helen Ballamonti were sworn in and stated that they are in favor of the application and that the Board has given variances to other homeowners in the Subdivision in the past.

Mr. Rickard read a letter to the Board from Richard Balz in opposition to the application.

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

Case No. 7039 – Janki and Bidyawattie Ramnath – west of U.S. Route 13, south side of Easter Lane, Road 485-A, Lots 32 thru 36, within Easter Heights Subdivision.

A special use exception to place a manufactured home on a medical hardship basis.

Mr. Rickard presented the case and read a letter from Allen Weiss, M.D. and a letter from Manjusha Anomolu, M.D. Janki Ramnath was sworn in and testified requesting to place a manufactured home on a medical hardship basis for his mother-in-law and sister-in-law; that the year of the manufactured home is a 1980; and that there is an existing stick built home on the property.

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 for a period of 2 years. Vote carried 5 – 0.

Case No. 7040 – Barbara Dera – east of Angola Road West, 427 feet north of Woodland Circle, Lots 35 and 36, within Angola By The Bay Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Margaret Cooper, Attorney with Hudson, Jones, Jaywork and Fisher, was present on behalf of the applicant requesting a 4.3 foot variance from the required 20 foot rear yard setback and stated that the home was built in 1977; and that if the Board did not grant the variance that the applicant would have to move the home.

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. 7041 – Carol A. Gillard – west of Road 270-A, 1,100 feet south of Road 270, Lot 100, Aspen Meadows Mobile Home Park.

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

Mr. Rickard presented the case. Carol O'Donald was sworn in on behalf of the applicant and testified requesting a 7 foot variance from the required 20 foot separation between units for a shed.

Warren Howard the park manager, was sworn in and stated that he is in favor of the application and that he is willing to help the applicant move the shed to be in compliance with the setback requirement.

Dennis Whiddekind, the president of the Board of Tenants Association, was sworn in and stated that he is in opposition to the application to where the shed is located; that the applicant can keep the shed but should move it towards her home; that if she moves the shed adjacent to lot 83 then it would be in compliance with lot 99; that the shed is over the waterlines; and that he is willing to compromise with the applicant to resolve the problem.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be tabled and the record be left open until January 24, 2000. Vote carried 5 – 0.

Case No. 7042 – Colonial Estates, Inc. – northeast of Road 331 and 250 feet southeast of Road 331-A.

A variance to permit continuation of previously existing encroachments into buffer zone on lots, 5,10,11,25,30,33,53, and 55, and a variance from the setback requirement on lots 1 and 26, Colonial Estates Mobile Home Park.

Mr. Rickard presented the case. Joe Conaway and Terry Rock were sworn in on behalf of the application and stated that they will withdraw their request for lots 53 and 55 and that the manufactured homes will be moved to the proper setbacks; that this is the first time a plot plan has ever been submitted; that in 1988 the land was purchased by Community Management, LHI; that since 1991 they have been working with Millsboro to solve the sewage problem; that the negotiations in March 1999 between the town and the corporation fell to a halt; that the mobile home park is well over 20 years old; that most of the violations are in the buffer zones; that they are prepared to move existing sheds in compliance and that the new units will be placed in the proper setbacks; that the purpose of the variances are to leave the existing manufactured homes where they are and to be within the 5 foot setback requirement; and that the waste water will be handled appropriately.

Motion by Mr. Wheatley, and seconded by Mr. Mills, and carried unanimously that the variances be tabled until the next meeting. Vote carried 5 – 0.

Case No. 7043 – Michael J. Cohalan, R.A. – east of Route One, east side of Hall Avenue, Lot 14, within the Chancellery.

A variance from the side yard setback requirement.

Mr. Rickard presented the case and read two letters in opposition to the application from the Homeowners Association and from R. Carl and Brenda Benna. Michael J. Cohalan, R.A. was sworn in and testified requesting a 3 foot variance from the required 10 foot side yard setback for a deck.

R. Carl and Brenda Benna were both sworn in and stated that they are opposed to the application and that the president of the Homeowners Association does not support the variance; that he sent a letter to Mr. Cohalan to delay the hearing so that they could work out the problem, but Mr. Cohalan refused; that the home has been under construction for 2 years; and that Mr. Cohalan knew when they built the home that they would not have been able to build the decks in compliance to the setbacks.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be tabled and the record be left open until January 24, 2000. Vote carried 5 – 0.

Case No. 7044 – Robert and Naydean Miller – northwest of Road 227, 2, 200 feet northeast of Route 16 on a private street, Lot 8, George A. Metz Subdivision.

A special use exception to use a mobile home type structure for storage.

Mr. Rickard presented the case. Robert Miller was sworn in and testified requesting to use a mobile home type structure for storage; that the size of the mobile home is a 12x60; that it does not have electric or water; that he has lived in the other mobile home for 10 years; and that he will be storing lawnmowers and freezers in the structure.

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 tabled until the next meeting. Vote carried 5 – 0.

Case No. 7045 – Glen M. and Barbara L. Gray – south of Route 54, east side of Van Buren Avenue, Lot 12, within Edgewater Acres Subdivision.

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

Mr. Rickard presented the case. Daniel McCann with McCann Surveyors was sworn in on behalf of the applicant and testified requesting a 13 foot variance from the rear yard setback for a deck and an 18.9 foot variance from the front yard setback for a porch; and that the lot is difficult to build on because of the depth of the lot.

Mr. Rickard read a letter from William and Lucille McDonald in opposition to the application.

Lemuel Hitchens, III was sworn in opposition to the application stating that he lives on Lot 21 and that the site is too small.

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

OLD BUSINESS

Case No. 6990 – Steve Oteri – north of Route 22, east side of East Pintail Road, Lot E-59, within Pot Nets Dockside Mobile Home Park.

A variance from the side yard setback requirement.

Mr. Rickard stated that he sent Don Hastings, Zoning Inspector, to investigate the site and read a letter to the Board from Mr. Hastings stating that the park is not in favor of the variance at this time and that the best way to solve the problem is by replacing the existing manufactured home with a new model.

Mr. Berl stated that it would not make sense to grant the variance and then the applicant would be in violation again.

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

Case No. 6991 – C. Bruce and Linda Harrington – south of Route 24, 650 feet west of Road 449A.

A variance from the side yard setback requirement for livestock.

Mr. Rickard stated that he and Donna Mowbray, Zoning Inspector III, went to the site again to see if the applicant has moved the sheds. Mr. Rickard read a letter from Donna Mowbray stating that there were no changes to the property.

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

Meeting Adjourned 10:15 P.M.