

Minutes of December 21, 1998

The regular meeting of the Sussex County Board of Adjustment was held Monday evening, December 21, 1998 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:58 P. M. with Chairman McCabe presiding. The Board members present were: Mr. McCabe, Mr. Callaway, Mr. Mills, Mr. Hudson, Mr. Wheatley, Mr. Berl-Esquire, Mr. Lank-Director and Mrs. Talley-Recording Secretary.

Mr. McCabe asked for any additions or changes to the agenda. Hearing none, motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the agenda for December 21, 1998 be adopted. Vote 5-0.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the minutes of December 7, 1998 be approved as circulated.

Case No. 6764--James Jennette, Jr. - South of Road 31, 1.18 miles west of Road 568.

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

The case was presented by Mr. Lank, who also read a letter from Michael Crouch, M.D., referencing the health of the applicants mother.

James Jennette, Jr. was sworn in and testified requesting to place a 1991, 14'x 70' manufactured home on his parents property for his residence on the basis of hardship. His parents live in the existing 1968 manufactured home. He needs to be near his parents due to his mother's health problems.

Mr. McCabe explained that if the application is approved it would have to be reapplied for every two years for as long as the hardship exists, and should the hardship cease the manufactured home would have to be removed.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the special use exception be granted on the basis of medical hardship for a period of two (2) years. Vote 5-0.

Case No. 6765--Kent R. Gaffey - Southwest of Route 22C, west of  
Broad Water Road, Lot 583, Pot Nets  
Bayside Mobile Home Park.

A variance from the side and rear yard setback requirements and a variance from lot coverage requirement.

The case was presented by Mr. Lank. Kent R. Gaffey was sworn in and testified requesting a 4' variance from the side yard setback for a shed, a 5' variance from the rear yard setback requirement for the shed, a 3' variance from the side yard setback for a carport, and a 158 sq. ft. variance from the 35% lot coverage requirement on Lot 583, within Pot Nets Bayside Mobile Home Park. It was stated that the manufactured home has been on the property since 1993 and the applicant wants to build a carport. The shed exists. He stated that no problems have been voiced by Pot Nets and they saw the plans first.

There were no parties present in opposition.

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

Case No. 6766--Robert L. Cordrey - West of Road 580, 2,885 feet  
north of Road 578.

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

The case was presented by Mr. Lank, who read a letter from Kenneth A. Smith, M.D. referencing Mr. Cordrey's health.

Robert L. Cordrey was sworn in and testified requesting to place a manufactured home on his property on the basis of hardship. Mr. Cordrey stated that the case states a second manufactured home, but it is the first manufactured home to go on the property. He presently lives in a stick built house on the property. His grandson will live in the manufactured home.

Mr. McCabe explained that if approved the application would have to be reapplied for every two (2) years for as long as the hardship exists.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Hudson and carried unanimously that the special use exception be granted on the basis of medical hardship for a period of two (2) years. Vote 5-0.

Case No. 6767--Sharon Bulova - West of Route One, east of Alda Lane, Lot 57, Bay View Park, Second Addition.

A variance from the side and rear yard setback requirements.

The case was presented by Mr. Lank. Sharon Bulova was sworn in and testified and was represented by Susan Weidman, Esquire. The applicant requested a 3.6' variance from the rear yard setback requirement for a stairs and a 2' variance from the side yard setback requirement for a dwelling located on Lot 57, with Bay View Park. It was stated that the applicant has owned the property since 1988, and is selling the property. When a survey was done for the sale, the violation was found. The applicant's closing date for settlement is on December 31, 1998. It was stated that it would be a hardship to remove the stairs going to a deck, since it has been on the property for 10 years. It would also be a hardship to move the dwelling. The stairs and deck was on the property when the applicant purchased it. The applicant stated that there are no objections from the Association.

There were no parties present in opposition.

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

Case No. 6768--David H. Elliott - North and south of Road 476, west of Road 447.

A special use exception to use two manufactured home as storage.

The case was presented by Mr. Lank. David H. Elliott was sworn in and testified requesting to use two manufactured homes for storage. Mr. Elliott stated that the manufactured homes have been on the property and used for storage for 4 to 5 years. He stated that he was unaware that he needed approval for this use. He stated that the manufactured homes will remain the same as they now exist, with no electric and no water used for storage only.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the special use exception be granted. Vote 5-0.

Case No. 6769--B. Janelle Merritt - North of Road 400, 800 feet  
east of Route 113, Lot 3.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Barbara Janelle Merritt was sworn in and testified requesting a 6' variance from the side yard setback requirement of 15' for an existing addition. Ms. Merritt stated that she had a room and attached garage built on her property by Mr. Evans a contractor, and when she went to settlement the encroachment was found. She stated that it was an over site on her part. She stated that she had obtained the building permit; that the property is surrounded by family and her sister lives adjacent to where the encroachment is and is not opposed.

There were no parties present in opposition.

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

Case No. 6770--Jaxon & Mary B. Taylor - Southwest of Route 54,  
east of Tyler Avenue, Lot 13, Cape Windsor  
Subdivision.

A variance from the side and rear yard setback requirements.

The case was presented by Mr. Lank. Jaxon Taylor was sworn in and testified requesting a 5' variance from the rear yard setback requirement and a 5' variance from the side yard setback requirement for a residence, on Lot 13, within Cape Windsor. Mr. Taylor stated that variances had been given to other properties in Cape Windsor. He has owned the property since 1971. He presented a note signed by the President of the Association of Cape Windsor.

Mr. Lank read the note (a newsletter) signed by Timothy Danbe, referencing home construction and setbacks in Cape Windsor.

There were no parties present in opposition.

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

Case No. 6771--James W., Jr. & Mary Jane Shank - South of Short  
Road, east of Road 361, Lot 20, Block Q,  
Middlesex Beach Subdivision.

A variance from the front yard setback requirement.

The case was presented by Mr. Lank. James W. Shank, Jr. was sworn in and testified requesting a 3' variance from the 30' front yard setback requirement on Lot 20, within Middlesex Beach Subdivision, for an existing garage. Mr. Shank stated that the garage has been completed.

Mr. Lank read a letter from Mr. Shank explaining his request for a variance, and a letter from David White & Frances White on Lot 17, in support of the application.

James David Moneymaker, neighbor, was sworn in and testified in support of the variance. He feels that the applicant's property is an asset to the community.

There were no parties present in opposition.

Motion was made by Mr. Wheatley, seconded by Mr. Callaway and carried unanimously that a 3' variance be granted. Vote 5-0.

Case No. 6772--Burton P. Walius - North of Route 16, intersection of Road 232, Lots 23 and 24, Town of Ellendale.

A special use exception to replace existing manufactured home.

The case was presented by Mr. Lank. Burton P. Walius was sworn in and testified requesting to replace an existing manufactured home with a 1974 unit in the Town of Ellendale. He stated that he has lived on the property since 1971. Pictures were presented to the Board.

Mr. Lank read a letter from the Town of Ellendale, signed by Mary J. Argo, voicing no objections.

There were no parties present in opposition.

Motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the special use exception be granted. Vote 5-0.

Case No. 6773--Clifford E. Hughes, Jr. - South of Route 16, 155 feet east of Road 610.

A variance from the lot width requirement.

The case was presented by Mr. Lank. Clifford E. Hughes, Jr. was sworn in and testified requesting a 100' variance from the 150' lot width requirement to have an entrance to a rear parcel of 4.43 acres. He requested the variance for financial difficulty with the family. He stated that he does not intend to further develop the land at this time. Family lots in front of the site exist. An existing driveway is included within the 50' access frontage.

Mr. Lank stated that no correspondence had been received pertaining to this case.

Roland E. Scott was sworn in and testified in opposition to the variance. He stated that he has lived on his land for 38 years. He presented a petition signed by 16 people in opposition. He stated that there is no house on the parcel and wants the property to remain the same. He stated that he feels the plan is to develop the property.

Mr. Lank read the names on the petition of opposition into the record.

Ronald Moore was sworn in and testified in opposition in behalf of his father-in-law, Elwood Webb, who is opposed to the variance. He does not want it along side of his field.

Mr. Hughes stated that he does not plan to develop the property at this time and if he does it may be for houses, but there is no time frame to develop now.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be taken under advisement. Vote 5-0.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Wheatley, seconded by Mr. Mills and carried unanimously that the case be tabled until the next meeting. Vote 5-0.

Case No. 6774--Randall F. Gross - Northeast of Road 170A, northwest of Shady Ridge Road, Lot 41, Shady Ridge Subdivision.

A variance from the side yard setback requirement.

The case was presented by Mr. Lank. Randall F. Gross was sworn in and testified requesting a 7' variance from the 10' side yard setback requirement to build a 12'x 24' sunroom on Lot 41, within Shady Ridge Subdivsion. He stated that there is no other

way to build the addition and meet the setbacks. He stated that there is a house on one side of the property and a restricted area for the West Rehoboth Sewer Expansion on the other side. He also stated that he no longer needs a 7' variance and is requesting a 5' variance. He stated that the Association has no objections.

There were no parties present in opposition.

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

Case No. 6775--Mack W. McCary - North of Road 392, 2,200 feet west of Road 52.

A variance from the setback requirements for a poultry house.

The case was presented by Mr. Lank. Mack W. McCary was sworn in and testified requesting a 40' variance from the 200' setback requirement between dwellings and a 25' variance from the 50' setback requirements for a poultry house. He stated that he already has two poultry houses on the property. He stated that there is no objections from the adjacent Steven's property.

There were no parties present in opposition.

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

Case No. 6776--Roberta C. Brennan - West of Road 449, 2,642 feet north of road 450.

A special use exception for a commercial dog kennel and a variance from the setback requirements.

The case was presented by Mr. Lank. Roberta C. Brennan was sworn in and testified requesting a commercial dog kennel and a 200' variance from the 200' setback requirement from all property lines for any open runs, cages, pens or kennels. Ms. Brennan read from a prepared statement that she also presented to the Board. She stated that she has placed a Nanticoke home on her property valued over \$100.00 and that she has owned the property for over three years. She assumed that since the property is zoned agriculture she would have no problem with her dogs. She stated that she does not have a commercial kennel but rather a small breeding kennel that she is phasing down. She stated that most of her dogs are retired champions and show dogs. She gave a back ground of her shows and competing dogs. She raises Airedales.

She stated that she has a mildly retarded woman who lives with her and helps with the dogs, which are housed in her home and the enclosed garage. She stated that they are put in enclosed runs for the day and in her house at night. They are never allowed to run loose, although there is an occasional escapee. She stated that she has all of the dogs debarked at a cost of \$200.00 per dog, but three of them have gotten their voices partially back and will be done again. Their bark is muted. She plans to have privacy fences around most of the back part of the property, when the dogs are in the runs they will not be seen from the outside. The front yard will be enclosed with chain-link fence. The ground in the runs will either be astroturf or 2" of pea stone gravel and are scooped at least three times a day, more if necessary. The runs are washed or hosed down with bleach, water and a biodegradable disinfectant every day. Most of the dog activities will be in the rear of the house. There are no plans to increase the size of the kennel. She requests the variances to allow her to continue to have her dogs. She pointed out that according to regulations an irresponsible breeder can be entirely legal and own four bitches, breeding them each every time they come in season (twice a year), giving an average of 64 puppies that could be kept until they are each six months old. In answer to the Boards question why she was before the Board, she stated that someone in the neighborhood had reported her dogs.

Mr. Lank stated that a violation was issued by the Zoning Inspector.

Ann Allen was sworn in and testified in behalf of the application, stating that she deals with animals and had met Ms. Brennan when she moved there. She stated that she lives 1 1/2 miles away from the applicants property and stops there occasionally. She stated that there is no odor and the site is very clean.

Raymond Stanley Oullette was sworn in and testified in opposition, stating that his property has restrictions "no commercial buildings", and was advised by the applicant that she was bringing her five dogs prior to relocating. He has owned his property since 1980. He feels she should have restrictions on her property also. He wants the property to remain the same. He supports the residential character of the area.

Millard Alan Hudson was sworn in and testified in opposition. He presented pictures and read a prepared statement. He wants to see the law upheld. He stated that Road 449 is a tourist area, the road to Trappe Pond. He expressed concern about noise, waste, and property values. He feels the runs and pens should be 200' from

the lot lines. He submitted signatures of people within 200' of the applicants property who are in opposition. Mr. Hudson stated that he is developing his property for residential homes.

Douglas Taylor was sworn in and testified that he lives 200' south of Road 449. He questioned if the area is commercial or residential. He stated that he has no objections to the animals and the noise is not a problem, but is concerned about the commercial uses and further development.

Mr. Lank explained that the applicant is not applying for a change of zone, just for this use only.

Mr. Oullette questioned how many dogs the applicant has.

Ms. Brennan stated that she has 16 dogs, 2 of which are bitches that have not been spayed. She stated that she does not advertise or sell dogs.

Mr. Mills questioned if there is any intention of selling the property.

Ms. Brennan stated that her property will be handled by will by her Attorney should anything happen to her and he will be responsible for the dogs. She stated that there will be a stockade fence 6' high and tarps for wind break. She plans to install the fence after the holidays. She stated that her house is 150' back from the front property line, that her house is 26' wide and the runs 6'x 12' inside.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting. Vote 5-0.

Case No. 6777--Richard L. Cox - East of Road 510, 600 feet north of Route 54.

A variance from the lot width requirement.

The case was presented by Mr. Lank. Richard L. Cox was sworn in and testified requesting a 102' variance from the 150' lot width requirement for a new lot. He proposes to put a double-wide manufactured home with solid foundation on the lot. He stated that he has no intention to subdivide the property further. He stated

that he has grandchildren and if they ever need a lot they can have it. He has no intention to sell the property. There is a single-wide manufactured home on the acreage that one day will be replaced with a double-wide unit. He stated that there is a driveway already on the property and the existing manufactured home was on the property when he purchased it.

Mr. Lank stated that no correspondence had been received pertaining to this case. He also stated that a 50' access will be needed and improved with pavement to subdivide further.

Mr. McCabe stated that only one house can be built on the acreage.

Gerald W. White was sworn in and testified in opposition stating that there are three manufactured homes on the applicants property now, that there was 20 acres to start with and he feels they do not need more. Pictures were presented. He stated that one manufactured home was placed on the applicants property on hardship and that it no longer is needed for hardship. He is opposed to anymore manufactured homes. He stated that the applicant has for-sale signs on the property.

Mr. Mills explained that if there are other manufactured homes the property will be checked and if the hardship has ceased the manufacturd home would be illegal.

James R. Dorman was sworn in and testified in opposition stating that he bought his property approximately four years ago and lives four doors down from the applicants property. He stated that when he bought his property he had less than 150' width and had to purchase more property. He confirmed the hardship manufacturd home being on the property and the for-sale signs. He feels the area is looking like a trailer park.

Motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the case be tabled until the next meeting to determine how many manufactured homes are on the property. Vote 5-0.

Case No. 6778--Violet Brown - South of Route 20, on a private road.  
A special use exception to place a manufactured home on a medical hardship basis.

The case was presented by Mr. Lank, who also read a letter from Hector Maya, M.D. referencing the applicants mother's health.

Violet Brown was sworn in and testified requesting to place a double-wide manufactured home on her property for her residence. She stated that her mother lives in an existing house.

Mr. McCabe explained that, if approved, the application would have to be reapplied for every two years for as long as the hardship exists and if the hardship ceases the manufactured home will have to be removed.

There were no parties present in opposition.

Motion was made by Mr. Mills, seconded by Mr. Hudson and carried unanimously that the special use exception be granted on the basis of medical hardship basis for a period of two (2) years. Vote 5-0.

The Board took a recess. Mr. McCabe called the meeting back into session at 8:50 P. M.

#### OLD BUSINESS

Case No. 6744 (cont'd.)--Pelican Square - West of Route One,  
intersection south of Road 283.  
A variance from sign requirements.

The case was reviewed by Mr. McCabe.

After some discussion, motion was made by Mr. Mills, seconded by Mr. Wheatley and carried unanimously that the case be tabled until the next meeting. Vote 5-0.

Case No. 6750 (cont'd)--Nicholas & Stephanie Abbonizio - Southwest  
of Hassell Avenue, 100 feet north of  
Loretta Street, part of Lot 27 & 28,  
Bayview Park.

A variance from the front yard setback requirement.

The case was reviewed by Mr. McCabe.

Mr. Callaway stated that the Inspector, Michael Milligan, had established an average in Bayview Park at the request of the Board. Mr. Milligan averaged the setback to be 24' from the front property line.

Mr. Lank stated that a letter had been received from Bayview Park dated December 14, 1998, referencing Case No. 6756 & 6757, but not 6750.

After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that a variance of 6' be granted, conforming to the average of the street (24 feet). Vote 5-0.

Case No. 6752 (cont'd.)--Dominic & Leslie Marra - East of Route One, 450 feet north of Road 58, Lot 9.

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

The case was reviewed by Mr. McCabe.

After some discussion, motion was made by Mr. Mills, seconded by Mr. Callaway and carried unanimously that the variances be granted. Vote 5-0.

Case No. 6756 (cont'd.)--Glenn & Susan Henicle - West of Route One, west of Loretta Street, Lot 34, Bay View Park.

A variance from the front yard setback requirement.

The case was reviewed by Mr. McCabe. An average of 24' has been established in Bay View Park, by Michael Milligan, Zoning Inspector.

Mr. Lank stated that a letter had been faxed from the President of the Board of Directors of Bay View Park on December 14, 1998 opposing the variances on Case No. 6756 and Case No. 6757.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that a 6' variance be granted for Case No. 6756 and Case No. 6757, conforming to the average of the street (24 feet). Vote 5-0.

Case No. 6757--(cont'd.)--Glenn & Susan Henicle - West of Route One, west of Loretta Street, Lot 35, Bay View Park.

A variance from the front yard setback requirement.

The case was reviewed by Mr. McCabe. An average of 24' has been established in Bay View Park, by Michael Milligan, Zoning Inspector.

Mr. Lank stated that a letter had been faxed from the President of the Board of Directors of Bay View Park on December 14, 1998 opposing the variances on Case No. 6756 and Case No. 6757.

After some discussion, motion was made by Mr. Callaway, seconded by Mr. Mills and carried unanimously that a 6' variance be granted for Case No. 6756 and Case No. 6757, conforming to the average of the street (24 feet). Vote 5-0.

Motion was msde by Mr. Callaway, seconded by Mr. Mills and carried unanimously that the meeting be adjourned.

Meeting adjourned at 9:40 P. M.