

## MINUTES OF JANUARY 7, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening January 7, 2002, 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. Mills, seconded by Mr. Wheatley, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Minutes of December 17, 2001 as circulated. Vote carried 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. 7652 – Bertha Cooper** – northwest of Road 298, southeast of Steele Drive, Lots 85 and 6, within Sherwood Forest Subdivision.

A variance from the east side yard setback requirement.

Mr. Rickard presented the case. Bertha Cooper and Susan A. Hall were sworn in and testified requesting a 2-foot variance from the required 10-foot east side yard setback requirement for a manufactured home; that the unit measures 24'x56'; and that Mrs. Renninger, neighbor, was in favor of the application.

The Board found that no parties appeared in support of or 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. 7653 – Miriam Cutler and Paul Salditt** – west of Route One, west side of Harbor Road, Unit 23, within North Shores Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Miriam Cutler and Paul Salditt were sworn in and testified requesting a 4.25-foot variance from the required 5-foot rear yard setback for an existing shed, instead of a 4-foot variance; that they submitted a packet containing a plot plan, photographs, a letter from Paul Salditt to Villa West Homeowners Association, a letter from Paul Salditt to Daniel G. Anderson, North Shores Board of Governors, a copy

of the restrictions for Villa West, and a copy of a site plan; that the existing structure is actually a trash enclosure, outside shower and storage shed; that it would be a hardship if the structure had to be removed; that the structure complies with the Homeowner's Association; that a permit was obtained by David Dockety, Contractor; that the structure does not alter the character of the neighborhood; and that the structure is a benefit to the community.

David Dockety was sworn in and testified that he built the structure; that he obtained a permit; and that he is aware of the setback requirements.

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 **granted**. Vote carried 5 – 0.

**Case No. 7654 – William Harkum** – south of Route 54, west side of Roy Creek Lane, Lot 5, within Bayville Manor Subdivision.

A variance from the rear yard setback requirement.

**This case was withdrawn.**

**Case No. 7655 – Capitol City Signs** – south of Route One, 297 feet east of Road 276.

A variance from the height requirement and square footage requirements for signs.

Mr. Rickard presented the case. Roslyn Holderfield was sworn in and testified requesting a 15-foot variance from the required 25-foot height requirement for a sign and a 444.33-square foot variance from the required 100-square foot requirement for signs; that the ground sign will measure 12'x12'; that she submitted photographs and a signage proposal booklet; that there will be 3 wall signs, which will read and measure, The Home Depot, 3"x58", Contractor Pick-Up, 24"x25'6", and Nursery, 20"x12'3"; that the signs will be less than 4% of the wall area; and that the Home Depot building walls measure 13,000-square foot.

Mr. Rickard read a letter from Dennis Forney, Clifford Diver, Jr., and William and Joan Deaver in opposition to the application.

Michael Tylor, President of the Citizens Coalition, was sworn in and testified that he is opposition to the application; that there is no hardship for any additional signage; and that there is no practical difficulty.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance **for the wall signs be granted and that the variance for the height requirement for the ground sign be denied.** Vote carried 5 – 0.

Case No. 7656 – John Lynch – north of Road 406, 276.29 feet southwest of Road 405.

A variance from the minimum lot width requirement for a parcel.

No one appeared on behalf of the application.

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

Case No. 7657 – Diane and Amiram Daniel – west of Route One, west side of Harbor Road, Unit 24, within North Shores Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. David Dockey, Contractor, was sworn in and testified requesting a 4-foot variance from the required 5-foot rear yard setback requirement for a proposed shed; that he will be building the structures the same way as he built Ms. Cutler and Mr. Saliditt's structures; and that it will be an improvement to the property.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to incorporate the testimony heard in Case No. 7653, Miriam Cutler and Paul Salditt, to this case.

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 **granted.** Vote carried 5 – 0.

Case No. 7658 – King O. Winstead, Jr. – north of Road 262, 1,764.3 feet southeast of Road 291.

A variance from the minimum lot width requirement for a parcel.

Mr. Rickard presented the case. King O. Winstead, Jr. was sworn in and testified requesting a 90-foot variance from the required 150-foot lot width requirement to create 2 parcels; that a dwelling and 2 manufactured homes exist on the property and that is why he is asking for the variance; that he will either remove the dwelling or convert it into a garage; and that he is in favor of sharing a driveway.

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

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted with the stipulation that a driveway is to be shared**. Vote carried 5 – 0.

**Case No. 7659 – Mary A. Brittingham** – east of Road 288, 2,000 feet south of Road 287.

A variance from the minimum lot width and square footage requirements for a parcel.

Mr. Rickard presented the case. Vanessa Johnson was sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement for a parcel, a 76-foot variance from the required 150-foot lot width requirement for a parcel, instead of an 81-foot variance, and a 25,552-square foot variance from the required 32,670-square foot requirement for a parcel; that the unit will measure 24'x80'; and that a dwelling exists and will be removed if the variance is approved.

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

Thomas and Betty Street were sworn in and testified that they are not in opposition, but have a discrepancy with Ms. Johnson's surveyor; and that their surveyor and Ms. Johnson's surveyor disagrees.

Mr. Mills stated to Thomas and Betty Street that the Board has no jurisdiction over the matter and that they will have to work out the problem amongst themselves.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **tabled until the applicant supplies them with an updated survey**.  
Vote carried 5 – 0.

**Case No. 7660 - Steven B. Morris** – east of Road 213, south side of Fireside Lane.

A variance from the setback requirement for a poultry house.

Mr. Rickard presented the case. Steven B. Morris was sworn in and testified requesting a 20-foot variance from the required 50-foot setback requirement for a poultry house; that he submitted a picture; that he removed an existing poultry house and is placing the new structure in the same footprint, but will be longer than what existed; and that the structure will meet the setback requirements.

The Board found that no parties appeared in support of or 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. 7661 – Stephen and Paulette Brochet** – west of Road 298, southeast side of Caravel Drive, Lot 72, within River Village II Subdivision.

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

Mr. Rickard presented the case. Stephen and Paulette Brochet were sworn in and testified requesting a 16-foot variance from the required 30-foot front yard setback requirement and a 0.4-foot variance from the required 10-foot east side yard setback requirement for an existing garage; that they obtained a permit; that Conestoga Builders built the garage; that he marked out the property for Conestoga Builders to where he wanted the structure to be placed; and that the Homeowner's Association is in favor of the application.

By a show of hands, 6 parties were in favor of the application.

Joanne C. Simmons was sworn in and testified that she has concerns with the changes that are happening in the subdivision; and that Parcel Numbers 156 and 71 need to be checked due to the activities that are going on.

Harry Hostvetd was sworn in and testified that he has been on the Board of Directors for 3 years; and that he has concerns with how the County operates.

Mr. Mills noted to Mr. Rickard that he would like the Planning and Zoning Inspector of the area to go and check Parcels 156 and 71.

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

**Case No. 7662 – Jason Bradley** – northeast of Route One, 500 feet southeast of Road 271.

A variance for a second on-premise ground sign.

Mr. Rickard presented the case. Jason Bradley was sworn in and testified requesting a second on-premise ground sign; that the sign will measure 150-square foot; that the sign will be 2 sided; that the sign is for the Outback Steakhouse; that he submitted pictures; that he is waiting on a 6 month review from DelDOT for another entrance; and that the sign is for directing people how to locate their entrance from the north and south bound lanes on Route 1.

The Board found that no parties appeared in support of or 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. 7663 – Dale McCalister** – east of Route 24, corner of Road 299.

A special use exception to replace an existing billboard.

Mr. Rickard presented the case. Dale McCalister was sworn in and testified requesting a special use exception to replace an existing billboard; that he wants to move the billboard back so that it will meet the setback requirements; that the billboard will measure 12'x24'; that he wants to replace the existing billboard with a monopole; that the billboard will be 25-foot in height; that the wooden billboards are an eye sore and that he wants to clean up the area.

The Board found that no parties appeared in support of or 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. 7664 – Dale McCalister** – southeast of Route 24, 1,267 feet north of Road 298.

A special use exception to replace two (2) existing billboards.

There was a consensus of the Board to incorporate this Case with Case No. 7663.

Based on the record heard with Case No. 7663, motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted**. Vote carried 5 – 0.

**Case No. 7665 – Edward Upham** – east of Road 312, northwest side of Commanche Circle, Lot 3, within Warwick Park Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Edward Upham was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for a deck; that the deck will measure 9'1"x30'3"; that the deck will be 16-inches in height; that he submitted pictures and a drawing of the deck; that a landing with a concrete pad exists; and that he wants to construct a deck to improve the property.

Michael Palmer was sworn in and testified that he is in opposition to the application; that Mr. Upham was going to gain a higher view of the river; and that if the variance is approved, it will cause problems with the community in the future.

Mr. Mills stated to the applicant that an open and unenclosed deck could encroach 5-foot into the setback and discovered that a variance is not needed.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **denied since a variance was unnecessary**. Vote carried 5 – 0.

**Old Business**

**Case No. 7641 – P & A Co., Inc.** – north of U.S. Route 13, 2,098 feet east of Road 452.

A special use exception for asphalt products or central asphalt mixing or batching.

The Board discussed the case and stated that they do not see any problems with the operation.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted with the following stipulations:**

1. **The business can operate year round.**
2. **Hours of operation shall be from 6:00 A.M. to 6:00 P.M., Monday thru Friday with no Sunday hours.**
3. **The business can operate for a 24-hour period, 20 days annually.**

Vote carried 5 – 0.

**Meeting Adjourned 9:28 P.M.**