

MINUTES OF FERUARY 5, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening February 5, 2001, 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. McCabe, seconded by Mr. Wheatley, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of January 22, 2001 and January 29, 2001 as circulated. Vote carried 5 – 0.

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

Case No. 7358 – Sunshine Lighting – southwest of Route One, southeast of Route 24.

A special use exception for multiple signs.

Mr. Rickard presented the case. Dorothy McHugh and Robert Lewis were sworn in and testified requesting a special use exception for multiple signs and a 20-square foot variance from the required 100-square foot requirement for the right elevation side of the building for a sign; that the size of the signs will be 14.03-square foot for the front elevation side of the building, 12.04-square foot for the rear elevation side of the building, and a 14.1-square foot sign for the right elevation side of the building; and that the height of the exterior wall is 35-foot.

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

Mr. Rickard noted that he received 2 letters in opposition to the application.

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

Case No. 7359 – Glenn M. Gray – northwest of Route 17, 410 feet north of Road 385.

A variance from the northeast side yard setback requirement.

Mr. Rickard presented the case. Glenn M. Gray was sworn in and testified requesting a 4-foot variance from the required 15-foot northeast side yard setback for a

24x36 detached garage; that the garage is already built; that his father-in-law lives next door and is in favor of the application; that the neighbor on the west side of him is also in favor of the application; that the permit states the correct setbacks; and that Carlton Whaley, Contractor, built the garage.

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. 7360 – Mike Purnell – north of Route 404, .9 miles east of U.S. Route 13.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Mike Purnell was sworn in and testified requesting a 5-foot variance from the required 40-foot front yard setback, instead of a 6-foot variance, for a covered porch; that the porch existed with the main dwelling; that the dwelling was 75 years old; that he demolished the existing dwelling and replaced it with a new home in the same footprint.

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 variance be **granted**. Vote carried 5 – 0.

Case No. 7361 – Andrew R. Bellamah – west of Route One, northeast side of Wilson Ave., Lots 111, 112, 113, within Bayview Park Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Mike Milligan, Planning and Zoning Inspector 3, was sworn in and stated that he has been employed with the County for 7 years; that he has been to the site at least 20 times; that the variance that is needed was a mistake made by the County; that a certificate of compliance was issued; that it is an older subdivision; and that a lot of averages and variances have been given in the area.

Mr. Rickard stated that he has also been to the site at least 3 times.

Andrew Bellamah was sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement for a deck and home only; that the home and deck was built a decade ago; that the deck existed when he purchased the

home; that there has been a certificate of compliance issued for the home; that the lot is irregular; that he has had 2 variances granted for a pool and deck on the east side of property; that John Bennix, Seashore Contracting, built the deck; that an attached shed also existed when he purchased the home; that the shed is in violation; that he also needs a 5-foot variance from the required 15-foot corner side yard for the pool, but was under the impression that it was included in the variance that was already granted; that construction of the pool has already started and that the money cannot be refunded; that he submitted pictures to the Board; and that his neighbors on both sides of him are in favor of the application

By a show of hands, 12 parties were in opposition to the application.

John Hendrickson, President of the Home Owner's Association, and Marge Gassinger were sworn in and testified that they are in opposition to the application; that they have no objections to the variance needed for the deck; that they understand that the deck existed when Mr. Bellamah purchased the home; that they have concerns with the setbacks for the pool; that no other variances should be granted for the pool; that there is enough room on the property to place the pool without needing a variance.

Mr. Rickard noted that he received 13 letters in opposition to the application.

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

Case No. Mark Iplenski – east of U.S. Route 113, 2,000 feet south of Road 407, Lot 51.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Mark Iplenski was sworn in and testified requesting a 0.6-foot variance from the required 40-foot front yard setback; that he purchased the home 5 years ago; that he is in the process of the selling home; and that when a survey was completed it was found that the home was in violation.

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

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

Case No. 7363 – Sandra R. Piper-Waters – intersection of Route 213 and Willow Street, within the Town of Ellendale, Lot 331, and 332.

A special use exception to operate a day care facility.

Mr. Rickard presented the case. Sandra R. Piper-Waters was sworn in and testified requesting a special use exception for a day care facility; that this is the second time she has asked for this special use exception; that she had trouble with a contractor and the original case had expired; that the Mayor of Ellendale and 50 other neighbors are in favor of the application; that she has 30 people who have registered their children to attend the day care facility; that she submitted a site plan of the site; that everything is the same as the original case with the exception that she would like to offer evening hours; that the ages of the children will be from 1 years of age on up; that she will meet the required setbacks; and that she has her entrance permit from the town of Ellendale.

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

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

Case No. 7364 – Frederick and Joan Peak – south of Route 26, northwest of Riga Drive, Lot 36, within Ocean View Estates Subdivision.

A variance from the front yard setback requirement for a through lot.

Mr. Rickard presented the case. Frederick and Joan Peak were sworn in and testified requesting a 13-foot variance from the required 30-foot front yard setback requirement for a through lot for a dwelling; that the dwelling is already built; and that the permit stated the incorrect setbacks.

Elaine Krakowski and Frank Lesniczak were sworn in and testified that they are in opposition to the application; and that they have concerns with accessory structures being placed on the property.

Mr. Rickard stated to Ms. Krakowski and Mr. Lesniczak that the applicants could place an accessory structure on their property as long as they could meet the required setbacks.

Mr. Rickard stated that he received 5 letters in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted**. Vote carried 4-0-1, with Mr. Wheatley not voting.

Case No. 7365 – Mary W. Bostic – northwest of Road 362, east of Pine Street, Lot 15 and 16, within Shady Dell Park Subdivision.

A special use exception to connect two manufactured homes to make one unit.

Mr. Rickard presented the case. Mary Bostic was sworn in and testified requesting a special use exception to connect two manufactured homes to make one unit; that the existing home is a 12x46; that the other unit is a 12x60; that the home will be a vacation home; that they will improve the units with matching siding, and an A-roof; that the unit will only have 1 kitchen; and that she submitted pictures of the unit.

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 with the following stipulations:**

1. The manufactured home shall be enclosed with a block foundation or skirting.
2. An A-roof shall be installed.
3. There shall only be one (1) kitchen.
4. The units shall be improved with matching siding.
5. The improvements shall be completed within one (1) year.

Vote carried 4-0-1, with Mr. Wheatley not voting.

Case No. 7366 – Ray Weingartner – south of Route 54, east of Jefferson Avenue, Lot 167, within Edgewater Acres Subdivision.

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

Mr. Rickard presented the case. Ray Weingartner was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback for a front porch and a 3-foot variance from the required 10-foot northwest side yard setback for a deck; that the subdivision has an average setback of 25-foot; that he is in a flood zone; that the home will be on pilings; and that his builder will be applying for the permit if the application is granted.

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

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. Mills, and carried unanimously that the variance be **granted**. Vote carried 4-0-1, with Mr. Wheatley not voting.

OLD BUSINESS

Case No. 7339 – Creekwood Project, L.L.C. - northeast of Route One, ¼ mile north of Road 270-A.

A special use exception from the parking space requirements for multifamily dwellings.

The Board discussed the case.

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

1. That the 282 parking spaces shall serve the 120 units to be developed within the C-1 General Commercial District.
2. That the applicant will need to go to the Planning and Zoning Commission for final site plan approval.

Vote carried 4 -0-1, with Mr. Wheatley not voting.

Case No. 7343 – Gary A. McCoy, Jr. – southwest of Route 24, east of Drexel Court, Lot 66, within Maplewood Subdivision.

A variance from the rear yard setback requirement.

The Board discussed the case. Mr. Rickard stated to the Board that the 20-foot rear yard setback requirement was implemented by the Planning and Zoning Commission because of a buffer zone.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that a 9-foot variance be **granted**. Vote carried 4-0-1, with Mr. Wheatley not voting.

Case No. 7345 – John McNerney – south of Route One, west of Todd Drive, Lot 21, within Bay View Park Subdivision.

A variance from the north side yard setback requirement.

The Board discussed the case and stated that a hardship does not exist; and that there is adequate room on the lot for a home to be constructed.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be denied. Vote carried 4-0-1, with Mr. Wheatley not voting.

Meeting Adjourned 8:40 P.M.