

## MINUTES OF FEBRUARY 25, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening February 25, 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. Hudson, and carried unanimously to approve the Revised Agenda as circulated with the correction to discuss 4 other cases under other business. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of February 11, 2002 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. 7696 – Michael L. Hollingsworth, Sr. and Robert C. Hollingsworth –**  
southeast of Road 641, 75 feet east of Route 113.

A variance from the minimum lot width requirement.

Mr. Rickard presented the case. Michael Hollingsworth was sworn in and testified requesting a 73.05-foot variance from the required 150-foot lot width requirement for Lot 1 and a 57.43-foot variance from the required 150-foot lot width requirement for Lot 2; that 2 dwellings existed when he purchased the property 2 years ago; that the shed on Lot 1 will be moved into compliance; that the shed on Lot 2 is in compliance; that the dwellings are non-conforming; that the dwellings are being remodeled; and that there will be 2 separate driveways.

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

**Case No. 7697 – Donald L. Booth** – east of Route One, east of Lantern Lane, Lot 26, within Colonial East Mobile Home Park.

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

Mr. Rickard presented the case. Donald L. Booth was sworn in and testified requesting a 1.3-foot variance from the required 20-foot separation requirement between units in a mobile home park for a silvertop enclosure on an existing 10'x20' concrete pad.

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. 7698 – Harry and Carol Sykes** – southwest of Route 54, east of Grant Avenue, Lot 52, within Cape Windsor Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Harry Sykes and Tracy Sargent were sworn in and testified requesting a 5-foot variance from the required 20-foot rear yard setback requirement to enclose an existing deck; and that the steps measure 3'x4'.

Mr. Rickard read a letter from Edwin Hampton, Vice President of the Cape Windsor Community Association, 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. Wheatley, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

**Case No. 7699 – Vincent and Barbara Smolinski** – southwest of Route 54, east of Roosevelt Avenue, Lot 20, within Cape Windsor Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Vincent Smolinski was sworn in and testified requesting a 4.7-foot variance from the required 20-foot rear yard setback requirement for a proposed porch; and that he would like his porch to be in conformity with the rest of his home.

Mr. Rickard read 3 letters from David Yates, Elmer Saffell and Hercules Avello in opposition to 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. Wheatley, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

**Case No. 7700 – Barbara and Roger Murray** – north of Road 544, 500 feet west of Route 13A.

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

Mr. Rickard presented the case. Barbara and Roger Murray were sworn in and testified requesting a 9.65-foot variance from the required 15-foot east side yard setback requirement for an attached shed, a 10-foot variance from the required 20-foot rear yard setback requirement for a shed and garage, and a 16.4-foot variance from the required 40-foot front yard setback requirement for an attached shed and garage; that Keith Jefferson, Builder, measured the setback requirements from the middle of the road; that the builder obtained the permit; and that the building is non-conforming.

Mr. Rickard noted to the Board that he pulled the building permit and it stated the correct setback requirements.

Mr. Rickard read 4 letters from Blanche Williams, Faye Bullock, Mr. and Mrs. Meyers and Mary Ann Wood in favor of the application.

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

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

**Case No. 7701 – Virginia Quigley** – west of Road 279, 1,000 feet north of Road 279-A.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Clyde Quigley was sworn in and testified requesting an 8.9-foot variance from the required 40-foot front yard setback requirement for a proposed 24'x32' garage.

The Board found that no parties appeared in support of or 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. 7702 – Donald K. and Mary R. Monigle** – east of Road 267, .5 miles north of entrance to Wolfe Runne Subdivision.

A variance from the minimum lot width requirement.

Mr. Rickard presented the case. Donald K. Monigle was sworn in with Vincent Robinson, Attorney, on behalf of the application, requesting a 100-foot variance from the required 150-foot lot width requirement for Parcel B and a 58.56-foot variance from the required 150-foot lot width requirement for Parcel C; that the parcel is a total of 4 acres; that the parcel is unusually shaped; that he purchased the property in October 2001 with the intention to build a family home; that he has spoken with neighbors and they are in favor of the application, but had concerns that the land was going to be developed; that 1 common driveway has been planned; that the driveway is a horseshoe shaped driveway; that it will not have an adverse affect on neighboring properties; that the proposed dwelling will have a positive value to the area; that it would not alter the character of the neighborhood; that he does not have any plans for subdividing the property; that they showed the Board a survey; and that they submitted a packet containing a summary of the requested variance, and a copy of a tax map.

The Board found that no parties appeared in support of the application.

Mr. Rickard read a letter from Gail and Kei Amemiya in favor of the application.

Edward Fleming was sworn in and testified that he is in opposition to the application; that he submitted pictures; that he has concerns with more than 1 access and wetlands; and that the area experiences a lot of traffic.

In rebuttal, Mr. Monigle stated that the property does not have wetlands, just a 100-year flood line; and that he plans to live on the property for a long time.

Motion by Mr. Mills, 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 by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted with the stipulation to grant the horseshoe driveway, but with only 1 access to both parcels**. Vote carried 5 – 0.

**Case No. 7703 – Carolyn P. Sims** – east of Road 39, west of Green Street, Lot 49, within Joseph D. Short Subdivision.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Carolyn P. Sims and Bruce Austin were sworn in and testified requesting a 2-foot variance from the required 15-foot east side yard setback requirement for a proposed dwelling.

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. 7704 – Reba West** – north of Road 486, corner of Water Street.

A special use exception from the provisions and requirements to place a manufactured home and a variance from the square footage requirement to place a manufactured home.

Mr. Rickard presented the case. Reba West was sworn in and testified requesting a special use exception from the provisions and requirements to place a 28'x80' manufactured home and a 10,890-square foot variance from the square footage requirement to place a manufactured home on a parcel; and that her mother passed away and left her the property.

Mr. Mills stated to the applicant that he has concerns with setting a precedent if the Board were to approve manufactured homes being placed on less than  $\frac{3}{4}$  acres; and that there are other options such as placing a modular or a stick built home on the property.

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

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

**Case No. 7705 – Robert D. Hayden, Jr.** – west of Road 225, 1,923 feet southeast of McCoy Avenue, Lot A.

A variance from the south side yard setback requirement.

Mr. Rickard presented the case. Robert Nash, representing the applicant, was sworn in and testified requesting a 13-foot variance from the required 15-foot south side yard setback requirement for a proposed 30'x50' metal storage building; that it is the only area accessible to place the building due to an existing septic system; that Mr. Hayden purchased the property 2 years ago; that the property was once used for commercial use; that the applicant collects antique cars and needs storage for them; that an existing 1 story block building has been there since the 1950's; and that he submitted a letter from John and Ellen Hall, neighbor, 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. Wheatley, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

**Case No. 7706 – Daniel and Ellen Magee** – north of Road 382, 1,490 feet east of Road 388.

A special use exception to place an off premise sign.

Mr. Rickard presented the case. Ellen Magee was sworn in and testified requesting a special use exception to place an off premise sign; that the sign is 1 sided; that the sign will measure 8'x8'; that the sign is 16-feet in height; that the lot is partially wooded; that the property is zoned C1 General Commercial; that Marvin Long will be placing the sign on her property; that Mr. Long has a business on Route 54 and would like to place the sign to advertise his business; and that they would not be able to meet the front yard setback requirement for a sign.

Mr. Rickard stated to Ellen Magee that if this case were to be approved that she would have to reapply for a variance.

Marvin Long was sworn in and testified that he would like to place the sign on the property so that he could notify summer traffic before approaching his business on Route 54 to where he is located; and that there are no available billboards to rent.

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

Michael John was sworn in and testified that she has concerns with a billboard ever being granted.

Motion by Mr. Mills, 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 by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the special use exception be **tabled until March 4, 2002**. Vote carried 5 – 0.

**Case No. 7707 – Nicola and Josephine Rosato** – south of Route 54, east of Maple Lane, Lot 25, within Keen-Wik Subdivision.

A variance from the north and south side yard setback requirements.

Mr. Rickard presented the case. Nicola Rosato and Dino Iachetta, Builder, were sworn in and testified requesting a 2.9-foot variance from the required 10-foot south side yard setback requirement and a 3.4-foot variance from the required 10-foot north side yard setback requirement for a proposed dwelling; that Mr. Rosato purchased the property a few months ago; that a home existed and was demolished; and that the Homeowner's Association only requires 5-foot setbacks.

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

Mr. Rickard read 2 letters from Anthony Conley and Jane and Gerald Scott in opposition to the application.

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

**Case No. 7708 – Donald W. O'Neal** – west of Route 13-A, 1 mile south of Road 460.

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

Mr. Rickard presented the case and read a letter from Marie C. Wolfgang, M.D. Donald W. O'Neal and Bert Tylor were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis for Mr. O'Neal's mother; that they submitted a drawing; that the size of the unit is 14'x70'; that the unit is a 2000 model; and that they submitted a letter from Lorraine Riggan in favor of the application.

By a show of hands, 2 parties were in favor to 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 special use exception be **granted for a period of 2 years**. Vote carried 5 – 0.

**Case No. 7709 – Dorothy T. Cannon** – west of U.S. Route 13, north of Road 584.

A special use exception to place a manufactured home for storage use.

Mr. Rickard presented the case. Dorothy T. Cannon was sworn in and testified requesting a special use exception to place a manufactured home for storage use; that the unit measures 12'x33'; that the unit is over 10 years old; and that she will be removing the kitchen and the bathroom.

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

**Case No. 7710 – Paul Robino – Robino Palms, LLC** – Route One, south of Road 275-A, Palms of Rehoboth Subdivision.

A variance from the off-street parking space per unit requirement.

Mr. Rickard presented the case. Paul Robino was sworn in with James Fuqua, Jr., Attorney, on behalf of the application, requesting a reduction in the required parking spaces per unit from 3 spaces to 2.45 spaces, instead of 2 spaces; that the reduction will allow for an increase in the open space area; that the property is zoned C1 General Commercial; that the property is a total of 6.5 acres; that 225 parking spaces are required; that they are proposing 184 parking spaces; that there are 27-3 bedroom units and 48-2 bedroom units; that they submitted a copy of the Finding of Facts that the Board granted for Case No. 7650, Paul Robino, dated December 17, 2002 and Case No. 7339, Creekwood Project, LLC, dated February 5, 2001; and that it is a practical difficulty.

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. 7711 – King O. Winstead, Jr.** – north of Road 262, 1,764.3 feet east of Road 291.

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

Mr. Rickard presented the case. King O. Winstead, Jr. was sworn in and testified requesting a 21,728-square foot variance from the minimum 32,670-square foot requirement for 2 parcels; that he was approved for a 90-foot lot width requirement on January 7, 2002; and that the needed variance was found after the Board granted his previous case, Case No. 7658, since his parcel is not in a sewer district.

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

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

#### **OTHER BUSINESS**

- 1.) Mr. Rickard advised the Board that Mr. Stickels has assigned someone to find the Planning and Zoning files in storage concerning the Camelot Mobile Home Park issues.
- 2.) Mr. Rickard advised the Board that a Board of Adjustment meeting has been scheduled for April 8, 2002.
- 3.) Mr. Rickard advised the Board that he has not yet received a survey concerning Case No. 7659, Mary A. Brittingham.
- 4.) Mr. Rickard advised the Board that he has informed Martha Hickman, Case No. 7668, that she must send in a survey so that the Board will know what exact variance is needed for her porch.

**Meeting Adjourned 9:18 P.M.**