

MINUTES OF MARCH 4, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening March 4, 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 1 other case under other business. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of February 25, 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. 7712 – Harley-Davidson of Seaford, DE, Inc. – west of U.S. Route 13, 650 feet east of Elm Street.

A variance from the maximum square footage requirement for a sign.

Mr. Rickard presented the case. C. Brian Bennett and Rick Phillips, with Phillips Sign Co., were sworn in and testified requesting a 65-square foot variance from the required 100-square foot requirement for a wall sign; that they submitted pictures and a drawing; that the store front elevation is 2,566-square foot; that there will be 2 wall signs, which will read and measure, the Harley-Davidson shield logo, 4'x5', and Seaford, DE., 15"x16'; and that 1 wall sign exists, which reads and measures Harley-Davidson, 3'x33'3".

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

Case No. 7713 – Steven Krebs – east of Road 382, 1,000 feet south of Road 372.

A special use exception for a commercial greenhouse.

This case was withdrawn on February 1, 2002.

Case No. 7714 – Ruth Byaesko – south of Road 489, west side of Park Lane, Lot 18, within Colonial Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Glenn Sizemore, Real Estate Agent, was sworn in and testified requesting a 0.7-foot variance from the required 30-foot front yard setback requirement for an 8.9'x19.4' porch; that 20 years ago the applicant moved her manufactured home from New Jersey to Delaware; and that the porch was built 20 years ago.

Mr. Rickard read a letter from Esther Burgess, dated January 28, 2002, in favor of the application.

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

Case No. 7715 – Robert W. and Cheryl L. Nash – south of Abbott Drive, 425 feet west of Road 211, Lot B-21, within Eastman Heights Subdivision.

A variance from the west side yard setback requirement.

Mr. Rickard presented the case. Robert W. Nash was sworn in and testified requesting an 8-foot variance from the required 10-foot west side yard setback requirement for a 26'x28' proposed garage to allow for spare septic area; that his neighbors are in favor of the application; and that the garage will be 5-foot from the spare septic area.

Mr. Rickard read a letter from James Adams, dated February 27, 2002, 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. 7716 – Matthew S. Angle – west of Delaware One south, 2, 000 feet south of Route 9.

A variance from the east side yard setback requirement.

Mr. Rickard presented the case. Matthew S. Angle and William Miller, Jr., Employee, were sworn in and testified requesting a 10-foot variance from the required 20-foot east side yard setback requirement for a 5'x10' single faced ground sign; that they would like to replace an existing 4'x8' ground sign; that they submitted pictures; that the existing sign was placed 5-foot from the front property line; that they would like to put the proposed sign in the same footprint as the existing sign; that the placement of the sign will allow for ingress and egress from the parking area; and that it is a unique shaped lot.

Mr. Rickard read a letter from Charles and Diane Donohue, owners of the Lewes Fish House, 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 variance be **granted**. Vote carried 5 – 0.

Case No. 7717 – Barbara and Jose Morales, Jr. – north of Route One, corner of William F. Street and Fisher Street, Lots 23 and 24, within Dodds Addition Subdivision.

A variance from the front yard, south and north side yards, and rear yard setback requirement.

Mr. Rickard presented the case. Barbara Morales was sworn in with Barbara O'Leary, Attorney, on behalf of the application, requesting a 6.2-foot variance from the required 30-foot front yard setback requirement for an existing porch, and a 0.9-foot variance from the required 10-foot south west side yard setback requirement for a porch, instead of a 1-foot variance; that the 9-foot variance from the required 10-foot rear yard and the 14-foot variance from the required 15-foot east side yard are not needed, since the applicant has decided not to build a garage; that Barbara O'Leary stated that Mr. Lank and Mr. Abbott told her that a variance was not needed for the dwelling since a variance was granted in 1983; that they submitted a picture of the porch; that the shed has been removed; that the porch was built 9 years ago; that a permit was obtained in 1992 for the porch; and that they submitted a packet containing a copy of a letter from Glenn T. Piper, an appraisal report, a supplemental addendum, photographs, a building sketch, a tax map, a location map, a flood map, and a statement of limiting conditions and an appraiser's certification.

By a show of hands, 4 parties appeared in favor of the application.

Mr. Rickard read 7 letters from Ann Reid, Barry and Bernadine Bauer, Marilyn and Stanley Allenby, Leonard Ricci, Richard Taylor, Allan Dever, and Lynda Webster and Mary Waters-Langrell stating concerns with changes happening to the neighborhood.

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

Case No. 7718 – Cornelius Dolan – north of Route One, northwest of William F. Street, Lot 35, within Dodds Addition Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Cornelius Dolan was sworn in and testified requesting a 1.52-foot variance from the required 30-foot front yard setback requirement for an addition; that Mann Associates Surveying, Inc. prepared an average building setback of 21.52-foot; and that a 1,300-square foot cottage exists.

By a show of hands, 4 parties were in favor of the application.

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

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

Case No. 7719 – George H. Lorenz – south of Road 395, south of Sea Gull Road, Lot 40, within Bayview Estates Subdivision.

A variance from the east side yard and front yard setback requirements for an accessory structure.

Mr. Rickard presented the case. Donald Miller was sworn in and testified requesting a 1.8-foot variance from the required 10-foot east side yard setback requirement for an existing dwelling, a 1.1-foot variance from the required 5-foot east side yard setback requirement for an existing 10.3'x12.3' shed, and a 6.5-foot variance from the required 30-foot front yard setback for an existing 10.3'x12.3' shed; that Mr. Lorenz purchased the property in 1988; that he built a home on the property in the early 1990's; that Mr. Lorenz is in the process of selling the property; and that the violations were found when a survey was prepared.

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

Case No. 7720 – Robin Hayden – southeast of Route 24, 50 feet west of Road 284.

A special use exception to operate a day care facility.

No one appeared on behalf of the application.

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

Case No. 7721 – Fellowship Health Resources – south of Road 38, 1,250 feet south of Road 228-A, Lot 2, within M.A. Hearne Subdivision.

A special use exception to operate a convalescent home.

This case was withdrawn on February 7, 2002.

Case No. 7722 – Nancy Gray – south of Road 553, 735 feet west of Road 554, Lot 4, within Oaklawn Estates Subdivision.

A variance from the west side yard setback requirement.

Mr. Rickard presented the case. Nancy Spiker, formerly Nancy Gray, and William Callaway, Contractor, were sworn in and testified requesting a 4.8-foot variance from the required 15-foot west side yard setback requirement for a dwelling, instead of a 4.6-foot variance; that Mr. Callaway measured the setbacks from markers that existed, which were incorrect; and that they had a surveyor come to the property and stake out the property lines.

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. 7723 – Country Rest Home, Inc. – south of Route 16, 700 feet south of Road 588.

A special use exception to operate a convalescent home.

Mr. Rickard presented the case. Mark Yoder, Jr. was sworn in and testified requesting a special use exception to operate a convalescent home; that a house trailer exists on the property; that he would like to replace it with a 4 bedroom home; and that he presently has 20 similar homes in the area.

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 special use exception be **granted**. Vote carried 5 – 0.

Case No. 7724 – Frances E. Kilby – south of Route One, south of Delaware Avenue, Lot L-61, within Sea Air Mobile City Mobile Home park.

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

Mr. Rickard presented the case. Frances E. Kilby was sworn in and testified requesting a 9-foot variance from the required 20-foot between units in a mobile home park for a proposed 13'x58' addition and 10'x20' deck.

Mr. Rickard read a letter from Sea Air Village 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. 7725 – Doris Shenton – south of Route 22, north of Fishermans Road, Lot 93, within White House Beach Mobile Home Park.

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

Mr. Rickard presented the case. Doris Shenton was sworn in and testified requesting an 8.6-foot variance from the required 20-foot between units in a mobile home park for an existing 6'x28' deck and a proposed 8'x16' screen porch.

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. 7726 – Franklin and Pearl Woodall – east of Route One, northeast of Candlelight Lane, Lot 4, within Colonial East Mobile Home Park.

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

Mr. Rickard presented the case. Franklin and Pearl Woodall were sworn in and testified requesting a 5.5-foot variance from the required 20-foot between units in a mobile home park for an existing 8'x10' shed; that a concrete pad existed when they purchased the property on October 24, 2001; that they were unaware of the 20-foot requirement between units; and that they purchased the shed from Pine Ridge Barns in Millsboro, Delaware.

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.

OLD BUSINESS

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.

The Board discussed the case. Mr. Mills stated that if the Board were to approve the sign it would set a precedent.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be **denied, with Mr. McCabe abstaining**. Vote carried 4-0-1.

OTHER BUSINESS

- 1.) Mr. Rickard read a letter from Geraldine Piper, Case No. 7413, requesting a time extension. Mr. Rickard advised the Board that she did not specify in

her letter how much of a time extension she needs. The Board stated to Mr. Rickard that he will need to find out how much of a time extension she needs.

- 2.) Mr. Rickard advised the Board that he is having the Inspectors keeping an update on Board cases that have been denied and the actions that are being taken by the inspectors in their area.

Meeting Adjourned 8:17 P.M.