

## MINUTES OF MARCH 18, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening March 18, 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 with the correction to hear 3 other cases under other business. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of March 4, 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. 7727 – Clear Channel Outdoor** – east of U.S. Route 13, 50 feet north of Road 488, Lots 3, 4 and 5, within James Lowry Subdivision.

A special use exception for an off premise sign and a variance from the maximum square footage and height requirements for signs.

Mr. Rickard presented the case. Elizabeth Cottingham was sworn in with Pam Scott, Attorney, on behalf the application, requesting a special use exception for an off premise sign, a 660-square foot variance from the required 300-maximum square footage requirement for an off premise sign, and a 10-foot height variance from the required 25-foot maximum height requirement for an off premise sign; that the total square footage of the sign is 960-square foot; that they submitted pictures and a drawing; that they would like to maintain an existing 4 faced off premise sign; that the property is zoned C1 General Commercial District; that the sign sets back 25-foot from the front property line; that the sign used to serve the Seaford Show and Sell; that the closet residence is 500-foot away; that the sign has existed since the late 1970's or early 1980's; that they have leased the sign since 1997; that they received a violation notice; that she thought that she could replace the face of a sign as long as she left the poles up; that other off premise signs exist in the area; that Clear Channel Outdoor has been in business for 11 years; that it would be a hardship if the application was denied; that they have met with Mr. Lank, Mr. Rickard and Mr. Berl discussing the regulations of signs; that they have made the sign smaller than what existed; that the sign used to be painted; that they replaced the sign with vinyl wrap; and that the building that exists on the property was used for an office for Seaford Show and Sell.

Mr. Mills advised Ms. Cottingham that the Board has previously explained to her the regulations for signs.

Ms. Cottingham stated to Mr. Mills that she has been told that as long as she did not remove the supporting structures that she was allowed to replace the face of the sign.

Mr. Callaway asked Ms. Cottingham if she has obtained a permit for the sign; and advised her that she needs to contact Mr. Rickard before starting a job and he will tell her if it is permitted.

Ms. Cottingham stated to Mr. Callaway that she was unaware that a permit was needed for replacing the face on a sign.

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 and variances be **tabled until April 1, 2002**. Vote carried 5 – 0.

**Case No. 7728 - Deena and Horace Eskridge, Jr.** - north of Route 18, east of Millstone Drive, Lot 2 and part of Lot 1, within Simpson Subdivision.

A variance from the south side yard setback requirement.

Mr. Rickard presented the case. Deena and Horace Eskridge, Jr. were sworn in and testified requesting a 10-foot variance from the required 15-foot south side yard setback requirement for a 24'x26' attached garage; that they have a narrow lot; that a wooded swamp area is located next to their property; that their septic system is located in the rear of their property; that their lot is wooded; that when they purchased the property the shed existed; and that the shed has been there since the 1950's.

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 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 variance be **tabled until April 1, 2002 so that Mr. Mills can go look at the site.** Vote carried 5 – 0.

**Case No. 7729 – Calvin and Delores Price** – southeast of Road 213, 830 feet north of Route 16, Lot 4 and part of Lot 5.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Calvin and Delores Price were sworn in and testified requesting a 10.8-foot variance from the required 30-foot front yard setback requirement for an addition; that their dwelling has been there since the 1950's; that they have combined both of their lots into 1 lot; that their septic system is located in the rear of the property; and that they need more space because they have 18 grandchildren.

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. 7730 – Jed James** – west of Road 477, 50 feet north of Road 476, Lot 1.

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

Mr. Rickard presented the case and read a letter from Guillermo M. Bernal, M.D. Jed James was sworn in and testified requesting a special use exception to place a 1962 doublewide on a medical hardship basis for his grandmother; that the unit has been well maintained; that he submitted pictures; and that it would not decrease the property values in the area.

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

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

**Case No. 7731 – Georgetown Charter School** – south of Route 9, 1,000 feet east of Road 28.

A special use exception to use a manufactured home type structure as classrooms.

Mr. Rickard presented the case and read a letter, dated March 18, 2002, from the applicant, requesting to withdraw the case.

Mr. Mills noted that the case should be denied since the applicant did not give a 48-hour notice to withdraw the case.

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

**Case No. 7732 – Charles H. Savage, Sr.** – south of Road 46, across from Road 529.

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

Mr. Rickard presented the case. Charles Savage, Sr. and Joyce Stell were sworn in and testified requesting a special use exception to use a manufactured home as storage; that the unit was given to him; that he is not sure what the age of the unit is; that he stores farm and garden supplies in the unit; that the unit does not have electric; and that there is no kitchen in the unit.

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. 7733 – Keith Monigle** – southwest of Route One, north side of Rogers Avenue, Lot 27, within Ann Acres Subdivision.

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

Mr. Rickard presented the case. Keith Monigle and Kerry Monigle, Real Estate Agent, were sworn with Vincent Roberts, Attorney, on behalf the application, requesting a 21.7-foot variance from the required 30-foot front yard setback requirement, a 7.3-foot variance from the required 10-foot southwest side yard setback requirement, and a 6.7-foot variance from the required 10-foot northeast side yard setback requirement for a proposed dwelling; that they submitted a packet summarizing the requested variances; that they submitted a letter from Joanne Burton, dated March 14, 2002, in favor of the application and a proposed landscape plan; that they showed the Board a survey; that the structures in the area are in various sizes and ages; that there are 27 lots in Ann Acres; that 19 of the lots have setback violations; that they have a contract to purchase Lots 24, 36 and 27; that the 3 lots are currently occupied by a 2 story dwelling, garage and pool; that the dwelling is currently in violation; that they are proposing to move the dwelling, garage and pool onto Lot 27, which will create 2 Lots that would comply in all respects

with the setback requirements; that it would not affect neighboring property values; that it would not have a significant impact to the area; that it is an odd shaped lot; and that the Board has granted similar variances in the area.

Raymond Smethurst, Jr. was sworn in and testified that he is in favor of the application; that he has owned Lot 29 since 1957; and that the application would enhance the area.

Benjamin Roy was sworn in and testified that he is in favor of the application; that it would be an asset to the neighborhood; and that it would not change the character of the neighborhood.

Mr. Rickard read a letter from Valentine Fetisoff in opposition to the application.

Frances Eurriden was sworn in and testified that she is in opposition to the application; that she has concerns with the application causing traffic and parking problems to the area.

William Fall was sworn in and testified that he is in opposition to the application; that he submitted a picture; that it is an odd shaped lot; that it would not improve the property; and that the home should be left as it is.

Roger Buffington was sworn in and testified that he is in opposition to the application; that he lives across the street; that he bought his property a few years ago; that it would ruin the neighborhood; and that it would create traffic problems.

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. McCabe, and carried unanimously that the variances be **granted since it is a minimal request; that it is an odd shaped lot; and that it would create less encroachments.** Vote carried 5 – 0.

**Case No. 7734 – Bennett M. and Linda S. Blaskey** – southeast of Road 42, 2000 feet northeast of Road 624.

A variance from the northerly and southerly side yard setback requirements for a dog kennel.

Mr. Rickard presented the case. Bennett M. and Linda S. Blaskey were sworn in with Jim Griffin, Attorney, on behalf of the application, requesting a 75-foot variance

from the required 200-foot northerly and southerly side yard setback requirement for a dog kennel; that they will have 10 dogs; that they currently have a contract to purchase the property; that they plan to build a home; that Linda's sister will be moving in with them; that her sister has 10 dogs; that her sister lived with her mother in New Castle County until her mother passed away; that her sister is not able to live on her own and that she does not want to part with her dogs; that they are currently living in Lewes and are in the process of selling their home; that the dogs would not create a noise problem; that they have no plans of increasing the number of dogs; that their adjacent neighbors are in favor of the application; that they submitted pictures of the dogs; and that it would not change the character of the neighborhood.

Richard Bailey was sworn in and testified that he lives across the street; and that he has concerns with them replacing the dogs.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted for a period of 5 years with the stipulation that they need to supply Planning and Zoning with license's of the 10 dogs; and that if the situation still exists after the 5 year period they can reapply for another variance.**

Vote carried 5 – 0.

**Case No. 7735 – Wallace W. and Joan W. Hart** – north of Route 18, 2,450 feet west of Road 546.

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

Mr. Rickard presented the case. Wallace W. and Joan W. Hart were sworn in and testified requesting a 15-foot variance from the required 20-foot rear yard setback requirement and a 10-foot variance from the required 15-foot east side yard setback requirement for a 24'x24' storage building with an 8-foot overhang; that they submitted a picture; that the structure will enhance the area; and that a 12'x8' storage building exists.

By a show of hands, 1 party appeared 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. 7736 – Beach Partners LLC** – west of Route One, 120 feet north of Best Lane.

A special use exception for an extension to an existing child care center.

Mr. Rickard presented the case. Deborah Toner was sworn in and testified requesting a special use exception for an extension to an existing child care center; that she wants to add an additional 600-square feet of area; that she wants to have 38 more children; that she wants to change the hours from Monday thru Friday, 6:30 A.M. to 6:00 P.M.; and that the ages of children will range from infant to 12-years old.

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. 7737 – Jerald and Martha Carr** – south of Road 454, 1,550 feet south of Road 457.

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

Mr. Rickard presented the case. Jerald and Martha Carr were sworn in and testified requesting a special use exception to retain a 12'x60' manufactured home and a 12'x49' addition that used to be attached to a manufactured home for storage use; that they received a violation notice from Donna Mowbray, Planning and Zoning Inspector; that they were not aware that they needed to have a hearing to retain a unit as storage; and that the units do not have running water, a kitchen or a bathroom.

Thomas Carr was sworn in and testified that he is in opposition to the application; that he submitted pictures; that the property looks like a junk yard; that 3 units exist not 2 units; and that he has problems with noise coming from the applicant's son playing drums in 1 of the units.

Richard Carr was sworn in and testified that he is in opposition to the application; and that he has concerns with someone living in the units and with electric cords running to the units for electric.

In rebuttal, Jerald Carr stated that he is in the process of cleaning up the property.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **tabled until April 1, 2002**. Vote carried 5 – 0.

**Case No. 7738 – Charles Dale Lingo, IV** – north of Road 338, 1,530 feet west of Road 82.

A variance from the rear yard and side yard setback requirement.

Mr. Rickard presented the case. Charles Dale Lingo, IV was sworn in and testified requesting a 10-foot variance from the required 20-foot rear yard setback requirement and a 5.4-foot variance from the required 15-foot side yard setback requirement for a 30'x32' pole building; that Mr. Oliphant, Contractor, obtained the permit; that a dwelling and a 10'x20' shed exists on his property; and that he was unaware of the setback requirements.

Mr. Rickard read a letter from Mr. Collins, dated March 17, 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. McCabe, and carried unanimously that the variances be **granted and that Mr. Berl write a letter to Mr. Oliphant, Contractor, in reference to the violation.** Vote carried 5 – 0.

**Case No. 7739 – Albert and Janice Powell** – west of Road 201, Sandy Drive, Lot 14, within Sandy Beach Subdivision.

A variance from the rear yard setback requirements.

Mr. Rickard presented the case. Steven Buck was sworn in and testified requesting a 4.6-foot variance from the required 20-foot rear yard setback requirement for a proposed attached garage and yard storage area.

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. 7740 – Lena English** – west of Route 24, south of Route 5, Lots 1, 4, 5, 6, 16, 17, 19, and 21, within Timber Acres Mobile Home Park.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Lena English was sworn in and testified requesting to retain existing sheds that are partially in the buffer zones; that she submitted a plot plan; that some of the sheds have existed since 1982; and that some permits have been obtained for the sheds.

By a show of hands, 3 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. Wheatley, 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. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **tabled until April 1, 2002**. Vote carried 5 – 0.

**Case No. 7741 – John and Donna Bailey** – north of Road 318, 50 feet west of Road 321, Lot 41A.

A variance from the minimum square footage requirement to place a multisectioal manufactured home.

Mr. Rickard presented the case. John and Donna Bailey were sworn in and testified requesting a 12,670-square foot variance from the required 32,670-square foot requirement for a parcel to place a multisectioal manufactured home; that it will not impact the character of the neighborhood; and that they will be installing a septic system.

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

The Board found that no parties appeared in support or of 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. 7742 – Steven Krebs** – northeast of Road 382, 1,100 feet northwest of Road 384.

A special use exception for commercial greenhouses.

Mr. Rickard presented the case. Steven Krebs and Patricia Meyers were sworn in with Allan Davis, Attorney, on behalf of the application, requesting a special use exception for commercial greenhouses; that they submitted pictures; that Mr. Krebs currently has a 3-year lease agreement for approximately 2 ½ acres of land from Patricia Meyers; that Mr. Krebs has been in the landscaping business for 7 ½ years; that 60% of the property will be used for storage and that 40% of the property will be used for retail;

that they submitted the lease agreement; that he plans to erect a 30'x40' pole building and two 20'x28' greenhouses; and that the community is in support of the application.

Mr. Rickard noted to the Board that Planning and Zoning received 32 letters in favor of the application.

By a show of hands, 3 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. Wheatley, and carried unanimously that the special use exception be **granted**. Vote carried 5 – 0.

#### **OTHER BUSINESS**

**Case No. 7413 – Geraldine Piper** – west of Road 509, 1,850 feet north of Road 508.

#### **REQUEST FOR A TIME EXTENSION.**

Mr. Rickard advised the Board that he received a letter from the applicant requesting an 8 month time extension.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that a **1 year time extension be granted with the stipulation that this is the last time extension that the Board will grant**. 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 advised the Board that he has received a survey from the applicant and that she is requesting a 51.56-foot variance from the required 150-foot lot width requirement for Lot 1, a 75-foot variance from the required 150-foot lot width requirement for Lot 2, a 22,352-square foot variance from the required 32,670-square foot requirement for Lot 1, and a 21,420-square foot variance from the required 32,670-square foot requirement for Lot 2.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted with the stipulation that, in the future, the Board will not**

**consider any variances for any encroachments and that the home must be removed within 6 months.** Vote carried 5 – 0.

Mr. Rickard advised the Board that he received a letter from John Sergovic, Attorney, referencing Case No. 7641, P & A Co., Inc., stating that they requested to have Saturday hours; and that the Finding of Facts did not indicate their request.

The Board members advised Mr. Rickard that he should listen to the Board of Adjustment tape to see if that was what they requested.

**Meeting Adjourned 10:20 P.M.**