

## MINUTES OF MARCH 19, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening March 29, 2001, at 7:00P.M., in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00P.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. Oates – Planning and Zoning Inspector, and Ms. Jackson – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, 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 approved the Minutes of March 12, 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. 7388 – William M. and Betty Jane Towers – southwest of Route 20, 90 feet southeast of Road 485, Lot 4.

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

Mr. Oates presented the case. William Towers and George Hassett were sworn in and testified requesting a 40-foot variance from the required 40-foot front yard setback and a 5-foot variance from the required 10-foot east side yard setback; that originally the parcel were two (2) lots and that they are subdividing the parcel into two (2) parcels; that the dwelling on Lot 3 is non-conforming; that they turned the produce stand into an apartment in October 2000; that twelve (12) to fourteen (14) years ago the original owner, Mr. Hall used the produce stand as a dwelling; that they remodeled the produce stand with new siding, windows and doors; that an addition to the rear and middle of the building was added on by someone else; and that they submitted documents that included:

1. A letter from Donna Mowbray, Zoning Inspector III.
2. A copy of his parcel.
3. A copy of his deed.
4. A copy of a building permit.

Mr. Oates submitted pictures of the site and read a letter in opposition to the application from Bernice Trice.

By a show of hands, 3 parties were in opposition to the application.

Linda Breeding was sworn in and testified that she is in opposition to the application; that she has lived on the east side property of the applicant for 8 years; that she was told that the unit was going to be a gift shop; that an addition was constructed at the end of 2000; and that someone was living in the unit before Christmas.

June Faye was sworn in and testified that she is in opposition to the application; that she has lived in the area for 3 years; that she owns 5 acres; that an addition was constructed in the rear of the building; and that she heard the unit was going to be a vacuum repair shop.

Bernice Trice was sworn in and testified that she is in opposition to the application; that she has lived in the area for 26 years; that the unit was a fish market and then turned into an apartment; that an addition was constructed in the rear of the building; and that the unit is too close to the road.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variances be **tabled until further information is found about a permit being properly applied for, the correct variance needed for setback requirements, and if a variance is needed for the lot width requirement for subdividing the parcel.**  
Vote carried 5 – 0.

Case No. 7389 – David and Colleen Wilgus – south of Road 357-A, 300 feet west of Road 357, Irwin E. Steele Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. David Wilgus was sworn in and testified requesting a 3-foot variance from the required 40-foot front yard setback requirement for a dwelling; that he has lived on the property for 5 years; that he removed the original home and is building a new home; that the original home was closer to the road than the proposed home; that he is proposing to build a 4000-square foot home; that his entrance is from Road 357-A; that his septic field will be in the rear of the property; and that he submitted pictures and a copy of the site plan to the Board.

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. 7390 – Desiree A. Barreca – west of Road 362, south of Alabama Drive, Lot 7, Block 7, within Plantation Park Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Desiree Barreca was sworn in and testified requesting a 0.6-foot variance from the required 30-foot front yard setback, instead of a 1-foot variance; that Luv Homes obtained the building permit; that the unit was placed in December 2000; and that Mike Milligan, Planning and Zoning Inspector, stated to her that other units in the area are closer to the road than her unit.

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

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

Case No. 7391 – Delapo Custom Homes, Inc. – northwest of Road 265, southwest of Mills Ridge Road, Lot 31, within Mallard Point Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. David Weidman was sworn in and testified requesting a 0.9-foot variance from the required 20-foot rear yard setback requirement for a dwelling, instead of a 10-inch variance; that the violation was found when a final survey was completed; and that the neighbors are in favor of 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 variance be **granted**. Vote carried 5 – 0.

Case No. 7392 – Otto M. Mumford, Jr. and Margie Mumford – south of Road 386, west of Roosevelt Avenue, Lot 29, within Branch Acres Subdivision.

A special use exception to connect two (2) manufactured homes to make one (1) unit.

Mr. Oates presented the case. Otto and Margie Mumford were sworn in and testified requesting a special use exception to connect two (2) manufactured homes to make one (1) unit; that they have updated their existing home with an A-roof; that the new unit will be placed on front of the existing home; that they will improve the units with matching siding, an A-Roof, block foundation and will only have one (1) kitchen.

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.
2. An A-Roof shall be installed.
3. There shall be only one (1) kitchen.
4. The units shall be improved with matching siding.
5. The improvements shall be completed within one (1) year.

Vote carried 5 – 0.

Case No. 7393 – J. Dallas Winslow, Jr. – south of Swedes Street, 68 feet east of Dodd Avenue, Lot H-6, within Seabreeze Subdivision.

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

Mr. Oates presented the case. J. Dallas Winslow, Jr. and Randall Miller were sworn in and testified requesting a 0.6-foot variance from the required 10-foot west side yard setback for a dwelling, instead of a 0.5-foot variance, and a 1.5-foot variance from the required 30-foot front yard setback requirement for a dwelling, instead of a 1.2-foot variance; that the dwelling has been there for 30 years or more; that Mr. Winslow, Jr., owned the home for 15 years; that the previous owners owned the home since the 1960's; that Mr. Winslow sold the home to Randall Miller; and that if the variances are not granted it would create a hardship.

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. 7394 – Neolkis and Julie Ann Kypreos – west of Road 361, (Kent Avenue) 140 feet south of Walston Walk Court.

A variance from the front yard height requirement for a fence.

Mr. Oates presented the case. Tom Ford, Land Design Co., was sworn in and testified requesting a 3.5-foot variance from the required 3.5-foot allowed height of a fence within the front yard setback; that he is a landscape architect; that he submitted pictures of the area; that the area has a lot of activity; that Townhouses are constructed at the rear of the property; that a 6 to 7-foot wall is proposed; that the applicants have 2

children and 2 dogs; that the applicants want to maintain the woodland character of the area; that the wall will have column; that he proposes the column to be 10-foot in height; and that the column is there to give a sense of entrance.

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 variance be **granted with a 3.5-foot variance from the allowed height of a fence within the front yard setback and a 6.5-foot variance for one (1) column only.** Vote carried 5 – 0.

Case No. 7395 – Consolidated Properties, LLC – west of Route 54, west of Keen-Wik Road, Lot 4, within Keen-Wik Subdivision.

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

Mr. Oates presented the case. Anthony DiSabatino was sworn in with Ray Tomasetti, Attorney, present on behalf of the applicant requesting a 5-foot variance from the required 30-foot front yard setback requirement, and a 5-foot variance from the required 10-foot side yard setback requirement for a dwelling.

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

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

Judy Furlow, President of the Homeowner's Association, and Bill Wolf were sworn in and testified that they are in opposition to the application; that the applicant did not submit his building plans to the Keen-Wik Association; that the Association was not aware of the owners submission of their plans to the County until after the notice of the hearing was posted on the property; that the following week they received the plans; and that they are asking the Board not to grant the requested variances.

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

Case No. 7396 – Laurel Little League – northeast of Road 78, 800 feet west of U.S. Route 13-A.

A variance from the square footage requirement for signs.

Mr. Oates presented the case. Rusty Dukes and Kevin Tingle were sworn in and testified requesting a 108-square foot variance from the required 32-square foot for a sign in a AR-1 Agriculture Residential District, instead of a 28-square foot variance; that the purpose of the sign is to notify the parents of any upcoming events and schedules and for proper identification of the park; that the sign is similar to the sign at the Millsboro Little League Park; that the sign will be 50-foot from the front property line; that the sign will be lighted with a timer; that the size of the sign will be 6'x10' and 3'x3'; and that the sign will be two (2) sided.

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

Case No. 7397 – O.A. Newton – south of Road 584, corner west of U.S. Route 13.

A special use exception to place a temporary office building.

Mr. Oates presented the case. Robert Clendaniel, Architect, and Orville Hammond were sworn in and testified requesting a special use exception to place a temporary office building; that the temporary office will accommodate their current personnel while their existing office space is being renovated; that the temporary office will be placed in June 2001; that 15 to 17 people will be housed in the unit; that funding will be necessary for the project; that the size of the unit will be 33.5'x96'; that they will be buying the unit instead of renting it , and that when the project is completed the unit will be sold.

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 for a period of 5 years with Mr. Mills not voting**. Vote carried 4 – 0 – 1.

Case No. 7398 – Franklin J. Timmons – south of Road 336, 1,400 feet east of Road 335-A.

A variance from the square footage requirement for a parcel.

Mr. Oates presented the case. Franklin J. Timmons was sworn in and testified requesting a 3,373-square foot variance from the minimum lot size of 32,670-square foot; that he submitted pictures to the Board; that he is buying 1.4 acres of land from his Cousin, Raymond Timmons, because he is unable to take care of it anymore; and that he wants to keep the land in the family.

Mr. Oates read a letter in favor of the application from Bake Timmons, Jr.

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

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

Case No. 7399 – Richard H. Hatton – southeast of Canal Court, corner south of Bayview Drive, within Rogers Haven Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Richard Hatton was sworn in and testified requesting a 15-foot variance from the required 30-foot front yard setback for a deck and stairs; that he has owned the property for 23 years; that the roads are improperly identified; that he had to place his home on pilings; and that he has an access but would like a second access for safety reasons.

Donald Galbraith was sworn in and testified that he would like verification of to which road is actually Mr. Hattons front before he opposes the application; and that he submitted a survey to the Board.

Richard Haas was sworn in and stated that he is in opposition to the application; that the deck would be an invasion of his property; and that the home is out of context with the rest of the community.

Mr. Oates read a letter from Gary and Ann Scott in opposition to the application.

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. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **tabled until April 2, 2001**. Vote carried 5 – 0.

Case No. 7400 – Stephanie E. and Ralph G. Redden, Jr. – southeast of Road 82, 2,200 feet east of Road 408, Lot 9.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Stephanie and Ralph Redden, Jr. were sworn in and testified requesting a 1.4-foot variance from the required 40-foot front yard setback requirement for a dwelling; and that the building permit stated the incorrect setback requirement.

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

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted because it was no fault of the applicant**. Vote carried 5 – 0.

Case No. 7401 – Christine Figurell and Darlene Gilbert – south of Road 277, north of Poplar Drive, Lot 70, within Angola By The Bay Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Christine Figurell was sworn in and testified requesting a 9-foot variance from the required 20-foot yard setback for a deck and dwelling, instead of an 11-foot variance; that the septic has to be placed on the front of the property; that the septic restricts the size of the home she wants to build; that the dwelling will be a permanent residence; that she submitted a copy of her house plans to the Board; and that she sent a letter to the Homeowner's Association.

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

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

#### **OLD BUSINESS**

Case No. 7377 – Ralph and Elaine Gilgenast – west of Route 54, west of Oyster Bay Lane, Lot 142, within Keenwick West Subdivision.

A variance from the front yard setback requirement.

The Board discussed the case. Mr. Callaway, Mr. McCabe and Mr. Hudson stated that they personally visited the site and stated that the cul-de-sac is the problem.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted because it does no affect any adjoining property owners.** Vote carried 5 – 0.

Case No. 7381 – John C. Jones – north of U.S. Route 13, 800 feet northeast of Oak Lane Drive.

A variance from the southeast side yard setback requirement.

The Board discussed the case. Mr. Mills stated that he visited the site and that the septic is located in the rear yard and would be in the way.

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

Case No. 7386 – David Robinson, MD – west of Route One, 1,050 feet north of Road 283.

A variance for an additional on premise sign.

The Board discussed the case. Mr. Callaway and Mr. Mills stated that they visited the site.

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

Case No. 7387 – Edward Richard and Patricia L. Luthardt – northeast of Road 391, west of Swann Drive, Lot 13, within Swann Keys Subdivision.

A variance from the southwest side yard setback requirement.

The Board discussed the case.

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

Meeting Adjourned 9:28 P.M.