

MINUTES OF APRIL 1, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening April 1, 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 with the correction to hear Case No. 7369, Royal Builders, under other business. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of March 18, 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. 7743 – Nadia Warhola – south of Route 22, north of Nob Hill, Lot 12, within Pot Nets Seaside Mobile Home Park.

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

Mr. Rickard presented the case. Franklin Moyer and William Mears, Builder, were sworn in and testified requesting a 7-foot variance from the required 20-foot separation requirement between units in a mobile home park for a 12'x12' shed; that they had to cut down various trees; that they did not take the 20-foot separation requirement into consideration; that they wanted to build the shed as close to the home without attaching it; that they have plans to build an addition to the home; that they submitted pictures; and that they received a violation notice from Dawn Heffelfinger, Planning and Zoning Inspector.

Mr. Rickard advised the Board that he pulled the permit and that the permit was issued on October 11, 2001 and stated the correct setback requirements.

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. 7744 – Kathy Lynn Bradley – south of Road 485, Lot 3.

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

Mr. Rickard presented the case. George Hassett was sworn in and testified requesting a special use exception to retain a manufactured home as a storage facility; that it is a 3 acre parcel; that there are other trailers in the area used for storage purposes; that he submitted pictures; that a double wide existed when Ms. Bradley purchased the property; and that the previous owner was approved by the Board to place the unit.

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

Mr. Rickard read a letter from Arthur Shepherd 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. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be **tabled until April 15, 2002**. Vote carried 5 – 0.

Case No. 7745 – Walter and Kathy Nichols – north of Route 9, corner of Hunters Mill Road and Circle Drive, Lot 132, within Hunters Mill Estates Subdivision.

A variance from the west side yard setback requirement.

Mr. Rickard presented the case. Walter and Kathy Nichols were sworn in and testified requesting a 5-foot variance from the required 15-foot west side yard setback requirement for an existing deck; that the deck encroaches 5-foot into the setback; that they purchased the property in 1992; that they had a 2,000-square foot addition and a 36'x48' garage built onto the home; that they had problems with their contractor, JW Travis, Inc.; that they have hired another contractor, P's Construction, to finish the job; that they are under contract to purchase the lot next door to them; that they plan to combine both lots into 1 lot; that Mr. Nichols obtained the permit; and that they submitted the sales agreement to purchase the lot.

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

Claire Watkins and Jim Cranwell were sworn in and testified that they are in opposition to the application; that they represent the Board of Governors for Hunters Mill

Estates; that the improvement is in violation of the covenants; that combining lots are not permitted in the subdivision; and that they did not submit the deck plans to the Association for review or approval.

Motion by Mr. Wheatley, 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 variance be **granted since it is an open deck and since they are purchasing the property next to them.** Vote carried 5 – 0.

Case No. 7746 – Patrick and Mary Gede – south of Route 5, southwest of Road 297, Lot 66, within Oak Meadows Subdivision.

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

Mr. Rickard presented the case. Patrick and Mary Gede were sworn in and testified requesting a 4-inch variance from the required 10-foot west side yard setback requirement and a 3-inch variance from the 10-foot east side yard setback requirement for a doublewide; that they replaced an existing home with a new home; that they purchased the unit from Capital Homes in Dover; that Capital Homes placed the home on their property; that they submitted pictures; that they have had their lot surveyed twice; that Ms. Gede obtained the permit; that they staked out the property for the placement of where the home; and that they went by the tax map, provided by the County, for the dimensions of their property.

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

Charlotte Whatley was sworn in and testified that she is in opposition to the application; and that she disagrees with the applicant's survey.

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

Case No. 7747 – William J. and Kathleen Creighton – west of Route One, west of Todd Drive, Lot 15, within Bayview Park Subdivision.

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

Mr. Rickard presented the case. William J. and Kathleen Creighton were sworn in with Susan Weidman, Attorney, on behalf of the application, requesting a 3.3-foot variance from the required 30-foot front yard setback requirement, a 4.7-foot variance from the required 10-foot south side yard setback requirement, and a 2.5-foot variance from the required 10-foot north side yard setback requirement for an existing dwelling, and a 5-foot variance from the required 10-foot rear yard setback requirement for an open deck, instead of a 4-foot variance; that the shed that was in violation has been removed; that they purchased the property on December 7, 2001; that the previous owner built the home in 1973; that their neighbors are in favor of the application; that the president of the Homeowner's Association lives next door to them; that it would not change the character of the neighborhood; that it would not affect neighboring properties; and that it would not decrease property values.

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. 7748 – Roy J. Evans & Co., Inc. – northeast of Route 54, north of Breakwater Run, Lot 142, within Keenwick Sound Phase II Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Roy J. Evans was sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement for a through lot; that he would like to build a 10'x16' sunroom and a 10'x15' sundeck; and that the Homeowner's Association is in favor of the application.

Mr. Rickard read a letter from Sandra Shaff 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. Mills, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 7749 – Robert Reed – south of Road 419, 50 feet east of Bank Pocomoke Parkway, Lot 6.

A special use exception for a farm pond on less than five (5) acres.

Mr. Rickard presented the case. Eva Reed was sworn in and testified requesting a special use exception for a farm pond on less than five (5) acres; that they purchased the property 3 years ago; that their home sits at the bottom of a hill; that when it rains their property floods; that they have spent \$5,000 to correct the problem; that they have had fill dirt brought to their property; that DNREC suggested that a farm pond may correct the problem; that they plan to fence in the pond and to keep the pond aerated; that the pond is their last resort to keep their property from flooding; and that the pond would be located on the front left side of their property.

Elizabeth Lani and Bob Davis were sworn in and testified that they are in opposition to the application; that they submitted a petition with 42 signatures in opposition to the application; that they live next door; that they have concerns with the pond causing water damage to their property; that the pond will cause a problem with mosquitoes; and that they have concerns with the safety of children.

Brian Clowser was sworn in and testified that he is in opposition to the application; that he lives next door; that his home sits on a hill; that his property sits 10-foot higher than the applicant's property; that the applicant's property does flood after a long rain, but does not sit on their property very long; that he thinks that there is another solution instead of a pond; and that he has concerns with the safety of children.

Mr. Berl asked Eva Reed if she looked at the property before purchasing it.

Eva Reed stated to Mr. Berl that when she purchased the property it was a wooded lot; that she did not realize that it was a low lot; and that if it was her rear yard that flooded she would not care, and she does not like her front yard being flooded with water.

James Lynn was sworn in and testified that he is in opposition to the application; that he lives across the street; that he would be in favor of the pond if it were to be in the rear of the applicant's property; that he has concerns with mosquitoes and the safety of children.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **tabled until April 15, 2002**. Vote carried 5 – 0.

Case No. 7750 – Randy D. Wilson – northeast corner of Route 36 and Road 224, south of Road 629, Lots 3-2, 3-3, and 3-9, within James P. Mayhew Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Randy and Bonnie Wilson were sworn in and testified requesting a 32.2-foot variance from the required 40-foot front yard setback requirement for a through lot for an existing garage foundation; that it does not obstruct anyone's views; that they have combined 2 parcels into 1 lot; that the parcel was not originally a through lot until they combined the lots; that Bonnie obtained the permit; and that they built the foundation themselves.

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. 7751 – Gary and Margot A. Lawrik – east of Bay Shore Drive, 0.68 miles south of Route 16, Lot 7-A, within Broadkill Beach Subdivision.

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

Mr. Rickard presented the case. Gary and Margot A. Lawrik were sworn in and testified requesting a 1.3-foot variance from the required 10-foot side yard setback requirement, a 1.8-foot variance from the required 10-foot side yard setback requirement, and a 18.7-foot variance from the required 30-foot front yard setback requirement for a dwelling; that they purchased the home 4 years ago; that the home was built in 1961; and that they plan to remodel the dwelling and add a 2nd floor addition.

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

Case No. 7752 – David and Patricia Butcher – northwest of Road 524, south of Road 516, Lot 6, within Hill Farms Subdivision.

A variance from the minimum lot width requirement; a special use exception from the provisions and requirements to retain a manufactured home on a parcel; a special use exception from the maximum manufactured home age requirement.

Mr. Rickard presented the case. Patricia Butcher was sworn in and testified requesting a 98.65-foot variance from the required 150-foot lot width requirement for a

parcel, and a special use exception from the maximum age requirement for a 1973 doublewide; that the special use exception to retain a manufactured home on a parcel is not needed since she is subdividing the parcel; that her manufactured home burned down 1 year ago; that she will be building a stick built home; that the manufactured home that exists was placed as a medical hardship on December 6, 1999 for her mother; that the medical hardship still exists; that she submitted 8 signatures in favor of the application; and that a driveway will be shared.

Mr. Rickard read a letter from Louise Radja 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. Wheatley, and carried unanimously that the variance and special use exception be **granted**. Vote carried 5 – 0.

Case No. 7753 – Troy D. Yeager – north of Road 312, east of Nanticoke Avenue, Lot 158, within Riverdale Park Subdivision.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Troy Yeager, Vicky McMullen and Kenneth Clark, Sr., park owner, were sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement for a 28'x52' manufactured home; that the unit is a 2002 model; that their existing unit was destroyed by a fire in October 2001; that they placed the unit in the same footprint as the existing unit; that they purchased the property in 1997; and that their neighbors are in favor of the application.

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.

Case No. 7754 – John and Dorothy Weist – north of Road 557, 3,930 feet west of Route 30.

A special use exception to operate a commercial greenhouse on less than five (5) acres.

Mr. Rickard presented the case. John Weist was sworn in and testified requesting a special use exception to operate a commercial greenhouse on less than five (5) acres; that he submitted a picture; and that he will be selling garden plants.

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 be **granted**. Vote carried 5 – 0.

Case No. 7755 – Mary Updegrove – west of Road 440, 875 feet north of Road 441, Lot 1, within Timberwoods Estates Subdivision.

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

Mr. Rickard presented the case and read a letter from Dr. Sharman, M.D. Carl Walker, Jr. was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis for Mary Updegrove's son, William Updegrove; that the unit measures 12'x60'; and that they have approval from DNREC.

Mr. Rickard noted to the Board that he had received some telephone calls with concerns; that he sent a Planning and Zoning Inspector to the property; and that the problems that exist do not concern this case.

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 for a period of 2 years**. Vote carried 5 – 0.

Case No. 7756 – State of Delaware, Division of Motor Vehicles – east of Road 431, east of Route 113.

A special use exception to place a manufactured home for use as an office.

Mr. Rickard presented the case. Philip Bale, Sr. was sworn in and testified requesting a 5 year time extension for a 24'x64' manufactured home for use as an office; that the purpose of the unit is to solve the problem of over crowding in the main building; that the State is in the process of going through the land use permits; that the State has told him that the project should start in 2 years; and that he submitted a schematic design report for the proposed Georgetown facility for the Division of Motor Vehicles.

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 special use exception be **granted for a period of 5 years**. Vote carried 5 – 0.

Case No. 7757 – George and Louise Reha – east of Road 533, 2,850 feet north of Road 531.

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

Mr. Rickard presented the case and read a letter from Theresa P. Little, M.D. George and Louise Reha was sworn in and testified requesting a special use exception to place a 28'x60' manufactured home on a medical hardship basis; that the property is a 6 acre parcel; and that they need to move closer to their son so that he can care for them.

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

John Walker was sworn in and testified that he is in opposition to the application; and that he has concerns with the density of the area.

Doug Layton was sworn in and testified that he is in opposition to the application; that he lives across the street; that he has concerns with the proper policing of permits and the density of the area; that the area is congested; and that it would decrease property values.

Kim Layton was sworn in and stated that she had concerns with where the unit will be placed on the property; and questioned if the applicant will be using the driveway that exists.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **tabled until April 15, 2002**. Vote carried 5 – 0.

OLD BUSINESS

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.

The Board discussed the case. Mr. Mills stated that the Seaford Show and Sell is no longer in business; that the property has become an eye sore; that setback violations exist and were never corrected; and that additional variances should not be granted since other variances that have been granted for the property in the past do not comply.

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

Case No. 7728 – Deena and Horace Eskridge, Jr. – north or 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.

The Board discussed the case. Mr. Mills stated that he looked at the site; that the applicant's shed is sitting on another parcel; and that since the applicant's are not willing to move the shed to comply with the setback requirements that the variance request for an attached garage should not be granted.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be **denied**. 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.

The Board discussed the case. Mr. Callaway and Mr. Mills stated that they looked at the site; and that the property needs to be cleaned up.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **denied**. 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.

The Board discussed the case. Mr. Rickard advised the Board that Lena English is trying to get all of the structures in the Park into compliance.

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

Case No. 7369 – Royal Builders – south of Route One, west of South Street, Lots 3 and 4, within Maston Heights Subdivision.

A variance from the side yard setback requirement and a variance from the square footage per unit requirement.

Mr. Rickard read a letter from Mark H. Davidson, President of DC Group LLC, requesting a 6-month time extension.

Motion by Mr. Wheatley, seconded by Mr. McCabe, and carried unanimously that the request for a **6-month time extension be granted**. Vote carried 5 – 0.

Meeting Adjourned 9:45 P.M.