

MINUTES OF APRIL 2, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening April 2, 2001, 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. McCabe, seconded by Mr. Hudson, and carried unanimously to approved the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to approved the Minutes of March 19, 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. 7402 – Kenneth and Renee Lynch – east of Route 26, 600 feet southeast of Road 346.

A variance from the square footage requirement for signs.

The application was denied because there was no representation.

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

Case No. 7403 – Bay City, Inc. – north of Route 22, 1½ miles east of Route 22C, Bay City Mobile Home Park.

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

Mr. Rickard presented the case. Paul Lever and Janet Oliva were sworn in with John A. Sergovic, Jr., Attorney, present on behalf of the applicants, requesting a 5-foot variance from the required 20-foot requirement between units in a mobile home park for all of the lots in the old section of Bay City; that the lots are non-conforming mobile home lots which were created in the 1960's; that the variances are necessary due to the irregular shapes of the lots as originally laid out; that there is not an economic harm to the community; that they would like to fully utilized the land; that the Fire Marshal has no objections to the variance; that they submitted a plot plan; that they submitted a list showing the lots that are effected; and they submitted documents that included:

1. A floor plan of manufactured homes.
2. A site plan.
3. A letter from Calvin and Elaine Campbell.
4. A letter from Janet P. Oliva.
5. A letter from Louis and Carol James.

Mr. Rickard stated that Mr. Lank has briefed him about the requested application and that the applicant's intention is to make the smaller and irregular lots usable.

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 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. Wheatley, seconded by Mr. McCabe, and carried unanimously that the variances for the old section of Bay City Mobile Home Park be **granted**.
Vote carried 5 – 0.

Case No. 7404 - Robert and Judith Doughty – south of Route 20, 450 feet east of U.S. Route 113.

A variance from the lot width requirement for a parcel.

Mr. Rickard presented the case. Robert Doughty was sworn in and testified requesting a 54-foot variance from the required 150-foot lot width requirement; that the land is zoned C-1 General Commercial District; that the land is a total of 2.78 acres; that he would like to subdivide the land; that he will be keeping $\frac{3}{4}$ acres of the land; that he will be selling the remainder of the land; and that he would like to have separate driveways.

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

Motion by Mr. Mills, seconded the Mr. Hudson, and carried unanimously that he 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 variance be **granted with the stipulation that the driveway is to be shared**.
Vote carried 5 – 0.

Case No. 7405 - Goodland & Clearwater – north of Road 326, 1,450 feet north of Road 318.

A variance from the parking spaces and loading space requirements.

Mr. Rickard presented the case. Richard Cannarella and Marion Hendricks were sworn in and testified requesting to reduce the required 60 parking spaces by 16 parking spaces; that a church exists on the property; that the church seats 208 people; that on an average, 30 adults attend the church; that a fellowship hall will be added on to the church; that they submitted a survey; that they intend to install a new septic and well; that the existing access is permitted from DelDOT; that the wooded area behind the church cannot be cleared for parking because it is wetlands; that they are proposing to buy land from a neighbor; that their headquarters is in Lincoln; that they use the Church in Lincoln for funerals unless requested by a member to use this Church; and that the Church is non-conforming.

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 case be taken under advisement. Vote carried 5 – 0.

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

Case No. 7406 – Nina Y. Savage – southwest of Road 386, northwest side of Roosevelt Avenue, Lot 26, within Branch Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Nina Savage was sworn in with Tim Willard, Attorney, present on behalf of the applicant, requesting a 4-foot variance from the required 30-foot front yard setback requirement; that the existing manufactured home is a 12'x44'; that she wants to replace the existing unit with a 14'x66'; that the variance would not alter the character of the neighborhood; that the unit would be an improvement to the area; that they would like to place the unit parallel to the rear of the property; that the reasoning for placing the unit to the rear of the property is for the safety of her daughter; that they submitted a petition from neighbors in favor of the application; and that on Lot 27 across the street from her, is an abandoned truck and boat with debris on the property.

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

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

Mr. Rickard read a letter/petition from the residents in Branch Acres, dated March 29, 2001, 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. 7407 – Richard E. Morgan – north of Route 26, 1,100 feet east of Road 344.

A variance from the lot width requirement and square footage requirement for a parcel.

Mr. Rickard presented the case. Richard Morgan was sworn in and testified requesting a 36.22-foot variance from the required 150-foot lot width requirement for Parcel A, a 53.78-foot variance from the required 150-foot lot width requirement for Parcel B and a 10,620-square foot variance for the $\frac{3}{4}$ acre requirement on both parcels; that this is a peaceful resolution for a divorce; that he will be keeping the shop; that his wife will be keeping the home; that the required setbacks will be met; that the driveway for the shop was established in the early 1950's; and that he has installed a 3-foot fence.

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

Mr. Rickard read a letter from Floyd E. Gray, M.D. in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variances be **granted since it does not affect anyone**. Vote carried 5 – 0.

Case No. 7408 – Paul McIlvaine – east of Ocean Highway, east of Belle Road, Lot 31, within Bay View Park Subdivision.

A variance from the rear yard setback requirements.

Mr. Rickard presented the case. Paul McIlvaine was sworn in and testified requesting a 9-foot variance from the required 10-foot rear yard setback requirement for a proposed sunroom; that he has lived in the area for 16 years; that the size of the sunroom will be a 10'x18'; that similar variances have been granted in the area; that the home has been there since 1983; and that his survey was done in 1983.

Mr. Rickard noted to the applicant that his survey shows his home in violation from the front property line and recommends that a new survey be completed.

Mr. Rickard read a letter from Wynona Dawson in favor of the application.

By a show of hands, 5 parties were in opposition to the application.

John Hendrickson, President of the Home Owner's Association, was sworn in and testified that he is in opposition to the application; that there is no hardship; that the applicant can build the sunroom to fit the lot; and submitted a letter from William and Dana Feher in opposition to the application.

Mr. Mills stated to the applicant that he only needs a 2-foot variance instead of a 9-foot variance; and that if he builds an 8'x18' sunroom a variance would not be necessary.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variance be **tabled until April 16, 2001**. Vote carried 5 – 0.

Case No. 7409 – Joan Clark – south of Route 26, 300 feet west of Road 341.

A special use exception to place a manufactured home type structure for business purposes.

Mr. Rickard presented the case. Joan Clark was sworn in and testified requesting a special use exception to place a manufactured home type structure for business purposes; that she submitted pictures; that the size of the structure is a 6'x14'; that she has been in business for 4 years; that a coffee business exists; that she will utilize the existing structure as a vegetable stand; and that she will meet the setback requirements.

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

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

Case No. 7410 – Andrew Bellamah – north of Route 14, north of Wilson Walk, Lots 111, 112, and 113, within Bay View Park Subdivision.

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

Mr. Rickard presented the case. Andrew Bellamah was sworn in and testified requesting a 5-foot variance from the required 15-foot corner side yard setback requirement for a pool and a 3-foot variance from the required 10-foot rear yard setback requirement for an attached shed; that he submitted a picture of his home; that the shed

has been there for 10 years; that he purchased the home in 1998; that the lot is oddly shaped; that 4 out of 5 immediate neighbors do not oppose the variance for the pool; that he submitted letters in favor of the application; and that he read a letter from Dorothy Ireton in favor of the application.

Jean O'Connor was sworn in and testified that she is in favor of the application; that formerly she was the President of the Home Owner's Association; and that the applicant is at the dead end of the street.

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

By a show of hands, 15 parties were in opposition to the application.

John Hendrickson, President of the Home Owner's Association was sworn in and testified that he is in opposition to the application; that he has no objection to the shed; that a hardship does not exist for the pool; that the pool can be relocated; and that he submitted letters in opposition to the application.

Marge Gassinger was sworn in and testified that she is in opposition to the application; that she lives across the street; and that she read a letter from B.A. Nelson, Sr., Realtor, that it was an inappropriate location for a pool.

Dana Feher was sworn in and testified that she is in opposition to the application; that she has concerns with safety and noise problems; and that if the variance is granted for the pool it could set a precedent.

Mr. Rickard read 6 letters not opposed to the shed, but in opposition to the pool.

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance for the shed be **granted** and that the variance for the pool be **denied because a hardship does not exist**. Vote carried 5 – 0.

Case No. 7411 – Anthony and Karen Milan – southwest of Route 54, south side of Garfield Avenue, Lot 20, within Edgewater Acres Subdivision.

A variance from the west side yard setback requirement.

Mr. Rickard presented the case. Anthony Milan was sworn in and testified

requesting a 3-foot variance from the required 10-foot west side yard setback requirement for second floor steps; that he has been granted a variance from the rear for a second floor deck and porch; that he was told that he needs a west side yard variance because the steps go up to the second floor; and that steps exists on the lower level.

Wilson Workman was sworn in and stated that he is in favor of the application, but questioned the exact variance the applicant is asking for.

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. 7412 – Brendan Macquire – southwest of Bay Road, 420 feet west of Route One, Lot 5, within Rehoboth Manor Subdivision.

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

Mr. Rickard presented the case. Brendan Macquire was sworn in and testified requesting a 2.5-foot variance from the required 30-foot front yard setback requirement for a porch, a 3-foot variance from the required 10-foot southwest side yard setback requirement for a porch, a 1.7-foot variance from the required 10-foot southwest side yard setback requirement for steps, a 4-foot variance from the required 10-foot southwest side yard setback requirement for an existing dwelling, a 6.7-foot variance from the required 10-foot southwest side yard setback requirement for a guest house, and a 4.2-foot variance from the required 10-foot rear yard setback requirement for a guest house; that the home was built in 1978; and that a stove existed in the guest house when he bought the property.

Mr. Rickard stated to the applicant that the stove has to be removed from the guest house.

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

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

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

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

Mr. Rickard presented the case. Geraldine Piper and Wade Piper were sworn in and testified requesting a special use exception to connection two (2) manufactured homes to make one (1) unit; that the existing unit measures 14'x70'; that the proposed unit will be 14'x70'; 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. Wheatley, 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. 7414 – Leonard James Downs – south of Road 277, and ½ mile west of Road 279, Lot 1, within Angola By The Bay Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. William Winter was sworn in and testified requesting a 10.4-foot variance from the required 40-foot front yard setback requirement for an addition with a deck above; that the home is non-conforming; and that the addition would not obstruct anyone's view.

The Board found that no parties appeared 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. 7399 – Richard H. Hatton - southeast of Canal Court, corner south of Bayview Drive, within Angola By The Bay Subdivision.

A variance from the front yard setback requirement.

The Board discussed the case. Mr. McCabe stated that he personally visited the site and stated that the applicant does need some relief; and that an 8-foot variance would be adequate.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that an **8-foot variance be granted, instead of a 15-foot variance.** Vote carried 5 – 0.

Meeting Adjourned 9:56 P.M.