

MINUTES OF APRIL 8, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening April 8, 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. 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. Hudson, and carried unanimously to approve the Minutes of April 1, 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. 7758 – Betty A. Mann-Beebe – west of Route One, 141 feet south of private road.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. Betty A. Mann-Beebe was sworn in with James Fuqua, Jr., Attorney, on behalf of the application, requesting a 0.4-foot variance from the required 5-foot west side yard setback requirement for a 28'x44.8' second floor addition and a 50'x72.65' 2 story addition to an existing non-conforming 1 story building for Century 21 Realty and Mann Associates; that they submitted pictures; and that they submitted 2 letters from W. Leroy Mears and Frank Fulmer 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. 7759 – Frances Webb and Kathleen Webb – north of Route 36, corner intersection east of Road 203.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Frances Webb was sworn in and testified requesting a 22-foot variance from the required 40-foot front yard setback requirement for a porch; that the dwelling has been there for 70 years; that he raised his home 1 year ago; that he

submitted pictures; and that the porch used to be located on the front of the dwelling and that he would like to place it on the side of the home.

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

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

Case No. 7760 – Robert W. and Brenda S. Matthews – west of Road 493, 2,800 feet north of Road 494.

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

Mr. Oates presented the case and read a letter from Glen Tinkoff, M.D. Robert W. and Brenda S. Matthews were sworn in and testified requesting a special use exception to place a 14'x70' manufactured home on a medical hardship basis for their daughter and son-in-law; that their son-in-law was injured in a hunting accident; that he is self employed as a roofer; that he will not be able to continue that type of work due to his injuries; and that he needs financial help.

Mr. Mills stated that the Board does not want to set a precedent by granting medical hardships for financial reasons.

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 special use exception be **tabled until April 15, 2002**. Vote carried 5 – 0.

Case No. 7761 – Anthony and Donna Savini – south of Route 38, intersection east of Road 228-A, Lot 11.

A special use exception to operate a day care facility.

Mr. Oates presented the case. Anthony and Donna Savini were sworn in and testified requesting a special use exception to operate a day care facility; that she will have 14 children; that the ages will range from infant to 12-years old; that the hours of operation will be 7:30 A.M. to 5:00 P.M., Monday thru Friday; and that she will have 1 full time employee.

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

Case No. 7762 – Wilmington Trust Company – west of Route 24, 939 feet southwest of Route One, Lot B.

A variance to place a second wall sign.

Mr. Oates presented the case. Dale McCalister was sworn in and testified requesting a variance for a second wall sign for an ATM facility; that he submitted pictures; that the sign will be located on the west side of the building; that the wall sign will cover 8.8% of the wall area; that the building measures 14'x8.6'; that the sign measures 16-square foot; and that the sign is a standard Wilmington Trust 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 variance be **granted since it is such a small building**. Vote carried 5 – 0.

Case No. 7763 – Sheridan Sign Co., Inc. – east of U.S. Route 13, corner south of Road 485.

A variance to place a second on premise sign.

Mr. Oates presented the case. Fred W. Hertrich, III was sworn in and testified requesting a variance to place a second on premise sign; that he has an Isuzu Franchise; that the sign is needed so that he can represent the manufacturer; that he submitted drawings; and that he is waiting for approval from the Soil Conservation District.

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

Mr. Oates read a letter from Ray Ruhl 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. 7764 – Baywood LLC – north of Route 22, 2,200 feet east of Route 5 and Route 24, Lot 3231, within Baywoods Mobile Home Park.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Richard DeWitt was sworn in and testified requesting a 3-foot variance from the required 10-foot front yard setback requirement for a modular; that he received a violation notice from Dawn Heffelfinger, Planning and Zoning Inspector; and that the property markers were placed after the home was set.

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. 7765 – Michael Zimmerman – east of U.S. Route 13, 1,500 feet south of intersection of Route 404, Lots A and D, within Delaware Gateway Plaza.

A special use exception to place an off-premise sign.

Mr. Oates presented the case. Dale McCalister was sworn in and testified requesting a special use exception to place an off-premise sign; that the property is zoned C1- General Commercial District; that the purpose of the sign is to allow for advertising of the retail facilities located in the Bridgeville Shopping Center; that Mr. Zimmerman has subdivided the parcel; that even though he owns both parcels the sign is still considered an off-premise sign; that he submitted pictures; that the sign measures 150-square foot; that the sign will be located 25-foot from the front property line; and that the sign will be 25-foot in height.

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. 7766 – Robert B. Barnes – east of Road 281, 50 feet south of Road 247, Lot 8, within Juel Stamper Subdivision.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. Robert B. Barnes was sworn in and testified requesting a 5-foot variance from the required 15-foot west side yard setback requirement for a 26'x28' addition; that he has lived there for 20 years; and that he submitted a drawing.

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

Case No. 7767 – Phil Wisler – east of Route One, north side of Bayberry Dunes Lane, Lot 14, within Bayberry Dunes Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Michael Cummings of Miken Builders was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for steps above 11-foot mean sea level; that the sea level is below grade; that he submitted a drawing and a plot plan; that the community is in favor of the application; that the home has been there for 10 years; and that a front porch has recently been built to the home.

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 since it is a unique situation and that other variances have been granted in the area**. Vote carried 5 – 0.

Case No. 7768 – Clara Jennifer Jacobs – east of Route 24, 189 feet north of Road 298.

A variance from the minimum lot width requirement for a parcel.

Mr. Oates presented the case. Clara Jennifer Jacobs and James Hickerson were sworn in and testified requesting a 30-foot variance from the required 150-foot lot width requirement for two parcels; that she would like to place a 28'x56' manufactured home on the lot to take care of her grandmother; that her grandmother's dwelling exists; that the unit is a 2002 model; and that they submitted a copy of a tax map and a copy of the layout of the home.

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

Case No. 7769 – Aaron and Dena King – southeast of Road 490A, 1,580 feet north of Road 78.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Aaron King confirmed that he is requesting a 1-foot variance from the required 20-foot rear yard setback requirement for a manufactured home, instead of a 0.9-foot variance, and a 1.5-foot variance from the required 20-foot rear yard setback requirement for an open deck; that a certificate of compliance was issued on November 5, 1997; and that he was unaware of the setback violations.

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. 7770 – John and Frances Brown – west of Route One, south side of Pondview Drive, Lot 8, within Red Mill Manor Subdivision.

A variance from the east side yard setback requirement.

Mr. Oates presented the case. John and Frances Brown were sworn in and testified requesting a 2.5-foot variance from the required 10-foot east side yard setback requirement for a kitchen addition; that the home has been there since 1965; and that he built the addition and obtained the permit himself.

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

John Hughlett, Jr. was sworn in and testified that he lives next door; that he wanted to make the Board aware of a lawsuit between him and the Brown's concerning an easement; and that the Vice Chancellor has not made a ruling on the case yet.

Mr. Berl advised Mr. Hughlett that the pending lawsuit has nothing to do with this case.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variance be **granted since the pending lawsuit does not have a bearing on this case.** Vote carried 5 – 0.

Case No. 7771 – David and Cheryl Pritchett – east of Road 299A, 1,539 feet south of Road 299.

A variance from the southwest side yard setback requirement.

Mr. Oates presented the case. David Pritchett was sworn in and testified requesting a 4.3-foot variance from the required 15-foot southwest side yard setback requirement for a 32.2'x40.2' detached garage; that he obtained a permit 1 year ago; that he and his friends built the garage; that he did not take the setback requirements into consideration; and that he has recently purchased the adjoining 10 acre parcel.

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. 7772 – Morjorie Carter Farrell - north of private road, 174.70 feet east of Road 485.

A special use exception to place a second manufactured home on a medical hardship basis and a variance from the front yard setback requirement.

Mr. Oates presented the case and read a letter from Kenneth R. Smith, M.D. Marjorie Carter Farrell and Tanya Bramble were sworn in and testified requesting a special use exception to place a 14'x70' manufactured home on a medical hardship so that Ms. Bramble can care for her grandmother, Ms. Farrell, and a 1-foot variance from the required 30-foot front yard setback requirement for an existing 14'x70' manufactured home; that the unit has been there since 1972; and that the porch was built 3 years later.

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 2 years and that the variance also be granted.** Vote carried 5 – 0.

Meeting Adjourned 8:30 P.M.