

MINUTES OF APRIL 15, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening April 15, 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. McCabe, seconded by Mr. Wheatley, and carried unanimously to approve the Revised Agenda with the correction to remove Case No. 7413, Geraldine Piper from other business and to hear Case. No. 7413, John Covelli under other business. Vote carried 5 – 0.

Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of April 8, 2002 as circulated. Vote carried 5 – 0.

Case No. 7773 – Olivia Gonnella – north side of Route One, Candlelight Lane, Lot 19, within Colonial East Mobile Home Park.

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

Mr. Rickard presented the case. Olivia Gonnella and Loretta Ross were sworn in and testified requesting a 4-foot variance from the required 20-foot separation requirement between units in a mobile home park for a 10'x20' enclosed porch; that other variances have been granted in the area; that they submitted a drawing of the porch; and that their builder made them aware of the 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. 7774 – Martha Hickman – west side of Route 5, 50 feet north of Road 293.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Martha Hickman and Philip White were sworn in and testified requesting an 18-foot variance from the required 40-foot front yard setback requirement for a porch; that their home is 45 years old; that they previously had a variance granted, but realized after the hearing, that they needed a greater variance; and that they had a survey prepared.

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

Case No. 7775 – Anthony and Angela Taylor – northwest of Road 285, 3,000 feet west of Road 275.

A variance from the west side yard setback requirement.

Mr. Rickard presented the case. Angela Taylor was sworn in and testified requesting an 8-foot variance from the required 10-foot west side yard setback requirement for a 24'x28' attached garage, instead of a 2-foot variance; that she had a survey prepared and does not think it is correct; that she knows where her property markers are located; and that she will measure herself to let us know what variance is needed.

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 **left open until May 6, 2002 so that Mrs. Taylor can let the office know what variance is needed**. Vote carried 5 – 0.

Case No. 7776 – Paul and Heather Haaga – north of Evans Road, west of Surf Road, Lot 12, within Sussex Shores Development.

A variance from the side yard setback requirement for a corner lot.

Mr. Rickard presented the case. Kevin Oldland of Design Exchange Architects Inc. was sworn in and testified requesting a 5-foot variance from the required 15-foot corner side yard setback requirement for a 2nd level step; that the home was placed on the property in 1954; that he is relocating the stairs to an existing entrance porch to improve the access to the main entrance of the residence; and that he is in a flood zone.

Mr. Rickard read 2 letters from Ethel Payne and John Rawlins 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. 7777 – S & E Gallo Family Limited Partnership – north of Road 285, intersection west of Road 286.

A special use exception to place a manufactured home type structure as a sales office.

Mr. Rickard presented the case. Andrew Ratner was sworn in and testified requesting a special use exception to place a 10'x32' manufactured home type structure as a sales office for Oak Crest Farms for a period of 2 years; and that he will meet the setback requirements.

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

Battina Morris was sworn in and testified that she had concerns to where the unit was going to be placed.

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. 7778 – Texas Highway One Associates – 436 feet east of intersection of Route One and Road 268.

A special use exception to place a manufactured home type structure as a sales office.

Mr. Rickard presented the case. Andrew Ratner was sworn in and testified requesting a special use exception to place a 10'x32' manufactured type structure as a sales office for The Summerlyn for a period of 2 years; that he will meet the setback requirements; that the property is zoned C1 – General Commercial District; and that he submitted a plot plan.

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. 7779 – Colonial East Ltd. – north of Route One, north side of Spinning Wheel Lane, Lot 44, within Colonial East Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the maximum allowable lot coverage.

Mr. Rickard presented the case. John Starke was sworn in and testified requesting a 4-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 252-square foot variance from the maximum 35% lot coverage requirement, instead of a 316-square foot variance; that he is replacing the existing unit with a new unit; that the new unit is larger than the existing unit; and that he submitted a drawing.

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

Case No. 7780 – Colonial East – north of Route One, north side of Colonial Lane, Lot 34, within Colonial East Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the maximum allowable lot coverage.

Mr. Rickard presented the case. John Starke was sworn in and testified requesting a 4-foot variance from the required 20-foot separation requirement between units in a mobile home park on the north side of the property, a 2-foot variance from the required 20-foot separation requirement between units in a mobile home park on the south side of the property, and a 189-square foot variance from the required 35% lot coverage requirement; and that he is replacing the existing unit with a new unit.

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.

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

Case No. 7781 – Edward and Janet Nichols – south of Road 602, 2,400 feet west of Road 594, Lot 6, within Pine Haven Farms Subdivision.

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

This case was withdrawn.

Case No. 7782 – Myra L. Morton – east of Road 42, 1,500 feet north of Road 224.

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

Mr. Rickard presented the case. Myra and Joe Morton were sworn in and testified requesting a special use exception to operate a 30'x96' commercial greenhouse on less than five (5) acres; that the products will be taken elsewhere to be sold; that the greenhouse will be 13-foot in height; that it is made of plastic and steel; that the greenhouse will be erected on the east side of the property; and that a stockade fence is erected on their property.

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

Mr. Rickard read a letter from Barbara Dean and Donald Smith in opposition to the application.

Motion by Mr. Wheatley, 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. Wheatley, and carried unanimously that the special use exception be granted since it will not create an eye sore or problems with noise and since a fence is erected on the property. Vote carried 5 – 0.

Case No. 7783 – John Parks, Sr. – south of Road 395, corner of Sea Gull Road and Bay View East Street, Lot 2, within Bay View Estates Subdivision.

A variance from the east side yard setback requirement.

Mr. Rickard presented the case. John Parks, Sr. was sworn in and testified requesting a 3.9-foot variance from the required 10-foot east side yard setback requirement for an existing 24'x28' garage; that the garage was built in 1988; that he has 1 parcel with 2 lots; and that he intends to sell his property as 2 parcels.

Mr. Rickard advised Mr. Parks that if he separates his parcel into 2 parcels that the garage will be in violation because you cannot have an accessory structure on less than 1 acre without a dwelling.

Mr. Parks stated that he is in a hurry to sell his property and that he may just tear down the garage.

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 variance be **left open until May 6, 2002 so that the applicant can figure out what exactly he wants to do.** Vote carried 5 – 0.

OLD BUSINESS

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.

The Board discussed the case. Mr. Mills stated that he would like to go and look at the site again.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **tabled until May 6, 2002.** 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.

The Board discussed the case. The Board stated that they understand the applicant's dilemma, but there should be other ways to fix the problem; and that there is no way to police the pond to make sure the applicant is using the pond only for the purpose of keeping their property from flooding.

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

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be **denied.** Vote carried 4 – 0 – 1, with Mr. McCabe not present.

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.

The Board discussed the case. Mr. Berl advised the Board that a medical hardship should be based upon a medical condition not a financial hardship; and that the Board has concerns with setting a precedent.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **denied since there is no evidence of a medical hardship**.
Vote carried 5 – 0.

OTHER BUSINESS

Case No. 7321 – John Covelli – north of Road 341, west side of East Lagoon Road, Lot 118 and 119, within Dogwood Acres.

A variance from the front yard setback requirement.

Mr. Rickard read a letter from the applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to **grant a 6-month time extension starting from the Finding of Facts date of February 12, 2002**. Vote carried 5 – 0.

Meeting Adjourned 8:38 P.M.