

## MINUTES OF MAY 6, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening May 6, 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 Vice-Chairman McCabe presiding. The Board members present were: 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. Wheatley, and carried unanimously to approve the Revised Agenda with the correction to hear Case No. 7061, Jane Errett Vincenti and Martin Kappel under other business. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of April 15, 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. 7784 – Terry Van Horn** – north of Gull Road (formerly Road 279-B), south side of Pine Drive North, Lots 41 and 47, within Joy Beach Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Terry Van Horn was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for second floor steps located in a flood zone; that he has owned his home since 1976; that four years ago water entered his home due to a storm; that after the storm, he raised his home 10-foot in height; that Expert House Movers raised his home; that Anthony Ramey, Contractor, built the steps; that other variances have been granted in the area; and that he submitted pictures.

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

**Case No. 7785 – David and Donna Figgs** – east of Road 505, 1,275 feet northwest of Road 76.

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

Mr. Rickard presented the case. David Figgs was sworn in and testified requesting

a special use exception to connect two (2) manufactured homes to make one (1) unit; that the existing and proposed units measures 14'x70'; that his daughter and grand-daughter will live in the unit; and that he will need 1 year to complete the improvements.

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 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 only be 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. 7786 – Mollie and Manchester Brisco, Sr.** – north of Road 231, ½ mile east of Road 226, Lot 7, within Evans Lots Subdivision.

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

Mr. Rickard presented the case. Manchester Brisco, Sr. was sworn in and testified requesting a special use exception to use a 12'x60' manufactured home as storage; that the unit is a 1977 model; that he will store old furniture in the unit; and that the unit does not have electric or running water.

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

Patricia Dickerson was sworn in and testified that she is in opposition to the application; that she lives next door; that she has concerns with her property values decreasing; and that she does not think that the unit will be used for storage.

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 Vice-Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **denied**. Vote carried 5 – 0.



**Case No. 7787 – Bertram Jackson** – east of Road 274, Lot 2, within Pine Valley Mobile Home Park.

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

Mr. Rickard presented the case. Bertram Jackson was sworn in and testified requesting a 7-foot variance from the required 20-foot between units in a mobile home park from a manufactured home, a 15-foot variance from the required 20-foot between units in a mobile home park for a shed, and a 11-foot variance from the required 20-foot between units in a mobile home park for a 10'x11' addition; that he received a violation letter from Franklin Bunting, Planning and Zoning Inspector; that he replaced 2 older sheds with a new shed; that his neighbor is in favor of the application; that George England, Contractor, enclosed his deck into an addition and obtained the permit; that he has owned his unit for 10 years; and that the Board of Directors told him that a permit was not needed for the shed.

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

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted and that Mr. Berl write a letter to George England, Contractor, and the Board of Directors of Pine Valley Mobile Home Park, in reference to the violation.** Vote carried 5 – 0.

**Case No. 7788 – Rex, Inc.** – east of Route One, 350 feet south of Road 268-A, Lot 3, within Carpenters Crossing Subdivision.

A special use exception to relocated a billboard.

Mr. Rickard presented the case. Michael Makowski was sworn in with James Fuqua, Jr., Attorney, on behalf of the application, requesting a special use exception to relocate a billboard; that the billboard has not been relocated or replaced yet; that they would like to relocate and replace the billboard on the same parcel; that the billboard was legally placed; that the billboard is unusually shaped; that the billboard measures 1,200-square foot; that the proposed billboard will measure 10'x30'; that the proposed billboard will measure 23-foot in height; that the existing poles will be removed and replaced with a monopole; that the billboard will not obstruct anyone's view; that the proposed billboard will be placed in a better location and will be more attractive; that the billboard

will meet the setback requirements; that the billboard will serve a proposed medical office building; that the building will be taller than to billboard; that Rex, Inc. has owned the billboard for 1 ½ years; and that they submitted a drawing of the property and a drawing of the billboard.

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

Melissa Jones was sworn in and testified that she is in opposition to the application; that the property has deed restrictions; and that the billboard will be a nuisance and health hazard.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the special use exception be **tabled until May 20, 2002**. Vote carried 5 – 0.

**Case No. 7789 – Margaret L. Brown** – west of public access road, 1,150 feet south of Road 623, and 620 feet east of U.S. Route 113, Lot 8, Section II, within Maringola Tract Subdivision.

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

Mr. Rickard presented the case. Margaret L. Brown and Clarence Cliffburris, Realtor, was sworn in and testified requesting a 6.9-foot variance from the required 10-foot west side yard setback requirement and a 3.7-foot variance from the required 10-foot east side yard setback requirement for a dwelling; that Margaret's late husband had the structure enlarged; that she was unaware of the setback violations; that the setback violations have existed for 19 years; and that the Contractor is deceased.

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. 7790 – Diana Dietz** – south of Route 22, corner of East River Drive and Galleon Road, Lot D1, within White House Beach Mobile Home Park.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Diana Dietz and Judy Lamply was sworn in and testified requesting a 1-foot variance from the required 5-foot rear yard setback requirement for a 14'x14' addition; that Bill Showell, one of the Board of Directors of the Mobile Home Park, advised her where to place the addition; that Roy Smith, Contractor,



obtained the permit; and that she received a violation letter from Dawn Heffelfinger, Planning and Zoning Inspector.

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 and that Mr. Berl write a letter to Roy Smith, Contractor, in reference to the violation.**

**Case No. 7791 – Gary and Joy Hill** – southwest corner of intersection of Road 452 and Road 68.

A variance from the northeast side yard setback requirement for a poultry house.

Mr. Rickard presented the case. Gary Hill was sworn in and testified requesting a 20.9-foot variance from the required 50-foot northeast side yard setback requirement for a poultry house; that the poultry house was built in 1985; that he is selling part of the property to his brother; and that when he had a survey prepared, his surveyor advised him that he would need to apply for a variance hearing.

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

**Case No. 7792 – Christine Waltz** – north of Road 39, east of Front Street, Lot 12, within Joseph D. Short Subdivision, 2<sup>nd</sup> Addition.

A variance from the southwest side yard setback requirement.

Mr. Rickard presented the case. Christine Waltz and John Davidson were sworn in and testified requesting a 1.9-foot variance from the required 10-foot southwest side yard setback requirement and a 1.7-foot variance from the required 10-foot northwest side yard setback requirement for 2<sup>nd</sup> floor steps; and that their surveyor advised them that they would need to apply for a variance hearing.

Mr. Rickard read 2 letters from Joseph and Blanche Embury and Gerard Baumann 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. Hudson, and carried unanimously that the variances be **granted**. Vote carried 5 – 0.

**Case No. 7793 – Neal and Yvonne Murray** – east of Road 347, west of Topher Drive, Lot 11, within Bowerset Subdivision.

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

Mr. Rickard presented the case. Neal Murray was sworn in and testified requesting a 5-foot variance from the required 10-foot north side yard setback requirement for an existing porch, a 0.4-foot variance from the required 10-foot north side yard setback requirement for an existing dwelling, and a 5-foot variance from the required 30-foot front yard setback requirement for a deck; that he has owned the property for 11 years; and that the violations were found when a survey was prepared.

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

**Case No. 7794 – Richard Suter** – east of Road 273-A, corner of Fourth Street and Crazy Lane, Lots 199, 200, 201, and 202, within Bay Vista Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Paul Redfern was sworn in and testified requesting a 13.6-foot variance from the required 30-foot front yard setback requirement for a proposed covered porch; and that the existing structures are non-conforming.

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 be **granted**. Vote carried 5 – 0.



**Case No. 7795 – William Birmingham** – west of Grant Avenue, Lot 48, within Cape Windsor Subdivision.

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

Mr. Rickard presented the case. William Birmingham was sworn in and testified requesting a 5-foot variance from the required 15-foot south side yard setback requirement and a 5-foot variance from the required 20-foot rear yard setback requirement for a proposed manufactured home; that he is replacing the existing structure with a new structure; and that the new structure is larger than the structure that existed.

Mr. Rickard read a letter from Clyde Schafer, of the Board of Directors in favor of the application.

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

**Case No. 7796 – Dianna Shade** – north of Route 54, east of Canvasback Road, Lot 11-D, within Swann Keys Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Dianna Shade was sworn in and testified requesting a 5-foot variance from the 10-foot front yard setback requirement for a detached gazebo; that she received a violation letter from Don Hastings, Planning and Zoning Inspector; and that the Home Owner's Association is in favor of the application.

Mr. Rickard read a letter from George and Ruth Hendrix in favor of the application.

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

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

**Case No. 7797 – Sonya and James Roberts, Jr.** – north of Road 207, 725 feet east of Road 213.

A variance from the east side yard setback requirement.

**This case was withdrawn.**

**Case No. 7798 – Daniel C. Slagle** – east of Route 24, 185 feet north of Road 299 (Bay Farm Road), Lots 21 and 23.

A special use exception to operate a bed and breakfast facility.

Mr. Rickard presented the case. Daniel C. Slagle was sworn in and testified requesting a special use exception to operate a bed and breakfast facility; that there will be 6 bedrooms; and that there will be adequate parking.

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. 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 Vice-Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted**. Vote carried 5 – 0.

**Case No. 7799 – Lake Placid Properties, LLC** – south of Route 22, 1,170 feet east of Route 24.

A variance from the parking space requirement for multi-family dwellings.

Mr. Rickard presented the case. Preston Dyer was sworn in and testified requesting a reduction in the required parking spaces per unit from 3 spaces to 2.50 spaces; that the reduction will allow for an increase in the common area, which is used for storm water ponds, landscaping and recreation; that there are 146-3 bedroom units; that 438 parking spaces are required; that he is proposing 354 parking spaces; that each unit will have a garage and driveway; that the property is zoned C1 General Commercial District; and that he submitted a site plan.

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 be **granted**. 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.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception be **denied since the applicant failed to meet the requirements for a special use exception.** 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.

The Board discussed the case. Mr. Rickard advised the Board that the applicant is requesting an 8-foot variance from the required 10-foot west side yard setback requirement for a 24'x28' attached garage.

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

The Board discussed the case. Mr. Rickard advised the Board that if they approve the variance they should make a stipulation that a dwelling will have to be built within 6-months since the applicant plans to subdivide the parcel.

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

### OTHER BUSINESS

**Case No. 7061 – Jane Errett Vincenti and Martin Kappel** – northeast of Road 364-B, 405 feet southeast of Jan-Mar Lane in Pleasant Meadows.

A special use exception to operate a bed and breakfast.

Mr. Rickard read a letter from the applicant requesting a 90-day time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to **approve the request for a 90-day time extension.** Vote carried 5 – 0.

**Meeting Adjourned 9:12 P.M.**