

MINUTES OF MAY 7, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening May 7, 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. 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. McCabe, seconded by Mr. Mills, and carried unanimously to approved the Minutes of April 16, 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. 7426 – Holiday Inn Express – southwest corner of Road 361-A and Pennsylvania Ave.

A special use exception to place an off premise sign.

Mr. Oates presented the case. George T. Smith, Jr. was sworn in and testified requesting a special use exception to place an off premise sign; that he works for Sheridan Sign Company; that they would like to place the sign on Happy Harry's property so that the motel can be easily located; and that Happy Harry's would like to place a sign on Holiday Inn Express's property in the future.

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

Case No. 7427 – Todd Moore – south of Road 273-A, 350 feet east of Fourth Street, Lots 193 and 194, within Bay Vista On Rehoboth Bay.

A variance from the south side yard setback requirement.

Mr. Oates presented the case. Todd Moore was sworn in and testified requesting

a 3-inch variance from the required 5-foot south side yard setback requirement for an existing garage; that he obtained the permit; and that the mason knew that the garage has to be 5-foot from the property line, but miscalculated.

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 **granted. The Board requested that a letter be sent to the mason.**
Vote carried 5 – 0.

Case No. 7428 – Kevin C. Bewley – south of Route 22, north of East River Drive, Lot D-12, within White House Beach Mobile Home Park.

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

Mr. Oates presented the case. Kevin Bewley was sworn in and testified requesting a 10-foot 9-inch variance from the required 20-foot separation requirement between units in a mobile home park; that his mother purchased the unit with a deck in 1985; that the year of the unit is a 1982; that he purchased the unit from his mother's estate; that he had Robert Norwood, Builder, construct an A-Roof over the unit and deck; and that his neighbors are in favor of the application.

Mr. Oates stated that there were 2 letters 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 variance be **granted. The Board requested that a letter be sent to Robert Norwood.**
Vote carried 5 – 0.

Case No. 7429 – Kimberly M. Lear – south of Route One, north of Dodd Avenue, Lots A-90 and G-24, within Sea Air Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the rear yard setback requirement.

Mr. Oates presented the case. Kimberly Lear, David Lear, and George Littleton were sworn in and testified requesting an 8-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 2.5-foot variance from the required 5-foot rear yard setback requirement; that the unit was placed there 3 weeks ago; and that Sea Air Village has been there since 1964.

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

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

Case No. 7430 – Sharon and Chester Porches, Jr. – northeast of Road 382, 150 feet northwest of Road 340.

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

Mr. Oates presented the case. Sharon Porches was sworn in and testified requesting a 7.4-foot variance from the required 10-foot east side yard setback, a 1-foot variance from the required 10-foot west side yard setback, and a 20-foot variance from the required 40-foot front yard setback requirement for a proposed home; that the parcel is very small; that the width of the parcel is 37-foot; that she could only build a 16-foot wide home without a variance; that she plans to build a home and then sell it; and that she thought she was purchasing a different parcel than the one she purchased because it was advertised incorrectly.

Wilson Beckett, Jr., John Hall and Mary Hall were sworn in and testified that they were in opposition to the application; that the parcel is too small to build a home; and that they do not understand how the parcel was subdivided.

Mr. Mills questioned the width of the parcel because the Tax Map states that the width of the parcel is 60-foot and the survey states that the width of the parcel is 37-foot.

Mrs. Hall stated that she recently had a survey completed and that she will send it in to the Planning and Zoning Office.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **tabled until May 21, 2001**. Vote carried 5 – 0.

Case No. 7431 – Jeffery and Margaret Smith – Black Duck Reach, north of Glade Circle, Lot 90, within Holland Glade Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Jeffrey Smith, Don Lockwood, Builder, and Robert Sigler, Meridan Consulting Engineers, LLC, were sworn in and testified requesting a .05-foot variance from the required 30-foot front yard setback requirement; that they submitted a picture of the home; that the home is 90-foot wide; and that the setback

problem was probably made during excavation.

The Board found that no parties appeared 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. 7432 – John A. Schulties – west of Route 14, 150 feet south of Road 224.

A variance from the lot width requirement for a parcel.

Mr. Oates presented the case. John Schulites was sworn in and testified requesting a 87.62-foot variance from the required 150-foot lot width requirement; that the parcel is a total of $\frac{3}{4}$ acres and wants to subdivide it into 2 lots; that a standard septic system has been approved; and that Elaine Muncy, neighbor, is in the process of subdividing her land.

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

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 hearing, 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. 7433 – William R. Soots – east of Route One, west of Gainsborough Drive, Lot 59, within Rolling Meadows Subdivision.

A variance from the east side yard setback requirement.

Mr. Oates presented the case. William R. Soots was sworn in and testified requesting a .04-foot variance from the required 15-foot east side yard setback requirement; that the year of the home is a 1996; that 1 year later an attached garage was built on to the home; that he was in the process of selling his home, but the buyers loan was not approved; that the setback problem was found when a survey was completed; that his neighbors are not affected by the situation; that the Homeowner's Association and his neighbor, Mr. & Mrs. Danver, are in favor of the application; and that he obtained the permit.

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

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

Case No. 7434 – Richard A. Watkinson – west of Road 583-A, 800 feet north of Road 583.

A special use exception to place a second on-farm manufactured home.

Mr. Oates presented the case. Richard A. Watkinson was sworn in and testified requesting a special use exception to place a second on-farm manufactured home; that his brother owns a manufactured home on the same property; and that his parents also have a dwelling on the same property.

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

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

Case No. 7435 – John J. Sova – north of Route 22, south side of Cove Drive, Lot 564, within Mariner's Cove Mobile Home Park.

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

Mr. Oates presented the case. John J. and Joanne Sova were sworn in and testified requesting a 3-foot variance from the required 15-foot separation requirement between units in a mobile home park for a shed; that the reason for variance is because of their neighbors punch out, where she keeps her television; that they submitted pictures; that they had a contractor build the shed who is familiar with the rules and regulations in the park; and that their neighbor, Alice Crosby, is in favor of the application.

Mr. Oates read a letter from Alice Crosby in favor of the application.

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

Case No. Joanne and Eric Reuther – north of Road 277, 501 feet west of Willow Lane.

A variance from the northeast side yard setback requirement.

Mr. Oates presented the case. Joanne and Eric Reuther were sworn in with Jim Yori, Attorney, present on behalf of the application, requesting a 7.2-foot variance from the required 15-foot northeast side yard setback requirement; that Joanne bought the property in 1982 and then built a home in 1983; that the property has been refinanced 3 times in the past 20 years; that Joanne proposed to purchase the required land to meet the setback problem, but the neighbor refused; that it would be a hardship if the Board were not to grant the variance; that it does not alter the character of the neighborhood; and that Tom Head, Rehoboth Builders, built the home.

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 variance be **granted**. **The Board requested that a letter be sent to Mr. Head.**
Vote carried 5 – 0.

Case No. 7437 – Mark Hudson – west of Road 362, south of Mimosa Street, Lot 37, within Shady Dell Park.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Mark Hudson was sworn in and testified requesting a 4.8-foot variance from the required 30-foot front yard setback requirement for an existing manufactured home; that he is in the process of purchasing the unit; that he had a survey completed and it showed that the unit is in violation; and that he believes that the year of the unit is a 1992.

Mr. Oates stated that a permit was obtained in 1995 for the unit.

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. 7438 – George and Ann Spillane – Road 278, north of Osprey Court, Lot 78, within The Cove Subdivision.

A variance from the east side yard setback requirement.

Mr. Oates presented the case. George Spillane and Mike Bryant, Builder, were sworn in and testified requesting a 1-foot variance from the required 15-foot east side yard setback for an existing dwelling; that Mike Bryant built the home; and that Mr. Bryant hired Coast Survey to mark out the property lines.

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 **granted due to the odd shape of the lot**. Vote carried 5 – 0.

Case No. 7439 - Jerry Stansberry – south of Route One, southeast of Bay Road, Lot 25, within Rehoboth Manor Subdivision.

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

Mr. Oates presented the case. Jerry Stansberry and Leslie Hegeamester were sworn in and testified stating that a variance was approved for their existing deck on November 3, 1997 and that they are now changing the use from a deck to a covered porch; that the size of the porch will be 8'x16'; and that their builder will be obtaining all necessary permits.

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

Case No. 7440 – Wayne Hudson – west of Route One, north of Fourth Street, Unit 6-8, within Bay Vista.

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

Mr. Oates presented the case. Wayne Hudson was sworn in and testified requesting a 2-foot variance from the required 30-foot front yard setback requirement for an existing deck, and a 1.9-foot variance from the required 10-foot side yard setback requirement for an existing deck, instead of a .09-foot variance; and that he submitted 2 letters from neighbors in favor of the application.

Mr. Oates read 2 letters in favor of the application from Galen R. Clouse and Greg S. DeMichiel and 1 letter from Anthony Higgins in opposition to the application.

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

OLD BUSINESS

Case No. 7388 – William M. and Betty Jane Towers – southwest of Route 20, 90 feet southeast of Road 485, Lot 4.

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

Mr. Mills stated that the parcel is very small; that the parcel is not large enough to support a residence; and that he should have gone through the correct procedures before doing the work that he has already completed.

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

Case No. 7423 – Armand J. Arseneau – east of Road 42, 800 feet south of Route 36.

A variance from the lot width requirement.

The Board discussed the case and stated that granting the variance would not present any problems.

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

Case No. 7425 – Chartan Solsnes – northeast of Route One, west of Terrace Road, Lots 8, 9, and part of 42, within Silver Lake Manor Subdivision.

A variance from the rear yard and northeast side yard setback requirement.

Mr. Berl advised the Board that no action should be taken pending a legal opinion.

OTHER BUSINESS

Case No. 7332 – James Thompson – north of Route 54, east of Laws Point Road, Lot 54, within Swann Keys Subdivision.

A variance from the north side yard setback requirement.
Request for a rehearing.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the request for a rehearing be **granted with the stipulation that the applicant re-file the application and pay the required fee for hearing the case.**

Meeting Adjourned 8:55 P.M.