

MINUTES OF MAY 20, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening May 20, 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. Hudson, and carried unanimously to approve the Revised Agenda with the correction that Case No. 7807, Bradford Kline was withdrawn on May 17, 2002. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of May 6, 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. 7800 – John A. Quillen – north of Road 494, 1,750 feet east of Road 497.

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

Mr. Rickard presented the case. John A. Quillen was sworn in and testified requesting a special use exception to use an existing 12'x56' manufactured home for storage; that furnace parts will be stored in the unit; and that the unit does not have a kitchen, bathroom or electric.

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

Case No. 7801 – Jay Beach – northwest of Route 24, 2,800 feet northeast of Love Creek.

A variance from the front yard setback requirement for sales display.

Mr. Rickard presented the case. Jay Beach was sworn in and testified requesting a 30-foot variance from the required 40-foot front yard setback requirement for sales display; that he submitted a site plan; and that play sets, furniture and plants will be displayed on the front of the property.

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. 7802 – Philip E. Stone – south of Road 630, 2.050 feet east of Road 44, Lot 2, within William Walters Subdivision.

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

Mr. Rickard presented the case. Philip E. Stone was sworn in and testified requesting a 9-foot variance from the 10-foot east side yard setback requirement for a 16'x28' addition; and that he submitted a letter from Phillip and Sylvia Chisenhall 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. McCabe, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 7803 – Scot Brewer – north of Route One, southeast of F. Benson Street, Lot 2.

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

Mr. Rickard presented the case. Eric Sugrue was sworn in and testified requesting a 4.6-foot variance from the required 15-foot corner side yard setback requirement for an 800-square foot addition; that he received a violation letter from Franklin Bunting, Planning and Zoning Inspector; and that the permit stated the incorrect setback requirements.

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.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to refund the applicant's money. Vote carried 5 – 0.

Case No. 7804 – Fredrick B. Kreiser, Jr. – east of Road 30 (Atlanta Road), 200 feet north of Road 547, west side of Woodsman Court, Lot 38, within Devonshire Woods Subdivision.

A special use exception to retain an accessory structure on a lot without a main dwelling.

Mr. Rickard presented the case. Fredrick B. Kreiser, Jr. was sworn in and testified requesting a special use exception to retain a 12.2'x8.2' existing shed on a lot without a main dwelling; that he sold Lot 38 and Lot 39 to Frederic and Donna Hicks; that the shed has been on Lot 39 since 1986; that a permit was not obtained for the shed; that the shed has electric and plumbing that powers an irrigation pump to both lots; that he was unaware that a shed could not be placed on a lot without a dwelling, since he owned both lots; and that he was the President of the Homeowner's Association for 20 years.

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 special use exception be **granted with the stipulation that both parcels must remain in the same ownership and that no other building is to be erected on Lot 38, except for a dwelling.** Vote carried 5 – 0.

Case No. 7805 – Sea Colony Development Corp., Inc. – south of West Way, 140 feet west of Route One, within Sea Colony Development.

A special use exception to retain a manufactured home type structure for sales office.

Mr. Rickard presented the case. Patty Grimes and Steve Smith were sworn in with William Scott, Attorney, on behalf of the application, requesting a special use exception to retain a manufactured home type structure for a sales office; that the unit already exists as a construction office; that they would also like to use the unit for a sales office; that the unit will serve the Sand Castle Manor; that the project consists of 12 homes; that 3 homes have been sold; that they are in the process of building a spec home; that they showed the Board a picture of the unit; and that the unit will be removed when all the homes have been sold.

Mr. Rickard read 3 letters from George Rickards, M.D., Gary Cannon and Robert and Carol Flatley in favor of the application.

Gary Clevenger, President of Sea Colony West Phase 6, was sworn in and testified that he is in opposition to the application; that he is concerned that the unit will be there longer than it should be; that the unit should be placed across the street; that other units in the area have not been in use for 2 months; and that 2, 065 homeowner's are in opposition to the application.

In rebuttal, Mr. Scott stated that there are 58 homeowner's in favor of the application; that it makes since to use the existing unit for a sales office; and that the other units in the area that are not in use are in the process of being sold.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to take the case under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to the case. Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted since they do not see a difference between the unit being used as a sales office or a construction office.** Vote carried 5 – 0.

Case No. 7806 – Daniel D. Jewell – east side of U.S. Route 13A, 600 feet north of Road 488.

A variance from the south side yard setback requirement.

Mr. Rickard presented the case. Daniel D. Jewell was sworn in and testified requesting a 2.7-foot variance from the required 10-foot south side yard setback requirement for a 30'x32' addition to an existing 24'x32' garage; that he built the existing garage in 1973; that a permit was obtained for the existing garage; and that his neighbors are in favor of the application.

Mr. Rickard noted to the Board that a variance is also needed for the existing garage.

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 for the existing garage and garage addition.** Vote carried 5 – 0.

Case No. 7807 – Bradford Kline – east of Route One, south of Windswept Way, Lots 23 and 24, within Ocean Breezes Subdivision.

A variance from the front yard setback requirement.

This case was withdrawn.

Case No. 7808 – Salt Pond Associates – south of Road 360 intersection east of Road 357, within Salt Pond Subdivision.

A special use exception to retain a manufactured home type structure for sales office.

Mr. Rickard presented the case. James A. Fuqua, Jr., Attorney, was present on behalf of the application, requesting a special use exception to retain a manufactured home type structure for a sales office; that he is requesting an extension until December 31, 2003; that in 1994 the Board granted an extension until January 1999; that an application for another extension should have been obtained in January 1999, but was overlooked; that the development is approaching completion; that he submitted pictures and a copy of the 1994 Minutes; that the unit is located at the entrance of the development; that the unit is attractive and well landscaped; and that he is unaware of any violations.

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 special use exception be **granted until December 31, 2003**. Vote carried 5 – 0.

Case No. 7809 – Tri Gas & Oil – northeast of 113, 830 feet north of Road 114.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Dayne Brady was sworn in and testified requesting a 20-foot variance from the required 40-foot front yard setback requirement for an 18'x20' proposed building, instead of a 40-foot variance.

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. 7810 – Kent Sign Co. and Atlantic Book Shops – northeast of Route One, corner of Delaware Avenue, Lots 15, 17 and 18.

A variance for additional wall signs.

Mr. Rickard presented the case. Dale McCalister was sworn in and testified requesting 2 extra wall signs; that the wall signs will measure 26'x23" and 27'6"x25'5"; that he submitted pictures; that the existing wall sign measures 100-square foot; and that there is 7% of additional signage.

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. 7811 – Wilmer A. Jenkins - east of Road 531, south of Bradford Street, Lot 2, within Middleford Acres.

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

Mr. Rickard presented the case. Wilmer Jenkins and Dorothy Jenkins were sworn in and testified requesting a 9-foot variance from the required 15-foot corner side yard setback requirement for a proposed 16'x40' addition; that he has owned the property since 1974; and that his neighbors are 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 variance be **granted**. Vote carried 5 – 0.

Case No. 7812 – Edward and Kathy Owens – north of Road 475, 100 feet east of Road 474.

A variance from the required minimum square footage requirement for a parcel.

Mr. Rickard presented the case. Edward Owens was sworn in and testified requesting a 3,850-square foot variance from the required 32,670-square foot requirement for a parcel; that the dwelling is non-conforming; and that he has had a contract to purchase the property since 1993 with Jean Fleetwood, but she does not want to sell him the required $\frac{3}{4}$ acres.

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. 7813 – Elizabeth Stephens – west of Road 505, 321.5 feet south of Road 505-B.

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

Mr. Rickard presented the case. Elizabeth Stephens was sworn in and testified requesting a 25-foot variance from the required 150-foot lot width requirement for two parcels; that she has relatives that are interested in purchasing a 1 acre parcel; and that the property is vacant.

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 variances be **granted with the stipulation that a driveway is to be shared**.
Vote carried 5 – 0.

Case No. 7814 – State of Delaware, Stockley Center – east of Road 318, west of Stockley Center.

A special use exception to expand an existing day care center.

No one appeared on behalf of the application.

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

OLD BUSINESS

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 relocate a billboard.

The Board discussed the case. Mr. Mills stated that the sign will not obstruct anyone's view.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the

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

Meeting Adjourned 8:30 P.M.