

MINUTES OF MAY 21, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening May 21, 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. Hudson, Mr. Mills with Mr. Berl – Assistant County Attorney, Mr. Rickard – Chief Zoning Inspector, and Donna Mowbray, Zoning Inspector III, acting as Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to approve the agenda with the removal of Case Number 7425, application of Chartan Solsnes and Case Number 7430, the application of Sharon and Chester Porches, Jr. Voted carried 5-0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of May 7, 2001 as circulated. Voted 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. 7441 -- Friends of Georgetown Charter School, Inc. – south of Route 9, 900 feet ease of Road 479.

A special use exception to place manufactured home type structures for classrooms.

Mr. Rickard presented the case. Angela Savage and Harold Boling were sworn in with James Fuqua, Attorney, on behalf of the application, requesting a special use exception to place manufactured home type structures for classrooms. Mr. Fuqua stated that the Friends of Georgetown Charter School, Inc. have received their Charter to serve Kindergarten to eighth grade beginning September, 2001; that the Charter School has appeared before the Planning and Zoning Commission and will appear before the County Council in two (2) weeks for final approval of a Conditional Use; that the Charter School will utilize existing buildings located at the Living Water Church property on Route 9; and that the enrollment will require the use of ten (10) mobile classrooms; and that they are seeking approval for three (3) years until a permanent location can be located.

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

Motion by Mr. McCabe, seconded by Mr. Wheatley, 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 **approved with the following stipulations.**

1. That the mobile classrooms be approved for a period of three (3) years.
2. That the mobile classrooms are to be no more that one (1) year old when placed.
3. That no more than eleven (11) mobile classrooms are permitted.
4. That the mobile classrooms are to be of the same style.

Vote carried 5 – 0.

Case No. 7442 – Clyde and Dorothy Tuggle – east of Road 212, 147 feet north of Road 212-B.

A variance from the north side yard setback requirement.

Mr. Rickard presented the case. Clyde and Dorothy Tuggle were sworn in and testified requesting a 3.5-foot variance from the required 10-foot north side yard setback to build onto an existing 65 year old garage; and that his neighbor, Mr. Millman, is not in objection to the application.

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

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

Case No. 7443 Annette Updegraff – Bay Shore Drive, north of California Avenue, Lot C-3, within North Shores Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Joanne Hollingsworth was sworn in and testified requesting a 0.4-foot variance from the required 30-foot front yard setback for an existing house; that she presented photographs showing the existing violation and stated that this was discovered upon a survey being done for resale of the property; that the dwelling was built in 1988; and that the deck is too close to the front property line.

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

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

Case No. 7444 – Ira Stuck – east of Road 341-B, north of Lagoon Road, Lots 64 and 65, within Dogwood Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Ira Stuck was sworn in and testified requesting a 7-foot variance from the required 30-foot front yard setback to build a deck; that the front porch will be open and under 30 inches in height; that the dwelling was built in 1954 and is non-conforming; and that most of the homes in Dogwood Acres Subdivision 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. McCabe, and carried unanimously that the variance be **granted**. Vote carried 5-0.

Case No. 7445 – Joseph Laricci -- south of Route 54, west of Grant Avenue, Lot 62, within Cape Windsor Subdivision.

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

Mr. Rickard presented the case. Joseph Laricci and Robert Compton were sworn in requesting a 6.4-foot variance from the south side yard setback and a 5-foot variance on the rear yard setback; that the lot is undersized; that the project is 70% completed; that they submitted photographs of the construction, a letter from Mr. Laricci to Michael Milligan, Zoning Inspector III, a letter from the Board of Directors of Cape Windsor Community Association, Inc. and a current survey done by Mr. Compton, Surveyor from the State of Maryland; and that the building permit was issued correctly.

By a show of hands, 6 parties were in favor of the application and 24 parties were in opposition to the application.

Mr. Rickard advised the Board that 17 letters had been received in opposition to this application.

Bernard Bowman, President of Cape Windsor Community Association, Inc., Ed Hampton, Frank Cinton, Joan Rockstroh, and Vicki Martina were sworn in opposition to

the application. Mr. Hampton stated that he sent guidelines to Mr. Laricci; that the Association feels he has failed to meet the guidelines, and that the construction is out of character with the community; that they submitted photographs to be made a part of the record; that Mr. Cinton and Ms. Rockstroh agree with Mr. Hamptons testimony; that Ms. Martina requested clarification of points; and that Mr. Rickard had advised the Cape Windsor Community Association that the Board of Adjustment could not enforce the Cape Windsor Community regulations, only the regulations and setbacks in the Sussex County Zoning Ordinance.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to **table the variance for further research**. Vote carried 5 – 0.

Case No. 7446 – Conrad and Delores Bink – northeast of Road 349, Philadelphia Avenue, Lot 5, within Banks Acres Subdivision.

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

Mr. Rickard presented the case. Conrad Binick and Dawn Hudson, Realtor with Layton Associates, were sworn in and testified requesting a 0.4-foot variance from the required 5-foot rear yard setback for an existing garage, a 0.4-foot variance from the required 5-foot rear yard setback for an existing shed, and a 0.5-foot variance from the required 5-foot east side yard setback for an existing garage; and that Lawrence R. Long, a Delaware Professional Land Surveyor, performed a new survey on March 22, 2001, and discovered that the original survey was incorrect.

The Board received a letter of support for this application.

No parties appeared in favor of the application or in opposition of the application.

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

Case No. 7447 – George H. Harvey – north of Route 22, 2 ½ miles east of Route 22-C, Lot 77, within Pot Nets Dockside Mobile Home Park.

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

Mr. Rickard presented the case. George H. Harvey was sworn in and testified requesting a 9-foot variance from the required 20-foot separation requirement between units in a mobile home park; and that the size of the unit will be 24'x56'.

The Board received two (2) letters of support of this application.

The Board found that 1 party was present 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 the variance be **granted**. Vote carried 5-0.

Case No. 7448 – Hiram and Dorothy Johnson – north of Route 54, Mallard Drive, Lot 78, within Swann Keys Subdivision.

A variance from the west side yard setback requirement.

Mr. Rickard presented the case. Hiram Johnson and Ms. Newman, of Kersey Homes, were sworn in requesting a 5.8-foot variance from the required 15-foot west side yard setback for a manufactured home. Ms. Newman stated that the home was set based upon the stakes of the surveyor; and that her company was not aware of the 15-foot setback on the side as this was a corner lot. Ms. Newman presented a photo of the manufactured home as it appears on the lot. Ms. Newman noted that the placement permit was issued correctly, however this is an odd shaped lot.

The Board found that a letter was received from Ed Lewis, Chairperson, Swann Keys, dated November 10, 2000, advising Mr. Johnson of a potential problem with the home, but will not oppose a variance from the Board of Adjustment.

There were no persons present in favor 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. 7449—Vanessa Owen – northeast of Route 22, east of Starboard Court, Lot J-46, within Rehoboth Shores Mobile Home Park.

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

Mr. Rickard presented the case. Charles Eagleson, with Manufacturing Housing Concepts, was sworn and testified on behalf of Vanessa Owen requesting a 1.5-foot variance from the required 20-foot between units in a mobile home park; that his company placed the home based upon the stakes placed by Rehoboth Shores Mobile Home Park; that the home on the adjacent lot was also placed incorrectly

by Manufacturing Housing Concepts based upon the stakes placed by Rehoboth Shores Mobile Home Park; and that if the Board grants the variance needed it will correct both the mistakes.

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

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

Case No. 7450 – Milton Liberty – south of Route 54, north of Breakwater Run, Lot 146, within Keenwick Phase II.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Roy J. Evans, representing the applicant, was sworn in and testified requesting a 9-foot variance from the required 40-foot front yard setback, instead of an 8-foot variance; and that Mr. Evans stated that construction has not begun on the deck located on the north side of the dwelling.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the revised variance be **granted**. Vote carried 5-0.

Case No. 7451 – Troy Roberts – east of Route One, east of Beachfield Drive, Lot 12, within Beachfield Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Troy A. Roberts was sworn in and testified requesting a 4-foot variance from the required 5-foot rear yard setback for an existing shed, instead of a 3-foot variance; and that the previous owner placed the shed.

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

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

Case No. 7452 – Silvio Ferrai –southwest of Route One, 1,200 feet east of Route 12.

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

Mr. Rickard presented the case. Silvio Ferrai was sworn in and testified requesting a special use exception to place a manufactured home type structure as a temporary office located at the old Lowe's property; that he is requesting that the temporary office be granted for a period of five (5) years as he has leased 2.5 acres of the property, but intends to move his company to Frankford when all of the required permits have been received; that the nature of his business is drywall and does not require the entire Lowe's site or building; that the temporary office will be leased; and that the size of the unit be 12'x30' or 10'x30'.

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

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be **granted for a period of two (2) years**. Vote carried 5-0.

Case No. 7453—Ann Disarro –south of Route 23, west of Road Way, Lot A-13, within Love Creek Mobile Home Park.

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

Mr. Rickard presented the case. Ann Disarro was sworn in and testified requesting a 5-foot variance from the required 20-foot separation requirement between units in a mobile home park for a 14'x70' unit and a 7-foot variance from the required 20-foot separation requirement between units in a mobile home park for two sheds.

The Board received one (1) letter of support from Love Creek Homeowners Association.

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

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

Meeting adjourned at 9:30 P.M.