

MINUTES OF JUNE 17, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening June 17, 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. Wheatley, Mr. Mills, Mr. Hudson, with Mr. Berl – Assistant County Attorney, Mr. Oates – Planning and Zoning Inspector, and Mrs. Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda with the correction to discuss Case No. 7814, State of Delaware, Stockley Center under other business. Vote carried 4 – 0.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously to approve the Minutes of June 3, 2002. Vote carried 4 – 0.

Mr. Berl read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

Case No. 7830 – David and Debra Kiser – east of Road 475, north of Road 64.

A variance from the front yard setback requirement.

Mr. Oates presented the case. David Kiser was sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement for an existing porch; that he demolished the existing dwelling; that he constructed a new dwelling; that he measured the setback requirement from the road; that a surveyor made him aware of the right of way; and that the original home was only 6-foot from the road.

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 4 – 0.

Case No. 7831 – Robert K. Sturtz – south of Bay Road, west of Maple Street, Lot 17, within Truitt's Park Subdivision.

A variance from the north side yard setback requirement.

Mr. Oates presented the case. Mark Freund was sworn in and testified requesting a 10-foot variance from the required 10-foot north side yard setback requirement for an existing deck and outside shower; that an existing fence is more than 7-foot in height; that a permit was obtained for the deck, but not for the shower; that the dwelling was

built in 1964; that the neighbors dwelling is located on the property line; and that he submitted a picture.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to take the case under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Chairman referred back to the case. Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the variance be **granted and that the Board requests that the height of the fence be checked for additional variances**. Vote carried 4 – 0.

Case No. 7832 – Hood Family LLC – southwest of Route One, east of Route 24.

A variance for additional wall signs.

Mr. Oates presented the case. Harold Strunk was sworn in and testified requesting a variance for 3 additional wall signs; that he submitted a picture; that a Chevy Chase Bank is being erected; that due to the location of the building they would like a sign on all sides of the building; that the walls are 24-foot in height; that the building measures 81'x41'; and that the wall signs will cover less than 4% of the wall area.

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 4 – 0.

Case No. 7833 – Doris Ann and Kenneth Allen Baker Sr. – east of Road 336, west of Cherry Drive, Lot 31, within Holly Cove Subdivision.

A variance from the north side yard setback requirement.

Mr. Oates presented the case. Kenneth Baker, Sr. was sworn in and testified requesting a 2.7-foot variance from the required 15-foot north side yard setback requirement for a proposed dwelling; that the septic installer made him aware that the dwelling will encroach into the setbacks; and that his neighbor is 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. Wheatley, and carried unanimously that the variance be **granted**. Vote carried 4 - 0.

Case No. 7834 – Bridgeville Rifle and Pistol Club, Ltd. – north of Road 545, 1.5 miles east of U.S. Route 13.

A special use exception for retention and expansion of an indoor shooting range.

Mr. Oates presented the case. Jeff Hague was sworn in and testified requesting a 5-year renewal for an existing indoor range and an extension to the existing outdoor range; that he would like to add an additional 400-yards to the existing 600-yard outdoor range; that the club has existed since the 1940's; that since the 1960's they have held monthly competitions; that they were approved for a 50-foot indoor range in April 1997; that no safety violations or complaints of noise have ever been brought to the attention of the establishment; that the purpose of the additional yardage to the outdoor range is to add another component to their competitions; that the range will have a backdrop of a dirt berm, 30-foot in height; that they will build buffers to muffle the noise; and that an aerial was shown to the Board showing the existing range and where the additional yards of the extension of the range will be located.

By a show of hands, 6 parties were in favor of the application.

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 with the same stipulations as **Case No. 6231 approved January 27, 1997, which referenced that the hours be limited from 10:00 a.m. to 10:00 p.m. 7 days per week, for members only or member sponsored competitions.** Vote carried 4 – 0.

Case No. 7835 – Admiral Holdings – north of Route 22, 400 feet west of Burrwood Drive.

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

Mr. Oates presented the case. Jeffrey Kline was sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement for a parcel; that he would like to create 2 parcels; that the owner would like to reconfigure the shape of the parcels to give equal square footage; that both parcels have an existing public sewer access; that wetlands may be filled in pending the Army Corp approval; and that a driveway will be shared.

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 with the stipulation that a driveway is to be shared**. Vote carried 4 – 0.

Case No. 7836 – Epworth Fellowship Church – north of Road 476, 572.36 feet west of Road 446.

A special use exception to place a manufactured home type structure for use as a classroom.

Mr. Oates presented the case. Robert James was sworn in and testified requesting a special use exception to place a 24'x40' manufactured home type structure for use as a classroom; that the structure is a 2001 model; that the purpose for the structure is due to the Georgetown Charter School closing; that 70 students have been accepted; that a temporary structure was approved by the Board 2 years ago; that the proposed structure is needed until the new construction is completed for the school; and that the permanent addition to the existing school will eliminate both existing manufactured home type structures.

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 for a period of 2 years**. Vote carried 4 – 0.

Case No. 7837 – Steve and Yvette D. Morris – south of Route 22, south side of Cove View, Lot 27, within Highview Subdivision.

A variance from the east side yard setback requirement.

Mr. Oates presented the case. Steve Morris was sworn in and testified requesting a 5.5-foot variance from the required 10-foot east side yard setback requirement for a 7'x36' second floor deck, instead of a 7-foot variance; that he purchased the lot in 1998; that his realtor had given him incorrect setback requirements; that he submitted drawings of the deck and pictures; and that he submitted a petition with 10 signatures in favor of the application.

Mr. Oates read a letter from Paul and Jan Hytrek in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously that the variance be **granted**. Vote carried 4 – 0.

Case No. 7838 – Julie A. Cooper – east of Route 5, west of Route One, within Waples Pond Acres.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Julie A. Cooper was sworn in and testified requesting a 10.6-foot variance from the required 30-foot front yard setback requirement for an 11'x14' proposed porch; and that it will be constructed on the side of the home.

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

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted**. Vote carried 4 – 0.

Case No. 7839 – David and Roberta Robinson – north west of Route 9, south of Road 263.

A special use exception to operate a day care facility.

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 4 – 0.

Case No. 7840 – William S. and Mary S. Lofland – north of Route One, 150 feet south of Road 266.

A variance from the minimum lot width requirement, a variance from the minimum lot size requirement, and a variance from the east and west side yard setback requirements.

Mr. Oates presented the case. William Lofland was sworn in and testified requesting a 62.82-foot variance from the required 150-foot lot width requirement for parcel B, a 17,642 square foot variance from the required 32,670-square foot requirement for parcel A, a 0.10-foot variance from the required 5-foot east side yard setback for a shed, and a 0.10-foot variance from the required 5-foot west side yard setback for a shed; that the dwelling on parcel B has existed since 1946; that the dwelling on parcel A has

existed since 1978; and that the purpose for subdividing the land is to convey parcel B to his daughter.

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 with the stipulation that a driveway is to be shared.** Vote carried 4 – 0.

Case No. 7841 – P.M.S. Properties LLC – east of Road 357, 1,400 feet north of Road 360.

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

Mr. Oates 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 spaces; that the reduction will allow for an increase in the common area, which is used for landscaping; that 109 units will be sold; that the community center will consist of 70 spaces; and that similar variances have been granted in the area.

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 4 – 0.

Case No. 7842 – Michael Montague T/A CFM Wholesalers – east of U.S. Route 13, 150 feet north of Route 24.

A special use exception to place a manufactured home type structure for use as an office and a variance from the front yard setback requirement for sales display.

This case was withdrawn on May 17, 2002.

Case No. 7843 – Michaels Arts & Crafts – southwest of Route One, 1,000 feet southeast of Route 24.

A variance from the maximum square footage for a wall sign.

Mr. Oates presented the case. James Graff was sworn in and testified requesting a 79-square foot variance from the required 100-square foot requirement for a wall sign; and that the sign is visible from Route 24.

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 4 – 0.

Case No. 7844 – Michael and Lori Wilson – northwest of Route 24, 1,645 feet southwest of Road 497.

A special use exception to operate a day care facility.

Mr. Oates presented the case. Lori Wilson was sworn in and testified requesting a special use exception to operate a day care facility; that her hours of operation will be 7:00 A.M. to 5:45 P.M., Monday thru Friday; that she will care for 12 children; that the ages of the children will range from 2 ½ years old to school age; that she will have a fenced in area for children to play; that she has adequate parking; and that she has constructed an addition to her home with a kitchen and bathroom.

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. Wheatley, and carried unanimously that the special use exception be **granted with the stipulations that the hours of operation be 7:00 A.M. to 5:45 P.M. and that the kitchen is to be removed when day care facility no longer exists**. Vote carried 4 – 0.

OLD BUSINESS

Case No. 7828 – Country Life Homes, Inc. - northeast of Route One, northwest side of Road 258.

A special use exception to replace an existing billboard and a variance from the square footage and height requirements.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the special use exception and variances be **granted**. Vote carried 4 – 0.

OTHER BUSINESS

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.

Doris Gonzalez was sworn in and stated that she came to the Board of Adjustment meeting on May 20, 2002 and did not see her case on the agenda; that she approached the guard and he stated that she may be on the agenda for the Planning and Zoning Commission for May 23, 2002; that she spoke to Mr. Lank before the Commission's meeting on May 23, 2002 and he advised her that she should have been to the meeting on the 20th; and that the application was filed under State of Delaware, Stockley Center and not her corporation name.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that a new application shall be required with appropriate fees and a public hearing scheduled.

Meeting Adjourned 8:48 P.M.