

## MINUTES OF JUNE 18, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening June 18, 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. Rickard – Chief Zoning Inspector, and Ms. Jackson – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to approved the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of June 4, 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. 7467 – Ralph G. Scaggs – east of Road 274, north side of The Circle, Lot 46, within Pine Valley Mobile Home Park.

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

Mr. Rickard presented the case. Ralph G. Scaggs was sworn in and testified requesting a 4-foot variance from the required 20-foot rear yard separation requirement between units in a mobile home park from a neighbors shed and a 12-foot variance from the required 20-foot east side yard separation requirement between units in a mobile home park from a neighbors shed; that he replaced the unit in the same footprint; and that the existing unit had been there for 30 years.

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

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

Case No. 7468 – Ronald R. Atkins and Susan Barlow – west of Route 24, 300 feet south of Route 30 on the south side of Horseshoe Drive.

A variance from the lot size requirement.

Mr. Rickard presented the case. Ronald Atkins was sworn in and testified requesting a 0.03 acre variance from the required 0.75 acre lot size and a 0.25 acre

variance from the required 0.75 acre lot size in an AR-1 Agriculture Residential District; and that Mr. Atkin's mother owns the land and wants to sell them part of it.

Mr. Berl questioned Mr. Rickard if signatures are needed when you subdivide land.

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 **tabled until July 9, 2001**. Vote carried 5 – 0.

Case No. 7469 – Steve and Gail Lednum – south of Route 54, north side of Oak Road, Lot 21, within Keenwick On The Bay Subdivision.

A variance from the east side yard setback requirement.

Mr. Rickard presented the case. Steve and Gail Lednum were sworn in and testified requesting a 6-foot variance from the required 10-foot east side yard setback requirement for an addition; that they submitted a set of plans of the addition; that the Homeowner's Association is in favor of the application; and that their neighbor, James and Elizabeth Burcham, 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. Wheatley, seconded by Mr. McCabe, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 7470 – Donald L. Lankford – northwest of Road 493, 4,375 feet northeast of Road 494.

A variance from the lot width requirement and a special use exception from the provisions and requirements to retain a manufactured home on a parcel.

The Board found that no parties appeared on behalf of the application.

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

Case No. 7471 – Fellowship Health Resources – east of U.S. Route 113, 400 feet south of Route 16.

A special use exception for a convalescent facility.

Mr. Rickard presented the case. Jeffrey S. Reed and Roseanne Faust were sworn in and testified requesting a special use exception for a convalescent facility; that 50 parking spaces will be provided; that Mr. Reed is the owner of the building; that the convalescent facility will be on the first floor and that his office will be on the second floor.

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

Case No. 7472 – Robert J. and Lee Ann Sload – south of Road 306-A, intersection of Vacation Road and Independence Drive, Lot 49, within Holiday Pines Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Robert and Lee Ann Sload were sworn in and testified requesting a 13-foot variance from the required 30-foot front yard setback for an existing dwelling; that they are replacing a manufactured home that has been there for 30 years; that the new unit is larger; that he measured from the surveyor pins from his neighbors property; and that they submitted pictures.

Mr. Rickard read 2 letters in favor of the application from Donald and Jean Kopp and Dorothy and Robert Peterson.

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

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

Case No. 7473 – Rehoboth Golf Properties L.L.C. – west of Road 273, 3,300 feet south of Route One, within Kinsale Glen Subdivision.

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

Mr. Rickard presented the case. Steven W. Smith was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office for the use of property sales of the Kinsale Glen Planned Unit Development; that the size of the unit is a 50'x11.5'; and that the existing dwelling will be removed.

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 special use exception be **granted for a period of 3 years**. Vote carried 5 – 0.

Case No. 7474 – Larry Ganster – south of Road 367 and west of Lincoln Drive, Lot 5 within Timber Beach Subdivision.

A variance from the north side yard setback requirement.

Mr. Rickard presented the case. Larry Ganster was sworn in and testified requesting a 2.8-foot variance from the required 10-foot north side yard setback requirement for a deck less than 4-foot above grade; that the dwelling was built in 1990; that the addition was built one (1) year later; that he bought the home on April 9, 2001; and that at settlement he was made aware of the violation.

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. 7475 – Nomad Village, Inc. – east of Route One, north side of Cove Road and south side of Dune Road, Lots 51, 52, 53, 61, 62, and 63, within Towers Shore Subdivision.

A variance from the square footage requirement for a duplex.

Mr. Rickard presented the case. William Buchanan Jr. was sworn in with James A. Fuqua Jr., Attorney, on behalf of the application, requesting a 792-square foot variance from the required 7,260-square footage requirement for Lot 51; a 1,260-square foot variance from the required 7,260-square footage requirement for Lot 52, instead of a 360-square foot variance; a 1,260-square foot variance from the required 7,260-square footage requirement for Lot 53, instead of a 360-square foot variance; a 327-square foot variance from the required 7,260-square footage requirement for Lot 61; a 360-square foot variance from the required 7,260-square footage requirement for Lot 62; and a 360-square foot variance from the required 7,260-square footage requirement for Lot 63; that the applicant intends to build a duplex on each lot; that they have been approved from the Planning and Zoning Commission and County Council, subject to being approved by the Board of Adjustment; that there are other multi-family uses in the area; that he submitted a copy of the court decision from the Superior Court, a letter from Towers Shores Beach Association in favor of the application, a site location map, and a copy of the Findings of Fact from Case No. 7251 – 7254, Buchanan Developers, Inc.; and that the Nomad Liquor Store, Bar and Motel will be removed.

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**. Vote carried 5 – 0.

Case No. 7476 – Michael J. Ryan and Darlene Moxey – west of Road 296, 2,003.67 feet west of Road 47.

A special use exception to place a manufactured home on a medical hardship basis.

Mr. Rickard presented the case and read a letter from Paul E. Gorrin, M.D. Michael J. Ryan and Darlene Moxey were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis for Darlene's mother, Mary Moxey; that the unit is a 1973 model; and that the size of the unit is 14'x70'.

Mr. Mills stated to the applicants that he would like for them to send a more detailed letter from Mary Moxey's doctor explaining her condition to the Planning and Zoning Department.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **left open until Planning and Zoning receives a more detailed letter from their doctor**. Vote carried 5 – 0.

Case No. 7477 – Kenneth and Renee Lynch – east of Route 26, 600 feet southeast of Road 346.

A variance from the square footage requirement for signs.

Mr. Rickard presented the case. Kenneth and Renee Lynch were sworn in and testified requesting a 18-square foot variance from the required 6-square footage requirement for a home occupation sign; that the sign measures 4'x6'; and that the sign is two (2) sided.

Mr. Rickard presented a picture of the sign to the Board.

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. 7478 – Mary Ellen Walsh and Maureen O'Brien – north of Route One, southeast side of Anna B. Street, Lot 16, within Dodds Addition.

A variance from the east side yard setback requirement.

Mr. Rickard presented the case. Mary Ellen Walsh was sworn in and testified requesting a 5.7-foot variance from the required 10-foot east side yard setback requirement for an addition; that she would like to expand her one (1) story home into a two (2) story home; that the home is non-conforming; and that she will be removing the shed.

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 **granted**. Vote carried 5 – 0.

Case No. 7479 – Robert and Carolyn Willey – south of Road 351, south side of Coral Court, Lot 12, within Rogers Haven Subdivision.

A variance from the front yard setback requirement and a special use exception for a case of uncertainty to determine that a garage may remain on a vacant lot.

Mr. Rickard presented the case. Robert Willey was sworn in and testified requesting a 14-foot variance from the required 30-foot front yard setback requirement for an existing one (1) story garage and a special use exception for a case of uncertainty to determine that a garage may remain on a vacant lot; that the size of the garage is a 30'x24'; that the garage was built in the early 1980's; that the garage is placed on Lot 12; that his home sits on Lots 13 & 14; that Lot 12 is under contract and he is planning on selling it; that he obtained a permit for the garage; and that a certificate of compliance was issued for the garage.

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

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

Case No. 7480 – James and Crystal McGee – east of Road 232, east side of Route 16 within the Town of Ellendale.

A special use exception to place a manufactured home on a medical hardship basis.

Mr. Rickard presented the case and read a letter from Stephen F. Penny, M.D. James and Crystal McGee and Donald Webb were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis for Crystal's mother, Gloria Webb; that they plan on placing a doublewide with a permanent foundation on parcel 65.01; and that Crystal's father, Donald, home is located on Parcel 66.

Mr. Rickard read 2 letters in favor of the application from John and Connie Argo and Gerald and Nancy Webb.

The Board stated to the applicant that a special use exception was not necessary as long as parcel 65.01 was at least  $\frac{3}{4}$  of an acre.

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 **denied since the application was unnecessary**.  
Vote carried 5 – 0.

**OLD BUSINESS**

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.

The Board discussed the case. Mr. Berl stated that he had to get a legal opinion on the interpretation of building up on a non-conforming use and found that a variance will be necessary.

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

Case No. 7461 – George and Teresa Hanley – east of Road 455, 373 feet south of Road 64.

A variance from the side yard setback requirement.

The Board discussed the case. Mr. Mills stated that he has not had a chance to look at the site.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **tabled until July 9, 2001**. Vote carried 5 – 0.

**OTHER BUSINESS**

Case No. 7081 – Don D’Aquila – acquisition of building permit for The Marathan Inn Motel.

Mr. Rickard read a letter from Donald T. Collins asking the Board for an extension.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the case be **granted with a one (1) year extension**. Vote carried 5 – 0.

Meeting Adjourned 8:38 P.M.