

MINUTES OF JULY 9, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening July 9, 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. McCabe, seconded by Mr. Wheatley, and carried unanimously to approve the Revised Agenda with the removal of Case No. 7482, application of IPM Equities Bethany II, L.L.C., which is to be rescheduled after a legal opinion has been made. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of June 18, 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. 7481 – Eugene Bryan – north of Route 20, 435 feet east of Road 474.

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

Mr. Oates presented the case and read a letter from Jon D. Argo, M.D. Eugene Bryan was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis for his mother, Lulu Bryan; that the unit measures 14'x60'; that the unit is a 1965 model; and that his mother is 89 years old.

By a show of hands, 1 party was 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 for a period of 2 years**. Vote carried 5 – 0.

Case No. 7482 – IPM Equities Bethany II, L.L.C. – west of Route One, south of Road 361-A.

A variance from the setback requirement from a residential district for a commercial structure.

The case was removed and will be rescheduled after a legal opinion has been made.

Case No. 7483 – B/Z Builders, LLC – east of Bunting Avenue, south of North Carolina Avenue, Lot 4, within L.P. Faucett, Inc. Subdivision.

A variance from the front yard and north corner side yard setback requirements and a variance from the square footage requirement for a duplex.

Mr. Oates presented the case. Charles Zonko was sworn in with Jim Yori, Attorney, on behalf of the application, requesting a 5-foot variance from the required 15-foot north side corner, a 2-foot variance from the required 30-foot front yard setback requirement, instead of a 5-foot variance, and a 2,264-square foot variance from the required 7,260-square foot lot area requirement for a duplex; that there is an existing dwelling on the property that will be removed; that there are other multi-family structures in the area; that there is a street to the north of the property that is used for a walkway to enter the beach; that adjacent properties are zoned C-1 General Commercial District; that it would not alter the character of the area; that the footprint of the duplex fits identical to the existing dwelling; that the new unit will not encroach onto the easement or beach; that it will not have an affect on the people crossing the beach; that the existing home is closer to the easement than what is proposed; that the duplex will not block anyone's view; and that they submitted a survey and a floor plan of the duplex.

Thomas Adcock was sworn in and testified stating that he is the closest property owner and that he is in favor of the application.

Victor Covey was sworn in and testified that he is in opposition to the application; that he lives at 19 Admiral's Bridge; that it would alter the character of the neighborhood; that the variance would crowd the easement; that the density would be increased; that the property could be developed as a single family home or a smaller duplex; that it would block his view to the ocean; that the structure is too large for the lot; that the duplex is 3 times larger that what exists now; that the applicant has created the problems himself; that he submitted a packet containing photographs, a letter concerning the rejection of approval, a addendum to Contract of Sale, a copy of the Tax Map, a copy of a survey of the lot, an advertisement for Admiral's Bridge, a location map of Admiral's Bridge, a sales brochure of Admiral's Bridge, and a floor plan of Admiral's Bridge.

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 hearings the Chairman referred back to this case. Motion by Mr. McCabe, seconded by Mr. Wheatley, and carried unanimously that the variances be **granted since it would not change the character of the neighborhood**. Vote carried 5 – 0.

Case No. 7484 – Charles and Sharon Quillen – south of Road 527, 4.650 feet northeast of Route 18.

A variance from the minimum age requirement to place a multisectional manufactured home.

Mr. Oates presented the case. Charles Quillen was sworn in and testified requesting a variance from the minimum age requirement to place a multisectional home; that he was told by the Planning and Zoning Department that he could place a doublewide on his property; that when he came to get a permit he was told that he could not place the doublewide because it was older than 5 years old; that he could not get a refund back on the home; that the unit is a 1973 model; that he plans to upgrade the unit with new siding, a block foundation, a new roof, and windows; and that a 24'x50' pole building exists on the property.

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 with the stipulation that the remodeling be finished within a 1 year 6 months**. Vote carried 5 – 0.

Case No. 7485 – Ralph and Thelma Reed – south of Road 516, 4,800 feet south of Road 526.

A special use exception from the lot size requirement to place a manufactured home.

Mr. Oates presented the case. David Webb, Jr. was sworn in and testified requesting a special use exception from the lot size requirement to place a manufactured home; that the size of the lot is 0.5 acre; that it would not adversely affect adjoining property owner's; that a 1998 singlewide home was once placed on the property; that other mobile homes exists in the area; and that he submitted photographs of the area.

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

Case No. 7486 – Fellowship Health Resources – southeast corner of the intersection of Road 260 and Road 211.

A special use exception for a convalescent home.

Mr. Oates presented the case. Roseanne Faust was sworn in with Barbara O’Leary, Attorney, on behalf of the application, requesting a special use exception for a convalescent home; that they will have 8 residents; that the home already exists with 6 bedrooms; that there will be a total of 10 employees with 2 employees always present; that it will not adversely impact the nature of the area; that a nurse will be there for 40 hours per week; and that all of the residents will be screened and will not be a danger to the community.

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

Jennifer Walls was sworn in and testified that she had some concerns; that she lives next door to the property; that she has concerns with the septic systems being large enough to serve all the residents living in the home; and that she is concerned with the mental health of the patients residing in the home.

Mr. Oates read a letter from the City of Milford in favor of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted**. Vote carried 5 – 0.

Case No. 7487 – W. Leroy Mears – south of private road, 311.56 feet south of Route One, within Century Plaza.

A variance from the front yard setback requirement.

Mr. Oates presented the case. W. Leroy Mears was sworn in with Jay Becker, Attorney, on behalf of the application, requesting a 11.29-foot variance from the required 40-foot front yard setback requirement for an existing building; that the variance request is a result of a mistake made by an engineer; that Mr. Mears had no knowledge of the problem; that it does not alter the character of the area; that a storage building project exists behind the building; that the building would have been placed correctly if the engineers plan had been correct; that the engineer is deceased and is unable to explain his actions; and that they submitted photographs.

David J. Weidmann, Attorney, was present on behalf of the Rehoboth U-Store; stating that they were in opposition to the application; that they know a mistake was made by the engineer and not the applicant; and that the building shields the view of their site from Route One.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **tabled until July 23, 2001 so that Mr. Mills can go and look at the site.** Vote carried 5 – 0.

Case No. 7488 – Sterling Van Rees – south of Route 88, south side of West Mill Run, Lot 86, within Overbrook Shores Subdivision.

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

Mr. Oates presented the case. Sterling Van Rees was sworn in and testified requesting a 5.2-foot variance from the required 15-foot west side yard setback requirement and a 2.10-foot variance from the required 15-foot east side yard setback requirement for a bedroom addition; that he bought the home in 1990; that he is trying to bring up the standard of the home to other homes in the area; that his neighbors and the Homeowner's Association are in favor of the application; and that he submitted photographs.

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

Case No. 7489 Jeffrey and Edward Pike – east of Bunting Avenue, south of South Carolina Avenue, Lot 4, within L.P. Faucett, Inc. Subdivision.

A variance from the front yard and north corner side yard setback requirements and a variance from the square footage requirement for a duplex.

Mr. Oates presented the case. Edward Pike was sworn in with Jim Yori, Attorney, on behalf of the application, requesting a 5-foot variance from the required 30-foot front yard setback requirement, a 5-foot variance from the required 15-foot north corner side yard setback requirement, and a 2,260-square foot variance from the required 7,260-square foot lot area requirement for a duplex; that the parcel is located in a C-1

General Commercial District; that the lot has 2 parcels with 25-foot of lot width for each parcel; that the duplex will be 2 living quarters; that South Carolina Avenue is used for an access to the beach; that they will be combining both parcels into 1 lot; that other variances have been granted in the area; that the structure is similar to other multi-family duplex's in the area; that it would not alter the essential character of the neighborhood; and that the Corral Sands Motel is located to the south of the property.

George McKenzie was sworn in and testified that he is in opposition to the application; that he lives 2 properties down in a duplex; that it would block his view of the ocean; and that it would decrease the property values in the area.

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 meeting, the Chairman referred back to this case. Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variances be **granted with the stipulation that both lots are to be combined and that it would not affect the character of the neighborhood.** Vote carried 5 – 0.

Case No. 7490 – Theodore B. Simpler – west of Road 526-A, 1,160 feet north of Road 525, Lot 13, within Middleford Circle Subdivision.

A variance from the square footage requirement for a parcel.

Mr. Oates presented the case. Theodore Simpler was sworn in and testified requesting a 9,484-square foot variance from the required 32,670-square footage requirement for a parcel; that he owns all 8 adjoining lots; and that he has a central septic system that would serve all of the lots.

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. 7491 – Happy Harry's Discount Drugs – south of Road 361-A, 430 feet west of Pennsylvania Avenue.

A special use exception for an off premise sign.

Mr. Oates presented the case. Eugene Trapkin was sworn in and testified

requesting a special use exception for an off premise sign; that the sign will be 6-foot in height; that the Board granted a special use exception for Holiday Express Motel to place a sign on Happy Harry's Discount Drugs property; and that Happy Harry's Discount Drugs would like to place an off premise sign on the Holiday Express Motels property.

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

Case No. 7492 – Barbara Stevenson – northeast of Road 270-A, west side of Shady Ridge Drive, Lot 41, within Shady Ridge Subdivision.

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

Mr. Oates presented the case. Randall Gross was sworn in with Vince Robinson, Attorney, on behalf of the application, requesting a 6.3-foot variance from the required 30-foot front yard setback requirement, and a 5.1-foot variance from the required 10-foot southwest side yard setback requirement for an existing manufactured home; that they submitted a survey; that Mr. Gross purchased the home 8 years ago; that Mr. Gross had no knowledge of any violations; that he had a mobile home service company place the unit for him; that the unit is qualified as a Class C home; and that they submitted a letter signed from all of the neighbors in favor of the application.

By a show of hands, 2 parties were in favor of the application.

Mr. Oates read 12 letters 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 variances be **granted**. Vote carried 5 – 0.

Case No. 7493 – Mike Roberts – northeast of Route One, southeast side of Terrace Road, Lot 19, within Silver Lake Manor Subdivision.

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

Mr. Oates presented the case. Mike Roberts was sworn in and testified requesting

a 3-foot variance from the required 5-foot rear yard setback requirement, and a 3.5-foot variance from the required 5-foot northeast side yard setback requirement for a shed; and that the shed is 1 year old.

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

Case No. 7494 – Louis and Rita Visco – north of Road 278, south of West Beach Drive, Lot D-12, within Angola Beach Mobile Home Park.

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

Mr. Oates presented the case. Louis Visco was sworn in and testified requesting a 1.8-foot variance from the required 20-foot separation requirement between units in a mobile home park for his manufactured home, and a 7-foot variance from the required 20-foot separation requirement between units in a mobile home park for a shed; that 2 sheds were placed in the rear of the property 20 years ago; that he has remodeled the home and plans to retire to the area; and that he submitted photographs of the area.

By a show of hands, 1 party was in favor of the application.

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

OLD BUSINESS

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 had gone to look at the site.

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

The Board discussed the case and found that signatures were not needed since it was not considered a subdivision.

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

The Board discussed the case. Mr. Oates stated to the Board that the Planning and Zoning Department received a letter from Paul E. Gorrin, M.D. explaining Mary Moxey's health problems as requested from the Board.

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

OTHER BUSINESS

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. Rehearing.

The Board discussed the case and stated that they did not realize at the previous Board of Adjustment meeting scheduled on June 18, 2001 that the parcel was zoned UR – Urban Residential District, which states that manufactured homes are not permitted in the district.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted for a period of 2 years**. Vote carried 5 – 0.

ELECTION OF OFFICERS

Mr. Oates, Planning and Zoning Inspector, came into the meeting to supervise the Election.

Mr. Oates opened the nominations for Chairman.

Motion was made by Mr. Wheatley and seconded by Mr. Mills to nominate Mr. Callaway as Chairman.

There as a consensus to close the nominations for Chairman to be closed.

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Callaway as Chairman; 5 yea

Vote by roll call:

Mr. McCabe	-	yea
Mr. Wheatley	-	yea
Mr. Hudson	-	yea
Mr. Mills	-	yea
Mr. Callaway	-	yea

Mr. Oates opened nominations for Vice Chairman.

Motion was made by Mills and seconded by Mr. Hudson to nominate Mr. McCabe for Vice Chairman.

There was a consensus to close the nominations for Vice Chairman.

Motion was adopted to nominate Mr. McCabe as Vice Chairman; 5 yea

Vote by roll call:

Mr. Wheatley	-	yea
Mr. Callaway	-	yea
Mr. Hudson	-	yea
Mr. Mills	-	yea
Mr. McCabe	-	yea

The meeting was turned over to Mr. Callaway, the new Chairman.

Motion was made by Mr. Mills and seconded by Mr. McCabe to appoint Mr. Rickard as secretary. Vote carried 5 – 0.

Meeting Adjourned 9:17 P.M.