

MINUTES OF JULY 23, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening July 23, 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. McCabe, seconded by Mr. Wheatley, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of July 9, 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. 7495 – James Thompson – north of Route 54, east of Laws Point Road, Lot 54, within Swann Keys Subdivision.

A variance from the north side yard setback requirement.

Mr. Rickard presented the case. David Weidmann was sworn in and testified requesting a 3.5-foot variance from the required 10-foot north side yard setback for a porch, instead of a 3-foot variance; that he is appealing the decision made from Case #7332 that was denied; that the home is 21 years old; that the variance is needed because the porch was enclosed; that the lot is only 40-foot wide; that he submitted a packet containing a Survey, dated May 17, 2001, by Simpler Surveying, a letter from Swann Keys to Mr. Rickard, dated April 30, 2001, letters in support of the variance from neighbors, land restrictions of Swann Keys Subdivision, pictures, a title of the manufactured home, and the Minutes of March 12, 2001, granting of a variance to the neighbors.

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

Case No. 7496 – Fred T. and Wendy Goldberg - west of Ocean Drive, corner of Far View Road and Cardinals Lane, Lot 162, within North Shores Subdivision.

A variance from the east corner side yard setback requirement.

Mr. Rickard presented the case. Fred Goldberg was sworn in and testified requesting a .04-foot variance from the required 15-foot east corner side yard setback requirement for a dwelling; that the error was not intentional; that he has owned the home for 5 years; that Gary Hoffman was the builder; that he received a violation letter from Franklin Bunting, Planning and Zoning Inspector III; and that the Homeowner's Association is in favor of the application.

Mr. Rickard stated to the Board that the Mr. Goldberg is located in a flood zone and was in violation, but it has been corrected.

David Best was sworn in and testified that he is in favor of the application.

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

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

Case No. 7497 – William J. and Phyllis S. Saunders – 1,016 feet east of the Intersection of Road 312 and Road 312-A, Lot 13 and ½ Lot 14.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. William and Phyllis Saunders were sworn in and testified requesting a 20-foot variance from the required 40-foot front yard setback requirement for an above ground pool; that the rear of their property slopes down to the water; that they have seasonal neighbors; that they are planning to install a fence; that the dwelling and garage were built in the 1950's and are non-conforming; and that they have remodeled the home.

George Turner, neighbor, was sworn in and testified that he is in favor of the application.

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 variance be **granted**. Vote carried 4 – 0 – 1, with Mr. Mills not voting.

Case No. 7498 – Cheryl D. Meyer – north of Road 331-B, northeast of Road 331, Lot 5, within Arthur Hudson's Lots Possum Point Subdivision.

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

Mr. Rickard presented the case. Dawn Heffelfinger, Planning and Zoning Inspector I, and Cheryl Meyer were sworn in with David Rutt, Attorney, on behalf of the application, requesting a 15-foot variance from the required 40-foot front yard setback requirement, a 4.9-foot variance from the required 10-foot southwest side yard setback requirement, and a 5.3-foot variance from the required 10-foot northeast side yard setback requirement. Dawn Heffelfinger stated that she had received a complaint over the telephone; that she went to the site and found that the framing had been taken down; that she had talked to the builder and stated to him that he needed to go to the Planning and Zoning Office to apply for a Board of Adjustment Hearing; that she had also spoken with Mrs. Meyer's over the telephone and explained to her what she needed to do; and that Mrs. Meyer's came in the same week and applied for the variance hearing. David Rutt, Attorney, and Mrs. Meyer's stated that she purchased the property in August 2000; that she is planning on retiring to Sussex County in June 2002; that she is in the process of renovating the home; that the shed and carport have been removed; that she did not change the structure of the home; that she replaced the wiring and the insulation of the home; that her contractor, Chester Wright, obtained the permit to construct a family room and a bedroom extension; that when she bought the home it sat on cement blocks; that she is planning on raising the home and set it on a block foundation; that the framing of the home had to be taken down due to the bad shape of the flooring; that she was not aware of needing a variance when you remove the framing of a home; that the framing of the home was put in the same footprint; that many other structures in the neighborhood are in violation; that the width of the lot is 30-foot wide; that the home does not alter the character of the neighborhood; and that they submitted a packet containing the original permit that was obtained, a copy of the deed, a survey, plans of the construction, a plot plan of the property, and pictures.

Chester Wright, Contractor, was sworn in and testified the he lives in Possum Point; that he has been a contractor for 5 years; that he considers the job he is doing as remodeling; that when he had put the new framing up it was put back in the same footprint; and that the original wood frame of the home was badly damaged and it needed to be replaced.

Scott Reagan, Realtor and Auctioneer, was sworn in and stated that the home does not adversely effect the neighborhood; that it does not change the character of the neighborhood; that there is a mixture of homes in the neighborhood; and that the repairs to the home is helping the property values increase in the area.

Daniel Lecates was sworn in and testified that he is in favor of the application; that the repairs to the home enhances the neighborhood; and that the Meyer's have spent thousands of dollars maintaining their property.

Mr. Rickard stated that he received 2 letters in favor of the application.

By show of hands, 4 parties were in favor of the application.

Elva Warrick was sworn in and testified that she is in opposition to the application; that she submitted pictures; that she owns Lot 6; that she has lived in the area since November 1949; that the structure blocks her view to the river; that it decreases the property values; that the home is much larger than the original home; and that the structure destroys the concept of Possum Point.

Mr. Rickard stated that he had received 9 letters in opposition to the application.

By a show of hands, 11 parties were 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 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 variances be **tabled until August 6, 2001**. Vote carried 5 – 0.

Case No. 7499 – Gladys Lynch – northeast of Route One, northwest of Road 290-A.

A variance from the square footage requirement for a parcel, a variance from the lot width requirement, a variance from the side yard setback requirement.

Mr. Rickard presented the case. Gladys Lynch was sworn in with David Rutt, Attorney, on behalf of the application, requesting a 19,301-square foot variance from the required 32,670 square footage lot requirement for Lot 1, a 9.95-foot variance from the required 150-foot lot width requirement for Lot 2, a 16,136-square foot variance from the required 32,670-square footage lot requirement for Lot 4, a 77-foot variance from the

required 150-foot lot width requirement for Lot 4, a 9.4-foot variance from the required 15-foot east side yard setback requirement for the dwelling for Lot 4, a 17,714-square foot variance from the required 32,670-square footage lot requirement for Lot 5, a 84-square foot variance from the required 150-square footage requirement for Lot 5, a 13.7-foot variance from the required 15-foot west side yard setback requirement for a shed for Lot 5, a 6.6-foot variance from the required 15-foot west side yard setback requirement for a dwelling for Lot 5, a 17,714-square foot variance from the required 32,670-square footage lot requirement for Lot 6, a 84-foot variance from the required 150-square footage lot width requirement for Lot 6, a 15-foot variance from the required 15-foot west side yard setback requirement for a garage for Lot 6, a 4-foot variance from the required 15-foot west side yard setback requirement for a dwelling for Lot 6, and a 11.4-foot variance from the required 15-foot east side yard setback requirement for shed for Lot 6; that the submitted a survey; that the parcel that are being created are going to be given to the grandchildren; and that the rest of the property will remain as the family farm.

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

The Board found that no parties were in opposition to the application.

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

Case No. 7500 – Irvin C. Walker, Jr. – north of Route 22, north side of private road, Lot C.

A special use exception to place a second on farm manufactured home.

Mr. Rickard presented the case. Irvin C. Walker, Jr. was sworn in and testified requesting a special use exception to place a second on farm manufactured home; that on September 23, 1991, Case No. 4524, for a second on farm manufactured home was denied by the Board; that Mr. Rickard read the Minutes from September 23, 1999 hearing stating that the Board denied the case because the applicant stated that the employee would not live in the manufactured home full time; that his daughter will be living in the unit full time; that he farms 13 acres of land; and that Mr. Walker will stay in the other manufactured home.

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

Case No. 7501 – Thomas D’Amico – east of Route One, north side of Sugar Hill Road, Lot 39, within Sea Del Estates Subdivision.

A variance from the maximum height requirement and a variance from the front yard setback requirement.

Mr. Rickard presented the case. Randall King, with Miken Builders, was sworn in and testified requesting a .82-foot variance from the required 42-foot maximum height requirement, and a 5-foot variance from the required 30-foot front yard setback requirement for steps located in a flood zone; that the Homeowner’s Association is in favor of the application; and that the violation was not intentional.

By a show of hands, 3 parties were in favor of the application.

Mr. Rickard read a letter from the Homeowner’s Association 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. 7502 – Jeffrey Michael Hughes – southwest of Road 64, south side of Denise Boulevard, Lot 44, within Villa Park Estates Subdivision.

A variance from the east side yard setback requirement.

Mr. Rickard presented the case. Jeffrey Michael Hughes was sworn in and testified requesting a 4-foot variance from the required 10-foot east side yard setback requirement for a manufactured home; that Clayton Homes in Delmar, told him to obtain the permit and take it to them; that the unit was put in the same footprint as the old unit; that a singlewide existed and he replaced it with a doublewide.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted and that a letter be sent to Clayton Homes**. Vote carried 5 – 0.

Case No. 7503 – Gwenyth A. Davis – south of Road 493, .66 mile east of Road 485.

A variance from the west side yard setback requirement.

Mr. Rickard presented the case. Gwenyth A. Davis was sworn in and testified requesting a 14.11-foot variance from the required 15-foot west side yard setback for a replacement of a deteriorated pole shed with a garage; that she bought the property 2 years ago; that the 32'x40' pole barn was 100 years old; that the size of the garage will be 28'x30'; that she wants to put the garage in the same location as the deteriorated pole shed due to a septic system that she does not want to encroach on; and that Robert Wheatley, neighbor, was in favor of the application.

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

Mr. Rickard read a letter from Robert Wheatley 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 variance be **granted**. Vote carried 5 – 0.

Case No. 7504 – Gulls Way Trailer Sales – north of Route 26, 4,700 feet east of Road 382.

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

Mr. Rickard presented the case. Wayne Cropper was sworn in and testified requesting a 15-foot variance from the required 40-foot front yard setback requirement for a sales trailer, instead of a 25-foot variance; that his site plan has been approved by the Planning and Zoning Commission; and that a chain link fence exists on the property.

By a show of hands, 3 parties appeared in opposition to the application.

The Board found that no parties appeared 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. 7505 – S.D. Properties, LLC and Nanticoke Home – west of U.S. Route 13, 1,200 feet north of Road 589-A.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. John Pardee, Attorney, was present on behalf of the application, requesting a 20-foot variance from the required 20-foot side yard setback requirement to allow the party wall to become the property line; that the minor subdivision and boundary line adjustment was approved by the Planning and Zoning Commission, subject to the Board of Adjustment; that the lot line runs along an existing party wall; that the party wall separates S.D. Properties LLC from Nanticoke Homes; that it would not alter the character of the neighborhood; and that the .89 acre parcel will be an extension to the Nanticoke Homes property.

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 variance **granted**. Vote carried 5 – 0.

Case No. 7506 – Fred Yerger – west of Road 263, Donovan Road, Lot A-18, within Donovan Smith Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the rear yard setback requirement.

Mr. Rickard presented the case. Fred Yerger 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 landing, a 7-foot variance from the required 20-foot separation requirement between units in a mobile home park to build a shed, and a 2-foot variance from the required 5-foot rear yard setback requirement for a shed; that in May he replaced an existing unit with a 14'x70' unit; and that he torn down a shed and replaced it with a new shed.

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

Case No. 7507 – Cellco Partnership D/B/A/ Verizon Wireless – west of U.S. Route 13, ½ mile south of Road 454-A.

A variance from the maximum height requirement for a communication tower.

Mr. Rickard presented the case. Daniel Meisel, Russell Monar, and George Higgins were sworn in with Lisa Goodman, Attorney, on behalf of the application, requesting a 20-foot variance from the required 150-foot maximum height requirement for a communication tower; that the tower already exists and has been approved by the Planning and Zoning Commission; that 8 company's will use the tower; that the State Police will also use the tower; that they exhibited the amount of coverage the area receives from the existing tower and the amount of increased coverage after the extra 20-foot of tower is added; that the tower meets all the standards of the FAA and FCC; that they submitted a FAA report; and that they have to report the lighting of a tower to the FAA.

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

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **tabled until August 6, 2001**. Vote carried 5 – 0.

Case No. 7508 – Michael T. Evans – east of Road 463, 350 feet north of Road 451.

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

Mr. Rickard presented the case. Michael T. Evans was sworn in and testified requesting a 61-foot variance from the required 150-foot lot width requirement for frontage to a farm, instead of a 60.9-foot variance, and a special use exception to retain a doublewide on less than 5 acres; that he currently rents the unit, but plans to build a home in the same location in the future; and that a driveway will not 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 and special use exception be **granted**. Vote carried 5 – 0.

Case No. 7509 – Irvin B. Pierce – southwest of Route 16, south of Dunstan Court, Lot 77, within Grants Way Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Irvin B. Pierce was sworn in and testified requesting a 6-foot variance from the required 30-foot front yard setback requirement

for an 8'x12' deck with steps; and that his home only sits 35-foot from the front lot line.

John Burgot, President of the Homeowner's Association, was sworn in and testified that that he is in favor of the application.

By a show of hands, 3 parties were in favor of the application.

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

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

OLD BUSINESS

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.

The Board discussed the case, which was tabled. 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.

Meeting Adjourned 10:05 P.M.