

MINUTES OF AUGUST 6, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening August 6, 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 were: Mr. Callaway, Mr. McCabe, 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. Hudson, and carried unanimously to approve the Revised Agenda with the removal of Case No. 7514, application of Dennis Strawley, which was withdrawn on July 23, 2001. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of July 23, 2001. 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. 7510 – Barbara McGowan – southwest of Route One, east side of Holly Lane, Lot 1, within Sandy Brae Subdivision.

A variance from the corner side yard setback requirement.

Mr. Rickard presented the case. Barbara McGowan and Carl Thomas, builder, was sworn in and testified requesting a 3-foot variance from the required 15-foot corner side yard setback requirement for a sunroom; that they assumed that the setback was 10-foot, same as the interior lot setback requirement; that Mr. Thomas is a member of the Homeowner's Association; that the neighbors and the Homeowner's Association are in favor of the application; and that the Homeowner's Association is in the process of changing their covenant to comply with the County requirements.

Mr. Rickard read a letter from Rod and Ruby Wilson in favor of the application.

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

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

Case No. Case No. 7511 – Randy and Bonnie Wilson – northeast of Road 224, corner of Route 36, within Lands of James P. Mayhew Subdivision.

A variance from the height requirement for a fence.

Mr. Rickard presented the case. Randy and Bonnie Wilson were sworn in and testified requesting a 3-foot height variance requirement for a fence from the required 3.5-foot height requirement; that the fence does not block anyone's view; and that they have combined Lots 3-2, 3-3, and 3-9 into one lot.

Mr. Rickard noted to the Board that they need to rule on the 3.5-foot height variance on the rear of the property, which is from Road 629.

Mr. Rickard read a letter from Pastor Robert Muncy in favor of the application.

Michael Ross was sworn in and testified that he is in opposition to the application; that he questioned the Board what size the Wilson' fence can actually be; that he was confused with what was considered the rear and side yard of his property and the Wilson's property; and that he questioned the type of quality a fence could be.

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 hearing, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted**. Vote carried 4 – 0.

Case No. 7512 – Fred and Joan Ciritella – west side of Road 278, east side of Clover Drive, Lot G-24, within Angola Beach Mobile Home Park.

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

Mr. Rickard presented the case. Fred and Joan Ciritella were sworn in and testified requesting a 1.5-foot variance from the required 20-foot separation requirement between units in a mobile home park for a porch, a 4-foot variance from the required 10-foot separation requirement between accessory structures in a mobile home park for a shed, and a 1-foot variance from the required 20-foot separation requirement between units in a mobile home park for a shed; that they replaced an existing shed and put in back in the same footprint; that they installed a roof over a deck that existed since 1984; that they were not aware of needing a permit to replace the shed; and that BK Builders obtained the permit.

Mr. Rickard noted to the Board that Dawn Heffelfinger, Planning and Zoning Inspector, sent the applicants a violation, but the applicants stated that they never received 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. 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. McCabe, seconded by Mr. Mills, and carried unanimously that the variance for the porch be **granted, and that the variance for the shed be denied**. The Board requested that a letter be sent to BK Builders. Vote carried 4 – 0.

Case No. 7513 – Barry Trick – northeast of Route One, northwest side of Ann B Street, Lot D, within Dodds Additions Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Barry Trick was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for a proposed screen porch; that he built a 27'x48' home to blend in with the neighborhood; that his neighbors are in favor of the application; and that he submitted pictures.

Neil Dolan, neighbor, was sworn in and testified that he is in favor of the application; that he owns 4 properties in Dodds Additions; and that the screen porch would be an improvement to the property.

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

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

Case No. 7514 – Dennis Strawley – north of Route 26, southeast of Moccasin Way, Lot 13, within Blackwater Village Subdivision.

A variance from the front yard setback requirement.

This case was withdrawn on July 23, 2001.

Case No. 7515 – Spencer T. Fogle – south of Route 54, east side of Cleveland Avenue, within Cape Windsor Subdivision.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Spencer T. Fogle was sworn in with Robert Witsil, Attorney, on behalf of the application, requesting an 8-foot variance from the required 20-foot rear yard setback requirement for a deck; that similar variances have been granted in the area; that the Homeowner's Association has been in favor of other variances granted in the past; that Mr. Fogle's cousin built the deck; that it cost Mr. Fogle \$2,500.00 to build the deck; that the deck is 30-inches in height; that the size of the lot is 50'x90'; that they submitted a sheet that was obtained from the Data Processing Office showing all of the variances approved and denied in Cape Windsor; that they submitted 19 signatures in favor of the application; that they submitted pictures; that the deck was built for his wife, who has a hurt leg; that the deck would not alter the character of the neighborhood; that Mr. Fogle placed a manufactured home on the property in 1981 and discovered that it is in violation on the side yard and that he will be applying for a variance; and that they submitted a packet containing a proposed finding of fact prepared by Robert Witsil, Attorney, a location survey, a letter from Spencer Fogle, a copy of Board of Adjustment Cases that have been approved in the Subdivision, a Tax Map of the Lot, the Finding of Facts from Case No. 5140, Donald and Patricia Dailey, dated September 29, 1993, a Board of Adjustment application for Anthony and Karen Milan, Case No. 7285, the Finding of Facts from Case No. 7285, Anthony and Karen Milan, a Board of Adjustment application for Royce Vanaman, Case No. 7112, and a Board of Adjustment application for David and Karen Ottinger, Case No. 7246.

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

By a show of hands, 8 parties appeared in opposition to the application.

Ed Hampton, Clyde Schaeffer, and Vernon Bauerman were sworn in and testified that they are in opposition to the application; that they all are members of the Homeowner's Association; that a packet was developed 2 years ago, that was given to all home owners, stating that all projects need approval from the Board of Directors; that 3 new Board members join every year; that it seems that homeowner's build first and then ask for a variance; and that they submitted a copy of the covenant.

Donald Dailey was sworn in and testified that he is in favor of the application; that he has personally looked at the property and that the deck is pleasing to the eye; and that the deck is no different from any other decks in the area.

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

Case No. 7516 – George and Mary Cahill – south of Route 48, 1,300 feet south of Road 324.

A special use exception to place a manufactured home for use as a concession stand, locker room use, and as a meeting hall.

Mr. Rickard presented the case. George Cahill was sworn in and testified requesting a special use exception to place a manufactured home for use as a concession stand, locker room use, and as a meeting hall; that the size of the unit is 14'x80'; that the unit is 10 to 15 years old; that they will renovate the unit; that the volunteer organization entertains at least 120 children; that the unit will sit back 100-foot from the front property line; and that the concession stand is their major source of income.

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. Hudson, and carried unanimously that the special use exception be **granted for a period of 5 years**. Vote carried 4 – 0.

Case No. 7517 – Dallas Reynolds – east of Road 275, 150 feet north of Road 283, Lot 7, Block O, within Sandy Brae Subdivision.

A variance from the front yard setback requirement for a through lot.

Mr. Rickard presented the case. Dallas Reynolds was sworn in and testified requesting a 2-foot variance from the required 40-foot front yard setback requirement for a through lot for a screen porch; and that the permit stated the incorrect setbacks.

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 4 – 0.

Case No. 7518 – Kmart 7725 - northeast of Route One, 1,800 feet northwest of Road 271.

A variance for multiple signs.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **denied for lack of a record of support**. Vote carried 4 – 0.

Case No. 7519 – Franklin Reitnaer – south of Route One, X Street, Lot X-5, within Sea Air Mobile Home Park.

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

Mr. Rickard presented the case. Aaron Smith was sworn in and testified requesting a 6-foot variance from the required 20-foot separation requirement between units in a mobile home park for a carport and a 3-foot variance from the 5-foot west side yard setback requirement for a carport.

Mr. Rickard read a letter from Cheryl Ford, Administrative Assistant of Sea Air Mobile Home Park, in favor of the application.

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 variances be **granted**. Vote carried 4 – 0.

Case No. 7520 – Neven and Martha Popovic – south of Route 54, north of Oak Road, Lot 18, within Keen-Wik Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Neven Popovic was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a bedroom addition; that he meets the subdivisions regulation, but not the County's regulations; that the home was built in 1976; and that he is not in a flood zone.

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 be **granted**. Vote carried 4 – 0.

OLD BUSINESS

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.

The Board discussed the case. They stated that the practical difficulties were created by the applicant; that the dwelling could have been renovated, instead of reconstructed; and that the builder should have used the proper methods.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **denied**. Vote carried 4 – 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.

The Board discussed the case. Mr. Mills stated concerns with the policing of the amount of users utilizing towers. Mr. Berl stated that he and Planning and Zoning are working together on preparing a checklist to police towers.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **tabled until August 27, 2001**. Vote carried 4 – 0.

Meeting Adjourned 9:05 P.M.