

MINUTES OF OCTOBER 7, 2002

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening October 7, 2002, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:10 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Callaway, Mr. McCabe, Mr. Mills and Mr. Hudson, with Mr. Berl – Assistant County Attorney, Mr. Oates – Zoning Inspector II, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of September 23, 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. 7942 – G. Ronald Shoop – south of Road 39, north of Bayshore Drive, Lot 33 and ½ Lot 34 within Back Bay Cove Subdivision.

A variance from the south side yard setback requirement.

Mr. Oates presented the case. G. Ronald Shoop was sworn in and testified requesting a 2-foot variance from the required 10-foot south side yard setback requirement for a proposed attached garage; and that he wants to build a garage for extra storage; and that he submitted copies of agreements from his neighbors on August 27, 2002 in favor of the application.

Mr. Oates stated that the office had received four letters in support 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. 7943 – Gail Mullin – east of Road 274, north of Jake Drive, Lot 35 within Rehoboth Bay Mobile Home Park.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Mark Brittingham was sworn in and testified requesting a 0.5-foot variance from the 10-foot front yard setback requirement for a manufactured home; that Hudson Homes staked the lot for the placement of the manufactured home; that the piers for the flood set were already in place; and that he has sub-contracted for Hudson Homes for about 5 years and that this is the first violation that he has been made aware of.

Mr. Mills made reference to the fact that this is Hudson Homes fourth application for the same type of request.

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 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 be **tabled until October 21, 2002**. Vote carried 4 – 0.

Case No. 7944 – Henry Johnson, Jr. & Son – east of Road 389; south of Road 382; southwest corner of Road 382 and Road 391; northwest corner of Route 54 and Road 381; northwest corner of Route 54 and Road 389.

A variance from the front yard setback requirement and a variance from the maximum square footage requirement for directional signs.

Mr. Oates presented the case. Henry Johnson III and Keith Johnson were sworn in and testified requesting a 5-foot variance from the required 5-foot front yard setback requirement for all proposed signs and 5 – 12-square foot variances from the required 6-square foot requirement for directional signs; that they will have 4, 4'x6' off-premise signs and 1, 4'x8' sign on site; that the signs are needed to help customers find the business because it is not visible from the road; and that the signs will have no illumination.

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

Mr. Oates stated the office had received one letter in favor of the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until October 21, 2002**. Vote carried 4 – 0.

Case No. 7945 – Stanley Allenby – north of Route One, east of William F. Street, Lot 16, Block D, within Dodd's Addition Subdivision.

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

Mr. Oates presented the case. Kenneth Morley was sworn in and testified requesting a 4-foot variance from the 5-foot side yard setback requirement and a 4-foot variance from the 5-foot rear yard setback requirement for an existing shed; that the Applicant had a custom shed built on the lot to provide extra storage; and that he submitted pictures.

Mr. Oates stated that the office had received one letter in favor of the application and 1 letter in opposition to 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. Hudson, and carried unanimously that the case be **tabled until October 21, 2002**. Vote carried 4 – 0.

Case No. 7946 – Mark and Jean Winstead – south of Road 274, north of Marshall Road, Lot 27, within Old Landing Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Mark Winstead was sworn in and testified requesting a 4-foot variance from the 20-foot rear yard setback requirement for an existing second level deck; that they just built a new dwelling and the County Inspector discovered the encroachment prior to settlement; that the surveyors believed the setback did not apply to second level decks; that the neighbors and Association support the application; that Royal Builders built the home and relied on the surveyors for the placement of the dwelling and deck; and that they submitted pictures.

Mr. Oates stated that the office received two letters in favor of the application.

By a show of hands, one party appeared 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 variance be **granted**. Vote carried 4 – 0.

Case No. 7947 – William May – south of Road 207, 1,390 feet west of Route 113.

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

Mr. Oates presented the case. Bobby May was sworn in and testified requesting a 75-foot variance from the required 150-foot lot width requirement for a parcel; that they want to subdivide a 1-acre parcel from the existing 5.5 acre parcel; that the new parcel will have 200-foot for road frontage and will leave 75-foot frontage for a right of way to the parcel in the rear of the new parcel; and that they have no objection to a shared driveway.

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

Case No. 7948 – Paul J. Roessel and Elizabeth A. Browning – southwest of Route One, Venetian Drive, Lot B-6, within Seabreeze Development.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Elizabeth Browning was sworn in and testified requesting a 10-foot variance from the required 10-foot rear yard setback requirement for a proposed deck; that the rear property line meets up with a bulkhead canal; that they would like to extend the existing deck all the way out to the bulkhead; that the deck is level with the first floor of the dwelling; and that she submitted pictures.

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. 7949 – Charles Marmontello and Joan E. Frederick – north of Route 16, north of Bristol Court, Lot 62, within Grant's Way Subdivision.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. Heidi Balliet, Attorney, on behalf of the application, requesting a .6-foot variance from the required 10-foot west side yard setback

requirement for an existing garage; that the builder, BK Builders, obtained the building permit; and that they submitted pictures.

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. 7950 – Patrick Michael Leonard – north of Road 39B, north of Dogwood Street, Lots 37 and 38, within Joseph D. Short 2nd Addition Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Patrick Michael Leonard was sworn in and testified requesting a 23-foot variance from the 30-foot required front yard setback requirement for a proposed dwelling and deck; that the original dwelling and deck were only 4-foot from the front property line; that the septic system prevents the dwelling from being built further back on the property; that the proposed dwelling and deck will be in line with neighboring dwellings on the street; and that parking will be under the proposed dwelling.

By a show of hands, 2 parties appeared 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 variance be **granted**. Vote carried 4 – 0.

Case No. 7951 – Patricia A. and Michael J. Harrigan – west of Road 258, west of East Lake Drive, Lot 15, within Lazy Lake Subdivision.

A variance from the front yard setback requirement.

No one appeared on behalf of the application.

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

Case No. 7952 – Drew Ward – north of Road 433, east of Wards Way, Lot 13A, within Meadow Drive Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Drew Ward was sworn in and testified requesting a 15-foot variance from the required 20-foot rear yard setback requirement for a proposed lean-to on an existing pole shed; that he wants to build a 10'x36' lean-to for shelter for a small tractor; that he would prefer to attach it to the existing shed for appearance sake; and that the existing shed is in violation of the current setbacks.

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 4 – 0.

Case No. 7953 – Sharon Phillips – north of Road 277, 840 feet northeast of Road 285A.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Kenneth Morley was sworn in and testified requesting a 17.5-foot variance from the required 40-foot front yard setback for an existing front porch; that renovations were made to the existing house and the east side wall of the existing dwelling remained; that the dwelling could not be moved back on the lot any further due to the wetlands; and that pictures were submitted.

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

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

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

Case No. 7954 – Robert and Joann Toomey – south of Road 483, 2,115 feet east of road 483A.

A special use exception for a farm pond on less than five (5) acres.

Mr. Oates presented the case. Robert and Joann Toomey were sworn in and testified requesting a special use exception for a farm pond on less than five (5) acres; that they wish to build the pond to enhance the already existing wildlife that lives nearby; that the pond will be 4-foot deep at its deepest point and they will plant grasses in and around the pond to provide food and protection to the wildlife; and that they have been working with the Conservation District.

Betty W. Comer was sworn in and testified in opposition to the application; that she submitted a letter along with a copy of the deed restrictions; that she feels it will pose a danger to the children in the neighborhood; and that she is concerned for the type of animals the pond will attract.

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

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

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

Case No. 7955 – Bethany Beach Development, LLC – west of Road 361, ¼ mile south of Beaver Dam road, within Bethany Breeze Subdivision.

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

Mr. Oates presented the case. Glenn Prettyman was sworn in and testified requesting a special use exception to place a manufactured home type structure for a sales office; that the unit will be used as a temporary sales office for the last phase of Bethany Meadows; that the 1984 10'x46' unit has been remodeled; and that they have DelDot approval.

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 for a period of three (3) years**. Vote carried 4 – 0.

Case No. 7956 – Beatrice S. Hunter – north of Route 24, 100 feet east of Road 309.

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

Mr. Oates presented the case. Merle Layton, Real Estate Broker, was present on behalf of the application, requesting a special use exception to retain a manufactured home on a parcel and stated that the Applicant's plan to subdivide the parcel into 5 lots; that proposed Lot 5 will retain the manufactured home; and that the neighborhood has manufactured homes on surrounding parcels.

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 4 – 0.

OLD BUSINESS

Case No. 7923 – Jeffery C. and Patricia L. Wells – west of Route 5, 1 mile north of Route 9.

A special use exception to operate a family health resource center.

The Board discussed the case.

The Chairman and members of the Board agreed to table the special use exception until November 4, 2002.

Case No. 7938 – Andrew R. Bellamah – west of Route One, north of Wilson Walk, Lots 111, 112, and 113, within Bay View Park Subdivision.

A variance from the side yard setback requirement.

The Board discussed the case.

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

Case No. 7940 – Frances Patterson – south of Route 54, north of Roosevelt Avenue, Lot 14, within Cape Windsor Subdivision.

A variance from the rear yard setback requirement.

The Board discussed the case.

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

Case No. 7900 – Melvin L. Joseph Sand & Gravel Co., Inc. – north of Road 322, 3,216 feet east of Road 321.

A special use exception to operate a concrete plant.

The Board discussed the case.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted with the stipulations that all truck traffic must utilize Route 113, that the hours of operation will be Monday thru Friday, 7:00 a.m. to 5:00 p.m., with an exception for 30-days a year being allowed for continuous pours, and that the operators shall only use commercial approved chemicals for the cleaning of the concrete trucks.**

Vote carried 4 – 0.

Meeting Adjourned 9:39 p.m.