

## MINUTES OF NOVEMBER 19, 2001

The regular meeting of the Sussex County Board of Adjustment was held Monday evening November 19, 2001, at 7:00 P.M. in the 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. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously to approved the Minutes of November 5, 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. 7607 – Dorothy S. Valencourt** – northeast of U.S. Route 113, 138.7 feet north of Road 325.

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

Mr. Rickard presented the case. Margaret Lingo was sworn in and testified requesting a 26.3-foot variance from the required 150-foot minimum lot width requirement to create 2 parcels from 1 lot, instead of a 21.3-foot variance; that a home exists on the parcel; that the lot is currently a through lot; and that she would like to place a new home on the other parcel if the Board approves the variance.

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. 7608 – Walter Magruder** – east of Route One, east side of Surf Road, Lot 16, within Sussex Shores Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Walter Magruder, Tom Ford and Mark Dieste were sworn in with Joseph Raskauskas, Attorney, on behalf of the application, requesting a 5-foot variance from the required 30-foot front yard setback requirement for a garage; that the width of the lot is 80'; that the property is an ocean front lot; that the

variance would not set a precedent; that they are not altering the character of the neighborhood; that they submitted the Sussex Shores covenant; that they showed the Board a picture and survey of the area; that Mark Dieste is building Mr. Magruder's home; that the reason for the variance is so that the applicant would not have to back out of his driveway.

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. 7609 – Richard and Joann Irvine** – south of Route 54, east side of East Stoney Run, Lot 27, within Keenwick Sound Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Richard Irvine was sworn with Raymond Tomasetti, Jr., Attorney, on behalf the application, requesting a 3.9-foot variance from the required 30-foot front yard setback requirement for an existing garage, instead of a 3.78-foot variance; that they submitted 3 survey's to the Board; that in 1988 a survey was prepared and indicated no violations, in 1993 a survey was prepared again and indicated violations and no improvements were ever made to the property, and in 2001 another survey was prepared and also indicated violations; that Mr. Irvine purchased the lot in December 1986; that in July 1988 he built a home; and that the home was built by Iachetta Builders.

Mr. Rickard read a letter from Harvey Riley in favor of the application.

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

Mr. Rickard read a letter from P. Fowler, President of Keenwick Sound Homeowner's Association, 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. 7610 – Michael A. Ross** – intersection of Road 224 and Road 629, Lot 3-1 within James P. Mayhew Subdivision.

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

Mr. Rickard presented the case. Michael and Roxanne Ross were sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement for a manufactured home, and a .05-foot and 3.5-foot variance from the maximum fence height requirement for a hedge and fence; that the size of the unit is 28'x60'; that the unit is a 2001 model; that Luv Homes placed the home and obtained the permit; that the unit was placed on July 2001; that he submitted pictures to the Board; that he installed the fence 2 years ago; that the hedge has been there since 1990; that Dick Martin from Luv Homes was suppose to appear at the meeting with him; and that he submitted 7 signatures in favor of the application.

Mr. Rickard read a letter from Ron Wilson 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. Wheatley, and carried unanimously that the variances be granted and that Luv Homes be sent a subpoena to appear before the Board and explain the reasons for the variances for Case No. 7562 and Case No. 7610. Vote carried 5 – 0.

**Case No. 7611 – Lambert A. Weber** – east of Route 24, White Pine Drive, Lot 60, within Pines at Long Neck Subdivision.

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

Mr. Rickard presented the case. Lambert A. Weber was sworn in and testified requesting a 5-foot variance from the required 5-foot east side yard and rear yard setback requirements for a proposed shed; that the size of the shed is 14'x24'; and that the property that connects to his property from the side and rear is not a buildable lot.

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

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

**Case No. 7612 – Larry Hargrave** – west of Road 362, north of Florida Drive, Lot 2, within Plantation Park Subdivision.

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

Mr. Rickard presented the case. Larry Hargrave was sworn in and testified requesting a 9.5-foot variance from the required 30-foot front yard setback requirement for a garage; and that he is building 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. Wheatley, and carried unanimously that the variance be **granted since several other variance have been approved in the subdivision.** Vote carried 5 – 0.

**Case No. 7613 – Wm. and Holly Timmons** – northwest of Road 466, 925 feet southwest of Road 477.

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

Mr. Rickard presented the case. Holly Timmons was sworn in and testified requesting a special use exception from the provisions and requirements to retain a manufactured home on a parcel; that the size of the unit is 12'x50'; that the unit is 17 years old; that the unit was originally used for farm use; that her father gave her a 1 acre parcel; and that she will be removing the unit and building a new home on the parcel within 3 years.

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

**Case No. 7614 – Edward and Linda Laucks** – west of Route 5, south side of Briar Lane, Lot 88, within Oak Meadows Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case as shown on the application due to the disability of the applicant; that the applicant is requesting a 6.5-foot variance from the required 30-foot front yard setback requirement for an existing 14'x80' manufactured home; that Choice Homes placed the unit for the applicant; and that Mr. Rickard summarized a letter written by the applicant to the Planning and Zoning Department concerning the

\$150.00 application fee stating that he is not responsible for the setback violation made by Choice Homes.

Mr. Rickard read a letter from John Sweet, Jr. in favor of 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. McCabe, and carried unanimously that the variance be **granted and that Mr. Berl write a letter to Choice Homes, in reference to the violation and to refund the \$150.00 application fee.** Vote carried 5 – 0.

**Case No. 7615 – Lyle and Lillian Mundy** – west of Road 363, west side of Georgia Drive, Lot 20, within Plantation Park II Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Lyle Mundy was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a proposed deck; that the size of the deck is 8'x18'; and that the Homeowner's Association is 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. Wheatley, and carried unanimously that the variance be **granted.** Vote carried 5 – 0.

**Case No. 7616 – E. Wayne and Robert P. Lednum** – south of Route 54, northwest side of Madison Avenue, Lot 150, within Edgewater Acres Subdivision.

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

Mr. Rickard presented the case. E. Wayne Lednum and William Winter were sworn in and testified requesting a 2-foot variance from the required 10-foot northeast side yard setback requirement and a 9-foot variance from the required 20-foot rear yard setback requirement for a dwelling; that he moved his parents home to the site; that his mason told him that the rear yard setback requirement was 10-foot; that his neighbors are in favor of the application; that the lot is an undersized lot; and that Mr. Winter is a contractor and is remodeling the home.

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

Mr. Rickard read a letter from Marilyn Lassahn, Carl Echols and the Homeowner's Association in favor of the application.

Mr. Rickard read a letter from Gerri MacVeigh in opposition to the application.

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

**Case No. 7617 – Mario A. and Gladys Barbosa** – northeast of Road 321, 81.23 feet south of Acorn Drive, Lots 3 and 47, within Piney Grove Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Mario A. and Gladys Barbosa were sworn in and testified requesting a 4-foot variance from the required 40-foot front yard setback requirement for a proposed porch.

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

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

**Case No. 7618 – Dante P. Zyski** – east of Road 349, 315 feet west of Road 351, Lot 44, within Banks Acres Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Allen Shelly was sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement for a proposed 28'x56' manufactured home; and that Mr. Zyski's septic system has already been designed.

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. 7619 – Paula Cutshaw** – southeast of Road 535, 260 feet west of Road 46.

A special use exception for a day care facility.

Mr. Rickard presented the case. Paula Cutshaw was sworn in and testified requesting a special use exception for a day care facility; that she will care for 11 children; that she has a license to operate a day care; and that there are several family day care facilities in the area.

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

**Case No. 7620 – Jesse Webb, Sr.** – west of Road 209, 700 feet south of Route 36.

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

Mr. Rickard presented the case and read a letter from A.B. Arnailla, M.D. Jesse Webb, Sr. was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the size of the unit is 14'x44'; that the unit is a 1995 model; that William Hammond, II, his wife's stepfather, will live in the home; that Mr. Webb's wife has to make 4 trips a day to care for her stepfather; that the neighbors are in favor of the application; and that the unit will sit back 300-foot from the road.

By a show of hands, 1 party was in favor of 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. Wheatley, and carried unanimously that the special use exception be **granted for a period of 2 years**. Vote carried 5 – 0.

**Case No. 7621 – Kerry Wertz** – southwest of Route 54, south of Wilson Avenue, Lot 19, within Cape Windsor Subdivision.

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

Mr. Rickard presented the case. Kerry Wertz and Kristin Brunori were sworn in and testified requesting an 8-foot variance from the required 10-foot east side yard setback requirement and a 3-foot variance from the required 10-foot west side yard setback requirement for a proposed dwelling and stairs; that the development was originally set up as a trailer park, but was rezoned to single family housing; that Mr.

Wertz purchased the lot 2 years ago; that the width of the lot is 40-foot; that they submitted a plot plan and pictures; that they do not want to place a block foundation because of the bulkhead may need to be repaired; that they are not setting a precedent; that his neighbor, Joe Smith is in favor of the application; that he will be cantilevering 2-foot on the east side of the property; that he is in a flood zone; and that 1 set of stairs would go to the entrance of the home and the other set would go to the 2<sup>nd</sup> floor deck.

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

Roger Lambeth, neighbor, was sworn in and testified that he is in favor of the application; that he built his home 2 years ago; that a manufactured home existed on Mr. Wertz's lot before he purchased the lot and it set only 3-foot from the bulkhead; that the lot was an eye sore; that the grass was never cut; that Mr. Wertz has done an excellent job cleaning up the property; and that it is going to raise his property values.

Ed Hampton and Charles Lampy were sworn in and testified that they are in opposition to the application; that they are on the Board for the Homeowner's Association; that Mr. Wertz submitted plans to them in 2000 and they approved it; that Mr. Wertz is not building what he submitted; that they are in favor of the home sitting 5-foot from the property line, but no less; that they have concerns with fire protection; that there are 25 lots in the subdivision with 40-foot wide lots; and that the Board of Adjustment denied a hearing for Lot 62.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **left open so that the applicant can provide them with a plot plan showing the dwelling on the parcel.** Vote carried 5 – 0.

#### OLD BUSINESS

**Case No. 7606 – Richard Culley** – east of U.S. Route 13-A, 750 feet south of Road 451.

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

The Board discussed the case. Mr. Mills stated that at the previous meeting they asked the applicant to post the sign back up on the property so that the Board could go and look at again; and that Mr. Mills visited the site every day and could not find the site because the applicant did not put the sign back up.

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

**Meeting Adjourned 9:07 P.M.**