

**.Town of Milton  
Board of Adjustments  
Historic Preservation Board  
May 23, 2006**

Members Present:

John Collier	Marian Jones	Joan Martin-Brown	Matt Dotterer
Jack Vessels	Brenda Burns	Larry Savage	
Town Employee:	Stephanie Coulbourne		

Chairman John Collier opened the public hearing

- 1. Board of adjustment Historic Preservation Board meeting and in accordance with article 11 of the Town of Milton zoning ordinance a public hearing will be held on a request for a variance from the applicant Kingsway Property, L.L.C. is requesting a variance from the municipal code of the Town of Milton Article 5 section 5.1 density control table, minimum rear yard set back for R1 zoning. The applicant is requesting a reduction in the minimum rear yard set back from 15 feet to 12 feet. The property is located at 301 Holland Street further identified by Sussex County Tax Map and parcel 2-35-14.15-97.04.*

John Collier-Is there anyone here on behalf of the application?

Richie Sapp – I represent Kingsway Properties and just a brief explanation is we have an existing foundation that is mislocated. We are 12 ½ feet in one corner, not the entire rear of the foundation. It is

12 ½ feet from the setback where it needs to be 15 feet and we are asking for a variance. How did this manage to happen? It is my responsibility, the mason put it exactly where I told him. I will comment that the front two corners of the property are actually located in the road, they are not even capable of having yard stakes because they are a foot to a foot and a half actually into Holland Street, and when we pulled our dimensions, the lot does not sit square with the road, and we set the house parallel with the sidelines of the property. When we had it surveyed, we found we had a problem. It was discovered by a survey. A copy of the placement survey was shown.

John Collier-Do you have an alternate plan in case this doesn't go?

Richie Sapp answered that we do, we think we can clip the corner that is in dispute, and we wouldn't have to move the whole foundation. We would come back the 15 feet, give ourselves a few inches clearance beyond that and we have an alternate plan drawn.

John Collier-Anyone from the public have any comments?

Karen Stoeder and Bill Stoeder – we own 303 Holland Street, which is the property right next door to 301 Holland Street, on the left hand side. The question is if you had a surveyor do a location survey then they mislocated the house or did you do that as a builder? I located the house for the mason. I met the mason and placed it as best as we thought we were correct. So the survey that you had is a survey is subsequent to that. I am required by the town and the county to have a placement survey, I am also required by the bank so that I can get building funds to provide a placement survey, as soon as we got the foundation in we called for the survey and found out we had a problem, we

stopped construction. Why would you have built a foundation without having a location survey from a qualified surveyor? It just doesn't seem to me that the foundation is \$5,000 - \$6,000, that you would have had a qualified surveyor do a location survey on a property to make sure you were within the building code. It is my mistake; I've said that from the beginning.

John Collier-I have some written comments from the same individual – Lenora Wittje , 3614 Lakeside Drive, Williamstown, N.J. the first one is dated 05/17/06, please accept this letter as a follow up to our conversation on May 2, 2006 as a written objection to the Kingsway Property L.L.C. request for a variance to the Town of Milton to request a reduction in the minimum rear yard set back from 15 feet to 12 feet. The reasons for the objection are as follows: it refers to the property immediately to the rear of it and it is subject to an investigation by the Milton police since January, 2006 as a result of a complaint to illegal dumping of debris and the removal and destruction of trees at the rear of the property. It goes on to say the circumstances. To grant a variance will negatively impact the value of our property now and in the future as well as make our property less attractive. We don't want any new construction any closer to our property than it already is.

Second letter - an additional concern of mine that an additional house is built close to our property still water will not properly infiltrate into the ground and will cause potential flooding damage problems onto our property and create a wetland area causing loss of property value. An engineering study, hydraulic study performed as to where this additional water will flow. Thank you for your consideration.

I can make one comment to the board, since there was the reference to the storm water and infiltration. By ordinance, the gentleman is allowed to cover-up up to 70% of the square footage of the lot with impervious surface. Right now, that would be over 2,800 feet and I think that the house he describes is slightly under that. It has nothing to do with the variance but it is an important issue and we might as well address it. Being there is no more comments we will close the public hearing at this time.

### **Historic Preservation Board**

- 1. The applicant Kingsway Property, L.L.C. is requesting a variance from the municipal code of the Town of Milton Article 5 section 5.1 density control table, minimum rear yard set back for R1 zoning. The applicant is requesting a reduction in the minimum rear yard set back from 15 feet to 12 feet. The property is located at 301 Holland Street further identified by Sussex County Tax Map and parcel 2-35-14.15-97.04.*

Marion Jones-Would you consider a variance granted to this property to create any kind of undesirable effect on the property that you are located on or the adjoining property?  
Karen Stoeder- I and my husband have talked about this, we have no objections to granting a variance for a 12 foot setback, my concern is that was this a put the foundation up it's better to seek forgiveness than ask permission, I'm more concerned my side line, the have already come over a foot with their gravel onto my property. I'm looking at saying am I going to be here a month from now after they've poured a driveway onto my

property side and said that's my concern. We don't have a concern about the 12 foot at all.

Marion Jones-What is your intention with the driveway on the property?

Richie Sapp- The crush and run is in place and if it's on the neighbor's property, I'll have that removed immediately. That can go right up to the line.

John Collier-I've pondered this for a while and maintained an open mind, what I found is most of this falls under the chapter 11.0.2 and under 11.0.3, again, it will be at the discretion of the board and if you would like to review them. Chapters read.

Joan Martin-Brown- Do you have a price on what it would cost to bring this up to code?

Richie Sapp-No, when I get the mason out there to do this kind of remodel work, I'm going to pay time and material probably at a premium rate. At this point, I don't think it's feasible to rip the entire foundation out, I think I can make a modification and make that happen.

Joan Martin-Brown- Since these other 2 lots are owned by the applicant, could we somehow make certain that this is informative and that appropriate pre-conditions are met so we don't set a precedent that comes back to haunt the board.

Richie Sapp-I have already submitted the placement survey, which everything is fine for the house that is under construction and there is one vacant lot that remains. This would not be interpreted as a precedent setting decision.

Brenda Burns-My concern that there is an objection by your neighbor directly behind you, that should be taken into consideration. Discussion on the survey being sealed by the surveyor.

Jack Vessels moves that we grant the variance, Matt Dotterer second.

John Collier-We have a motion and a second to grant the variance, are there any questions to the motion? Roll call:

Mr. Savage – I vote in favor, Ms. Burns – I vote against, Ms. Jones in favor. Mr. Dotterer in favor, Mr. Vessels- in Favor. Mrs. Martin-Brown- I vote in favor.

John Collier-You have the variance granted. This is done, you can proceed as soon as you get the letter from the board.

We will close the Board of Adjustment.

The Historic Preservation Board will review the following applications:

- 1. The applicant, Goshen Methodist Church/Sunshine Preschool, is requesting a building permit to erect a fence on the property located at 103 Mulberry Street further identified by Sussex County Tax Map and Parcel number 2-35-20.07-7.00 which is located in the Historic overlay district. The applicant tabled this application at the December 13, 2005 meeting until the church board could discuss further suggestions regarding the type of fencing.*

John Collier-Is there anyone here in behalf of the application?

Carol Ockel – In order for the preschool to move forward with its application to the state to verify that it can continue to operate, we need a fence for the children to play in. There needs to be 10 square feet per child with a limit of 12 children per class to convene at one time, and the size that we need is 120 square feet. The board that has the information as to the description of the fence and the appropriate size.

John Collier- My biggest question is the application came to us originally with theory of chain link, which is really not in character of the historic district. The type of fencing that you are representing here, have you sought pre-approval from the appropriate state licensing agencies, and this will be accepted by them?

Carol Ockels-We have been told that the fence would be fine. There will be two gates. There will not be an issues. We will go with the safest things for a child.

Brenda Burns- There was no drawings included to show exactly where it will go, is it behind the church? It will be behind the church itself, there is a storage building. It is not connected to but is located around there. It's visible from Mulberry Street.

Matt Dotterer-I make a motion to pass, Brenda Burns second.

John Collier-Questions to the motion?

Marion Jones-I would like a recommendation to amend the motion to include not the pointed pickets. I understand you have the safety of the children at heart, but we also need a picture in the file to make sure it is what was approved by the board. A rounded type of top for each picket.

John Collier-Mr. Dotterer can you amend the motion?

Matt Dotter-Yes

John Collier- We have a motion, an amendment to the motion to reflect rounded pickets, we maintain our second. All those in favor say “Aye” – aye. Opposed, none. We ask that before you erect the fence, you give a clear picture of what it looks like to the code enforcement officer and he will provide a building permit.

- 2. The applicant, Asyar Barbari is requesting a building permit to install new window in his house located at 110 Broad Street further identified by Sussex County Tax Map and Parcel number 2-35-14.19-77.00 which is located in the historic overlay district.*

The second application has been withdrawn for the evening because there is no one here to represent it.

Motion to adjourn. Second. All those in favor say “Aye” – aye.

We are adjourned.

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John Collier

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Marian Jones

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Larry Savage

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Jack Vessels

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Matt Dotterer

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Joan Martin-Brown

